Official Report
(Hansard)

Tuesday 1 February 2011
Volume 60, No 6

Session 2010-2011

Contents

Ministerial Statement
Hillsborough Castle Agreement: Policing and Justice 379

Executive Committee Business
Welfare of Animals Bill: Consideration Stage 388

Oral Answers to Questions
Culture, Arts and Leisure 403
Education 409

Executive Committee Business
Welfare of Animals Bill: Consideration Stage *(continued)* 416
Licensing and Registration of Clubs (Amendment) Bill: Consideration Stage 433
Transport Bill: Further Consideration Stage 474

Adjournment
Mr Paul McCauley 475

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Northern Ireland Assembly

Tuesday 1 February 2011

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

Members observed two minutes' silence.

Ministerial Statement

Hillsborough Castle Agreement: Policing and Justice

Mr Speaker: I have received notice from the Minister of Justice that he wishes to make a statement.

The Minister of Justice (Mr Ford): With your permission, Mr Speaker, I wish to make a statement on the progress that has been made against the actions set out in section 1 of the Hillsborough Castle Agreement of February 2010, entitled "Policing and Justice".

The section begins and ends with a commentary and a number of commitments regarding the institutional aspects of the devolution of justice, before going on to state that there will be an addendum to the Programme for Government for the Department of Justice (DOJ) to be drafted by the Justice Minister and brought to the Assembly for approval.

Members will recall that, in September 2010, I secured the agreement of the Executive to such an addendum and that it was accepted by the Assembly with cross-community support on 12 October 2010, which was another important milestone on the journey to effective devolution.

The addendum set out the priorities of the Department of Justice. Although it focused on the current financial year, in line with the remaining period of the Programme for Government, the addendum laid the foundation for an agenda of change that will impact well into the longer term. Although it was not possible to incorporate all the Department's activities in 15 key goals, in broad terms those goals underpin a strategic framework for reforming and reshaping the justice system in Northern Ireland. An indication was also made in the Hillsborough Castle Agreement of actions that the agreed policies of the Department could usefully include, all of which were reflected in the addendum. It is on those that I wish to focus.

The first action listed was to build on the ongoing tribunal reform programme. Although the Department of Justice is responsible for the administration of the majority of tribunals sitting in Northern Ireland, the statutory, financial and policy responsibilities for many of those tribunals remain with other Northern Ireland Departments. The devolution of justice provides the opportunity for the DOJ to assume those responsibilities. I have now secured the support of the Justice Committee and the Executive for such a transfer, and the recent settlement of departmental budgets allows my officials, working with their counterparts in relevant Departments, to agree the appropriate transfer of resources. Although time is now undoubtedly tight to deliver this agreement and for the transfer Order to be made before dissolution, I remain committed to the creation of an administration for tribunals that is more independent and user-focused and provides value for money.

The next action highlighted in the agreement was that the Department of Justice should learn from international best practice in matters of criminal justice. The Department and those whom I have appointed to assist me as I carry forward my agenda to reshape the justice system are looking to international best practice. Examples include the youth justice review team, which has commissioned a review of the international evidence on teenagers in custody and how the transition from childhood to young adulthood is managed in that context. The proposals for an offender levy and victims of crime fund provide another example, having been informed by learning from research commissioned on international best practice across a range of jurisdictions where similar levy

systems operate, including the USA, Australia, Sweden and Belgium.

The third action identified was the full provision of adequate funding and other resources for legal services to the disadvantaged in society, ensuring equality of access to justice for all. In response to that, in September 2010, I announced a fundamental review of access to justice. The review is examining, from first principles, the question of how best to secure access to justice for all, including the least well off in society, and is focusing particularly on whether there are better ways of resolving disputes, including approaches that do not require court action. The review will also examine value for money and will seek to identify opportunities for efficiencies. The review is being undertaken by Mr Jim Daniell. Although a first report was due at the end of January, Mr Daniell has agreed to a request for an extension from the professional legal bodies to allow them to submit comments. I expect his first report in March 2011 and a final report by the end of June 2011.

The fourth action identified was the establishment of a sentencing guidelines council. Public confidence in sentencing is fundamental to an effective criminal justice system, and it was with that in mind that, in October 2010, I launched a public consultation exercise on a sentencing guidelines mechanism. The consultation seeks views on how three options for a sentencing guidelines mechanism may enhance public confidence, transparency, consistency and community engagement in sentencing issues. The consultation had been due to end on 18 January 2011, and, although a good range of submissions had been received by that date, I agreed to extend the deadline to facilitate additional respondents who wished to make submissions. I will publish a report on the responses before the Assembly is dissolved, and I hope that the new Executive will make decisions on the way forward as a priority.

The next action identified in the agreement was a review of alternatives to custody. For the safety of our community we need prisons. However, if prisons are to play an effective role in safeguarding our community, they must be used effectively and only when they are the most effective response. Today, I am launching a paper reviewing community sentences. The consultation paper explores the role and scope of community sentences, drawing comparisons with national and international experience, and examines whether there is the potential to make more effective use of such disposals, including, where appropriate, as an alternative to short-term custodial sentences for lower-risk offenders. Crucially, the paper also addresses the issue of public confidence.

We need to get past the perception, or misperception, that community sentences are a soft option. They provide challenge, engagement and supervision, often across a period that is longer than that imposed on those who go to prison for short sentences. Three out of four of those who get a probation or community service order do not reoffend within a year; indeed, Northern Ireland is a leader when it comes to the effectiveness of such sentences. They provide a context in which an offender can be challenged about his or her behaviour and can undergo programmes to address underlying issues. Alongside that, they lead to offenders putting something back: community service orders result in 140,000 hours of unpaid work each year for the benefit of the community.

I want to encourage an informed debate about the role of community sentences, particularly as they have an important place in complementing custody. One aspect of that debate is how community penalties sit with short prison sentences. My colleague Dermot Ahern, until recently Minister for Justice, Equality and Law Reform in the South, recently indicated an intention to legislate to encourage greater use of community service orders as an alternative where a short prison sentence would otherwise have been imposed. No one disputes that imprisonment remains the most appropriate sentence for those who commit serious offences or pose a substantial risk of harm to society. However, community sentences have a vital place in steering offenders in the next category towards addressing their behaviour and making better decisions in the future. We need to build confidence in community solutions. I want to listen carefully to those with views on the matter before formulating robust plans for the future.

The next action identified in the agreement was adequate provision of diversionary alternatives to prosecution. The Justice Bill responds to that and includes provision for the introduction of police fixed penalties as an alternative to prosecution at court. The new penalty notices enable uncontested offences by first-time or

non-habitual offenders, which often result in fine-based disposals on conviction, to be dealt with quickly and effectively without the need to engage the formal court process.

The Bill also includes provision for the introduction of prosecutor-led conditional cautions. Those cautions will target specific aspects of behaviour through the offender's agreement to comply with rehabilitative or reparative conditions that address issues that underpin their offending behaviour. Those new measures will complement a raft of diversionary measures that are already available to police and prosecutors, including exercise of police discretion with victim consent, juvenile and adult informed warnings, juvenile and adult cautions, youth conference orders and community-based restorative justice referrals.

The next action identified was a review of the powers of the Prisoner Ombudsman, in light of experience elsewhere. I have been and remain committed to putting the powers of the Prisoner Ombudsman on a statutory basis and have taken initial steps in considering how best to achieve that. Conscious of the work undertaken by the Office of the First Minister and deputy First Minister in relation to the powers of the Assembly Ombudsman and the need to ensure that we consider all appropriate options, I have written to OFMDFM to seek its views on the wider issue of considering ombudsman services more generally. On receipt of a response, I will consider how we should proceed with the review indicated in the Hillsborough agreement, including how we best take account of experiences in other jurisdictions.

The next action identified, which is one that I prioritised immediately on my election as Minister, was a review of the conditions of detention, management and oversight of all prisons. Members will be aware that I announced such a review in June 2010. The very impressive review team that we assembled, led by Dame Anne Owers, has been engaged in that work since July. The team is nearing completion of the first stage of its review, which I hope to publish later this month. The review will be crucial in ensuring that we achieve the kind of transformation and change that is necessary for the service.

The next action identified was a comprehensive strategy for the management of offenders. Work is under way to develop such a strategy under the heading of a comprehensive reducing offending strategy. The strategy aims to reshape fundamentally our approach to tackling the factors leading people into the criminal justice system and the obstacles that hinder them from getting back out of it. It is a broad project with far-reaching links across a number of Departments. It will demonstrate, more than any other, that, if we are really serious about reducing offending and reoffending in Northern Ireland, we will need to bring an Executive-wide focus to the task. The target for the publication of the strategy is February 2012.

A comprehensive reducing offending strategy will inform the direction of the criminal justice system over the next five to ten years. My expectation is that there will be opportunities for immediate improvements, but opportunities for substantial and sustainable gains are likely to mean investing in actions in the short term to reap benefits in the medium and longer term. Nowhere is that more evident than in the case of early intervention with young children at risk of becoming involved in offending. If we can divert young people from offending, the potential benefits for them, their families and communities and, indeed, Northern Ireland as a whole are enormous.

The next action identified was consideration of a women's prison that is fit for purpose and meets international obligations and best practice. The issue of appropriate women's prison facilities in Northern Ireland has been on the agenda for many years, but I am determined to resolve it. A business case is under development, and it takes account of projected future accommodation need and the potential to divert women from custody through appropriate community sentencing and early intervention. Further site options are being explored, and the 2010 capital allocation to the Department of Justice provides an opportunity for greater certainty about the potential to redevelop the sections of the prison estate, including women's facilities, that are in greatest need of investment.

Other key actions were identified in the agreement. One of those is a review of how children and young people are processed at all stages of the criminal justice system, including detention, to ensure compliance with international obligations and best practice. I announced the commencement of that review in November 2010, and the review team has been

engaged in an intensive series of meetings and briefings with a wide range of stakeholders, including the judiciary, young people, departmental officials and representatives of the statutory, voluntary and community sectors. The review team will report its findings and recommendations to me in June 2011.

10.45 am

Another action was the development of a victims' code of practice to set out the minimum standard of service that criminal justice agencies will be expected to provide to the victims of crime and to consider whether all or part of such a code should be placed on a statutory footing. I announced a public consultation on the new code of practice in October 2010, and that consultation closed last week. Our next step is to review the responses with the aim of launching the code in advance of the dissolution of the Assembly in late March.

The final action identified in the agreement was a miscellaneous provisions Bill. That action is, of course, being delivered in the form of the Justice Bill, of which Members will be well aware. Its provisions include new and additional alternatives to prosecution, to which I referred; the creation of new policing and community safety partnerships; sports provisions; the creation of an offender levy that will resource the new victims of crime fund; and extending special measures for vulnerable and intimidated witnesses giving evidence.

I should also provide the Assembly with an update on one aspect of the financial settlement, which was detailed in a letter from the then Prime Minister and then reproduced in the text of the agreement. The terms included a commitment that the Executive would have access to the reserve to meet any exceptional security pressures relating to policing and justice. On the same basis, HM Treasury was prepared to make available up to an additional £37·4 million in 2010-11. The Treasury provided that £37·4 million and approximately £13 million of additional support in that year. Under that aspect of the settlement, we have made a detailed and compelling case in recent months for an additional £200 million to help to maintain the service's need to tackle the threat from terrorism over the next four years. I am assured that that case is in the final stages of consideration at the very highest levels of government.

Operations such as the one that we saw in north Belfast last week are a stark reminder of the need to protect our community from those who are intent on death and destruction in defiance of the clearly stated will of people from every community across this island. I will continue to press for an urgent decision that will provide the confidence that our community needs at this time.

I believe that we can look back with some sense of achievement on the matters that we committed to as parties at Hillsborough on 5 February and as MLAs in this place on 12 April. I am pleased to say that I have found the justice system as a whole ready and willing to change. I wish to place on record my thanks to the many officials and stakeholders across the system who have made such a significant and positive contribution to the programme of operational delivery and strategic reform in which we are engaged, a programme that goes well beyond the work that I have detailed in this statement. I also thank the Justice Committee, under the chairmanship of Lord Morrow, for its advice and assistance since devolution last year.

I have said on numerous occasions that we will be judged on how the Assembly and Executive carry out their new responsibilities for the benefit of all the people of Northern Ireland. I must say that, in the many and varied contexts that I find myself as Minister of Justice, the expression that I hear from our community is one of enormous goodwill and continued support for the decision that we took to devolve justice powers to the Assembly. That continued support must not be taken for granted, and I wish to stress that, although much progress has been made, the programme of work that I outlined will present the Assembly with some significant decisions and challenges in the early years of the next mandate. If the parties in the Assembly continue to work together, we will retain the goodwill, support and co-operation of our wider community. The introductory paragraph of the Hillsborough agreement described its text as:

> *"an affirmation of our shared belief in the importance of working together in a spirit of partnership to deliver success for the entire community."*

Let that be our guide.

The Chairperson of the Committee for Justice (Lord Morrow): I thank the Minister for today's

statement and wish to ask him about a couple points around it.

The Minister referred to the financial settlement and, in particular, to the commitment that the Executive would have access to the reserve to meet any exceptional security pressures relating to policing and justice. He also highlighted the bid made by the Chief Constable for an additional £200 million. Does he agree with the Justice Committee that it will not be possible to agree the budget for the Department of Justice until confirmation has been received that the bid will be granted because of the severe implications for that budget should it be unsuccessful or only partially successful? Given the very tight timescale within which we must have an agreed budget in place, it is imperative that the Treasury indicate immediately that the bid will be met in full. It would be helpful if the Minister could outline the actions that are being taken by him, the Minister of Finance and Personnel and the Executive as a whole to ensure that the bid is successful.

The Minister mentioned a review of how children and young people are processed at all stages of the criminal justice system. Will that review address the regrettable and totally unacceptable avoidable delays that currently happen in youth cases?

Finally, will the Minister provide the date on which the interim report on the review of the conditions of detention, management and oversight of all prisons will be available and the likely timescale for the achievement of the transformation that he believes is necessary for the service? Does he think that reform is likely to take three or four years or longer to achieve, or does he envisage it taking place in a shorter period?

The Minister of Justice: I thank Lord Morrow for that series of questions. I think that he claimed there were two, but I counted three, one of which had two parts.

First, he raised the extremely important issue of the financial situation. I met the Chief Constable and the Secretary of State as recently as yesterday afternoon. The Secretary of State informed the Chief Constable and me that the matter is being processed at the highest levels of government and is near to conclusion. I think that the Secretary of State is in no doubt — I do not believe that the Ministers in the Treasury could be in any doubt — about the vital importance of that £200 million bid being granted over the next CSR period. I have pursued that action continually with the Chief Constable over recent weeks and months.

The bid has also been supported in practice by the Executive and by the Minister of Finance and Personnel, in that an additional £45 million is being granted in the CSR period from Executive resources. That is the key to showing that this Assembly and Executive are doing all that can be expected of them to unlock the additional bid. However, Lord Morrow is absolutely right: the consequences of that bid not being met in full would be extremely serious for us all.

Lord Morrow also referred to delays in the court system. That has been one of my priorities since I took office, and some progress has been made. For example, there is better working between the PSNI and the PPS than we saw a year or two ago, but there is undoubtedly much more to be done. If young people are to be taken to court, they deserve an early court hearing in order that they can be made aware of the consequences of their actions at an early stage, which is likely to aid in the rehabilitation process. There is no point in delaying a young person's case for years because, when they get to court, they may well have forgotten what the offence was all about. The issues of youth justice and delay include the concerns that Lord Morrow raised.

Lord Morrow asked specifically for a date for the publication of the interim report on the management and oversight of prisons. I understand that we are likely to be in a position to publish the report from the Owers team before the end of this month, but that is but the first step in a multi-step process. We need to start to make reforms in the Prison Service at a very early point, on financial grounds if nothing else. It is, frankly, unlikely that those will be achieved in full before close to the end of the next CSR period. However, we need to start making some early wins to ensure that we improve the management of our prisons and make some of the financial savings required.

The Deputy Chairperson of the Committee for Justice (Mr McCartney): Go raibh maith agat, a Cheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagra.

I welcome the Minister's statement. He knows that we have supported the prisons review; indeed, we met the review team on a number

of occasions. There are a number of reports from the Criminal Justice Inspection about corporate management and governance as well as other reports, including those from the Prisoner Ombudsman. Given that there has been a recent announcement that corporate manslaughter will be put on the statute book —

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

Mr McCartney: I was just laying the context for it, a Cheann Comhairle.

As we await the outcome of the interim report, is this an appropriate time for the Minister to take steps to put the powers of the Prisoner Ombudsman on a statutory basis?

The Minister of Justice: I thank Mr McCartney for helping me to set out the circumstances. His remarks were possibly slightly briefer than mine.

The Member asked whether this was the time for statutory powers for the Prisoner Ombudsman. I said in my statement, as on other occasions, that I am committed to statutory powers being granted. However, in the context in which the First Minister and deputy First Minister are reviewing the process for ombudsmen in general — I understand that the matter is also before the Committee for the Office of the First Minister and deputy First Minister — there is a limit to what we can do if other matters are changing and may affect the process. I recently wrote, for the second time, to the First Minister and deputy First Minister to ask them where the wider review of ombudsman powers was. I am committed, as soon as I know the wider position, to looking at how to review the powers of the Prisoner Ombudsman. Indeed, the roles of other ombudsmen who relate to the justice system need to be examined at the same time.

Mr A Maginness: I welcome the statement this morning. The SDLP fully supports the programme that has been outlined. We welcome the progress made, although we would like it to be faster, and we support what the Minister is doing.

I agree that community sentences are not a soft option. Of those who serve such sentences, three out of four do not reoffend. Can the Minister square that with the reduction in the Probation Board's budget, which will mean the loss of 60 jobs? That will interfere with and perhaps reduce the Probation Board's good work on community sentences.

The Minister of Justice: I thank Mr Maginness for his compliments and for his support during my time in office. I can say only that I, as Minister, would also like faster progress on some issues, but we all know that significant change cannot be achieved that quickly.

The Member mentioned the budget for the probation service. That seems to be slightly outwith the scope of this statement, but I will try to respond. The details of the Department's budget are still being worked through, and there are issues that relate to exactly where different cuts will fall. Members are aware that the Department of Justice, in common with other Departments, has to bear its share of the cuts. Discussions are ongoing between the probation service and the relevant section of the Department to determine what adjustments can be made. I fully recognise the probation service's good work, which is, as the Member highlighted, extremely successful. Indeed, it is an exemplar in these islands of work that is successful in diverting people from crime. Nonetheless, that does not mean that the service can be exempt from cuts. However, I am determined to do all that I can to ensure that money is put into the most effective front line services, regardless of which agency or, in some cases, which NGO provides them.

Dr Farry: I thank the Minister for his statement, and I welcome the progress to date on what is, ultimately, a long-term and wide-ranging programme of reform.

One of the features of the Hillsborough agreement was the considerable detail provided on the headline policies. To what extent has policy being agreed in advance helped the Minister with implementation? What wider lessons does he take from that feature of the Hillsborough agreement?

The Minister of Justice: I thank my colleague for his supportive words. The fact that I took up office as Minister of Justice with such a firm statement of policy proposals in the Hillsborough Castle Agreement — those were expanded on and further worked through in discussions that colleagues and I had with other parties before I was elected Minister — has been of considerable benefit to the operation of the Department of Justice. That is particularly the case with the Justice Bill, which is well

advanced on its journey through the Assembly, and with other aspects of the programme that I highlighted this morning.

Perhaps there is a lesson there for the entire operation of the Executive, but I suspect that I would be being even more mischievous if I were to extend the discussion much further at this stage.

11.00 am

Mr Givan: The Minister's statement touched on the review that is taking place, and we await the detail of it. We will be looking for the balance in prisons to be turned from a focus on prisoners' rights and privileges to one in which the staff are in control so that we could prevent incidents such as the one that occurred only last week. On that incident, will the Minister advise the House what measures are being put in place to ensure that there is a robust regime and that adequate searches can take place to prevent similar items being smuggled into prisons and inappropriate images being downloaded? What review and actions took place immediately after the incident to restrict prisoners' access to computer facilities and equipment? Furthermore, will the Minister give details of any restrictions on the prisoner in question that have been put in place while the investigation is ongoing?

The Minister of Justice: I thank the Member for his comments. I am not sure what last week's incident at Maghaberry has to do with my statement of progress against the Hillsborough Castle Agreement. However, I will respond briefly to the Member's questions.

A planned, intelligence-led search uncovered a mobile phone in the prison and illegal access to the Internet by a prisoner. The incident was a good sign of the Prison Service acting proactively, and it was followed up with a full examination, not just of that computer, but of all computers to which prisoners had access, resulting in the full forensic examination of a number of them. So far, the issue that Mr Givan highlighted is the only one that has been drawn to the Prison Service's attention. In fact, it is an example of how good work in the Prison Service has led to a problem being uncovered, so, rather than using it as an opportunity to parody the service, we should recognise it as an example of something that it got right.

Ms Ní Chuilín: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement. Providing better access to justice was cited in the addendum to the Programme for Government and, indeed, throughout the sentiments of the Justice Bill. Will the Minister clarify how families who have attempted over many years to gain access to court inquests in order to find out the circumstances surrounding the death of their loved ones should proceed? Furthermore, will the Minister clarify the position on legal aid for families who pursue such cases?

The Minister of Justice: I thank the Member for her question. The access to justice review looks, of course, to the future of access rather than specifically at historical inquests. Learning how to resolve the issues of the past is a major problem for this society, and it is a matter of considerable regret to me that, despite other people being responsible for dealing with the legacy of the past, the great bulk of the work is being done by the Police Service's Historical Enquiries Team, the Coroners Service, which is carrying out historical inquests, and, indeed, the Police Ombudsman. All those bodies relate to the Department of Justice and all are budgeted for the future not the past.

I have been seeking to ensure that there is adequate funding to deal with legacy inquests. Frankly, the issue goes way beyond the responsibilities of the Department of Justice, and I sometimes wish that, collectively, in conjunction with those in the Northern Ireland Office who also bear responsibility, we could recognise that we have a considerable need to deal with the past, which is not being addressed adequately at the moment.

Mr Buchanan: I thank the Minister for his statement and for the many actions that he described in it, the most important of which is the code of practice for dealing with victims. Far too often, the judicial system appears to favour perpetrators over victims. Will the Minister assure the House that the code of practice for dealing with victims will be fit for purpose and will give due credence to the hurt and pain that victims experience and that the balance will change so that victims' rights are protected over those of perpetrators?

The Minister of Justice: I thank the Member for his complimentary remarks. I understand that, at this stage, we have had 20 responses to the consultation on the code of practice, which has just closed. Those responses have generally been positive about the proposals. It is clear that, at different stages in the criminal justice

system, victims have, up to now, not felt well treated. We have good examples and examples where different agencies failed to keep victims informed about the process or provide them with proper support. I hope that the code of practice will be fully launched before the dissolution of the Assembly. It will considerably strengthen the services provided to victims by all the agencies in the criminal justice system.

Mr Gardiner: I thank the Minister for his statement this morning. Will he provide an update on the unavoidable delays in the criminal justice system and outline what action he has taken to speed up and streamline the justice system in Northern Ireland? That action was outlined in the Hillsborough agreement and is much needed for victims.

The Minister of Justice: I thank the Member. Earlier, I referred briefly to the issue of speeding up the criminal justice system. I addressed that issue with the Criminal Justice Board in my second week in office, and it is now directed by the issues group that I established by bringing together people at senior level in the police, the Public Prosecution Service and the Department of Justice and in consultation with the judiciary. Good work is being done at different levels, but we still need to ensure that we get a full joining-up of the different agencies. I have been very pleased by the better relationships that I have seen between the Police Service and the Public Prosecution Service in ensuring that files are prepared and handled properly. We also have examples at county court level of work that has been done to ensure that cases are speeded up and that there is not a perpetual culture of adjournments. We also need to ensure that, as the Bill proposes, we divert less serious offenders from the justice system entirely. We hope to do so by fixed penalties and prosecutorial cautions, both of which will make an impact. However, we still require the system to act in a more joined-up way, and I am committed to continuing to drive that forward.

Mr McDevitt: I, too, welcome the statement this morning, particularly the Minister's update on the review of the conditions of detention management and oversight of prisoners. I note that during the period of the review, there have been serious failings in the management and oversight of prisoners. Therefore, specifically, how many prison officers have been disciplined as a result of the unintended releases from Maghaberry and from Belfast and Downpatrick courts?

The Minister of Justice: I am afraid that I cannot give the Member an answer to that at this point. However, I will write to him with the exact numbers.

Mr O'Dowd: Go raibh maith agat, a Cheann Comhairle. I, too, welcome the Minister's statement. I want to ask about reviews of alternatives to custody and, indeed, diversionary alternatives to prosecution. What guidelines will be issued to the Police Service and others to ensure that those measures are carried out in an appropriate and proper manner and that the public can be confident that such measures are being carried out proportionately?

The Minister of Justice: I thank the Member for the question. The simple answer is that we need to ensure that, when we carry out the review, we see the responses and ensure that appropriate guidance is developed, not just for the Police Service but for all the relevant agencies. There is no doubt that there are significant opportunities if we develop alternatives to custody. I have already highlighted the successes of non-custodial sentences and, for example, the work being done by the Probation Service on probation orders or community service orders. However, it is clear that we need to ensure that the review brings together all the evidence and produces a package that is implemented across the entire system.

Mr Spratt: I thank the Minister for his statement. I want to ask about the £200 million. I welcome the fact that that case is nearing a conclusion to deal with the terrorist dissident threat. However, given that, in 2010-11, almost £50 million has been spent to deal with the security threat, which will total £200 million over a four-year period, and given the very expensive nature of operations, such as the one on the Antrim Road the other day, will the Minister assure the Assembly that if additional pressure comes over the next four years and a compelling case is made by the Chief Constable for additional funding over and above what is now being sought, he, along with the Finance Minister, will take that case to the Treasury?

The Minister of Justice: I thank Mr Spratt for that supportive comment. I should make it clear that the £200 million that is being sought from the Treasury is in addition to the £45 million that has been granted from Executive funds, so it is a slight increase over the baseline of the year that is ending. However, as I will continue

to do, I have made it clear that the bid for additional funding in the current CSR period is based on the current level of security threat. If there is any increase in that threat, I will support the Chief Constable in making a further robust case to the Treasury.

Mr O'Loan: I note the Minister's earlier answer about placing the Prisoner Ombudsman on a statutory basis, and I support that very strongly. However, I am concerned about his consideration of amalgamating that function with other ombudsman services. Will he agree that the function of the Prisoner Ombudsman is absolutely distinctive in character and, therefore, needs to be protected in a body that is absolutely separate and independent?

The Minister of Justice: I thank Mr O'Loan for his point. It is clear that there is a specific function to be performed, which is performed currently by the Prisoner Ombudsman. However, given the range of issues that have to be considered and the range of ombudsman-type services that exist, in the current financial circumstances, we have to look seriously at what opportunities there are for co-operation, such as shared back office services. The independence of the function must be absolute, but that does not necessarily mean that the organisation could continue in the same way, given the financial pressures that we are under.

Mr Lyttle: I thank the Minister for the frequency with which he has updated the House on what is a significant programme of reform. Given that, this morning, the House recognised the benefit of the Executive working together, how important does the Minister think it is that the Executive work together to deliver the reducing offending strategy, particularly to prevent children and young people from entering the justice system?

The Minister of Justice: Again, Mr Speaker, I seem to be getting a very easy ride this morning. I thank the Member for that point. He is absolutely right on the necessity of the Executive working together. Indeed, I trust that it is not breaching confidence too far to say that, under the work that is being done in the Executive subgroup on children and young people, there have been discussions about the best way of managing the work that is being done and about who should take the lead. It seems to me that responsibility for some areas of the welfare of children at an early stage falls to the Department of Health, Social Services and Public Safety. However, there are also issues on which the Department of Justice, particularly through the Youth Justice Agency, is probably more appropriately placed to take a lead than had been the case in the Executive before the Department was established.

I am discussing those points with ministerial colleagues. My colleague's point was exactly right: we need to ensure that there is full Executive co-ordination, co-operation and partnership working, because so many of the issues that we face are cross-cutting, and if we continue to deal with them in silos, we are in real trouble.

11.15 am

Executive Committee Business

Welfare of Animals Bill: Consideration Stage

Mr Speaker: I call the Minister of Agriculture and Rural Development, Ms Michelle Gildernew, to move the Consideration Stage of the Welfare of Animals Bill.

Moved. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Mr Speaker: Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list.

There are five groups of amendments, and we will debate the amendments in each group in turn. Members should address all the amendments in each group on which they wish to comment.

The first debate will be on amendment Nos 1 and 19, which deal with prohibited procedures and clarify the routine procedures that will continue to be permitted in the Bill. The second debate will be on amendment Nos 2, 5 to 10 and 20, which deal with the docking of dogs' tails. The third debate will be on amendment Nos 3 and 4, which remove an exemption in the Bill to offences relating to photographs and videos of animals fighting. The fourth debate will be on amendment Nos 11 and 12, which deal with enforcement and clarify the meaning of an "inspector". The fifth debate will be on amendment Nos 13 to 18 and 21, which deal with subordinate legislation, principally concerning a change in regulation-making powers from negative resolution to the affirmative resolution procedure.

Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

Clauses 1 to 4 ordered to stand part of the Bill.

Clause 5 (Prohibited procedures)

Mr Speaker: We now come to the first group of amendments for debate. The group comprises amendment Nos 1 to 19. The amendments deal with prohibited procedures and clarify the routine procedures that will continue to be permitted in the Bill.

The Minister of Agriculture and Rural Development (Ms Gildernew): I beg to move amendment No 1: In page 3, line 31, leave out subsections (5), (6) and (7) and insert

"(5) This section does not apply—

(a) in relation to—

(i) any procedure carried out by a veterinary surgeon;

(ii) any procedure carried out for the diagnosis of disease;

(iii) any procedure carried out for the purposes of medical treatment of an animal;

(iv) any other procedure which is specified in regulations made by the Department;

(b) to the removal of the whole or any part of a dog's tail (which is dealt with in section 6).

(6) Before making regulations under subsection (5), the Department must consult such persons appearing to the Department to represent relevant interests as the Department considers appropriate."

The following amendment stood on the Marshalled List:

No 19: Leave out schedule 1. — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

The Minister of Agriculture and Rural Development: Before I speak to the first group of amendments, I take the opportunity to thank the Chairperson, his predecessor and members of the Committee for Agriculture and Rural Development for their detailed and constructive scrutiny of the Bill. The 13 amendments that I tabled are the result of a lot of hard work and the efforts of the Office of the Legislative Counsel, our legal advisers and officials in my Department. I thank everyone involved for their efforts. In particular, I thank the many stakeholders who contributed to the Bill's development. Their advice and contributions have been invaluable.

The amendments that I tabled will strengthen the Bill, which, in turn, will put us at the forefront in our protection of farmed and non-farmed animals. I will discuss the amendments in detail in a moment. First, I want to remind the Assembly why the Bill is before us and speak about its key benefits. The Bill is intended to replace the Welfare of Animals Act1972, which, at almost 40 years old, is no longer sufficient to deal with the animal welfare issues of today. The Bill updates and strengthens the existing powers in that Act. The Bill's new powers will address the legislative gap between the high level of protection afforded to farmed animals compared with the somewhat limited protection given to non-farmed animals, including domestic pets and horses.

The key benefits of the Bill are as follows: a duty of care will be provided to all protected animals, including domestic pets and horses; it will be possible to take action to prevent animals from suffering, as opposed to the current position, in which action can be taken only after suffering has occurred; stronger powers will be provided to deal with animal fighting, including dog fighting; powers will be provided to regulate, through subordinate legislation, a wide range of activities involving animals, such as dog-breeding establishments; and it will increase the penalties for serious animal welfare offences.

My proposed amendments do not change those key benefits. In some instances, they strengthen them. For example, the amendment to clause 8 provides further, stronger powers to curtail animal fighting.

I turn now to the amendments to the Bill. Amendment No 1 is one of a group of two amendments, amendments Nos 1 and 19, which deal with prohibited procedures. Prohibited procedures are those that interfere with the sensitive tissues or bone structure of an animal, such as ear cropping of dogs, devocalising of birds or dogs, and so on. Clause 5 makes it an offence to carry out a prohibited procedure on any protected animal unless it is carried out by a veterinary surgeon or is specified as being exempted from general prohibition. Normal farming practices would continue to be allowed.

Amendment No 1 provides clarification as to the routine procedures that will continue to be permitted and includes regulation-making powers to specify all permitted procedures, which would otherwise be prohibited by the powers in the Bill. The amendment was suggested by the Committee for Agriculture and Rural Development and some stakeholders who felt that the original clause and associated schedule did not clearly set out all routine procedures, such as ear tagging of cattle and sheep and castration of lambs, which will continue to be permitted after the Bill's enactment. The amendment will allow the Department to make subordinate legislation to specify each and every procedure that will continue to be permitted. Such legislation will be subject to consultation with stakeholders and the Committee for Agriculture and Rural Development, and it will be made by draft affirmative resolution of the Assembly.

Amendment No 19 is consequential to amendment No 1 in that schedule 1 would no longer be required, as all procedures that would continue to be permitted under the Bill would be included in subordinate legislation that is made under the amended clause 5. In addition, the first two elements that are in schedule 1 have been included in clause 5 as part of the amendment. Therefore, schedule 1 should be removed from the Bill.

I propose to amend clause 5 and to remove schedule 1 from the Bill, as agreed with the Committee. I urge Members to support amendment No 1 in this group and to facilitate the removal of schedule 1 from the Bill. When it comes to the vote on the schedule, I intend to oppose that it stands part of the Bill. I encourage Members to do the same. Those are the group 1 amendments. Go raibh míle maith agat.

The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray): I want to thank Committee members, departmental officials, all witnesses who appeared before or made representations to the Committee, the Bill Office and the Committee support team for their important contributions to the Bill.

I support the proposed amendment to clause 5 and the Minister's opposition to schedule 1. During Committee Stage, members expressed concern as to the definition of a prohibited procedure. They indicated that they required clarity on which routine farming procedures would be permitted to be carried out. Members, therefore, proposed — I am glad to say that the Department agreed — that it would be beneficial to set out in subordinate legislation

the routine procedures that would be permitted when the Bill is enacted.

The new list of procedures will, in due course, negate the need for schedule 1 to the Bill, which, we have been advised, will be opposed by the Minister, rather than the Bill being amended in order to have it removed. The Committee has not discussed that development. However, as it has the same effect as amendment No 19, I feel confident to say on the Committee's behalf that it will support the Minister's opposition to schedule 1.

The Committee for Agriculture and Rural Development supports amendment No 1 and is opposed to schedule 1's standing part of the Bill.

Mr Beggs: I declare an interest as a local councillor, as some aspects of the Bill would, ultimately, engage local councils in the protection of animal welfare. I welcome the Bill's Consideration Stage. The Bill will give greater protection to the welfare of animals.

In the first group of amendments for debate, amendment Nos 1 and 19 jointly bring positive change. As has been indicated, the Assembly is asked to approve enabling legislation. Detailed regulation can be agreed in subordinate legislation. That will allow much greater flexibility from the Minister and the Department in meeting animals' needs and, indeed, those of industry that is involved in that area.

In giving the Department the ability to make regulations, it is important to note that the Bill requires that the affirmative resolution procedure will be required on every aspect but one. Therefore, this is not giving power to the Department carte blanche, but is enabling it to make regulations that, ultimately, will have to be approved by the Assembly, which is entirely appropriate. Therefore, I am comfortable in supporting amendment Nos 1 and 19, which will remove schedule 1.

The Minister of Agriculture and Rural Development: Go raibh míle maith agat, a Cheann Comhairle. As I said in my opening remarks, amendment No 1 will provide clarification to animal owners and set out clearly the procedures that will continue to be permitted. The subordinate legislation will specify, as appropriate, the time frame within which the procedure can be carried out, whether an anaesthetic must be administered and whether a veterinary surgeon must undertake the procedure.

I am grateful for the Committee's contribution on the amendments, and I call on Members to support amendment No 1 and to oppose that schedule 1 stands part of the Bill.

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

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6 (Docking of dogs' tails)

Mr Speaker: We now come to the second group of amendments for debate, which relate to the docking of dogs' tails. With amendment No 2, it will be convenient to debate amendment Nos 5 to 10 and amendment No 20. Members should note that amendment Nos 5 to 10 and amendment No 20 are consequential to amendment No 2.

The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray): I beg to move amendment No 2: In page 4, line 18, leave out subsections (4), (5) and (6) and insert

"(4) Subsections (1) and (2) do not apply if the dog is a certified working dog that is not more than 5 days old.

(5) For the purposes of subsection (4), a dog is a certified working dog if a veterinary surgeon has certified, in accordance with regulations made by the Department, that the first and second conditions mentioned below are met.

(6) The first condition referred to in subsection (5) is that there has been produced to the veterinary surgeon such evidence as the Department may by regulations require for the purpose of showing that the dog is likely to be used for work in connection with law enforcement, lawful pest control or the lawful shooting of animals.

(7) The second condition referred to in subsection (5) is that the dog is of a breed specified in Schedule 1A for the purposes of this subsection.

(8) The Department may by regulations add to, or remove, breeds of dog from the list in Schedule 1A.

(9) It is a defence for a person accused of an offence under subsection (1) or (2) to show that that person reasonably believed that the dog was one in relation to which subsection (4) applies.

(10) A person commits an offence if—

(a) that person owns a subsection (4) dog, and

(b) fails to take reasonable steps to secure that, before the dog is 8 weeks old, it is identified as a subsection (4) dog in accordance with regulations made by the Department.

(11) A person commits an offence if that person takes a dog, or causes a dog to be taken, from a place in Northern Ireland for the purpose of having the whole or any part of its tail removed, otherwise than for the purpose of medical treatment administered by a veterinary surgeon.

(12) A person commits an offence if—

(a) that person shows a dog at an event to which that person pays a fee or members of the public are admitted on payment of a fee,

(b) the dog's tail has been wholly or partly removed (in Northern Ireland or elsewhere), and

(c) the removal took place after the coming into operation of this section.

(13) Where a dog is shown only for the purpose of demonstrating its working ability, subsection (12) does not apply if the dog is a subsection (4) dog.

(14) It is a defence for a person accused of an offence under subsection (12) to show that that person reasonably believed—

(a) that the event was not one to which that person paid a fee or members of the public were admitted on payment of a fee;

(b) that the removal took place before the coming into operation of this section; or

(c) that the dog was one in relation to which subsection (13) applies.

(15) A person commits an offence if that person knowingly gives false information to a veterinary surgeon in connection with the giving of a certificate for the purposes of this section.

(16) The Department may by regulations make provision about the functions of inspectors in relation to—

(a) certificates for the purposes of this section, and

(b) the identification of dogs as subsection (4) dogs.

(17) Before making regulations under this section, the Department must consult such persons appearing to the Department to represent any interests concerned as the Department considers appropriate.

(18) In this section 'subsection (4) dog' means a dog whose tail has, after the coming into operation of this section, been wholly or partly removed without contravening subsection (1), because of the application of subsection (4)."

The following amendments stood on the Marshalled List:

No 5: In clause 31, page 18, line 18, leave out "sections 6(5)" and insert "sections 6(5) and 6(10)". — *[The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]*

No 6: In clause 31, page 18, line 24, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

No 7: In clause 32, page 18, line 31, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

No 8: In clause 33, page 20, line 17, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

No 9: In clause 36, page 21, line 36, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

No 10: In clause 41, page 25, line 3, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

No 20: After schedule 1, insert the following new schedule

"SCHEDULE 1A

DOGS SPECIFIED FOR THE PURPOSES OF SECTION 6(7)

1.—(1) Spaniels of any breed or combination of breeds.

(2) Terriers of any breed or combination of breeds.

(3) Any breed commonly used for hunting, or any combination of such breeds.

(4) Any breed commonly used for pointing, or any combination of such breeds.

(5) Any breed commonly used for retrieving, or any combination of such breeds." — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

The Chairperson of the Committee for Agriculture and Rural Development: Amendment Nos 2 and 20 relate to tail docking and amendment Nos 5 to 10 relate to the varying levels of penalties.

Mr Speaker, with your indulgence, and that of the House, I will provide clarity on how the Committee arrived at this stage. I do so in the hope that the Committee can remove the confusion surrounding clause 6 and tail docking that some Members and the wider Northern Ireland constituency may be experiencing. If Members have queries on the matter, I will be happy to note them during the debate and respond during my winding-up speech on the amendments.

Tail docking is a medical procedure to remove part of the tail. Typically, it is done by snipping off the tail with surgical scissors. It may also be done by placing a band on to the tail to cut off blood supply, causing the tail to fall off. Docking is carried out by a veterinarian between two and five days of the start of a puppy's life. However, older puppies and dogs require general anaesthesia and must undergo the more major procedure of tail amputation.

Tail docking is controversial, and the majority of debate during Committee Stage was on that matter. Those who support tail docking consider it a routine procedure that is practical and minimally painful. On the other hand, many who disapprove describe it as a painful mutilation that is unnecessary.

When the principles of the Bill were first presented to the Committee 12 months ago, the Department indicated that it was of a mind to ban the docking of dogs' tails. The Committee was aware of the importance of working dogs in the rural community and that tail docking was often performed on them to protect their tails from injury in the field. The Committee has been consistent in its belief that there should be an exemption in respect of working dogs on welfare grounds while acknowledging that the cosmetic docking of tails brings no welfare benefits to the dog and should, therefore, be banned. That belief was communicated to the Department on numerous occasions. However, in the interests of transparency, the Committee agreed at that stage that it wished to see strong evidence from the Department supporting the case for a total ban. It is regrettable that the Department failed, in the Committee's view, to provide any substantive evidence supporting the total ban on tail docking.

At the first Committee Stage evidence session on 22 September 2010, despite the fact that, again, members called for an exemption for working dogs, the Department continued to state that it would seek to ban tail docking, indicating that that was based on advice, not evidence.

The Department's precise words were:

"The advice on which we are working came from the Royal College of Veterinary Surgeons and our vets."

That is from the Hansard report of the Committee meeting on 22 September 2009. That is important, because it is indicative of the total reluctance of the Department to listen to alternative views, of its dismissal of all other evidence — I stress the word evidence — presented to it, and of its refusal to hear the voices of the rural community.

11.30 am

I will return to the advice that the Department received from the Royal College of Veterinary Surgeons (RCVS) in a moment, but I would like to mention a particular concern about the language that the RCVS and, more particularly, the Department, used during Committee Stage. That included the term "mutilation" when referring to tail docking. That is an extremely emotive term aimed at provoking public reaction and grabbing the headlines. That was, however, surpassed by the Department's likening of the docking of a dog's tail to "cutting off your wee finger". Unsubstantiated, unsupported statements of that type, clearly aimed at making

newspaper headlines, rather than at furthering an argument, are unnecessary and unhelpful.

I now turn to the main scientific evidence that was presented by the Department in support of the ban on docking. As previously stated, that was based on the advice received from the Royal College of Veterinary Surgeons and on a University of Bristol report that the Department introduced as evidence during Committee Stage. The report was titled, with another flurry of emotive headlines, 'Risk factors for tail injuries in dogs in Great Britain'. As evidence of the Committee's desire to be convinced by the Royal College of Veterinary Surgeons, members took evidence from Vets NI in March 2010 on behalf of the college, and again from Vets NI, this time supported by the RCVS, on 12 October. It is a matter of record in Hansard how the latter meeting went, and I assure Members that the first meeting was no different.

With the indulgence of the House, I will briefly summarise the arguments made during the evidence sessions. Vets NI apprised the Committee of four reasons to oppose tail docking: pain; the removal of an appendage that is used for communication; the potential for long-term side effects; and the lack of long-term benefits to the animal. When a puppy's tail is docked before it is five days old, it is not docked under anaesthetic. We asked how the vets assessed the extent of pain to the puppy. The vets described how the dogs yelped but then stopped because they have a natural defence mechanism whereby they remain quiet so as not to reveal themselves to predators. That is in spite of the fact that dogs have been domesticated for thousands of years.

We then referred to previous evidence, submitted to the Committee and to colleagues in the Scottish Parliament, that the pain could be likened to a burn to the hand that would make one utter the word "ouch". We then put to them the evidence given to the Scottish Parliament by a vet in favour of the ban, who stated:

> *"Pain is present, however minor and fleeting, and it can be measured. Pain is possibly the least powerful argument as it is so slight."*

Representatives of Vets NI confirmed that the pain was slight. They stated that the extent of the pain would be similar to receiving an injection. Finally, they said that pain was a factor, but not the major factor as far as they were concerned.

The second assertion was that a dog with a docked tail would have its communication impaired. Again, members of the Committee challenged that, suggesting that the attitude of a dog as it was approached was a more relevant form of communication. Vets NI praised the Committee for its accurate observations before conceding that the tail was only one method of communication and that, for example, half-docking a tail would not significantly affect a dog's communication levels.

The third reason for supporting a ban was the long-term side effects of docking, which include tumours. However, under direct questioning by the Committee about the number of post-operative effects, including tumours, VetNI stated:

> *"There is no question that it is a small percentage".*

The representative said that he could not argue that it is a major factor.

The final reason for banning tail docking was that there is a long-term benefit to the dog. That was the core of the matter, because the Committee has argued that the exemption in the amendment was for the long-term welfare benefit of a working dog. We asked for the number of working dogs seen with tail injuries. Although they referred to the Bristol University report, which I will come to shortly, the VetNI representatives stated that, as private practitioners, they found the numbers to be low. When asked whether that might be because working dogs' tails were docked, they could not deny that. When asked which procedure was more painful, docking the working dog before it was five days old or allowing a mature dog to endure tail damage and amputation, they stated that it would be a more painful procedure for the mature dog.

To summarise, the advice on which the Minister and her Department initially based their decision to ban the docking of dogs' tails was negligible. The Royal College of Veterinary Surgeons, represented by VetNI, categorically stated that pain was not a major factor, communication was not a major factor, side effects were not a major factor, and the long-term benefits to working dogs were best served through tail docking before the pup was five days old because that was significantly less painful. Those are the facts.

I will now turn to the report entitled 'Risk factors for tail injuries in dogs in Great Britain', commissioned primarily by the Welsh Assembly

and carried out by the Royal Veterinary College and Bristol University. The report claimed that 500 tails would need to be docked in order to prevent damage to one tail: another emotive and disgraceful headline used by the vets and the Department to support their unsubstantiated arguments rather than relying on evidence.

It was claimed that that was the conclusion of that scientific report and concrete evidence that tail docking was wrong and should be banned. However, let us look at the evidence in the report. The evidence was based on a survey sample of 52 veterinary surgeries in England, Scotland and Wales. Northern Ireland was not sampled. The 52 surgeries were not selected to be representative of rural communities, although they were stratified to include that, but on the basis of the available practice management software.

That process originally identified 314 practices, of which 198 immediately refused to participate, without providing a reason. A further 64 did not respond to the survey. The sample size of the number of dogs was then further selected by doing a search of the word "tail". That resulted in 138,212 dogs, of which 29 were working dogs, roughly 0·02% of the survey. I say roughly because of those, one was a racing greyhound, one a German shepherd police dog and three were herding collies, all of which are not traditionally docked.

Some 281 of the dogs sampled — 0·2% — were recorded as having tail injuries, with 30 mature dogs having had their tail amputated. From that figure of 0·2% came the conclusion that 500 dogs would need to have their tails docked to prevent damage to one tail. One has to question the impartiality of such a statement when the survey was carried out by, among others, the Royal Veterinary College, a body opposed to the docking of tails.

The survey indicated that 281 dogs from the 52 surgeries sampled suffered injury, an average of approximately five dogs per surgery. On average, 0·6% of mature dogs per surgery required amputation. There are 4,853 registered veterinary practices in England, Scotland and Wales, and approximately 155 in Northern Ireland. If we extrapolate the average figures for the total number of surgeries in England, Scotland and Wales, it would equate to 6,645 injuries to working dogs, with an average risk factor of 0·29% to working dogs. In Northern Ireland, 45 working dogs would be injured. Those figures equate to some 3,987 unnecessary amputations on working dogs in mainland UK and 13 very painful amputations on mature working dogs in Northern Ireland. Where is the long-term benefit to the dog in that? Where is its welfare considered? Where is the undeniable evidence that the Department heralded, especially when the report went as far as to identify its own weaknesses in its conclusions, which are obvious to all.

There is a more significant injury risk to working dogs. Injuries to dogs with docked tails are less frequent than to those with undocked tails. A separate survey should be carried out specifically on working dogs. There was no evidence or mind-shattering facts and figures to convince the Committee that docking the tail of a working dog for welfare reasons was wrong and should not be carried out. There was no road to Damascus conversion — nothing. The evidence was not there, the arguments were not made and the Department had no case.

The Committee called on the Department on a number of occasions to negotiate an amendment that would allow for an exemption for working dogs. That is recorded in the Hansard reports and in the minutes of proceedings. The Department would not negotiate or compromise on that so, at its meeting of 28 September 2010, the Committee took the decision to force the Department to compromise by agreeing to vote against the inclusion of clause 6. That has been misinterpreted as the Committee agreeing to the wholesale docking of dogs' tails. I emphasise that that is not the case. The Committee does not wish, and has never wished, to support cosmetic docking of tails. There are absolutely no welfare benefits in the cosmetic docking of tails.

The decision was taken to force DARD to the table with a compromise. The official letter to the Department following the 28 September meeting states:

> *"The Committee consensus was that this evidence is inconclusive and, as a result, the Committee decided that Clause 6 should be removed from the Bill. The Committee would ask that the Department indicate, at the earliest possible moment, whether it intends to remove or seek to amend the clause."*

That is a matter of public record and it is a position that the Committee has consistently

maintained. That position eventually brought the Minister and the Department to the table with a proposed amendment that, despite moving some distance, still fell very short of doing the right thing.

The Minister considered that there was inconclusive evidence to justify an exemption for the docking of working dogs' tails. Put another way, there was inconclusive evidence to justify the banning of tail docking for working dogs. Nevertheless, the Minister tabled an amendment with the Committee on 16 November 2010 to allow an exemption for pure-bred spaniels and hunt point retrievers. However, that amendment did not address the policy principle of exempting working dogs that are involved in pest control. In rural areas, the main group of dogs that undertake that very valuable service are terriers. The Committee sought the inclusion of terriers, but the Department refused. For that reason, the Committee has tabled an amendment to the clause, although, interestingly, the Department has not.

The Committee has had sight of the policy principles. As I have previously indicated, the Committee is opposed to the cosmetic docking of dogs' tails. The amendment seeks to ban that practice. The Committee also agrees with the Department's inclusion of a ban on showing dogs with docked tails. Removing the forum where the vast majority of cosmetically docked tails are displayed seems appropriate and logical.

Mr T Clarke: Will the Member give way?

11.45 am

The Chairperson of the Committee for Agriculture and Rural Development: No. I am not taking interventions; I have quite a bit to get through. I want to clarify a few matters. The ban on showing dogs with docked tails is in the Bill as introduced by the Department; it is not a Committee initiative, but the Committee is happy to support it. Similar legislation has been introduced in England and Wales, and although Scotland continues to allow dogs with docked tails to be shown, it has completely banned the docking of dogs' tails. In a few years' time, the various bans in Scotland, England and Wales will mean that dog shows will be made up of dogs that have not had their tails docked. In its correspondence to the Committee, the Kennel Club, to which many Northern Ireland dog shows are affiliated, suggested that although it was disappointed with the Committee's decision, a total and immediate ban on showing dogs with docked tails should be introduced to provide clarity to its members.

Through amendment No 2 the Committee is also seeking to close a loophole that was identified in England and Wales, where legislation bans the showing of dogs when a member of the public is admitted on the payment of a fee or admittance charge. That provision is also in the Welfare of Animals Bill, and it has led to some shows in England and Wales dispensing with an admittance fee and charging a car parking fee instead. In order to protect against what is an obvious attempt to circumvent the spirit of the law, with amendment No 2 the Committee is seeking to create new subsection 6(12) so that a person will commit an offence if they show dogs with docked tails at shows to which a member of the public has paid a fee. That has attracted criticism from dog show organisers and dog owners, and a show newsletter in the United Kingdom suggested that it should be opposed as it closed a loophole. However, the Committee sees new subsection 6(12) as a means of reducing the incentive for the cosmetic docking of dogs' tails while protecting dog shows.

The second area on which I want to provide clarity is when a ban would take effect, should amendment No 2 be accepted. The Committee and other Members have received correspondence on that matter from legitimately concerned owners and dog shows. It is tied up with the amendment to clause 45 and an agreement between the Committee and the Department in a different group of amendments that has yet to be debated. In summary, local government enforcement powers will not be introduced for 12 months after the Bill receives Royal Assent, which is expected in April 2011. Local government will be required to enforce the subordinate legislation required for tail docking, and the earliest that the Department will bring that legislation to the Committee and the House is April 2012.

I assure Members and those who are involved in the showing of dogs that dogs that have their tails docked before the legislation is enacted in April 2012 can continue to be shown for the remainder of their natural show lives. If the amendment is accepted, the ban will affect only those dogs that have their tails docked after the legislation has received Royal Assent. I am happy to note any concerns on that issue.

I appreciate that I have taken up a considerable amount of time on the issue of tail docking, but it is important. No doubt, others will want to speak on amendment No 2 and I will, therefore, move to the other amendments in the group that deal with penalties. Amendment No 2 will also, if accepted, introduced two new offences: failing to identify a dog as an exempted breed under proposed new subsection 6(10); and the provision of false information to a veterinary surgeon about an exempted dog under proposed new subsection 6(15).

The Committee agreed that failing to identify a dog as an exempted breed was an offence that merited a penalty of up to six months' imprisonment and/or a fine of up to £5,000. It also agreed that the offence of providing false information about the certification of an exempted breed to a veterinary surgeon was an extremely serious offence that required the more serious deterrent of up to two years' imprisonment on indictment and/or and unlimited fine. An illegal breeder who docked the tails of a large number of pups and forged the certification would attract the more serious penalty, and its imposition may also allow for that breeder to be disqualified from keeping animals. However, in that instance, the dogs could be seized, and, as unfortunately happens all too frequently, the pups would have to be destroyed. That is a deterrent to the habitual offender and one that will be exercised only in the specific circumstances in which the welfare of the dog is so severely threatened as to merit such action.

Mr Speaker, you will be glad to know that I have reached my concluding remarks.

The Committee has stated consistently that the welfare of dogs is the priority of the Bill. The Committee, the Minister and her Department agree that the cosmetic docking of tails is wrong and should be stopped and not encouraged. The Committee is convinced that the exemption in the proposed schedule 1A protects and enhances the welfare of working dogs, and that the penalties proposed are justified. The House is faced with a straightforward decision: either allow mature working dogs to face extremely traumatic surgery on fully-developed tails by agreeing to the total ban on tail docking, or recognise the significant benefits that will result from the banning of cosmetic docking of dogs' tails, taking into account the very well-developed welfare benefits that exemption would bring to working dogs. I genuinely hope that the House can get behind the Committee and support the second group of amendments. I commend them to the House.

Mr Molloy: Go raibh maith agat, a Cheann Comhairle. I declare an interest as a member of Dungannon and South Tyrone Borough Council. As has been said before, councils will have enforcement and licensing roles.

I wish to speak to amendment No 2 in this group of amendments, particularly on clause 6 which relates to tail docking. As the Chairperson said, most of the time spent discussing the Bill was consumed by this issue. It is unfortunate that it was added to the legislation, especially as there was largely agreement on the other issues and on the way of dealing with them, including dog fighting, which we will come to later. However, the fact that tail docking was included in an animal welfare Bill seemed out of place.

As we said many times in Committee, if we are talking about the welfare of animals, we are talking about the welfare of all animals. There are contradictions in the Bill in that lambs' tails and pigs' tails can still be docked, and pigs' teeth can be cut. Also, items such as castration and cutting horns — things that have been going on for years with the Department's approval — can still be carried out. Nevertheless, the Department picked one aspect that was outside its role, which is the docking of dogs' tails. If the Department was honest about the matter, it would say that this was not something that was mentioned daily on the radio or television, and that the community was not crying out for such legislation. I think that the Assembly should be trying to follow the needs of the people, and not simply creating draconian legislation that imposes fines and prison terms on the general public and, in this case, on dog owners and breeders.

We must put it into context.

Mr T Clarke: Does the Member accept that the term "cosmetic tail docking" was probably created by the Department to lead the Committee to introduce the ban? Many members were contacted by various organisations whose members have breeds of dogs with docked tails. They were all passionate about how they keep their animals and would not dock tails for cosmetic purposes, other than for the welfare of the animals.

Mr Molloy: Yes, I was going to make the point that cosmetic tail docking is an emotional title that has been included to persuade people that it is being done for cosmetic purposes, such as image and looks. However, many breeders who show dogs and who also have working dogs say that it is not done for cosmetic reasons, but for the welfare of the long-term life of the dog and to prevent injury to tails in the future. The issue of cosmetic tail docking needs to be qualified further. It is clear that the main issue for dog owners and breeders is looking after their dogs. Not only do they want to protect, administer medication to and groom their dogs to perfection but they want to look after their welfare. For owners and breeders, the term "cosmetic docking" is derogatory.

I congratulate the Department for belatedly taking on board the Committee's proposals on exemptions, which we had been discussing from the very start. It would have been more constructive had the Department considered and dealt with those proposals earlier. Consultation is also a consideration, and to some extent the Committee has to hold up its hands on that issue. The Assembly must examine the mechanisms on how to achieve full and proper consultation on all Bills, because people often hear about Bills only at a late stage. Many breeders who are involved in dog shows heard about this Bill only when it was too late for them to give evidence to the Committee. Between now and Further Consideration Stage, it is important that the Committee and the Department consult further to ensure that the voices of such people are heard. The Bill leaves one issue open about exemptions, in that there is no point consulting people if they are not listened to and their concerns are not addressed. I hope that the Department is prepared to make changes.

I welcome the fact that the Department may add or remove breeds via regulations. If at a later stage certain working breeds are identified, and reasons are given for that identification, I hope that the Department will be open to that and able to respond to the public's needs.

Mr T Clarke: The Member pushed hard about exemptions, but does he believe or trust, given the Department's position on clause 6, that if we allow the clause to go through today, the Department would not come back with further amendments to extend that to other working dogs? Does the Member not agree that it would be better to take out clause 6 and to go back to the start to look at it?

Mr Molloy: I hope that the Department has learnt something from this consultation, but that remains to be seen. I hope that it is prepared to listen to consultees and to recognise exemptions when they are identified. The Committee may have to table further amendments in the future. From the start, the Committee's position has been to remove clause 6. "Cosmetic docking" is an emotive expression that implies that breeders are concerned only about a dog's image. Although some dogs will now be exempt, with high credentials for such exemptions, 50% of injuries to dogs' tails happen to pets in the home.

Over the past couple of weeks, the Committee received e-mails that were very clear on that issue. A breeder from England supports breeders here, because England lost the battle on tail docking some years ago. Although Rottweilers now have long tails, they cannot be shown because of damage to their tails. Damage is still being done, and dogs are still being injured. The welfare of animals means stopping pain. The pain felt by a dog when its tail is being docked was described to the Committee, and repeated by the Chairperson, as being like an "ouch", as people would experience many's the time. Unfortunately, dogs with long tails will experience many an ouch, a bark, a jump and a squeal when their tail gets caught in a door or anywhere else. Dogs' tails can be injured when they are being transported in a trailer.

The issues around tail docking are as follows: first, it is unnecessary legislation, and there is no demand for it; and, secondly, it has to be looked at again, because we now find that, in Scotland, Wales and England, the number of injuries to dogs with undocked tails has increased dramatically in the short time since legislation was brought in there. We have to be mindful that changes may have to be made as we go along.

12.00 noon

That brings me to the fees issue. Unfortunately, the Committee bears some blame in relation to shows and fees and the imposition of the very strict and severe offences that are linked to them. Those are unfortunate. We now have a situation where dog shows could be put out of existence in the North. The legislation

says that it will be an offence for anyone to take a dog from the North of Ireland, bring it somewhere else to have its tail docked and bring it back. It does not say that the dog would create an offence if it walked across the border, got its tail docked and came back again. Are we to have a situation where the dog would be expelled because it went across the border and got its tail docked? Also, will a dog whose tail has been docked in the South of Ireland be able to take part in shows here after this legislation is passed? I can see the transfer of dog shows from North to South as a result of this legislation. It is very partitionist in that way, because it takes into account that this —

Mr Elliott: I thank the Member for giving way. It is not clear from the Member's speech whether he supports the Bill, supports the amendment or does not support any of it. Is one of the reasons why he may not support any of the legislation that it may be more partitionist?

Mr Molloy: The amendments are grouped, and the Committee had to table an amendment because it wanted some sort of exemption, even though its first choice was to throw out the legislation and the clause completely. If the clause were to be thrown out, first, there might be no exemptions and, secondly, there might be the wholesale docking that is talked about. So, the Committee was boxed into a situation where it had to meet certain criteria in order to put the amendment forward.

The arguments that I made in Committee were not all taken on board, but some were. I made the point, which the Department should recognise, that, although the legislation can make it an offence to take a dog from the North of Ireland to get its tail docked elsewhere, it does not take into account the fact that we have an artificial border in this country that is not of my making and does not have my support. We have to take into account the fact that the legislation will create problems, particularly for those involved in dog shows. It will have a big effect on dog shows in the North, and, likewise, where dog shows continue, it will affect dog breeders from the South of Ireland who show dogs in the North. They will be unable to do that when the law has changed.

Those are the issues that we have been dealing with in Committee, and they will continue to affect this legislation. If we look back on where we were with tail docking, we can see that damage to tails had not been an issue and had not come to the fore like other clear-cut issues, such as dog fighting and other abuses of dogs. We are not talking about dog fighting on this occasion but about the protection of dogs.

I return to the welfare of animals. I do not think that it is necessary to ban the docking of dogs' tails, but neither do I see it necessary to ban the docking of the tails of pigs, lambs or other animals. Let us be realistic about what we are dealing with. The legislation is now contradictory because it says that pigs' and lambs' tails can be docked.

The Chairman raised an example that was cited many times by the Department, which is that 500 dogs' tails would have to be docked in order to have one working dog. Those who breed lambs and pigs tell me that the same thing applies in any circumstance. First, the 500:1 ratio does not stand up. The main reason given for docking lambs' tails is to stop infection.

Mr Beggs: Has the Member seen lambs or sheep that have been eaten alive by maggots because of difficulties with their tail? Does he accept that there are welfare reasons for docking lambs' tails?

Mr Molloy: Yes, of course. If the Member had been listening to the earlier part of the debate and had heard the views of the Committee, he would know that we recognised that. However, we also recognised that the figure that was given by the Department — that 500 dogs' tails would have to be docked to protect one working dog — was false. I have seen lambs' tails being docked many times, but I am saying that thousands of lambs could have their tail docked in order to prevent the infection of a smaller number of lambs.

The same thing applies to pigs. Thousands of pigs could have their tail docked in order to prevent them from being bitten, or their teeth could be cut to stop them damaging sows. That does not mean that it should not be done, but neither does it mean that a ban is necessary. There is no reason for a ban on the docking of dogs' tails in the first place, and that is where the problem arises.

If we are talking about the welfare of animals overall, we must look at the welfare of all animals in that situation. However, the debate around the Bill became a debate about a ban on the docking of dogs' tails, not about the welfare

of animals. The Bill is about the welfare of animals, but the debate came down to an attack on dog breeders, those who were emotionally described as puppy farmers and cosmetic docking. It also became an attack on dog show promoters. A comment was made that many dog breeders damaged dogs' tails in order to have them docked. That was a completely scurrilous remark. The breeders and those who show dogs look after their dogs better than they look after themselves sometimes. Their main aim is the welfare of their dogs; it is the first thing in their mind. To say that they might damage a dog's tail deliberately in order to dock it is reprehensible. We need to look again at the emotional commentary that has run throughout the debate on the Bill.

The issue of the involvement of councils takes us back to the issue of consultation. Amendment No 12 deals with the exercise of functions by councils and covers licensing and enforcement as well. The role that councils would have to play under the Bill needs to be debated further, because there are issues around that. We have to look at all the functions that councils will have.

I know that the Chairperson of the Committee for Agriculture and Rural Development is saying that the issue of the licensing of dogs that have had their tail docked is not relevant to this group of amendments, but it will be another thing that councils will have to administer. All the regulations that will be policed by the PSNI will also fall directly onto councils. From the start, there has been no consultation with councillors — elected members — about the Bill. There may have been some consultation with dog wardens and various other council officers, but there was none with elected members. In this Chamber, the people who run things are the elected Members, not the officers and officials or anyone else. The respect for elected members needs to continue to ensure that proper consultation takes place. It is the elected members who have to set the rates and take the abuse. We will come back to that at a further stage.

The main thing to welcome today is that the Department has belatedly accepted the amendment that deals with exemptions. There are other aspects on which further consultation is required in order to perfect the Bill and get legislation that is about the welfare and protection of animals in the future.

Mr Beggs: I support the amendments in group 2 on the basis of the wide range of written and oral evidence that was presented in Committee. It is important that I, like other Members, put on record where this proposal came from.

The Department originally proposed to ban all docking of dogs' tails, as is the case in Scotland. However, evidence came to the Committee about the higher level of tail damage among dogs used in working situations. The Committee, therefore, tabled amendment No 2 to create an exemption whereby the tails of working dogs could continue to be docked on animal welfare grounds.

Originally, we looked at the dogs involved in lawful pest control and aspects of shooting, but it was then identified in Great Britain that law enforcement dogs, such as those that seek out drugs stored in confined spaces, could also be in danger. If dogs that have been highly trained to remove the scourge of drugs from our streets were to suffer tail damage, it could put them out of action. The Committee sought to include those dogs in its amendment.

It is important that we look at how the situation is dealt with in different areas. In Scotland, there is a total ban. In England and Wales, there is a partial ban, with an exemption for working dogs, but there has also been an attempt to ban the showing of dogs with docked tails. As others indicated, it is important to take account of what has been said. A piece in 'Dog World' newspaper indicates that there is a loophole in Great Britain, which the amended clause 6 would close. Instead of charging admission, show societies charge car-parking fees and thereby allow the showing of dogs that have had their tail docked illegally. Given the evidence of that loophole elsewhere, the Committee decided to try to close it. I think that that is reasonable.

If exemptions are to be created, an attempt should be made to ensure that they are enforced. Vets and owners will have to decide at an early stage whether dogs will be placed in a working environment or a showing environment. An owner will decide to protect the dog's tail and bring it down the show route or to dock the dog's tail to protect it in a working environment. The loophole created the potential for people to ride both horses. Dogs could be marked as working dogs but simply end up in homes rather than in a working environment. Our amendment will mean that owners have to decide whether

they intend their dog to operate in a show environment or a working environment.

I appreciate that tail docking is an emotive issue for dog owners. It would be helpful if the Minister could indicate clearly, from her own mouth, that the proposed amendment and legislation will not be applied retrospectively. In other words, she should confirm that, if a dog's tail is docked prior to the enactment of the legislation, it can still be shown. There is a lot of concern among dog owners who have read the Bill and were not clear —

Mr T Clarke: I accept what the Member said about owners being allowed to continue to show dogs that had their tail docked before the ban. However, does the Member not understand that there is also frustration among those who breed dogs and work with them daily? Once those dogs come to the end of their natural life, owners cannot show whatever other dogs they work with. They do not want to keep them, because they cannot dock their tail to prevent injuries. If someone has a pup that had its tail docked before the ban comes in, that dog can be shown, but, once it comes to the end of its natural life, that is it — they are out of show business.

Mr Beggs: I suspect that there may be some dogs in that category. However, my understanding is that the risk of increased tail damage is something like 17%, which is not insurmountable. The Committee's amendment allows for that increased risk. At that point, an owner can choose to introduce their dog into a working environment and to use it as a working dog.

12.15pm

Mr Molloy: Does the Member recognise the information from Wales and England that 50% of injuries are to long tails? On the point about the description of a working dog, when a dog, be it a terrier or whatever, runs out on its own, it normally hunts. In the dog's terms, it is working. It may do different work from what we actually want it to do, but, in that sense, it is a working dog. Given that situation, it is hard to define what is meant by a working dog. Dogs should be allowed their freedom.

Mr Beggs: Some argue that dogs should be allowed the freedom to express themselves. The Committee heard evidence that that was a factor when tails were docked. However, no firm evidence was given to justify that.

Mr T Clarke: Will the Member give way?

Mr Beggs: I would appreciate it if I could pursue my point for a moment. I have been generous with Members.

I fully accept that, if dogs' tails that are presently being docked are not docked, there will be more tails and a greater likelihood of tails being damaged. However, a balanced judgement has to be made about the increased risk of damage to tails against the injury that a dog may incur if its tail is removed and the effect of that on its welfare and ability to express itself. I simply say to Members that a balanced judgement has to be made.

The issue of show dogs that damage their tail was mentioned earlier. After reflecting on and learning more about the emotiveness of that subject, I accept that we must look at that carefully and address it at Further Consideration Stage. The amendment and the legislation presently exclude an owner who has an attachment to showing dogs from doing so should their dog get injured. I intend to look at that at Further Consideration Stage to see whether an exemption can be made. I understand that such an exemption has occurred elsewhere, and we should examine that too.

Mr T Clarke: I thank the Member for giving way. If we look at this at Further Consideration Stage, the Member should consider the fact that a dog owner who docks a dog's tail because it gets damaged will not be able to show that dog in a class of docked breeds anyway. At shows, part of what is looked at is the dog's tail and how the dog is being managed. Why, therefore, would someone want to enter a dog with an amputated tail, given that that dog will not be of the same show standard as the other dogs against which it is competing?

Mr Beggs: I raised that issue because I was lobbied on it by those who show dogs. I understand that some points would be removed. However, those people feel strongly that they would still wish to show their dog even if it had an injury. It may be the case that no one decides to take up that change. However, it is my understanding that some people would wish to take it up, so we should consider that.

Nevertheless, it will be their choice whether or not they take it up.

The Committee took a wide range of oral and written evidence in examining the Bill. We reflected on that evidence and came forward with some changes. We also convinced the Department to table amendments to some areas. That is a healthy process in a democratic system. The Committee has played its scrutiny role by challenging the Department in certain areas and seeking changes, and that is appropriate. It is now up to the Assembly to give its judgement on that work, which is what should happen in a democracy. I support the second group of amendments.

Mr P J Bradley: I declare an interest as an honorary member of the British Veterinary Association Northern Ireland. On 22 September 2010, I attended one of the association's seminars at Hillsborough, which planned to focus on some aspects of animal welfare and to highlight the expertise on animal welfare that exists in the veterinary profession. One of the speakers that day made a particular comment that I picked up on. She said that each farm animal should have a life worth living, and, of course, the same can be applied to all animals.

One of the introductory paragraphs in the Bill states that DARD may exercise its powers if it is satisfied:

> *"on the basis of scientific evidence, that animals of the kind concerned are capable of experiencing pain or suffering."*

Other Members also referred to that. I do not know how many meetings we have had on the Welfare of Animals Bill, but I am certain that we did not fall short when seeking evidence, the most important, in my view, being that from the veterinary profession.

I have never, in my 12 years in this Assembly, received so many lobbying letters or e-mails devoted to a single issue. I am pleased, therefore, that we have reached this stage. The number of lobbying letters received has increased each week, and they continue to arrive as each lobbyist makes a good case for the handling of the particular breed of dog that they deal with daily. That list started to grow and grow, and I am sure that other Members had a similar experience.

I thank the Chairperson of the Committee for his lengthy and factual address. I also thank the Committee Clerk for his guidance and for bringing us to heel during our debates.

I referred earlier to the evidence that we obtained from the veterinary profession. I found it a little surprising that the Department's vets did not necessarily share all the views of their fellow professionals who gave evidence on behalf of the Northern Ireland veterinary association. Although I was slightly surprised at the difference in professional opinion, I did not share the expressed thinking that questioned the motives of the profession as represented by Veterinary Northern Ireland.

We were strongly advised by VetNI that it foresaw major difficulties with implementation and policing if the Agriculture Committee opposed a total ban on tail docking by making exemptions for pure-bred spaniels and hunt, point and retrieve breeds. Since then, a line of text has been added to the exempted list that I am not completely satisfied with but have reluctantly agreed to accept. I refer to the wording:

> *"or any combination of such breeds"*

found at the end of all five descriptions of dogs exempted in the proposals. I see that resulting in regular disputes, as owners argue with professionals about the breed of dog. In the event of a dispute, the decision will be left to the vet. It is easy to produce evidence that an animal is pure-bred, but where are the reference books or comparators that a vet can point to before making a decision on a combination dog? My view is that the words "combination of such breeds" really means mongrels with a hint of authenticity. Thus, their owners can proceed to have the dogs' tail docked.

Mr Molloy: Does the Member accept that spaniels of different breeds, such as cocker spaniels, are a combination of breeds within themselves? Mongrels are not a breed; they are a mixture that no one can define. It is clear that, with the breeds as defined in the amendment, the proof would have to be the dog itself. I cannot see how you could call such a dog a mongrel in that situation. There are combinations of breeds within those defined groups, which are hunting dogs, particularly spaniels and pointers and retrievers. It is the same for terriers; there are Jack Russell terriers and various distinguishable breeds within the

terrier category that would not be termed as mongrels, certainly not by their owners.

Mr PJ Bradley: I agree with the Member.

Mr T Clarke: Does the Member also agree that following his trail of thought on pure-breds would lead to a conclusion similar to that reached by the Department? Are we talking about pure-breds here or the welfare of animals? I bring mongrels back into the debate. What is more important: whether the animal is a mongrel or a pure-bred? I thought that we were talking about the welfare of the animal, regardless of their breed.

Mr PJ Bradley: The breed is included in amendment No 20, which the Chairperson has tabled and we are debating, but my view is that "combination" is open to different interpretations.

The concluding paragraph is the one that I consider most relevant. I did not vote against the exemptions, purely on the back of an assurance that I was given by the Minister when I questioned her during the evidence session on 16 November 2010. The Minister firmly assured me that, if the fears expressed by the Northern Ireland veterinary association proved to be correct, the Department would revisit the issue. I would like the Minister to confirm today that she made that commitment.

Mr Lunn: I declare an interest as a member of Lisburn City Council. This is not a subject that has exercised the council so far, but no doubt it will. I support amendment No 2, and, provided that it is passed, I will support amendments Nos 5 to 10.

We support the amended clause, which makes it an offence to dock a dog's tail for cosmetic reasons. We are content with that, on the basis of the Department's assurances about limiting the impact of the legislation on the dog showing industry while retaining a strong emphasis on protecting the welfare of dogs.

I listened with interest to Mr Molloy's comments about the dog show fraternity. I am not a member of the Committee, so I have not been privy to what seems like an enormous amount of discussion on the issue. It seems that the problem for the dog show fraternity here will be the lack of harmonisation between the law in the Republic and the law up here. However, that is perhaps more a problem for the Republic, because it will be the odd one out in European terms. As far as I am aware, as well as GB, Sweden, Norway, the Netherlands, Finland, Germany and Denmark have banned docking, and Cyprus, Greece, Luxembourg, Switzerland and Austria have ratified the European convention that prohibits cosmetic docking in the same way as we intend to.

A recent article in 'The Irish Veterinary Journal' states:

> *"Veterinary Ireland informed its members that any request to dock puppies' tails should be refused. It is the sincere hope of Veterinary Ireland that no member of the profession would perform this act.*
>
> *Furthermore and as indicated in this article the Veterinary Council of Ireland has specifically confirmed that any act of tail docking (except for therapeutic reason) performed by a registered Veterinary Practitioner would be deemed as unethical."*

It also states:

> *"Therefore, should a Veterinary Practitioner perform such an act, they would be in breach of the Guide to Professional Behaviour and would thus be open to disciplinary action by the Veterinary Council."*

That does not mean that the South will change its regulations, but it certainly gives a fair pointer towards the thinking down there. Although there is a short-term problem and our dog showing fraternity may suffer for a while, is it not possible — I do not speak as any kind of a dog expert — that dog shows could gradually become events where dogs have tails and are just judged in the same way? What is the difference? If it gravitates that way, surely that is the best solution.

Research carried out in Scotland after its ban indicates that 82% of the vets who were polled had not seen an increase in the number of tail injuries to dogs. Several key veterinary groups throughout the UK and Ireland, including the Association of Veterinary Surgeons Practising in Northern Ireland and, of course, Veterinary Ireland, have come out in favour of a complete ban on the docking of dogs' tails. We really have to go with the tide. It is clear, across all the civilised countries in Europe, that that is the way to go. For that reason, we support amendment No 2.

We would like to see the legislation perhaps go a little further and protect all dogs, but we are content with the requirements outlined

in clause 6 in relation to the certification of working dogs by a veterinary surgeon only. That should remove any potential loophole from the legislation. It is vital that the certification of a working dog is applied rigorously and that the first condition takes precedence over specification of breed. Any move whereby tail docking is deemed appropriate on the basis of breed only would make a complete mockery of the legislation. Having said that, we are content to support amendment No 2 and, providing that that is passed, amendment Nos 5 to 10.

Mr Speaker: The Business Committee has arranged to meet immediately upon the lunchtime suspension. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm. The next Member to speak on the Bill after Question Time will be William Irwin.

The debate stood suspended.

The sitting was suspended at 12.29 pm.

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

2.00 pm

Oral Answers to Questions

Culture, Arts and Leisure

Irish Language Strategy

1. **Mr Sheehan** asked the Minister of Culture, Arts and Leisure if he intends to bring forward proposals for a strategy to promote and enhance the Irish language before the end of this mandate.
(AQO 920/11)

The Minister of Culture, Arts and Leisure (Mr McCausland): I am disappointed that I have not been able to progress the issue as I would have liked. Nevertheless, an issue on the cultural rights of children in the classroom remains unresolved. On 20 December 2010, I wrote to the Minister of Education to ask for a meeting in early 2011 to try to progress the matter. I received a reply, dated 19 January 2011, and a meeting has been arranged for 8 February 2011. If my concerns around the issue can be addressed, I intend to bring a draft strategy to the Executive before the end of this Assembly.

Mr Sheehan: Go raibh maith agat, a Aire. I thank the Minister for that answer. I am sure that he would acknowledge that current schools regulations allow for governors and teachers to determine and develop the cultural ethos of their schools. However, does he accept that those regulations cannot be prescriptive, nor can they foist upon schools subjects or activities in which there is absolutely no interest?

The Minister of Culture, Arts and Leisure: Culture in the classroom is important. First, it is important and right for children because there is good evidence that, by bringing the culture of the community and the home into the classroom, one can improve academic performance in the school. Secondly, it is not only right for children in schools but it is the right of children, as set out in the UN Convention on the Rights of the Child. Therefore, there is a human rights issue. The Member opposite belongs to a party that often speaks about addressing issues on a rights-based approach. I want to ensure that

children in all education sectors in Northern Ireland have the opportunity to experience and enjoy the cultural rights that they are afforded by international convention.

Mr Humphrey: In his reply, the Minister mentioned the Minister of Education. Will he outline what he expects of the Minister of Education to enable him to progress a strategy?

The Minister of Culture, Arts and Leisure: I am seeking a firm commitment from the Minister of Education that the cultural ethos of local communities will be reflected in local schools. The UN Convention on the Rights of the Child incorporates the full range of human rights: civil, cultural, economic, political and social. The guiding principles of the convention include non-discrimination, adherence to the best interests of the child, the right to life, survival and development, and the right to participate. Participation rights include the right to express opinions and to be heard, the right to information, and the right to freedom of association. Engaging those rights as children mature helps them to bring about the realisation of all their rights and prepares them for an active role in society.

As I said, I will meet the Minister of Education on 8 February to try to progress the matter. It is important to emphasise that this matter is a responsibility of the Government, because we are part of the United Kingdom, and the United Kingdom Government have signed up to and ratified the UN Convention on the Rights of the Child. The outworking of that involves a range of issues, such as teacher training, in-service teacher training, the curriculum, the provision of teaching materials and training for governors. In addition, if we are to see the matter resolved, a holistic and resolute approach such as I have indicated will be required.

Mr D Bradley: Gabhaim buíochas leis an Aire as a fhreagra. Tuigim go bhfuil sé ar intinn aige straitéis amháin a fhorbairt do na teangacha dúchasacha anseo. Ach nach gceapann sé go mbeadh sé níos feiliúnaí dá mbeadh straitéis amháin ann don Ghaeilge agus straitéis ar leith ann don Ultais, toisc go bhfuil an dá theanga ag céimeanna éagsúla forbartha?

Thank you very much, Mr Deputy Speaker. Why does the Minister believe that a single strategy for indigenous languages is suitable? Would it not be much more beneficial to have one strategy for Irish and another for Ulster Scots, given that the two languages are at completely different stages of development?

The Minister of Culture, Arts and Leisure: I thank the Member for his question. One could look to the example of the cross-border body, which, I think, his party had a hand in creating. That single cross-border body covers the Irish language and Ulster-Scots language and culture. Thus the two strands exist within the one cross-border body. That is a good model that I would seek to replicate, and it may be quite satisfactory to have a single — I stress the word "single" — cross-border body for both. As the Member finally seems to appreciate, the single strategy will have two strands. That is important, because if we are to build a shared and better future, we need to explore the relationships between cultural traditions, and that is much more easily done through a single strategy. Finally, the issues that pertain to the development of one particular cultural tradition are the same as those that pertain to the development of another cultural tradition, even if they are at different stages of development on issues such as broadcasting and education.

Mr Deputy Speaker: Fra McCann is not in his place to ask question 2, and George Savage is not is his place to ask question 3.

Sport and Health

4. **Lord Browne** asked the Minister of Culture, Arts and Leisure for his assessment of the relationship between investment in sports and savings in the cost of healthcare in later life, and whether he will continue to support programmes that have been successful in this area. (AQO 923/11)

The Minister of Culture, Arts and Leisure: I am interested to know the reasons for the absence of some Members in view of the amount of time that we spend preparing for Question Time.

There is strong evidence of a link between regular and sustained participation in sport as a form of physical activity and savings in healthcare costs, including in later life. Sport Matters, the Northern Ireland strategy for sport and physical recreation for 2009 to 2019, provides evidence that physical inactivity and obesity combined cost the Northern Ireland economy about £500 million per annum. The Department of Health, Social Services and Public Safety's research suggests that simply

stopping the rise in levels of obesity in Northern Ireland through interventions such as physical activity would save that Department at least £210 million over the next 20 years. In addition, evidence published recently shows that certain types of health conditions associated with inactivity cost the UK economy £1 million an hour.

Moreover, a 2007 Foresight programme report sponsored by the Department for Business, Innovation and Skills estimates that current NHS costs attributable to dealing with people who are overweight and obese are likely to rise to £10 billion per annum across the UK by 2050. Appropriate investment to enable more people to participate in sport can help to reduce many of those costs. It is partly for that reason that I am keen to do what I can to support programmes that encourage participation in sport. In the context of the draft Budget and the Sport Matters strategy, I am also engaging with Sport Northern Ireland to agree priorities in that regard. This morning, I was at the City Hall in Belfast for the launch of a programme designed to meet that very objective.

Lord Browne: I thank the Minister for his answer. I am sure that he is well aware of the ongoing development of community facilities in east Belfast, from the Comber Greenway and the Connswater Greenway to all the excellent sport-based projects. Will the Minister provide more details of the evidence and sources that he quotes as showing a link between investment in sport and savings in healthcare costs in later life?

The Minister of Culture, Arts and Leisure: Sport Matters provides evidence that the combination of physical inactivity and obesity costs the Northern Ireland economy £500 million per annum. The Department of Health, Social Services and Public Safety's Fit Futures report estimates that simply stopping the year-on-year increases in levels of obesity in Northern Ireland through interventions such as physical activity would save that Department at least £210 million over the next 20 years. The Fit Futures report also describes the rising obesity levels in Northern Ireland as a "potential financial time bomb". A report to the Assembly's Health Committee in 2009 suggested that certain types of health conditions associated with inactivity cost the UK economy £1 million per hour. The UK Chief Medical Officer has recognised that regular physical activity, including sport, can contribute significantly to a reduction in the incidence of type 2 diabetes.

The Department of Health, Social Services and Public Safety has estimated that diabetes care in Northern Ireland costs 5% of the health expenditure in Northern Ireland and a total of 10% of hospital inpatient resource. The British Medical Association also considers that risks of contracting certain of the more dangerous forms of cancer are definitely reduced by increased exercise, and the Northern Ireland Association for Mental Health estimates that the cost of working days lost to mental ill health in Northern Ireland may be as much as £125 million a year. Research undertaken as part of the development of Sport Matters suggests that sport and physical activity can contribute positively to mental health.

Mr K Robinson: Does the Minister agree that a lot of the big schemes that grab the media headlines are very expensive ways of getting our folk out and exercising? Many schemes are run by local authorities and, if properly advertised, might get a greater output in attacking the obesity levels and the other levels that he indicated. Will the Minister's Department look at that specifically?

The Minister of Culture, Arts and Leisure: I agree entirely with the Member that many of the schemes that have the most impact are modest, low-cost schemes. The grants of £30,000 that were given recently for small capital works made a real impact. I visited a number of places where additional facilities made the opportunity for greater use of a football pitch, and a small boxing club was able to start up in east Belfast with the aid of such a grant. The small grants can make a big difference. This morning, 22 sports coaches went out across the city of Belfast, and that is part of a scheme that is operating across the Province at a community level.

The Member mentioned local authority programmes, and I encourage local authorities to ensure that people are aware of those opportunities. A lot is happening and a lot is available, but it is not always taken up to the maximum extent because of that issue.

Ms S Ramsey: Go raibh maith agat, a LeasCheann Comhairle. I agree that tackling health issues is not only a matter for the Health Department. Will the Minister give an update on the recent discussions that he or his officials have had on the Investing for Health strategy, which brings

a lot of this to the fore? Has he had any recent discussions on using sporting stars to promote the Protect Life strategy on suicide?

The Minister of Culture, Arts and Leisure: All of our work in sport is taken forward under the umbrella of Sport Matters, which is the strategy. That is a cross-departmental approach, through which different Departments come together to bring something to the table. For example, the Department of Education has a role in making school facilities available for wider use, and all the Departments are part of that process. Not only do we have an umbrella group that drives that forward but there are specific working groups on particular themes. I am happy to supply the Member with more details about the particular working groups and their targets.

Mrs M Bradley: What consultation has taken place between the Minister of Culture, Arts and Leisure and the Education Minister regarding the sports strategy in schools?

The Minister of Culture, Arts and Leisure: I have had several meetings with the Education Minister, and I am glad to say that those were some of our more constructive meetings. In fact, it may shock some people to hear that there was almost a meeting of minds on some points. We need to ensure that we get the proper provision of school facilities for wider community use. We also need to ensure that there is the maximum possible opportunity for young people in schools to avail themselves of sporting facilities. I am glad to say that in our new school programmes that are coming through the Department of Education, including newbuild projects, redevelopment, and so on, there is a much greater focus on ensuring that we get very good sporting provision for young people.

Mr Deputy Speaker: Mickey Brady is not in his place to ask question 5.

Arts Funding: County Tyrone

6. **Mrs O'Neill** asked the Minister of Culture, Arts and Leisure how much funding his Department is currently providing for arts projects in County Tyrone. (AQO 925/11)

The Minister of Culture, Arts and Leisure: The Arts Council has provided a total of £234,446 to arts projects in County Tyrone. My Department has also made available a total of £49,200 for the community festivals fund for projects in County Tyrone that may include arts elements. Funding for the arts in County Tyrone does not simply come from central government. We need to remember the role of local authorities in investing in the arts. The Member, who I understand is the Mayor of Dungannon and South Tyrone Borough Council, might be interested to note that her council has a much lower spend on the arts, at £5·60 per person in 2008-09, compared with an average of £13·93 across councils in Northern Ireland. Therefore, there is a bit of work to be done there. In her role as mayor, and with her passion for the arts, I am sure that the Member will encourage a much greater investment from Dungannon council in the future.

2.15 pm

Mr Deputy Speaker: Michelle O'Neill for a supplementary, if you wish.

Mrs O'Neill: Go raibh maith agat, a LeasCheann Comhairle. I absolutely wish.

I welcome the investment from the Department. As mayor of the council, I know that we are very committed to the arts in our area. The funding is distributed in a mix of ways, but two of the biggest projects that we fund are the Bardic Education, Arts and Media — BEAM — centre in Donaghmore and the Community Recreational Arts in Coalisland — CRAIC — theatre. Does the Minister agree that those are perfect examples of how investment in the arts should be taken forward in a rural community?

The Minister of Culture, Arts and Leisure: Investment in the arts is a good thing, regardless of whether it is in rural communities or in urban communities. It enhances people's quality of life in the same way as sport. When you bring it down to a local level, investment makes the arts much more accessible to people. In fact, if Dungannon council could increase its spend from £5·60 to £13·93, like the rest of the councils, it would have even more money to spend in Tyrone.

Mr Dallat: I am sure that we all share the concern that the average spend on the arts in Tyrone is so low. Can the Minister assure us that there will be no purge from his Department on spending on the arts across the North?

The Minister of Culture, Arts and Leisure: I am not sure what the Member means by the word "purge", but I understand that he is obviously referring to Northern Ireland. I will ensure that we get the maximum possible investment in

the arts across Northern Ireland. We are in a difficult financial situation, and there are cuts across all Departments. As a member of the SDLP, the Member may wish to speak to his colleague in the Department for Social Development, and maybe he would free up some of his Department's money or even invest some of it in community arts projects. Then we would have even more money to spend.

Mr Armstrong: We are still on the subject of Tyrone. What lessons does the Minister believe that we can learn from successful arts projects in areas with dispersed populations, such as the Scottish Highlands, and apply to areas such as County Tyrone?

The Minister of Culture, Arts and Leisure: I am not sure that I have learned any particular lessons in regard to expending money. However, I have visited the north of Scotland during my time in office to see how arts and cultural projects are delivered. There are lessons that can be learned, particularly in respect of the economic benefits that can flow from the arts and culture. We visited the Gaelic college on the Isle of Skye, and it is a primary example of a good, high-quality project, which is creating employment in an area that is quite isolated.

Mr Ross: I am not so interested in how constituents in Tyrone are getting their funding, but will the Minister outline to the House how arts funding caters for people in the Province who have disabilities?

The Minister of Culture, Arts and Leisure: The Arts Council recognises that organisations that work with people who have disabilities fit in well to the Arts Council's strategy and the arts and disability policy. Arts Council initiatives include core funding of several arts and disability organisations, including the Arts and Disability Forum. In addition, the Arts Council funds a wide range of arts and disability projects through lottery funding and supports the arts and disability equality charter. That is a Kitemarking project, which was developed by disabled people to encourage and to reward good practice among arts venues.

In 2010-11, the Arts Council of Northern Ireland supported the Arts and Disability Forum to the amount of £76,271 through its annual support for organisations programme.

World Police and Fire Games

7. **Dr Farry** asked the Minister of Culture, Arts and Leisure for an update on the preparations for the World Police and Fire Games in 2013.
(AQO 926/11)

The Minister of Culture, Arts and Leisure: At the Northern Ireland Executive meeting on Thursday 9 September 2010, they agreed in principle to support the 2013 World Police and Fire Games up to a cost of £6·04 million. Subsequently, my Department made a bid for that amount in the 2010 Budget review. Subject to the Budget's being approved, that money will be available from 1 April 2011, subject to the normal budgetary processes.

On 6 December 2010, a business case that included a recommended delivery mechanism for implementing the 2013 World Police and Fire Games was approved by DFP. In addition, DFP has approved the proposed structure, governance and accountability arrangements to be put in place by my Department for the delivery vehicle. A company limited by guarantee, which will be sponsored and monitored by the Department, is being established to deliver the games in August 2013. I am in the process of appointing the chairperson and directors of the company. An inaugural meeting of the board of directors has been scheduled for 21 February 2011.

Members will be aware from previous answers that a 2013 stakeholder group, which is chaired by DCAL and incorporates key stakeholders from the Police Service of Northern Ireland, the Northern Ireland Prison Service, the Northern Fire and Rescue Service, Belfast City Council and Sport NI, was managing the 2013 World Police and Fire Games project until such time as a delivery vehicle was established. The stakeholder group had identified and taken forward preparatory work on various work streams, which include volunteering, tourism, legacy, transport and logistics and sport, for the planning and organisation of the games in conjunction with the relevant external bodies. That will now be the company's responsibility.

Dr Farry: There has been a great deal of talk in the media about the Olympics. Of course, that event is happening in London. The real issue for Northern Ireland is its legacy. The World Police and Fire Games will happen in Northern Ireland. When I hear the Minister say the words "in principle", I begin to worry.

Northern Ireland's reputation will be on the line. Potentially, there will be 10,000 participants in the games. Can the Minister give the House a guarantee that not only will money be available to ensure that the games are a success but the necessary infrastructure will be in place to ensure that Northern Ireland is not made a fool of internationally?

The Minister of Culture, Arts and Leisure: I have every confidence that the event will be extremely successful. Northern Ireland has the capacity, ability and resources to deliver a successful World Police and Fire Games. It is important that we do nothing that will in any way undermine worldwide recognition that Northern Ireland is a place that can host successful sporting events. The World Police and Fire Games organisers are selective about where the games are held. The fact that they are coming here is a positive, strong vote of confidence in Northern Ireland.

I was pleased that the £6·04 million was in the Budget. We have not yet finalised the Budget. I believe that the money is available. I am pleased about that, and I am sure that the Member is, too.

As regards Northern Ireland's organisational ability, we have a strong group of people who have a great deal of experience. Some of our service personnel have been involved with the World Police and Fire Games in the past. They understand the scale of the event and the challenge that it brings. We are talking about 10,000 athletes and around 15,000 others, family and friends, coming to Northern Ireland. In total, 25,000 people will come, possibly for one month. They will not just come for the games; they will holiday here. That will have considerable benefits for the local economy.

Mr Campbell: The Minister will be aware that in the same year that the World Police and Fire Games are held in Northern Ireland, Londonderry will be the UK City of Culture. It has been suggested that events be planned that straddle both occasions. Will he ensure that his departmental officials will work resolutely to ensure that those events are successful wherever they may be held?

The Minister of Culture, Arts and Leisure: The Member is right to draw attention to the fact that the World Police and Fire Games will bring a large number of people to Northern Ireland. As he said, 2013 is also the year when the UK City of Culture has been awarded to Londonderry. It would be a golden opportunity to ensure that the benefits from that large number of visitors, in some way, flow to the city. I am sure that that was very much in the minds of the organisers. I have spoken to a number of them, and it is something that they have not forgotten; it is on their agenda.

Mr O'Loan: What can the Minister tell us about venues selected for the games? Will venues outside Belfast be used?

The Minister of Culture, Arts and Leisure: Sport Northern Ireland recently completed an expression of interest exercise to identify potential venues to host sports. Over 75 applications were received, and Sport NI has been carrying out a number of site visits. Venues that meet the minimum standards to host approximately 65 sports have been identified, and Sport NI is working with the Police Service of Northern Ireland security directorate to prioritise those venues.

Mr Deputy Speaker: Mr Cathal Boylan is not in his place to ask question 8. I call Mr William Irwin.

Libraries

9. **Mr Irwin** asked the Minister of Culture, Arts and Leisure, in light of the review of services by Libraries NI, how he intends to ensure that communities, such as Richhill, continue to have access to a library service. (AQO 928/11)

The Minister of Culture, Arts and Leisure: I recognise the valuable contribution that the public library service makes to our local communities, and I remain fully committed to the provision of a comprehensive library service throughout Northern Ireland.

The recent draft Budget, which is out for consultation, presents a challenge to all my Department's sponsored bodies. The board and senior management team of Libraries NI will have to consider how the public library service can be most effectively managed within available resources. Library services in communities such as Richhill are being considered within Libraries NI's ongoing strategic review of the library estate.

That review is a three-stage process: a review of the library estate in greater Belfast; a review of the library estate in the rest of Northern Ireland; and a review of mobile library provision

across Northern Ireland. Stage one of the review was implemented in the summer of 2010, and Libraries NI has begun the second stage of the review. A full public consultation on the review proposals commenced on 10 January, and I emphasise that nothing has been finalised by the Libraries NI board at this stage. Those reviews are operational matters for Libraries NI, the board of which includes councillors from my party, the SDLP, Sinn Féin and the Ulster Unionist Party.

I encourage everyone who has an interest in libraries in Northern Ireland to participate in the consultation process. That will help to ensure that Northern Ireland will have a modern, accessible and excellent library service in the future.

Mr Irwin: I thank the Minister for his reply. Is it within the Minister's power to intervene to ensure that libraries such as Richhill's remain open?

The Minister of Culture, Arts and Leisure: That is fundamentally an operational issue for Libraries NI, and it would be inappropriate for me to attempt to influence its decision. Intervention in the board's decision would be appropriate only if there was evidence that the consultation process had been significantly flawed or the remaining services did not meet Libraries NI's statutory duty to provide a comprehensive and efficient public library service. I assure the Member, however, that robust criteria are being applied to the review process to identify libraries that are fit for purpose, capable of delivering on the vision of Libraries NI, in the right location and sustainable.

Mrs D Kelly: Does the Minister agree that the definition of "rural" in the Northern Ireland context is somewhat dubious and puts at risk some of the libraries that are situated in rural communities such as Waringstown, Carnlough, Moira and Crumlin, and that it would be a great loss to those communities if the libraries were to close?

The Minister of Culture, Arts and Leisure: Libraries in rural areas are important to the local communities. I am not sure that it is a question of definition. Current provision in rural areas is highly valued, and I am convinced that it provides a much needed service. Mobile libraries are vital in providing services to rural communities that have limited access to a static library. That is why I have authorised Libraries NI to purchase four new mobile libraries this year. I have also authorised investment in rural libraries. I have, for example, authorised investment in a new library in Dungiven and an extensive refurbishment of Newtownstewart library. Furthermore, modern technology offers ways of delivering services in rural areas where a building is not sustainable, and customers can access a range of online library services, such as ordering and renewing books and accessing reference resources.

2.30 pm

Education

DE: Job Losses

1. **Ms Ritchie** asked the Minister of Education whether there will be job losses within her Department and its arm's-length bodies as a result of the Budget settlement. (AQO 934/11)

The Minister of Education (Ms Ruane): A LeasCheann Comhairle, nuair a bheas mé ag freagairt ceist uimhir 4 beidh nóiméad sa bhreis ag teastáil uaim. When answering question 4, I will require an extra minute. Before I do that, with the indulgence of the Deputy Speaker and the House, I would like to make a brief reference to tragedies over the past week, when three young people lost their lives. In the past two days I have spoken with three devastated principals who are showing huge leadership at this very difficult time. I know that the Assembly will join me in offering my condolences to the heartbroken families of those young people.

In answer to the question posed by Margaret Ritchie, tá bearna maoinithe de £300 millún ann anois don oideachas thar thréimhse an Bhuiséid mar gheall ar shocrú Státchoiste na Breataine £4 billiún a aistarraingt ón bhlocdheontas. The British Treasury's withdrawal of £4 billion from the block grant has resulted in a funding gap of £300 million for education over the Budget period. That will present significant challenges; however, I am determined to protect jobs and front line services throughout the education sector. During the Budget process we managed to increase what was originally proposed for education, and I will continue to bid for additional money to ease pressures. The Executive identified a further £1·6 billion of revenue, almost half of which remains unallocated. I will be arguing strenuously for a portion of that

£800 million to supplement the shortfall in the education budget.

In preparing my spending proposals, I identified a number of areas for protection in order to protect the most vulnerable. Those included: special educational needs; extended schools; school counselling services; youth; and extra funding for early years. I have also approved the extension of the eligibility for free school meals entitlement.

Ms Ritchie: I thank the Minister for her answer. On behalf of the SDLP, I extend our condolences to all the families of the young children who lost their lives in such tragic circumstances.

I will now move on to the supplementary question. Teachers' unions and education partners estimate that the cost of the cuts to the aggregated schools budget will equate to 5,000 teaching posts over the four-year Budget period. How can that be reconciled to the Minister's goal in the savings plan for protecting front line services for children and young people?

The Minister of Education: Go raibh maith agat Gabhaim buíochas least as an fhreagra. I met the teachers' unions this morning, and we had discussions on all aspects of the Budget. I am not going to go down the same road as other Ministers by scaremongering and making all sorts of wild guesstimates about job losses in order to position my Department for any additional funds. It is not fair to people. I have never tried to disguise the fact that it is not a good Budget for education. I intend to bear down on management and administration, protect front line services and do everything I can to protect jobs. I ask the Member in return, because of her concern about potential job losses, for her party's, along with other parties', support for my bid for additional resources for education.

Miss McIlveen: When will the Minister be in a position to provide the Education Committee and the House with a detailed spending plan?

The Minister of Education: My Department provided detailed spending plans to the Committee on 24 November 2010. My departmental officials have been at the Committee regularly, and I have also been at the Committee. I respectfully suggest to the Member that she should go back and get the information that was provided to the Committee.

Mr O'Dowd: Go raibh maith agat, a LeasCheann Comhairle. Does the Minister agree that, although education certainly requires resources, a major step forward would be the establishment of the Education and Skills Authority (ESA), which would amalgamate nine areas of administration and put funds into front line services?

The Minister of Education: Aontaím leis sin. Tacaíonn torthaí an dréachtBhuiséid go mór leis an údarás um oideachas agus scileanna a bhunú. The implications of the draft Budget allocations argue strongly for the establishment of the education and skills authority and I remain totally committed to that vital reform. I intend to press ahead with the convergence of services and management structures across the education and library boards to ensure greater consistency and efficiency in service delivery. Without that, scarce resources will continue to be spent on unnecessary bureaucracy, it will be spread too thinly over existing institutions, and it will be spent on duplication. That was a key area that the trade unions raised with me this morning. They are keen to see the establishment of ESA.

Mr K Robinson: I, too, take this opportunity to express the condolences of the Ulster Unionist Party to those families that lost a child in tragic circumstances over the past few days.

What assessment has the Minister made of the impact of switching £41 million from capital to revenue and the impact that that will have on the schools estate? Will she confirm whether Her Majesty's Treasury is happy with that arrangement?

The Minister of Education: As the Member knows, we have invested significantly in the school building programme since 2007. The Executive agreed a 10-year programme that contained 108 schools. We have 55 built or under construction, and a further 12 will begin in the next few weeks. Recently, we had the sod-cutting at Taughmonagh, County Antrim, and at Madden, County Armagh. Fifty-four schools remain on the list to be built over the next six years. We have spent £588 million on school building.

In relation to your question about the impact of the £41 million, the draft Budget settlement for education was particularly difficult in year one. I was faced with very difficult choices. The choice was between doing everything one could to protect jobs and the front line and using some of

the money in the building programme to ensure that we have money to protect jobs. My starting point is to protect jobs and front line services.

It is with regret that I reclassified that money. That is one of the areas that the Executive will be looking at because we make provision with the Executive about that. Will that have an impact on the schools estate? Of course it will, and that is why I am asking all parties to support me in my bid for further resources for education.

School Facilities

2. **Mr Kinahan** asked the Minister of Education for an update on her Department's review of community use of the schools estate.

(AQO 935/11)

The Minister of Education: The schools estate represents a significant public resource. I am determined that it should be used more widely to serve the needs of pupils, parents, families and the local community. All schools should consider the potential benefits of their premises being made available for members of the community served by the school. Many schools already do so and the arrangements are negotiated and agreed locally.

The working group established to make recommendations for consideration by the Department of Education and ESA has reported to the Department of Education. The report contains 36 wide-ranging recommendations, many of which impact on policy and operational areas outside the remit of the Department of Education. The recommendations have been considered in detail across the Department. Other Government Departments, agencies and district councils have also provided comments on the recommendations. I await the education and library boards' response to the working group proposed guide to managing community use. I want to ensure that guidance for schools takes account of any issues raised in response to the recommendations. That also needs to be in line with the establishment of the education and skills authority.

The programme of extended schools has been significant in opening up our schools to the community. I love passing schools morning, noon and night, and at weekends, and seeing the lights on and the playing fields being used by local communities, and I am sure that the Member agrees with that. That is our objective, but we need to do it in partnership with local schools.

Mr Kinahan: I thank the Minister for her answer. I agree very much with her sentiment that we all enjoy seeing schools being used outside the normal hours. However, will she give a commitment to my colleague David McNarry that the review will be completed and acted upon before the end of this Assembly?

The Minister of Education: I will do everything that I can to ensure that we complete the review before the end of the mandate. The review is wide-ranging and has, as I said, 36 recommendations. I pledge to the Member that I will work with other Departments and district councils on that.

Mr Bell: On behalf of the Democratic Unionist Party, I convey our condolences to the families and loved ones of those children who have died from suicide. Those of us who have worked with children who subsequently committed suicide know exactly how they feel, and our thoughts and prayers are with them.

Will the Minister provide better information to community organisations, youth clubs and churches on how they can access the schools estate and what their liabilities are, particularly for insurance and the quality of the equipment that they use?

The Minister of Education: As I said, my Department is working on guidance on the use of schools. I want community organisations to use schools, but that needs to happen in partnership, and there are issues, such as insurance and extra costs. I specifically mentioned the extended schools programme, which is a very good model that we can consider.

Mrs M Bradley: Are there any further plans to build full-service community schools?

The Minister of Education: There are two full-service community school networks. We are looking at how schools link in with local communities, particularly to tackle disadvantage. We are working to make sure that we provide the best possible educational outcomes for children and young people. The Member will also be aware of the Achieving Derry and Achieving Belfast programmes, in which we link closely with communities to

ensure that we increase levels of literacy and numeracy.

Schools: Budget Cuts

3. **Mr McQuillan** asked the Minister of Education to outline the timetable for the proposed cuts to the schools estate budget and when schools will be notified of the outcome. (AQO 936/11)

The Minister of Education: D'fhógair an tAire Airgeadais agus Pearsanra dréachtBhuiséad an Choiste Feidhmiúcháin 2011-15 ar 15 Nollaig 2010. The Executive's draft Budget 2011-15, which was announced by the Minister of Finance and Personnel on 15 December 2010, provides proposed current expenditure and capital investment allocations for the four-year Budget period. The draft Budget is subject to consultation until 16 February 2011, at which time responses will be considered.

Budget 2010 is taking place in a difficult economic environment, in which the British Treasury has removed £4 billion from the block grant. Although the Executive succeeded in finding an additional £1·6 billion through revenue-raising measures, half of that has yet to be deployed in the Budget figures. I will argue strongly that some of that money must be added to the education budget to protect key front line services.

The Department will actively engage with stakeholders. On 7, 8 and 11 February, we will hold meetings in four community venues throughout the North, and I encourage all stakeholders to attend them.

Mr McQuillan: Will the Minister also tell us what criteria she will use to introduce those cuts?

The Minister of Education: I have already stated that I am doing everything that I can to protect jobs and front line services. We protected the budgets for special educational needs, counselling and youth services, and we also protected the extended schools budget, which is a very good budget line. We also extended the criteria for free school meals so that more children will get a school meal every day.

Despite a difficult budget, we also added an extra £3 million to early-years provision. I have listened to Members, and there is consensus across every party that we need to get more money into early-years provision.

For the first year, I also propose to reclassify £41 million of capital in the draft Budget, because, if the short-term choice is teachers and classroom assistants or constructing new school buildings, we need to do everything that we can to protect teachers and classroom assistants' posts.

Mrs O'Neill: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for her answer. As she is aware, many schools in the system are awaiting newbuilds. Will she confirm whether there is a moratorium on capital newbuilds?

2.45 pm

The Minister of Education: There is no moratorium on school builds, but, if the Department cannot secure further resources, it will be difficult for it to continue in the way in which it has done for the past four years. I can say that the 13 school builds that were approved in August will go ahead. I would like to be able to continue with the school building programme, and I look forward to all parties supporting my bids for additional resources. However, we should not be under any illusion. The draft Budget is difficult for us all, and particularly for education.

Mr Dallat: I am sure that we all share the Minister's frustration at the lack of capital investment in our schools. Will she gaze into her crystal ball and tell the House whether the list will be longer or shorter by 2015?

The Minister of Education: I do not agree with the first point that the Member made. No one can say that we have not undertaken a significant school building programme since 2007, and I am proud of that programme. I do not use crystal balls to make policy. The only way in which we can continue with the school building programme is if the Member's party and the other parties support my bids.

Mr Deputy Speaker: Question 4 has been withdrawn

DE: Revenue

5. **Mr Lyttle** asked the Minister of Education for her assessment of whether her Department can meet all the revenue raising targets set out in the draft savings delivery plan. (AQO 938/11)

Mr Lyttle: I extend the condolences of the Alliance Party to those families who were bereaved by suicide last weekend.

The Minister of Education: Maidir leis na spriocanna atá leagtha amach i mo phlean um imdháileadh agus coigilt airgid, ní dhírítear iad go príomha ar ioncam a ghiniúint. The allocations and savings plan does not contain any targets that are primarily focused on raising revenue, and the Department's functions are such that the scope to raise revenue is extremely limited. I firmly believe, and I am sure that the Member shares my belief, that children's education is a fundamental right. It should be a universal service that is open to all. It would not, therefore, be appropriate to introduce charges for core educational services. My Department has examined specific non-classroom services to consider what scope there might be to increase revenue. In some cases, charging was discounted, as it would likely impact more strongly on the most deprived and act as a barrier to inclusion for those children who most need the service. My budget proposals on others services, such as the provision of school meals and transport, focus on efficiency and reducing costs rather than on raising revenue. However, further consideration may need to be given to charging and funding structures over the Budget period to ensure the most appropriate use is made of our limited resources.

Mr Lyttle: Will the Minister detail some of the contingency plans that she will use if additional funding does not become available?

The Minister of Education: I have already said that I plan to reclassify £41 million of capital expenditure and put that into schools' budgets. We have done everything that we can in the draft Budget to protect front line services; the special educational needs budget; the youth budget; the counselling for schools budget; and the extended schools budget. We also did everything that we could to militate against big losses in the aggregated schools budget in the first year. We must avoid unnecessary duplication, establish the ESA and get money into the classroom.

Mr Callaghan: Go raibh maith agat, a LeasCheann Comhairle. Will, the Minister give an undertaking that there will be no job losses in the Curriculum Advisory and Support Service (CASS) and other professional services as a result of the Budget?

The Minister of Education: I will be looking at all the education and library boards and the various services to see where there is duplication, unnecessary administration and overlap. My preferred option would be for the ESA to be up and running. Our work is being organised through a convergence programme. Money should not be wasted on administration; it needs to get to the classroom.

Mr Hilditch: I extend my sympathies to the family of the young man who died in tragic circumstances during a Medallion Shield rugby match at the weekend, as well as to those who tragically died as a result of suicide. In her answer to Michelle McIlveen earlier, the Minister correctly stated that officials had been before the Committee for Education on a number of occasions to discuss budgetary matters. However, the Committee has requested more finite detail so that it can help with the draft Budget, and that has not been made available to date. When will that information become available?

The Minister of Education: For clarification, I mentioned three young people, and I did refer to the young man that the Member mentioned. I spoke to his school principal this morning and to those of the other two young people.

My officials have been at the Committee and, as the Member knows, I have also been at the Committee. The Department of Education is always happy to provide information, and my officials are working through the Committee's requests.

Mr B McCrea: I want to pick up on the answer that the Minister gave to Mr Lyttle about contingency plans and, in particular, her plans to transfer capital to revenue. The Minister of Finance and Personnel indicated that that proposal would not receive his support. Has the Minister had any discussions with the Minister of Finance and Personnel, and what will she do if that possibility is not forthcoming?

The Minister of Education: I am not aware that the Minister of Finance and Personnel has said that he will not support it. First, it is a matter for the Executive. I have written to the Minister of Finance and Personnel, and he has outlined that it is a matter for the Executive.

DE: End-year Flexibility

6. **Mr P Maskey** asked the Minister of Education what action she is taking to address the withdrawal of end-year flexibility. (AQO 939/11)

The Minister of Education: Chuir Státchoiste na Breataine srianadh rochtain i bhfeidhm ar sholúbthacht dheireadh bliana sa bhliain 2008. The British Treasury restricted access to end-year flexibility (EYF) in 2008. At that time, I made several representations to the then Finance Minister, Peter Robinson. At that point, the Executive, collectively, recognised the unique position of education and agreed that schools should be treated as a special case. Since then, I have continually highlighted the importance of EYF to the education system with two further Finance Ministers, Nigel Dodds and Sammy Wilson. Since 2008-09, my Department has sought access to EYF from the Executive as required and, at the same time, worked with education and library boards to manage the position of individual schools through prudent financial planning.

In October, the British Treasury demanded that the existing EYF scheme be abolished, including all accumulated stocks, with effect from the end of this financial year. I was not prepared to accept that loss of school funding, and I immediately raised the issue at the Executive meeting on 22 October 2010 and at Budget bilateral meetings with the Finance Minister. I then formally issued a letter to the Finance Minister on 13 January 2011 and followed that up with a meeting on 21 January, at which the issue was resolved. We both agreed that schools must continue to have access to surpluses that they had accumulated through sound financial management, and guaranteed to put in place arrangements to ensure that both past and future savings would be honoured in line with the Executive's commitment to schools. That is a good outcome for our schools: indeed, it is the outcome that I fought for, with support from the Minister of Finance and Personnel. Schools have now been provided with the certainty that they require.

Mr P Maskey: Go raibh maith agat, a LeasCheann Comhairle agus a Aire. I welcome the hard work that the Minister has done recently. The Treasury's raid of school coffers was a disgrace, and it was a bad setback. However, I am glad that the work has continued and that the decision has been overturned.

I also concur with some of the comments made earlier about the young people who have died this week.

Mr Deputy Speaker: Your question?

Mr P Maskey: The Minister has touched on it already, but perhaps she might say a bit more and confirm whether the schools have been given notification that the funds will be secured.

The Minister of Education: Chuir mé litir chuig na scoileanna go léir. We sent letters to the schools. They are aware of the situation and, obviously, were very concerned. Thankfully, the issue has been resolved, which shows that when Ministers work together, they can get the desired outcomes.

Mr D Bradley: Ba mhaith liom ceist a chur ar an Aire faoi na socruithe nua a bheas a gcur i bhfeidhm agus a fhiafraí di conas a oibreoidh na socruithe nua agus cá has a dtiocfaidh an t-airgead leis an scéim seo a mhaoiniú. Will the Minister explain the new arrangements that will be put in place, tell us how they will work, and where the money will come from to operate the new arrangements?

The Minister of Education: Tá an próiseas seo á fhorbairt faoi láthair ag mo Roinn agus ag comhghleacaithe sa Roinn Airgeadais agus Pearsanra, ach tá an próiseas ag céim luath agus mar sin de tá sé ró-luath tuilleadh sonraí a thabhairt air.

My Department and DFP colleagues are developing the mechanics of the process. It is at an early stage, so I cannot give any details on the exact mechanism. However, there is a firm guarantee about arrangements, and the scheme will be put in place using Executive resources.

Mr Ross: I also welcome the fact that the Finance Minister and the Education Minister came together to give this guarantee to many schools, because schools in my constituency contacted me about the issue. Will the Minister give the House a guarantee that, if schools underspent by more than 5% in this financial year, the money that they saved for future projects will be secured and honoured?

The Minister of Education: I made a clear statement about past and future money. Schools will get the resources that are rightfully theirs. There are sound financial principles and frameworks, to which it is important that schools adhere. It is 5% either way or £75,000, so schools should not accumulate major surpluses. The arrangements will be honoured.

DE: Budget 2011-15

7. **Mr Burns** asked the Minister of Education how the Budget settlement will impact on front line services. (AQO 940/11)

The Minister of Education: Léirigh mé riamh gur mhaith liom cosaint a thabhairt do sheirbhísí tús line, an méid is féidir liom, nuair a bhí mo chuid pleananna coigilte agus mo dhréacht-imdháiltí á ndearbhú agam.

In determining the draft allocations and savings plans, I always made it clear that I want to protect front line services. My core priorities have been raising educational standards; targeting educational inequalities; removing inequalities; reducing bureaucracy; driving up efficiency; eliminating duplication; and minimising any impact on front line services in the classroom. Members are aware of what has been ring-fenced, so I will not repeat myself.

If we do not receive further resources, I am particularly concerned about the scale of resource savings that will have to be delivered next year. Members know that I am seeking to reclassify £41 million from capital to revenue in 2011-12. I will also continue to fight for unallocated resources for education because an additional £800 million of revenue has still to be allocated. I will not make any final decisions until after the Executive agree the final Budget. Only at that stage can the impact for all educational services be properly assessed.

Mr Burns: Will the Minister tell the House what discussions she has had with the Irish National Teachers' Organisation (INTO), in light of its members expressing concerns in the media today about job losses?

The Minister of Education: I met representatives of the INTO and other unions this morning. We discussed the importance of the establishment of ESA, which is one of the single biggest ways to get money into the front line to protect classrooms, teachers, classroom assistants and other school staff. We also discussed the importance of equality in education. The unions were pleased about the situation with end-year flexibility because many of their schools are worried about that. They also supported the protection of the most vulnerable people and front line services. They want to ensure that education receives additional resources, and I look forward to all parties in the House supporting that.

Mr Deputy Speaker: Question 8 has already been answered. Mr Thomas Buchanan is not in his place for question 9.

Schools: Newbuilds

10. **Mr Lunn** asked the Minister of Education if she can confirm that funding is still available for newbuild schools which have been given the go-ahead. (AQO 943/11)

The Minister of Education: Tá infheistíocht shuntasach déanta agam i scoileanna nua.

We have invested significantly in new schools. The Executive agreed a 10-year investment strategy that had 108 schools. Fifty-five of those schools have been built or are under construction. Fifty-four schools remain on the list to be built over the next six years, and a further 112 schools are at various stages of planning. It is intended that the 13 schools that were announced in August will be given the go-ahead subject to the necessary approvals.

3.00 pm

Mr Deputy Speaker: That concludes questions to the Minister of Education. Members may take their ease for a few moments while we change the top Table.

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

Mr Campbell: On a point of order, Mr Deputy Speaker. We have just come through Question Time and a number of Members either withdrew their question or did not appear to ask it. The Speaker referred to that on a previous occasion. Will you undertake, Mr Deputy Speaker, to draw the Speaker's attention to the considerable discourtesy to the House that that represents? We have just come through an era when offenders either got off or got out early. Can we ensure that, in the House, offenders who repeatedly do not appear are punished in some way, such as not being called in the future?

Mr Deputy Speaker: The Speaker is aware of the problem, but I ask the Member not to generalise too widely. I know that there are Members involved in Committees who are carrying out important work in chairing those Committees. However, I agree that there should be some communication with the Chamber.

Executive Committee Business

Welfare of Animals Bill: Consideration Stage

Clause 6 (Docking of dogs' tails)

Debate resumed on amendment No 2, which amendment was:

In page 4, line 18, leave out subsections (4), (5) and (6) and insert

"(4) Subsections (1) and (2) do not apply if the dog is a certified working dog that is not more than 5 days old.

(5) For the purposes of subsection (4), a dog is a certified working dog if a veterinary surgeon has certified, in accordance with regulations made by the Department, that the first and second conditions mentioned below are met.

(6) The first condition referred to in subsection (5) is that there has been produced to the veterinary surgeon such evidence as the Department may by regulations require for the purpose of showing that the dog is likely to be used for work in connection with law enforcement, lawful pest control or the lawful shooting of animals.

(7) The second condition referred to in subsection (5) is that the dog is of a breed specified in Schedule 1A for the purposes of this subsection.

(8) The Department may by regulations add to, or remove, breeds of dog from the list in Schedule 1A.

(9) It is a defence for a person accused of an offence under subsection (1) or (2) to show that that person reasonably believed that the dog was one in relation to which subsection (4) applies.

(10) A person commits an offence if—

(a) that person owns a subsection (4) dog, and

(b) fails to take reasonable steps to secure that, before the dog is 8 weeks old, it is identified as a subsection (4) dog in accordance with regulations made by the Department.

(11) A person commits an offence if that person takes a dog, or causes a dog to be taken, from a place in Northern Ireland for the purpose of having the whole or any part of its tail removed, otherwise than for the purpose of medical treatment administered by a veterinary surgeon.

(12) A person commits an offence if—

(a) that person shows a dog at an event to which that person pays a fee or members of the public are admitted on payment of a fee,

(b) the dog's tail has been wholly or partly removed (in Northern Ireland or elsewhere), and

(c) the removal took place after the coming into operation of this section.

(13) Where a dog is shown only for the purpose of demonstrating its working ability, subsection (12) does not apply if the dog is a subsection (4) dog.

(14) It is a defence for a person accused of an offence under subsection (12) to show that that person reasonably believed—

(a) that the event was not one to which that person paid a fee or members of the public were admitted on payment of a fee;

(b) that the removal took place before the coming into operation of this section; or

(c) that the dog was one in relation to which subsection (13) applies.

(15) A person commits an offence if that person knowingly gives false information to a veterinary surgeon in connection with the giving of a certificate for the purposes of this section.

(16) The Department may by regulations make provision about the functions of inspectors in relation to—

(a) certificates for the purposes of this section, and

(b) the identification of dogs as subsection (4) dogs.

(17) Before making regulations under this section, the Department must consult such persons appearing to the Department to represent any interests concerned as the Department considers appropriate.

(18) In this section 'subsection (4) dog' means a dog whose tail has, after the coming into operation of this section, been wholly or partly removed without contravening subsection (1), because of the application of subsection (4)." — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

Mr Irwin: I welcome this opportunity to contribute to the debate. I thank the Committee Clerk and his staff for all their hard work and patience. I think that, if the Clerk had had a big stick, he might have used it on some of us.

The Committee has taken this issue extremely seriously. As a Committee member, I know

that we are still receiving representations from concerned groups on many of the issues in the Bill. The issue that causes most concern among my constituents, who are largely rural dwellers and have an interest in country sports and the showing of dogs, is tail docking.

I am of the opinion — I have voiced it previously in the House — that tail docking, especially for working dogs, is absolutely essential. It is unwise and unacceptable that a blanket ban on tail docking should be considered by the Minister. That is so especially when one considers the number of working dogs in Northern Ireland. There are thousands of working dogs in the Province, and many of them have their tail docked in order to prevent serious injury while hunting in thickets or thorny cover. To suggest that that should become an offence is offensive in itself to the thousands of working-dog owners in Northern Ireland. Owners who have docking carried out are acting only in the best interests of the dog. There are many incidents of injury to tails to back that up. The breeds that are chosen for hunting, such as spaniels and terriers, thoroughly enjoy doing what they are best at, and tail docking is a sensible procedure to allow the dog to enjoy hunting without trips to the vet to treat painful damage to their tail.

The Department's opinion is that a low percentage of working dogs suffer tail injuries. That is true, but only because most working dogs have their tail docked at a few days old; hence the incidence of injuries is low. The facts speak for themselves on that matter. It is essential that, if the House agrees a ban on tail docking, the Bill should exempt working dogs.

The showing of dogs and other animals is an important part of life in rural Northern Ireland. It is vital that the owners of dogs that have their tail docked now or in the future can continue to show their dogs if they wish.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. I approached this issue with an open mind. As other Members have said, tail docking is an emotive issue. There is plenty of passion about the subject among the stakeholders: the hunting and showing fraternities, the animal rights groups and the veterinary community. I thank them all for giving evidence to the Committee for Agriculture and Rural Development. However, we have to base our decisions on the best available advice. The Royal College of Veterinary Surgeons clearly stated that the practice of tail docking caused unnecessary suffering to dogs. Veterinary experts from around the world agree with that opinion; there is no getting away from that. As was mentioned, the European Union is considering legislation to ban the practice of docking dogs' tails.

Some Members talked of the pain caused to animals being acceptable, and others said that the level of pain involved was equivalent to nothing more than an "ouch". Perhaps if those Members were to have a piece of their own anatomy amputated, they might take a different view, particularly the male Members.

The Committee's evidence sessions took place over a considerable period. An awful lot of work was done, and I pay tribute to the Committee staff. A clear need was expressed during the evidence sessions for an exemption for some breeds. As I said, I approached the issue with an open mind but, as the evidence mounted, I was compelled to agree that there was an argument for the exemption on welfare grounds of a couple of breeds of dogs, such as spaniels and hunt point retrievers. A number of Committee members agreed with that. We were moving some way, I felt, towards a compromise proposal. I will touch on that later when I talk about the Minister's proposals.

The concern about those breeds centred on the fact that their full tail was more susceptible to damage in undergrowth. That, coupled with the medical treatment and the real possibility of amputation, would have been extremely painful for those dogs and would affect their well-being. Committee members expressed the view that the controlled docking of working dogs' tails before a pup was five days old was a preventative measure and a considered response to the welfare of the working dog. I add the caveat to that to specify the two breeds that I mentioned.

The Committee discussed which dogs should be exempt in the Bill. The Minister made a proposal concerning spaniel-type pure breeds and hunt point retriever pure breeds. The majority of the hunting fraternity, I must say, were satisfied with that approach. They came to the Committee table viewing the process as one of negotiation. They wanted some concessions, but they were fully aware that they were not going to get everything that they wanted.

I felt that the Department and the Minister took a practical approach to the issues, especially in relation to enforcement. We heard about examples of enforcement, which I will touch on when I address a different group of amendments. The more breeds and cross-breeds that are included, the greater the enforcement minefield.

Some Members touched on the showing of dogs. Sinn Féin is opposed to cosmetic tail docking, as was the Committee throughout Committee Stage. I never heard any Committee members say that they supported cosmetic tail docking. I have heard differently on the Floor today. There seems to be a snowball effect. Each breed about which Members receive a lobby letter is added to the list; it is like some sort of conveyor belt. Perhaps we will meet another group tomorrow and will have to put onto the list the dogs that it wants to include. I am concerned about that. As I said, I see no reason to dock tails for purely cosmetic reasons. It is cruel. There may be health reasons to support tail docking, but there are no cosmetic reasons.

Members touched on the issue of dogs that had their tail docked before the ban and asked whether they could be shown for their natural life. They can. The Committee Clerk and the Department gave us clear guidance on that. They stated clearly that dogs that had had their tail docked already could be shown for their natural life. There is a considerable period in which we can be guided into the new legislation. It will give everyone time to prepare. Another Member said that dogs are born with a tail, so why not show dogs with their tail? If all the dogs have a tail, they will be shown on a level playing field. The legislation will evolve over time as it is rolled out. It is a bit like breeding. Perhaps there is a challenge for breeders to look at making tails shorter through breeding practices and evolution. There is a responsibility on breeders.

Other Members talked about the docking of pigs' tails and lambs' tails. That is carried out because of welfare issues to do with the way that those animals are farmed. The Department outlined clearly that that is done for the greater good, and I think that everyone accepts that. Improved husbandry would probably eradicate the need to dock pigs' and lambs' tails. That would obviously involve considerable expense for our farming community, but I think that it will happen over time. The docking of pigs' and lambs' tails is cruel too, but it is done for the greater good. There are serious welfare issues involved, such as pigs eating each other's tails and fly strike among lambs. There are good reasons for tail docking in those circumstances, but we have to look at better husbandry.

I will move on to the Committee's proposed amendment. I will read a part of the Committee's report that refers to the Minister's amendment:

> *"Members noted that this was a significant movement by the Minister and the Department. However, having received evidence from stakeholders advising that working and hunting dogs can be cross-bred to improve their performance in these areas, Members believed that this proposal fell short of their requirements. Members indicated that extending the amendment to include spaniels, hunt point retrievers and terriers (and combinations of these breeds), in conjunction with the policy proposals for subordinate legislation, would remove the possibility of docking a dog's tail for cosmetic reasons".*

I repeat that that was said by the Committee, some members of which are here today. The Committee tabled its own amendment to prevent tail docking for cosmetic reasons and:

> *"close 'loopholes' identified in the English and Welsh legislation."*

The Committee decided — I voted against this — to move to the English and Welsh model but with a few extra caveats.

3.15 pm

I wish to give Members who are not on the Committee a flavour of what we are talking about. The exemption includes spaniels of any breed or combination of breeds; terriers of any breed or combination of breeds; any breed commonly used for hunting or any combination of such breeds; any breed commonly used for pointing or any combination of such breeds; and any breed commonly used for retrieving or any combination of such breeds. That is a considerable number of dogs, given that hundreds of dogs comprise each breed. If Members think about the number of terriers and combinations of breeds of terriers alone, they will understand that we are talking about hundreds and hundreds of dogs. That is where we are and where the amendment is. That is where the Committee felt that it had to go on the issue.

I think that the amendment is too wide, is unworkable and cannot be enforced. The evidence from the English and Welsh experience shows that there were major enforcement issues with such a provision. The Committee knows that, and it knows damn well that that will be very difficult to enforce. Others talked about the great cost to councils of enforcing it. However, there will be a great deal more cost in trying to prove whether or not a dog should have its tail docked. It will be an absolute minefield. However, the will of the House is that we go in that direction.

Some Members stated that there will be more injuries if tails are not docked. However, as I said to the Minister, the same argument could be used for any limb. The more we have, the more likely we are to get injured. Will we, therefore, start removing dogs' paws to reduce injuries? Should we take off two of their paws, so that they are less likely to get injured and have less chance of getting their paws jammed in a door?

The Committee is behaving like a child: the more it gets, the more it wants. Some Members are now arguing for cosmetic docking. Perhaps they will put it in their election literature that that is what they are calling for. They are speaking with a forked tongue at the minute. As I say, the Committee is like a child who gorges on sweets, even though they do not particularly want them, until they make themselves sick. They do not realise what they are doing; they just want to do it. If you will excuse the pun, a LeasCheann Comhairle, they are like a dog in a manger. I will leave it at that now that I have aired my views.

Mr T Clarke: The previous Member who spoke was right about the fact that there is a lot of confusion. After that contribution, he has caused more confusion than anyone else here today.

The Committee took a lot of evidence over a number of weeks. While some of us would suggest that some of the evidence was for the right reasons, I would suggest that some of it was for the wrong reasons. The term "cosmetic docking" has been used. However, I and some others believe that the Department has created that to a certain extent, because, as I said in an earlier intervention, it has been trying to push the Committee in a certain direction.

The previous Member who spoke was right about the fact that there was a lobby. However, that lobby comprised people who work day in and day out with dog breeds and, therefore, know exactly what those breeds' characteristics are and how their tails can get damaged. The views of a lobby group should be taken into consideration in just the same way as any other evidence. We have to listen to the people who work with dogs day in and day out, and those people believe that banning tail docking is going too far. They care about and have paid huge amounts of money for their dogs and are, therefore, concerned about injury. If any measures are to come into effect here, they should be to ensure that due process is followed before tail docking is done. An owner must go to a vet and get everything recorded. That will ensure that not just anyone can do the procedure and that the dog does not go through any unnecessary suffering.

Some people possibly think more of their dogs than they do of any other possession. Their dogs are so valuable to them that they do not want to make them suffer, and they will try to treat them as well as is humanly possible. However, anyone listening to the Department's point of view would imagine that the people who work with dogs were barbaric in how they carried out the operation in the past. However, I think that that is an unfair assumption.

The evidence that was given was selective. It was selected from just 52 vets' practices from all those in the UK, and we could not even find out whether those practices were in rural or urban settings. It makes sense that most of the dogs in a rural setting are more likely to be used for work. The Department was fiercely against tail docking from the outset, particularly for working dogs and those used for sport and shooting. Statistics would surely be different if the opinion of vets in rural parts were asked for. However, the Department was very selective in where it got its information.

I was one of the people who supported the amendment. I will continue to support it today, but I will vote against the clause itself in its entirety. I will do that because I do not believe that the amendment has gone far enough. I think that people who have bred dogs should be allowed to continue to look after them in the fashion that they have been. The process would be more workable if other controls were put in place that would mean that the dog would have to be taken to the vet within a certain number of days to go through the procedure. As

the previous Member who spoke said, this will probably be unworkable because of confusion about various breeds. That would be easily overcome by the suggestion that, if someone wants to dock any dog, they could take it to the vet within a certain number of days and let the vet carry out the procedure. That would mean that docking would be done in a humane way, with the result that the dog would go through as little suffering as possible.

Pictures were circulated to us of dogs whose tail had been injured. Perhaps some of us, including the Member who spoke previously, chose not to look at them. Evidence was given about the severity of the pain that is caused. One of the experts referred to the pain of docking as being similar to a person saying, "Ouch". However, if the tail were amputated at a later date when the dog is older, the dog would obviously go through a lot more pain.

Evidence was also given to suggest that, when dogs are injured and the tail does not need amputated in the first instance, it is more likely that it will be amputated at a later date because the injuries do not fully heal. For that reason, I support amendment No 2. It goes some way to protecting dogs and the welfare of animals. However, I do not believe that it goes far enough, so I urge Members to vote for the removal of clause 6.

The Minister of Agriculture and Rural Development: Go raibh míle maith agat, a LeasCheann Comhairle. As Members heard today, there has been quite a bit of division on this issue. I agree with the Chairperson of the Committee for Agriculture and Rural Development that this has been the most contentious issue in the Bill. However, by and large, that is all that I agree with him on.

The amount of squabbling and some of the contributions have made this a hugely difficult issue to get any kind of consensus or agreed way forward on. There has been considerable comment from stakeholders, both from those who oppose and from those who support an outright ban.

It may help if I start by reminding Members that the purpose of the Welfare of Animals Bill is to update and strengthen the powers that are currently available in the Welfare of Animals Act 1972, which no longer meets society's expectations. In particular, the welfare standards for non-farmed animals, including dogs, lagged well behind the improved welfare standards that are already in place for farmed animals.

The key aims of the Bill are not only to stop cruelty and to stop animals suffering unnecessary pain and distress but to promote and enhance the welfare of all protected animals. I believe that docking a dog's tail causes unnecessary suffering. In addition to causing acute pain, a wide range of scientific evidence demonstrates that tail docking deprives the dog of a major bodily appendage and can result in behavioural changes in some dogs. It also deprives the dog of a vital form of canine expression and may result in post-docking infections and complications, including incontinence. Therefore, in a bid to prevent pups from suffering unnecessarily, the Bill would impose a complete ban on the docking of dogs' tails unless it is undertaken by a veterinary surgeon for the dog's medical treatment or to save its life. That is my preferred position.

My aim is to prevent the unacceptable practice of the cosmetic docking of dogs' tails. However, from the remarks in the Chamber and the comments from a wide range of stakeholders, there is obvious strength of feeling behind the Committee for Agriculture and Rural Development's proposed exemption to allow the tails of certified working dogs to be docked. Although that is disappointing, it is at least reassuring to hear that some Members do not support cosmetic docking. The Committee's amendment does not go as far as I would like. Although its proposed exemption is not ideal, it will, if made, go some way towards stopping cosmetic docking.

I welcome the fact that the Committee's amendments include a proposal to strengthen the powers to stop the showing of dogs with a docked tail, but it must be remembered that most dogs that are shown are docked to conform to what was previously the breed standard and not for the welfare of the dog. Should the Committee's amendment be made, I will instruct my officials to work with the Committee to ensure that the subsequent subordinate legislation, which will be made to enforce that exemption, is as effective as it can be. That will go some way towards ensuring that the exemption does not leave the back door open for cosmetic docking.

I have set out my preferred position, and Members are aware from today's debate that I brought a compromise to the Committee in an attempt to meet the needs of the stakeholders who expressed a desire for some flexibility for working dogs. Obviously, my amendment did not go far enough. Although the Committee amendment would lead to a very unworkable situation, I am horrified to hear that members of the Committee are considering voting down the entire clause.

I recognise the strength of feeling expressed in support of the Committee's amendment. However, in the interests of building consensus on this hugely important Bill, I remind the House that it deals with issues such as dog fighting, about which Members have come to me and have expressed concern on the Floor of the House. The Bill is not just about tail docking; that is a very small part of it. There are hugely important elements to be considered today. In the interests of pragmatism and of listening to the Committee — I have made a virtue of listening to stakeholders and the Committee — I brought forward a proposal, but that was rejected. The Committee's proposal is not perfect, but I will not oppose the tail docking amendments tabled by its Chairperson.

We need to keep the entire Bill in context. I bring Members back to the fact that we are providing a duty of care to all protected animals, including domestic pets and horses. We are making it possible to act to prevent animals from suffering, and we are strengthening powers in respect of dog fighting. We are providing powers to regulate a wide range of activities involving animals, such as dog breeding establishments, and we are increasing the penalties for serious animal welfare offences. I do not want to lose the tone of the Bill over the single issue of tail docking.

The Bill substantially updates and strengthens existing powers to deal with animal welfare issues. It will put us at the forefront of the protection of farmed and non-farmed animals. However, given the nature of some Members' comments during the debate, it is clear that they are in favour of cosmetic docking. I am appalled to hear that some Members are considering voting down the entire clause because they feel that it would be wrong to have it in place. I caution against that, and I will explain what will happen if the clause falls: it will, effectively, say that we support cosmetic docking, and many people will be appalled at that. However, the implications are much worse. If the clause is voted down, the only power that we will have is the Veterinary Surgeons Act 1966, which requires a vet to dock a dog's tail. We will be in a far worse position than before we started the Bill. We will no longer have any powers to require pups to be docked before their eyes are open. It will also be impossible to enforce the requirement that only a veterinary surgeon may undertake the procedure. The North of Ireland will become the docking capital of these islands, and it will send out the message that the welfare of dogs is not important. If the clause is voted down, the House will be the laughing stock of Europe.

We heard about how many European nations are voting against this practice and about the direction in which everybody is going. We will be laughed at, and it will be one of the most retrograde steps that this legislature has taken.

Any Members who consider voting down clause 6 should be absolutely ashamed of themselves. The removal of all regulation of tail docking beggars belief. I cannot believe that we are at the point of considering it, so I hope that Trevor Clarke is in a minority of one. I hope that he is the only person — and I see that he has left the Chamber — who lacks the common sense and decency to vote the clause down. It is mind-blowing what goes on in the House, and this has been one of the most bizarre days that I have had. Although the Committee's amendment is not perfect, I urge Members to support it and the entire clause. Stephen, it is over to you.

3.30 pm

The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray): I thank the Minister and Members for their contributions to the debate. I do not intend to summarise each contribution. Instead, I will address some concerns that Members raised. Generally, I welcome the support expressed for the amendments, and I fully appreciate Members' comments. I shall comment on some of them.

Mr Molloy expressed the view that the clause on tail docking should have had wider consideration and should take into account, for example, the docking of lambs' and pigs' tails. However, the Committee accepted that there were considerable welfare considerations requiring those animals' tails to be docked. In addition, it noted that research was being undertaken into

how, for example, husbandry could be developed to remove risks. I expect that if such a breakthrough is made, the Department will add the docking of lambs' and pigs' tails by means of clause 5, "Prohibited procedures".

A number of Members mentioned dog showing. I stress that the Department and, indeed, the Committee did not just pluck the issue out of the air. It has already been debated in England and Wales. Indeed, as I stated previously, at a meeting on 29 November 2010, EU Agriculture Ministers agreed to undertake a study into prohibiting the showing and trading of dogs and cats where their tails have undergone non-curative surgery, namely docking.

In addition, the Kennel Club, which has the welfare of dogs very much at heart, expressed its view to the Committee that, for the purposes of clarity, we should introduce an immediate ban on showing dogs with docked tails. With the welfare of dogs at heart, the Kennel Club has removed the necessity for docked tails from show breed standards, which means that, at a show, a docked tail will be of no advantage over an undocked tail. If a dog is bred to be shown, there will be no requirement for its tail to be docked. Mr Beggs sought confirmation from the Minister about when the ban on showing dogs with docked tails will take effect. I hope that the Minister has provided that clarity. I reconfirm what I and the Minister stated previously: if a tail has been docked before the ban comes into effect, the dog can be shown for the remainder of its natural life.

Mr Bradley expressed concern about the combination of breeds, and he allowed Mr Molloy to intervene in response. I support those comments, and I would add that the combination of breeds will allow for different characteristics of working dogs to be bred. If anything, it will strengthen breeds. Mr Lunn spoke about harmonisation between this jurisdiction and that of the Republic of Ireland. I advise him that the relevant Department in the Republic has consulted on its Animal Health and Welfare Bill, and it has included a policy principle to prohibit what it describes as mutilations. In addition, both jurisdictions have in place an all-island animal health and welfare strategy that seeks to co-ordinate legislation in those areas. Finally, in November, the Republic's Minister attended the EU Council meeting at which, as I said, agreement was achieved on a study into the banning of showing dogs with docked tails. So there is harmony in that respect.

Willie Clarke spoke of the controlled docking of tails. That is an important point that needs to be emphasised. Docking will require veterinary certification and will be controlled by subordinate legislation that will be subject to the scrutiny of the Committee and the House. He also stated that it was too difficult to police and that many dogs are included. I repeat: a professionally qualified vet will certify that the dog will be used for lawful hunting and lawful pest control.

The Minister stated her preferred position, and we respect that. However, I have already covered the evidence that brought the Minister to that position, and the Committee felt that it was inconclusive. I welcome her offer for the Committee and her staff to bring forward the necessary subordinate legislation. I also welcome the fact that she will not oppose the amendments.

I hope that I have provided sufficient clarity in respect of Members' queries. The Committee has thought long and hard about the clause, and there have been many developed debates. However, we have returned to the same conclusion each time: docking a dog's tail for any reason other than the welfare of the dog is wrong. Docking a dog's tail so that it conforms to a breed standard is wrong. Docking a dog's tail because it makes a dog look prettier is wrong. If one accepts that, one must also accept that it is imperative that the practice of showing dogs with cosmetically docked tails needs to be discouraged. That is what happened in England and Wales, and it will happen in Scotland when the impact of a total ban on docking filters through. The issue is being debated at the highest level in Brussels and throughout Europe.

The ban on tail docking is needed to protect the welfare of the dog. The exemption for working dogs is needed to protect the welfare of the dog. Cosmetic docking neither protects nor enhances the welfare of the dog and should not, therefore, be permitted. I commend the amendments to the House and ask it to support the Committee by voting for them.

Question, That amendment No 2 be made, put and agreed to.

Question put, That the clause, as amended, stand part of the Bill.

The Assembly divided: Ayes 61; Noes 19.

AYES

Ms M Anderson, Mr S Anderson, Mr Attwood, Mr Beggs, Mr Boylan, Mrs M Bradley, Mr PJ Bradley, Mr Brady, Lord Browne, Mr Buchanan, Mr Burns, Mr Butler, Mr Callaghan, Mr Campbell, Mr W Clarke, Mr Cobain, Mr Cree, Mr Doherty, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Ms Gildernew, Mr Humphrey, Mr Irwin, Mrs D Kelly, Mr G Kelly, Ms Lo, Mr Lunn, Mr Lyttle, Mr A Maginness, Mr A Maskey, Mr P Maskey, Mr McCallister, Mr F McCann, Mr McCarthy, Mr McCartney, Mr B McCrea, Dr McDonnell, Mr McElduff, Mr McFarland, Mrs McGill, Mr McGlone, Mr McKay, Mr McLaughlin, Mr Molloy, Mr Moutray, Ms Ní Chuilín, Mr O'Dowd, Mr O'Loan, Mrs O'Neill, Mr P Ramsey, Ms S Ramsey, Ms Ritchie, Mr G Robinson, Ms Ruane, Mr Savage, Mr Sheehan, Mr Spratt, Mr Wells, Mr B Wilson.

Tellers for the Ayes: Mr W Clarke and Mr Molloy.

NOES

Mr Armstrong, Mr Bell, Mr Bresland, Mr T Clarke, Rev Dr Robert Coulter, Mr Craig, Mr Easton, Mr Frew, Mr Girvan, Mr Givan, Mr Hamilton, Mr Kinahan, Mr I McCrea, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Poots, Mr Ross, Mr Weir.

Tellers for the Noes: Mr T Clarke and Miss McIlveen.

Question accordingly agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8 (Fighting etc.)

Mr Deputy Speaker: We now come to the third group of amendments for debate, which remove an exemption in the Bill to offences relating to photographs and videos of animal fighting. With amendment No 3, it will be convenient to debate amendment No 4. Members should note that amendment No 4 is consequential to amendment No 3.

The Minister of Agriculture and Rural Development: I beg to move amendment No 3: In page 5, line 41, leave out subsection (4).

The following amendment stood on the Marshalled List:

No 4: In page 6, leave out lines 13 and 14. — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

The Minister of Agriculture and Rural Development: Go raibh míle maith agat, a LeasCheann Comhairle. Amendment No 3 is one of two amendments in the group, namely amendment Nos 3 and 4, which deal with animal fighting. The Bill strengthens existing powers in respect of animal fighting, including dogfighting and cockfighting. There are already substantial powers in the Welfare of Animals Act 1972 in respect of animal fighting. It is currently an offence to cause unnecessary suffering to an animal by causing, procuring or assisting at an animal fight; promoting, causing or permitting any performance; taking part in an animal fight; keeping, using, managing, permitting or assisting in the keeping of any premises for animal fighting; receiving, causing or procuring money for admission to an animal fight; and being a spectator at an animal fight. Those current offences will be enhanced by the Bill because they will become offences regardless of whether unnecessary suffering is caused.

In addition, new powers will be added to make it an offence to keep or train an animal for use in connection with an animal fight. Therefore, if evidence such as training equipment, etc, is present, the power will exist to seize a dog before it ever fights. The Bill will also make it an offence to cause an animal fight to take place or to attempt to do so; to supply, publish or show a video recording of an animal fight; to possess a video recording of an animal fight with the intention to supply it; and to place or accept a bet on an animal fight.

Furthermore, penalties for animal fighting will be increased from a maximum of three months' imprisonment and/or a £5,000 fine to a maximum of two years' imprisonment and/or an unlimited fine. Other new powers allow for the destruction of animals that are involved in fighting offences, forfeiture of equipment, and reimbursement of expenses that are incurred by the PSNI in connection with keeping animals that are involved in those offences.

Powers are also included to allow a court to disqualify a person convicted of animal fighting offences for any one or more of the following: owning animals; keeping animals; participating in the keeping of animals; controlling or influencing the way in which animals are kept; dealing in

animals for fighting; transporting animals; and arranging for the transport of animals. A court will also be able to cancel any current welfare licence or disqualify a person from holding a licence following a conviction for animal fighting offences. Those new powers will strengthen the current powers significantly and send a strong message to individuals involved in that type of abhorrent activity that animal fighting is not acceptable in a civilised society.

As amendment No 3 resulted from recent legal advice received after Committee Stage was completed, my officials were not able to discuss it with the Committee. However, as the amendment will strengthen the powers in respect of animal fighting, I am confident that the Committee will welcome it.

As I outlined, clause 8 creates a number of offences in relation to animal fighting, including an offence to supply, publish, show or possess a photograph, image or video recording of an animal fight. However, an exemption is provided to those offences if the photograph, image or video recording is of an animal fight that took place outside Ireland or Britain or before the commencement date. Our legal advice is that that exemption should be removed from the Bill, as its inclusion could make it difficult for the prosecution to prove its case. I have accepted that advice.

Amendment No 4 is consequential to amendment No 3. I, therefore, propose to amend clause 8, in line with the legal advice, to tighten the powers in relation to animal fighting. I call on Members to support the third group of amendments.

The Chairperson of the Committee for Agriculture and Rural Development: As the Minister said, amendment Nos 3 and 4 were not presented to the Committee but resulted from legal advice received by the Department. The Committee has consistently and unanimously condemned the heinous, monstrous and despicable crime that is animal fighting. I have no doubt that members of the Committee will welcome any strengthening of the legislation. The supply of photographs or videos of animal torture should be banned, irrespective of where they are sourced, and I am glad that the Department received timely information on that matter. As I said, members did not have the opportunity to discuss the third group of amendments at Committee, but I confirm what I strongly believe will be their position, namely their agreement to the amendments. I fully support the Minister on those amendments.

Mr Molloy: Go raibh maith agat, a LeasCheann Comhairle. Everyone condemns dogfighting and animal fighting. One of my first experiences of the issue was when I was sitting on Dungannon and South Tyrone Borough Council. There was a well-highlighted case of a dog that had been imported for fighting. It was one issue against which the council, across the board, united in opposition. The same opposition existed in the Committee: total opposition to any aspect of dogfighting and total support for measures to deal with it. I support the amendments.

Mr Beggs: I support the third group of amendments. Clause 8 is significant, as it strengthens significantly the ability to prosecute those involved in a wide range of activities in connection with animal fighting. We are aware from programmes such as 'Spotlight' that organised dogfighting is an issue for Northern Ireland. Undoubtedly, there may be other forms of animal fighting. The legislation will apply to any form of animal fighting. It appears that the activity occurs to give some sort of pleasure to deranged humans, or for betting purposes.

Clause 8(3) states that it would be an offence to supply, publish, show or possess photographs or images of the fighting.

Amendment No 3 would create an exemption to that, in that it would not apply if the fight took place outside the Republic of Ireland or the United Kingdom.

4.00 pm

On reflection, I see why it is important to remove that. First, does it really matter where an inappropriate image that is promoting animal fighting originated? It would be in the possession of someone who supports or encourages that activity. That exemption would provide protection for someone involved in animal fighting — for example, someone in Finland, where, as we are aware, there are connections, would have been exempt. The exemption might also have created a necessity for anyone prosecuting to prove that an offence had happened in the United Kingdom or the Republic of Ireland. That could have provided a defence for someone involved in animal fighting in our jurisdiction and who had photographs or

images of it. They might have had a defence by arguing that the fight did not happen here.

Similarly, I understand that amendment No 4 removes the commencement date. By removing that, the necessity to prove when the event occurred will be removed. Both amendments will strengthen the powers of prosecution and make it more difficult for anyone to defend themselves for having inappropriate images, photographs or video recordings of animal fighting. Someone who is involved in such activity will now be much less likely to carry such images and, if they do, will be much more likely to be successfully prosecuted. The amendments will help to bring that horrendous so-called sport to an end, and those who have been involved in that reprehensible activity will be successfully prosecuted. I support the amendments.

Mr Lunn: I will not repeat what has already been said. We need to send a clear message to people who indulge in such activity that it will not be tolerated and that they will be subject to the full rigours of the law. I am more than happy to support both amendments.

The Minister of Agriculture and Rural Development: Go raibh míle maith agat, a LeasCheann Comhairle. I thank Members for their contribution to this part of the debate. It shows that, like me, Members deplore animal fighting and want the best controls possible to deter that barbaric and horrific practice. The amendments will strengthen the powers in the Bill and will close any potential loopholes that people involved in that practice might use to escape the full force of the law. I call on Members to support the amendments in this group.

Question, That amendment No 3 be made, put and agreed to.

Amendment No 4 made: In page 6, leave out lines 13 and 14. — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 8, as amended, ordered to stand part of the Bill.

Clauses 9 to 30 ordered to stand part of the Bill.

Clause 31 (Penalties)

Mr Deputy Speaker: Amendment No 5 is consequential to amendment No 2.

Amendment No 5 made: In page 18, line 18, leave out "sections 6(5)" and insert "sections 6(5) and 6(10)". — *[The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]*

Mr Deputy Speaker: Amendment No 6 has already been debated and is consequential to amendment No 2.

*Amendment No 6 made: I*n page 18, line 24, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

Clause 31, as amended, ordered to stand part of the Bill.

Clause 32 (Deprivation)

Mr Deputy Speaker: Amendment No 7 has already been debated and is consequential to amendment No 2.

*Amendment No 7 made: I*n page 18, line 31, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

Clause 32, as amended, ordered to stand part of the Bill.

Clause 33 (Disqualification)

Mr Deputy Speaker: Amendment No 8 has already been debated and is consequential to amendment No 2.

Amendment No 8 made: In page 20, line 17, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

Clause 33, as amended, ordered to stand part of the Bill.

Clauses 34 and 35 ordered to stand part of the Bill.

Clause 36 (Destruction in the interests of an animal)

Mr Deputy Speaker: Amendment No 9 has already been debated and is consequential to amendment No 2.

Amendment No 9 made: In page 21, line 36, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

Clause 36, as amended, ordered to stand part of the Bill.

Clauses 37 to 40 ordered to stand part of the Bill.

Clause 41 (Orders with respect to licences)

Mr Deputy Speaker: Amendment No 10 has already been debated and is consequential to amendment No 2.

Amendment No 10 made: In page 25, line 3, leave out

"sections 4, 5, 6(1), (2) and (4)"

and insert

"sections 4, 5, 6(1), (2), (4) and (15)". — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

Clause 41, as amended, ordered to stand part of the Bill.

Clauses 42 to 44 ordered to stand part of the Bill.

Clause 45 (Inspectors)

Mr Deputy Speaker: We now come to the fourth group of amendments for debate, which deal with enforcement and clarify the meaning of an "inspector". With amendment No 11, it will be convenient to debate amendment No 12.

The Minister of Agriculture and Rural Development: I beg to move amendment No 11: In page 26, line 22, leave out subsection (1) and insert

"(1) In this Act, 'inspector', in the context of any provision, means—

(a) in so far as that provision relates to farmed animals, a person appointed to be an inspector for the purposes of that provision by the Department;

(b) in so far as that provision relates to other animals, a person appointed to be an inspector for the purposes of that provision by a council.

(1A) In subsection (1), 'farmed animal' means any animal bred or kept for the production of food, wool or skin or for other farming purposes.

(1B) The Department may by regulations amend the definition of 'farmed animal' in subsection (1A).

(1C) Before making regulations under subsection (1B), the Department must consult such persons appearing to the Department to represent relevant interests as the Department considers appropriate."

The following amendment stood on the Marshalled List:

No 12: In page 26, line 33, at end insert

"(4A) Each council must furnish to the Department, at such times and in such manner as the Department may direct—

(a) such information relating to the exercise of the council's functions under this section; and

(b) such information relating to the exercise of functions by inspectors appointed by the council for the purposes of this Act, as the Department may require." — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Go raibh míle maith agat, a LeasCheann Comhairle. Amendment No 11 deals with the appointment and powers of inspectors and has two elements. The first element makes it clear that inspectors appointed by the Department will deal with farmed animals and that inspectors appointed by councils will deal with other animals.

The second element specifies what is meant by "farmed animal" and provides powers to amend the definition of "farmed animal" if it proves necessary in the future. Any such subordinate legislation will be subject to consultation with the stakeholders and the Agriculture and Rural Development Committee and will be made by draft affirmative resolution of the Assembly.

This amendment has been proposed at the request of the Committee, which had concerns over the time frame for the implementation

of the powers by councils. This amendment will allow for the powers for the two groups of inspectors to be commenced at a different time. To address the Committee's concerns, I have agreed that the powers for councils to appoint inspectors will not be commenced until 12 months after the Bill receives Royal Assent. That will provide sufficient lead-in time to allow my officials to work with councils to help them to prepare for implementation.

I am also aware that the Committee and councils are concerned that a new burden would be placed on councils, and that would impact on ratepayers. I assure the House that I am not placing an unfunded burden on councils, and I do not want ratepayers to face increases in their rates bills to cover the cost of animal welfare. Therefore, to allay those concerns, I have guaranteed to make available to councils annual funding of £760,000 for the Budget period. In addition, any licensing and registration functions will be passed to councils only as new subordinate legislation is made, which allows fees for those activities to be set on a full cost-recovery basis.

It is also important to highlight that although the Bill will place a statutory obligation on councils to enforce the provisions in respect of non-farmed animals, the powers are permissive in that councils will have discretion over how they implement them within the available resources. By providing the £760,000 funding to councils, I am asking them to implement the new enforcement role in the most efficient and effective way possible to ensure that priority cases can be addressed.

I have already advised the House that powers for councils will not be enacted until 12 months after the Bill is completed. So, there will be no requirement for councils to carry out any enforcement work in the next financial year. However, I still intend to make funding available for that year to enable councils to put the necessary preparatory arrangements in place in advance of the commencement of those provisions.

In its report on the Bill, the Committee made a number of recommendations regarding funding and progress on working with councils. To that end, amendment No 12 provides a power to request information from councils to enable the Department to monitor the implementation of policy with regard to non-farmed animals. That will allow the Department to assess the volume of complaints and the outcome and effectiveness of the actions taken.

It is critical that my officials and I work with councils to take that important element of the Bill forward. On 1 March, I will be meeting with members of the Agriculture and Rural Development Committee and elected representatives from the rural affairs committee of NILGA, which will give me an opportunity to directly address the concerns of councils and to start the discussion about plans for future implementation.

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

Clauses 17, 29 and 45 have particular impact on local councils as they allow for the appointment of inspectors and provide powers to those inspectors in relation to animals in distress and the prosecution of offences. Those powers bring with them considerable resourcing implications.

The Department has recognised that there will be additional resource requirements and, based on the average case incidence in England and Wales, which is approximately 4,500 a year, has estimated that a sum of £760,000 would be required each year for all councils in Northern Ireland.

As the Minister indicated, that amount has been included in the draft Budget for the next CSR period. However, the Committee and elected councillors continue to be concerned by the issue of resources, particularly the size of the estimated resource implications and the long-term availability of resources.

4.15 pm

The Committee heard from the rural affairs committee of NILGA that the Ulster Society for the Prevention of Cruelty to Animals receives some 8,000 calls about animal cruelty each month. Although only 40% of those calls are followed up, that still amounts to approximately 3,200 instances of animal cruelty each month, rather than the 4,500 incidents each year that were cited by the Department and formed the basis of its £760,000 budget allocation.

Committee members welcomed the inclusion of the £760,000 in the draft Budget, but they

continue to worry that a new Minister, with different spending priorities, might wish to utilise those moneys differently. In addition, it does not take into consideration how the enforcement responsibilities are to be addressed beyond the next CSR period. Committee members agreed that that figure should be reviewed in light of experience.

Committee members were also critical of the Department for concentrating its consultations with local councils at an official level, and were adamant that elected councils had not been consulted. That was reinforced by the rural affairs committee of NILGA, which is composed of a cross section of elected councillors from the 26 councils. Indeed, the Committee continues to receive correspondence from councils indicating their complete opposition to a transfer of these powers without consultation at an appropriate level.

There were different opinions on how those issues could be resolved. Although all Committee members agreed that the Department needed to consult immediately and extensively with elected councillors, there was debate on how that could be achieved without delaying the Bill's progress through the House. Therefore, Committee members agreed that the Department should defer the appointment of inspectors for a period of not less than 12 months to allow for appropriate consultation. That will result in clause 45 being amended to allow for the appointment of departmental inspectors to undertake testing for animal diseases such as bovine tuberculosis and brucellosis.

The Committee has also written to the Minister to ask that she attend a meeting with the Committee and elected councillors, which, I am pleased to say, she has agreed to do. It is important that the consultation is taken seriously and afforded the proper attention that it requires. This will be the commencement of what I believe will be a frank but fair consultation process. On the basis of the assurances received from the Minister in Committee and in the House, the Committee for Agriculture and Rural Development supports these amendments.

Mr Molloy: Go raibh maith agat, a LeasCheann Comhairle. As the Chairperson of the Committee said, the lack of consultation was raised as a major issue in all the reports that the Committee got, including some of the times when NILGA was represented. It was clear that the Department only consulted with selected officials, and that it did not consult with elected councillors.

As I said earlier, the Committee wants to ensure that those elected councillors who make decisions on rates and other issues are the people who are consulted, and it is clear that that did not happen. Indeed, a number of councillors sit on the Committee, and it was clear that they had not heard anything about it or been consulted on any of it. Trevor Lunn said this morning that Lisburn City Council had never debated the issue, and the same applies across the board. There was no consultation.

As for the point that the discussions will be about the implementation of this, there is no indication that that will be the case. Local government could say that this is not a role that it can play and that it cannot employ inspectors. Local government has not decided yet. There are also governance issues and other issues around RPA that have to be sorted out by local government before councils can take on those powers.

A lot of issues are up for discussion. The discussions that will take place between the Department, the Committee and councillors should focus on the relevant aspects of the Bill, along with the cost of implementation. It is clear that the costs envisaged by councils and the possible court cases that may arise cannot be estimated at present. There is no indication of the number of court cases; it is impossible to estimate. There is also the matter of the number of vets and inspectors. The Department's response was that its vets would not be used and that it would be up to local government to employ its own vets. We know what the cost of that will be. The Committee said that the Department already had vets and that there could be some future co-operation on the issue.

The Committee's discussions have been about all aspects of the Bill, not just about how it will be implemented by the Department and local government. It is important for local councillors to be involved in those discussions, and they should not be represented by NILGA officials.

Mr Elliott: Does the Member believe that there has been enough co-operation and communication with local councils and councillors? Have they been brought into the loop?

Mr Molloy: No. There has been no worthwhile consultation, especially with local councillors. There has been some communication with a small number of chief executives and officials, but there has definitely not been any consultation with councillors. That was clear when the rural affairs group from NILGA attended the Committee: none of them was aware of the issues or the costs to be incurred by local government. Figures have been thrown about in relation to the costs involved, but the USPCA had an entirely different set of figures. Many different issues need to be looked at, and local government must be brought up to date on the implications of the Bill before it takes them on. There must be proper consultation.

Departments must get the message that consultation with local government should be with councillors, not officials. That should apply across the board, including in relation to Bills. We should be talking to the people who have to set the rates and who will be criticised for their decisions. Those people should be part of the decision-making process. We have to deal with those important issues, including the full costs that will be incurred.

There is also the issue of licensing. Councils still have the power and the obligation to issue licences. They will also have to deal with the tagging or microchipping of dogs, which is a dual responsibility, and be required to inspect dogs before a licence is issued. There are so many conditions attached to issuing a licence that dogs will be lined up in the foyer of councils, waiting to be inspected by the officer who issues the licence so that he can decide whether one should be granted. A lot of responsibility will fall on local government that does not exist at present and which will be an imposition.

Unfortunately, the cost involved will be passed on to the ratepayers, who are the people who own the dogs. The costs of microchipping and licensing and the role that local government will play in the implementation of the Bill will mean an additional cost for ratepayers. There must be further consideration and proper consultation before we move forward.

Mr Beggs: I wish to comment on amendment No 12, which will require councils to provide information to the Department. I accept that it is appropriate for the Department to know what is happening throughout Northern Ireland and, therefore, the amendment is appropriate. However, I seek the Minister's reassurance that, in requiring information to come forth, she will enter discussions with local government to ensure that it is in a concise form and that it does not become a huge bureaucratic burden. Only necessary information should be required so that we do not create undue burdens and can ensure that useful information that can be acted on will come centrally to her Department. It will be useful to gather the number of enquiries that local government handles.

I declare an interest as a local councillor, although I am not standing in the forthcoming local government elections. The Department indicated that £760,000 will be available, which will be split among all 26 local councils in Northern Ireland, and it is bound to be difficult to work out whether that amount is sufficient. As the Department gathers information, I hope that it will be able to determine whether it has overestimated or underestimated the moneys required for local government to carry out this duty. I suspect that it may be an underestimation of the burden that will fall on local government because of the legislation. If the Department has that type of information, I hope that, if the situation is reviewed, the level of support to local government can be adjusted appropriately.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. I will be brief. I agree with Francie that there was not enough consultation with NILGA and the councils. That is nothing new, and I am not blaming DARD. Several pieces of legislation from the House will involve delegation to local authorities. We should learn lessons from lack of engagement. The key message is that it is not enough to consult; we must work in partnership with local authorities.

The Committee for the Environment is working on several Bills that will head down to the local authorities and place considerable burdens on them: the Dogs (Amendment) Bill, the High Hedges Bill, the Clean Neighbourhoods and Environment Bill, the Planning Bill, and the Waste and Contaminated Land (Amendment) Bill. The issue must be considered in the round, and the Executive need to examine it in more detail. The situation is new for everyone, but it is about partnership working.

Mr Elliott: If councillors and councils are not consulted, how does the Member expect them to work in partnership? If there has been

no consultation, it is my understanding that councils cannot, and are not, part of it. I am interested in hearing the Member's suggestions about bringing them into the consultation process, co-operating and working together at this stage.

Mr W Clarke: We bring people in through bona fides and working in partnership. The Bill has a 12-month roll-in period, and NILGA, the Department, the Committee and the Minister will meet regularly, with a presentation being made to the Committee quarterly. The Department will want to ensure that councils have enough resources to carry out these duties, and, equally, councils will want to ensure that they have enough resources.

I would like clarification about the Minister's guarantee of £760,000 a year over the four-year budget period. As other Members said, there could be a new Minister, and it is hard for this Minister to say how that could be prevented. I want the Executive to take a role in that regard, whereby the Department has a mechanism to guarantee that money. The four-year funding period must be guaranteed; otherwise local authorities will not be able to deliver. It is in the interests of everybody, including the Department and local authorities, to continue to work in partnership. "Partnership" is the word that we must use not only for this Bill but for all legislation that involves local authorities in the delivery of front line provision.

It is getting late in the day, so I will leave it at that.

4.30 pm

The Minister of Agriculture and Rural Development: Go raibh míle maith agat, a LeasCheann Comhairle.

I have listened intently to the views of Members, and I fully appreciate that a number of them are also councillors, so I understand that they want to be assured about the enforcement powers in respect of non-farmed animals passing to councils. As I said at the outset of the debate, I do not intend to place an unfunded responsibility on district councils and ratepayers, and hence I have guaranteed annual funding of £760,000 for this budget period. A number of Members have pointed to the fact that the mandate is coming to an end, but I have no doubt that a new Minister in the Department of Agriculture and Rural Development will respect the views of this House and honour the financial commitment that I have made.

In calculating the funding, my officials have drawn on figures supplied by the RSPCA, which implements similar legislation in England and Wales, and they are in line with the USPCA's last published figure of 5,000 cases per year. Those figures provide a reasonable estimate of the future volume of work that may rest with councils in respect of non-farmed animals. I remind Members that councils will have discretion as to how they implement those powers within the available resources.

In the current financial climate, it is unrealistic to expect unlimited funding for animal welfare and, while there may be an expectation by the public that, in an ideal world, all animal welfare complaints will be fully investigated, in reality people will have to accept that cases have to be prioritised. We are talking about animal welfare, but even with the welfare of children, there are limitations to the resources available. We need to get our priorities in order and recognise that there are budgetary constraints on what we can do.

Roy Beggs's input was very positive. We want this to be workable and we want to work together. As Members know from our parallel work on the Dogs (Amendment) Bill, the additional income from increased dog licence fees and fixed penalty receipts is estimated at between £1 million and £1·5 million. The additional income that has to be spent on dog warden services will free up substantial resources and can be redirected.

So it is not all doom and gloom. I have been very positive about working with local government and bringing people with me. There has long been a desire to see more responsibilities going to local government and for councillors to be given more issues that currently are dealt with by central government. I have tried to be pragmatic and bring forward further work for councils and have it funded. I do not say that it should come with no money attached. There needs to be a wee bit of give and take and recognition that we have tried to ensure that councils are given further responsibilities and that those responsibilities are funded realistically.

Before ending, I will restate the guarantees that I have given to the House and, previously, to the Agriculture and Rural Development Committee. My Department will provide annual funding

of £760,000 for the next comprehensive spending review (CSR) period to allow councils to implement the provisions in the Bill in respect of non-farmed animals. My officials will engage with councils to provide advice and practical assistance to help council officials prepare for the new enforcement role in respect of non-farmed animals. A number of those meetings have taken place already. As I have said, I will shortly meet members of the rural affairs committee of NILGA, along with the Agriculture and Rural Development Committee.

I have already given a commitment that the powers in the Bill for councils to appoint inspectors will not be enacted until 12 months after this Bill has been completed, so that there can be full engagement with councils and they will have time to prepare for implementation. Licensing and registration functions will pass to councils only as new subordinate legislation is made. Councils will be fully consulted and fees set at an appropriate level to recover full costs. While I hear Members say that they feel they have not been consulted, I remind them that the consultations that come to councils from all Departments are in an appendix at council meetings. I ask Members to be aware that these engagements and consultations are coming up and communicate with officials to ensure that their views are heard. We have to engage with local government, and councillors could be a little more proactive in the work that is coming up.

The purpose of the new funding is to protect non-farmed animals. I am not changing the role of the USPCA in any way; it is funded by public donations and currently investigates animal welfare complaints. As I said, it is important that councils are empowered and resourced to deal with local issues. They are already responsible for dealing with dog control and they do that very well. The new animal welfare powers will enhance and strengthen the role of councils.

I am grateful for the Committee's contribution to the debate on this group of amendments. I call on Members to support the amendments in this group.

Question, That amendment No 11 be made, put and agreed to.

Amendment No 12 made: In page 26, line 33, at end insert

> *"(4A) Each council must furnish to the Department, at such times and in such manner as the Department may direct¾*
>
> *(a) such information relating to the exercise of the council's functions under this section; and*
>
> *(b) such information relating to the exercise of functions by inspectors appointed by the council for the purposes of this Act,*
>
> *as the Department may require." — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 45, as amended, ordered to stand part of the Bill.

Clauses 46 to 54 ordered to stand part of the Bill.

Clause 55 (Regulations)

Mr Deputy Speaker: We now come to the fifth group of amendments for debate, which deal with subordinate legislation, principally concerning changes in regulation-making powers from negative resolution to the affirmative resolution procedure. With amendment No 13, it will be convenient to debate amendments Nos 14 to 18 and amendment No 21. Members should note that amendment No 13 is paving to amendment No 14, and amendment No 15 is consequential to amendment No 14.

The Minister of Agriculture and Rural Development: I beg to move amendment No 13: In page 30, line 15, after "regulations" insert

> *"(except for regulations made under section 49(5))".*

The following amendments stood on the Marshalled List:

No 14: In page 30, line 15, leave out "section 11, 12 or 13" and insert "this Act". — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 15: In page 30, line 18, leave out "section 1(3) or". — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 16: In page 30, line 20, after "made" insert "by the Department". — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 17: In clause 58, page 31, line 20, after "(1)" insert "Without prejudice to section 55(3),". — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 18: In clause 59, page 32, line 1, leave out subsection (2). — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 21: In schedule 2, page 35, line 34, after "(1)" insert "Without prejudice to section 55(3),". — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

The Minister of Agriculture and Rural Development: Go raibh mile maith agat, a LeasCheann Comhairle. Amendment No 13, as Members have heard, is one of a group of seven amendments — amendment Nos 13, 14, 15, 16, 17, 18 and 21. Amendment No 14 results from a request by the Committee for Agriculture and Rural Development that any regulations made under clause 1(3) to extend the definition of animals to which the Act applies to include invertebrates should be subject to approval in draft by the Assembly, as opposed to the negative resolution procedures. In addition, new regulation-making powers introduced in amendment No 1 relating to permitted procedures, and in amendment No 11 amending the definition of farmed animals, will also be subject to approval in draft by the Assembly as opposed to the negative resolution procedures.

As you have already pointed out, a LeasCheann Comhairle, amendment Nos 13 and 15 are consequential to amendment No 14. Amendment Nos 16, 17, 18 and 21 are drafting amendments, which clarify the Bill but do not affect any changes to its provisions.

The Chairperson of the Committee for Agriculture and Rural Development: The Committee for Agriculture and Rural Development has not had the opportunity to debate the additional amendment in this group. However, the Committee's policy has always been that, where possible, subordinate legislation should be subjected to the greater level of scrutiny afforded by the draft affirmative process. As the amendments in this group essentially make the majority of subordinate legislation subject to the affirmative resolution procedure, I suspect that the Committee will be supportive.

Mr Beggs: I am a member of the Committee and I indicate my support for the general principle that the affirmative resolution procedure be preferred to negative resolution, whereby the Assembly will have to give its approval to new regulations before they come into being. The gist of this group of amendments is to ensure the requirement for the affirmative resolution procedure, and I am content with that.

The Minister of Agriculture and Rural Development: I am grateful for Members' contribution on the amendments that I tabled. I call on Members to support the amendments in the group.

Mr Deputy Speaker: Amendment No 13 is a paving amendment to amendment No 14.

Question, That amendment No 13 be made, put and agreed to.

Amendment No 14 made: In page 30, line 15, leave out "section 11, 12 or 13" and insert "this Act". — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Mr Deputy Speaker: Amendment No 15 is consequential to amendment No 14.

Amendment No 15 made: In page 30, line 18, leave out "section 1(3) or". — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Amendment No 16 made: In page 30, line 20, after "made" insert "by the Department". — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 55, as amended, ordered to stand part of the Bill.

Clauses 56 and 57 ordered to stand part of the Bill.

Clause 58 (Transitional provision)

Amendment No 17 made: In page 31, line 20, after "(1)" insert "Without prejudice to section 55(3),". — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 58, as amended, ordered to stand part of the Bill.

Clause 59 (Commencement)

Amendment No 18 made: In page 32, line 1, leave out subsection (2). — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 59, as amended, ordered to stand part of the Bill.

Clause 60 ordered to stand part of the Bill.

Schedule 1 (Procedures to which section 5 does not apply)

Amendment No 19 not moved. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Mr Deputy Speaker: The Minister's opposition to schedule 1 has already been debated.

Schedule 1 disagreed to.

New Schedule

Mr Deputy Speaker: Amendment No 20 is consequential to amendment No 2.

Amendment No 20 made: After schedule 1, insert the following new schedule

"SCHEDULE 1A

DOGS SPECIFIED FOR THE PURPOSES OF SECTION 6(7)

1.—(1) Spaniels of any breed or combination of breeds.

(2) Terriers of any breed or combination of breeds.

(3) Any breed commonly used for hunting, or any combination of such breeds.

(4) Any breed commonly used for pointing, or any combination of such breeds.

(5) Any breed commonly used for retrieving, or any combination of such breeds." — [The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray).]

New schedule agreed to.

Schedule 2 (Regulations under section 12)

Amendment No 21 made: In page 35, line 34, after "(1)" insert "Without prejudice to section 55(3),". — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Schedule 2, as amended, agreed to.

Schedules 3 to 5 agreed to.

Long title agreed to.

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

4.45 pm

Executive Committee Business

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

Mr Deputy Speaker: I call the Minister for Social Development to move the Consideration Stage of the Licensing and Registration of Clubs (Amendment) Bill.

Moved. — [The Minister for Social Development (Mr Attwood).]

Mr Deputy Speaker: Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list.

There are three groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1 to 7 and 10 to 16, which deal with police and judicial powers in respect of closure orders. The second debate will be on amendment Nos 8, 9, 27 and 30, which deal with restrictions on the promotion and pricing of alcohol. The third debate will be on amendment Nos 17 to 26, 28 and 29, which deal with late licences, young people's attendance in clubs, accounting offences and the restrictions on registered clubs in respect of advertising functions.

Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

Clause 1 (Closure of licensed premises)

Mr Deputy Speaker: We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2 to 7 and 10 to 16. The amendments deal with police and judicial powers in respect of closure orders. Members will note that amendment Nos 1 and 2 are mutually exclusive.

Ms Lo: I beg to move amendment No 1: In page 2, line 8, leave out paragraph (1) and insert

"(1) A senior police officer may make a closure order in relation to any licensed premises if that officer reasonably believes that—

(a) there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety; or

(b) a public nuisance is being caused by noise coming from the premises and the closure of the premises is necessary to prevent that nuisance."

The following amendments stood on the Marshalled List:

No 2: In page 2, line 8, leave out from beginning to "believes" on line 9 and insert

"A lay magistrate may, on the application of a senior police officer, make a closure order in relation to any licensed premises if that lay magistrate is satisfied". — [Mr F McCann.]

No 3: In page 2, line 16, leave out "senior police officer" and insert "lay magistrate". — *[Mr F McCann.]*

No 4: In page 3, line 1, leave out sub-paragraph (b) and insert

"(b) the conditions for an extension are satisfied,". — [Ms Lo.]

No 5: In page 3, line 4, at end insert

"(1A) The conditions for an extension are that—

(a) in the case of an order made by virtue of Article 69B(1)(a), closure is necessary in the interests of public safety because of disorder or likely disorder on, or in the vicinity of and related to, the premises;

(b) in the case of an order made by virtue of Article 69B(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises." — [Ms Lo.]

No 6: In page 3, leave out lines 19 and 20 and insert

"(a) in the case of an order made by virtue of Article 69B(1)(a), closure is necessary in the interests of public safety because of disorder or likely disorder on, or in the vicinity of and related to, the premises;

(b) in the case of an order made by virtue of Article 69B(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises." — [Ms Lo.]

No 7: In page 4, line 16, leave out sub-paragraphs (a) and (b) and insert

"(a) in the case of an order made by virtue of Article 69B(1)(a), consider whether closure is necessary in the interests of public safety because of disorder or likely disorder on the premises, or in the vicinity of and related to, the premises;

(b) in the case of an order made by virtue of Article 69B(1)(b), consider whether closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises; and

(c) in either case, hear representations, if any, from the holder of the licence." — [Ms Lo.]

No 10: In clause 5, page 11, line 6, leave out paragraph (1) and insert

"(1) A senior police officer may make a closure order in relation to the premises of any registered club if that officer reasonably believes that—

(a) there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety; or

(b) a public nuisance is being caused by noise coming from the premises and the closure of the premises is necessary to prevent that nuisance." — [Ms Lo.]

No 11: In clause 5, page 11, line 6, leave out from beginning to end of line 7 and insert

"A lay magistrate may, on the application of a senior police officer, make a closure order in relation to the premises of any registered club if that lay magistrate is satisfied". — [Mr F McCann.]

No 12: In clause 5, page 11, line 14, leave out "senior police officer" and insert "lay magistrate". — *[Mr F McCann.]*

No 13: In clause 5, page 11, line 40, leave out sub-paragraph (b) and insert

"(b) the conditions for an extension are satisfied,". — [Ms Lo.]

No 14: In clause 5, page 12, line 2, at end insert

"(1A) The conditions for an extension are that—

(a) in the case of an order made by virtue of Article 41B(1)(a), closure is necessary in the interests of public safety because of disorder or likely disorder on, or in the vicinity of and related to, the premises of the registered club;

(b) in the case of an order made by virtue of Article 41B(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises of the registered club." — [Ms Lo.]

No 15: In clause 5, page 12, leave out lines 17 and 18 and insert

"(a) in the case of an order made by virtue of Article 41B(1)(a), closure is necessary in the interests of public safety because of disorder or likely disorder on, or in the vicinity of and related to, the premises of the registered club;

(b) in the case of an order made by virtue of Article 41B(1)(b), closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises of the registered club." — [Ms Lo.]

No 16: In clause 5, page 12, line 41, leave out sub-paragraphs (a) and (b) and insert

'(a) in the case of an order made by virtue of Article 41B(1)(a), consider whether closure is necessary in the interests of public safety because of disorder or likely disorder on the premises of the registered club, or in the vicinity of and related to, the premises;

(b) in the case of an order made by virtue of Article 41B(1)(b), consider whether closure is necessary to ensure that no public nuisance is, or is likely to be, caused by noise coming from the premises; and

(c) in either case, hear representations, if any, from the secretary of the club.' — [Ms Lo.]

I welcome the Bill's proposal to grant a new closure power for a senior police officer of the rank of inspector or above to make an application to a court for the closure of any identified licensed premises or clubs where disorder is occurring, in order to protect public safety. That power will replace the like power that is currently the responsibility of the Secretary of State. However, I am concerned that the provision for closure on the grounds of actual disorder is insufficient for the police to carry out their duties in protecting the lives and well-being of the employees and members of the public.

In December 2006, the Department for Social Development, under the direct rule Minister David Hanson MP, published a consultation on the draft Licensing and Registration of Clubs (Amendment) (Northern Ireland) Order 2007. However, the draft Order did not become law, as the responsibility for liquor licensing passed to the Northern Ireland Executive upon restoration of devolved government.

The initial draft Order contained three grounds for closure: actual disorder; imminent disorder; and noise nuisance. However, the current Bill has removed two of those three proposed grounds, namely imminent disorder and noise nuisance, because — I was told — of objections from a political party.

In giving evidence to the Committee, the PSNI stated:

"the vast majority of licensed premises are responsible and cause the police no difficulties or very few difficulties."

The police said that they have problems with just eight of the 411 licensed premises in Belfast. However, the police's main concern about the omission is that the actual disorder has to be occurring before a senior police officer can make an operational decision to close a licensed premises or club. On such occasions, there would be a requirement to deploy police officers into an ongoing public disorder situation that is already out of hand. In most cases, that would escalate the situation, and additional resources and a higher level police response would be needed to deal with it.

For the police to allow such a situation to escalate out of control into ongoing disorder before taking preventative action to protect life, property and prevent the committing of offences would be a failure by them to provide a duty of care under the health and safety obligations in the European Convention on Human Rights. It makes no sense for the police to have to wait until disorder breaks out before taking action. If disorder cannot be prevented or dealt with at an early stage, there are costs to the courts, the Prison Service, the Probation Board and health and social services.

The argument about exercising the power on the grounds of imminent disorder can be subjective and abused. Police officers have a range of powers including dealing with criminals and enforcing road traffic legislation. Discretion and subjective professional judgement are required at all times in the use of those powers, as they would be with the new powers proposed in the Bill.

The Licensing Act 2003 for England and Wales does not define the term "public nuisance" so as not to constrain the interpretation of the

term. Under that Act, the noise in question must be emitted from the licensed premises including the beer garden, courtyard or street terrace, if they are designated part of that premises. Noise coming solely from people in the street outside the perimeter of the licensed premises would not be sufficient to justify the use of closure powers, even if those making the noise occasionally enter the licensed premises to purchase alcohol.

In considering the practice in England and Wales, the PSNI may find it useful to work in conjunction with councils in the handling of noise nuisance associated with licensed premises or clubs. For example, the Belfast City Council environmental health department has a noise control and abatement unit. If that unit receives a complaint about the level of noise coming from licensed premises or a complaint that the noise is continuing past the time it should have ceased, that unit will attend the scene of the disturbance to monitor noise levels and witness the disturbance. Given that there is a mechanism to determine noise nuisance, local councils can easily liaise with the PSNI for necessary intervention if appropriate.

Even as a deterrent, such a power can have a very positive impact on improving the quality of life of those who live around licensed premises. The additional grounds would bring police powers into line with those in the rest of the UK and the Republic of Ireland. Without those two grounds, the police will be placed in a weaker position than comparable jurisdictions.

The police are aware that closing licensed premises or a club, even for just a few hours, may have serious consequences for the business. They need to use the power as a last resort, after assessing the situation on the ground and following operational guidelines from their organisation and the Department of Justice. After a senior police officer makes any closure order, the police will subsequently present the matter to the relevant court for its consideration of the closure order and any extension to it. That process will require the police to satisfy the court that their evidence and grounds for closure were sufficient to demonstrate that the action was necessary, proportionate and thereby justified. The police decision can, of course, be challenged in court. In addition to that safeguard, the Department of Justice will issue further guidance on how the power should be exercised. That will provide control measures to ensure that the police actions are appropriate.

I ask the House to support the amendments so that, in order to protect the lives and well-being of members of the public, the Police Service can exercise its powers to deal with not only actual disorder but imminent disorder and noise nuisance from licensed premises or clubs.

The Chairperson of the Committee for Social Development (Mr Hamilton): It is early evening on a Tuesday — the graveyard slot — so it must be social development business. This is the second week in a row that we have been here, so it is déjà vu all over again.

Before addressing the amendments in group one, with your indulgence, Mr Deputy Speaker, I will make a few general remarks in my capacity as Chairperson of the Committee for Social Development.

As you would expect, Mr Deputy Speaker, the Committee carefully and very seriously considered the Licensing and Registration of Clubs (Amendment) Bill. As the House is aware, members have undertaken a longer than expected Committee Stage. That reflects the careful scrutiny of the Bill and the pressure of the Committee's extensive legislative programme.

I thank members of the Committee for Social Development for their contributions to the debate at Committee and to the content of the Bill report. I think that anyone who examines that report in detail will see very clearly that the Committee considered all aspects of the Bill in great detail and probed it in a very thorough manner. I also thank the witnesses, who provided such useful written and oral submissions, and the departmental officials, who were always at hand to provide a fast turnaround on some of the very detailed Committee queries. Finally, as always, I thank the staff of the Committee for Social Development, who facilitated our formal evidence taking, the clause-by-clause scrutiny and the production of our extensive Bill report.

I will make a few very general remarks about the Bill. Alcohol licensing is a complex area. There are competing interests in the on-licence and off-licence trade. Indeed, there are competitive tensions in the on-licence sector among pubs, hotels and registered clubs. Witnesses made the Committee well aware of the employment

and economic contribution that local pubs and hotels make and of how the Bill may impact on the amenity and tourism potential of the sector. The Committee was also mindful of the important place that registered clubs have in many local communities throughout Northern Ireland. As one would expect, members and witnesses also raised serious issues relating to alcohol abuse and the significant social consequences of what appears to be a rising tide of alcohol problems.

As also indicated at Second Stage, members referred to experiences of alcohol-fuelled disorder in their constituencies and to the many problems that such disorder brings to communities. In short, liquor licensing is replete with contentious issues.

5.00 pm

The Department asserted that the Bill will address some of those issues in a fairly balanced way. The Committee sought to find its own balance between the needs of the alcohol retail sector, the demands of the general public and the concerns of communities and other stakeholders. The Committee agreed that offences such as underage alcohol sales were of great concern, had wide-ranging social ramifications and were the responsibility of all parts of the alcohol retail sector. Therefore, the Committee generally welcomed the penalty point regime and the proof of age scheme as set out in the Bill. Members felt that, in its current form, the proof of age scheme was a good way to discourage underage alcohol abuse, while still being a practical and enforceable measure that sends an appropriate message to retailers. The Committee welcomed departmental assurances that guidance will be issued to the retail trade on the use of appropriate pass-accredited forms of identification.

The Committee endorsed the aspects of the Bill that will streamline the regulation of registered clubs and include the option for small and medium-sized clubs to have their accounts audited by an auditor or an independent examiner. Members accepted evidence from the police and the club sector that that measure is timely and reflects the generally better governance of registered clubs.

During the Committee's deliberations, reference was made to so-called nightclubs. At this point, I want to make clear the distinction between nightclubs and registered clubs. It seems that nightclubs, which are, in essence, licensed premises that open late and generally offer entertainment, are not very well defined in law. The Committee noted proposals that the Bill be amended to alter the definition of when premises are open to include the provision of entertainment. It was suggested that such a change might lead to better regulation of so-called nightclubs. The Committee accepted departmental assurances that guidance to the Police Service of Northern Ireland will address the issue of the management of nightclubs. Therefore, the Committee agreed that it would not support the relevant amendments.

I turn now to the amendments in group 1. On closure orders, the Committee considered a wide range of proposed amendments to the clauses that refer to police closure powers. To set the context and as has been indicated, I advise the House that the Committee noted that powers similar to those proposed in amendment No 1, amendment Nos 4 to 7, amendment No 10 and amendment Nos 13 to 16 are already available to the police in England and Wales. It should also be noted that the bulk of police closure powers in that jurisdiction, whether related to actual or imminent disorder or noise, are used rarely. To inform its deliberations, the Committee reviewed the guidance on closure orders issued to the police in England and Wales. The Committee noted that the English guidance requires the police to apply to the courts for a closure order where there is intelligence relating to expected disorder. As Members will realise, police officers in that jurisdiction can make imminent closure orders in only a limited number of circumstances.

The Bill contains limited powers for the police in Northern Ireland. The Department for Social Development advised that the Department of Justice guidance to the police on those limited closure powers will, where appropriate, largely replicate the equivalent guidance issued in England and Wales. The majority of Committee members felt that there would be little benefit in copying English legislation across to Northern Ireland. Although there were dissenters, the Committee agreed that the Bill as drafted would provide good protections for public safety while protecting the rights of the licensed trade and its customers. The Committee felt that the evidence indicated that the additional powers set out in the amendments were unlikely to be used and could lead to an unnecessary imbalance between, on the one hand, the

commercial needs of the alcohol retail sector and, on the other, the PSNI's duty of care to the public. Therefore, the Committee did not support amendment Nos 1, 4, 5, 6, 7, 10, 13, 14, 15 and 16. Those sound like lottery numbers.

Mr F McCann: Maybe you should use them.

The Chairperson of the Committee for Social Development: If any Member can tell me the numbers for the upcoming weekend, I will happily put my pound down.

During our deliberations, some members highlighted concerns about the extension to senior police officers of any closure powers relating to licensed premises. Those concerns are embodied in amendment Nos 2 and 3, which apply to the licensed sector, and amendment Nos 11 and 12, which refer to closure powers relating to registered clubs. In respect of the latter and by way of context, members noted evidence from the police suggesting that alcohol-fuelled disorder that might require a closure order is rarely associated with registered clubs.

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

I will allow the Members who proposed those amendments to set out the specific arguments that apply to them. The Committee based its view on the Bill's closure powers on oral and written evidence about how those powers have worked in other jurisdictions and, therefore, how they might work here.

In reviewing Part 4A of the Bill, members highlighted concerns about the interpretation of the term "disorder" and about how disorder on a public street could be reliably linked to licensed premises. The Committee questioned the police in some detail on that matter and satisfied itself that a senior police officer would have to establish a causal link between public disorder and the premises of origin before closure could be applied. The Committee also reviewed the guidance to police in England and Wales. Members noted that the police were required to act in co-operation with the owners of premises and to take account of prompt and appropriate actions by owners of premises to limit or avoid disorder. The Committee also noted the requirement on the police to apply closure orders that relate to disorder only when doing so was in the interests of public safety.

Members also felt that, where practical, the PSNI should be obliged to consult district councils on closure orders. In particular, the Committee felt that, given the district councils' role in providing entertainments licences to premises that serve alcohol, such consultation was, where practical, appropriate. The Committee accepted departmental assurances that guidance to the PSNI would, like the equivalent guidance in England and Wales, advise the police to, where possible, consult district councils about closure orders so as to inform the review of entertainments licences.

The nature and content of the closure power guidance to the police are central to the Committee's position on both sets of amendments in the group. I ask the Minister to reiterate previous assurances given during Committee Stage that the guidance will be subject to review by the Justice Committee following the successful passage of the Bill. Given the departmental assurances on the police guidance and following the Committee's review of how closure powers might be applied, the Committee, after a division, came to the view that it did not support amendments similar to amendment Nos 2, 3, 11 and 12.

Mr Deputy Speaker, that concludes my remarks as Chairperson of the Committee. With your indulgence, I will make some comments as a DUP MLA. The context for much of what we are considering today, whether this group or the other two groups of amendments, must be the unfortunate rise in alcohol consumption and the attendant social and economic damage. I am talking about health costs. I am sure that, if the Minister of Health, Social Services and Public Safety were here, he would vividly outline the cost to the Health Service, particularly because of admissions to A&E departments, especially at weekends. Alcohol has an impact on antisocial behaviour. It is a regulated drug and, because of that, it must be carefully managed and licensed. Through this legislation and through whatever amendments we discuss, we should always try to ensure increased responsibility in the use of alcohol in our society.

My party and I strongly support the clause that will bring in closure powers for police in cases of actual disorder. Some of the amendments before us, in addition to bringing in closure powers for actual disorder, would bring in closure powers for cases of imminent disorder. My view on that is not as clear-cut.

I understand entirely where the proposer of those amendments is coming from. Indeed, it may be proven, in time, that those amendments are required. However, it is my view and that of my party that it is much better to try out what might be described as the lower level of closure powers — where actual disorder is taking place — rather than bring in a closure power for imminent disorder. My objection is principally on the basis that, although subjectivity and discretion are handed to the police in cases of actual disorder, handing that power to the police for imminent disorder would give them too much discretion and power and lend itself more to potential abuse by the police.

I have to put it on record that I have no evidence of the abuse of existing powers by the police in their handling of licensed premises. I have encountered police objecting to certain entertainments licences and offering the excuse that they do not have the resources to deal with problems that may occur at some unknown point in the future. However, there is potential for abuse, and we would be handing over too much discretion if we were to go down that road.

There is also a valid argument that, if a senior police officer were to move to close premises because of the belief that disorder was imminent, his action could lead to disorder taking place. That gets us into a chicken-and-egg situation over what caused the disorder: was it imminent, or was the disorder due to the police dealing with what they believed to be imminent disorder? Instead of dealing with and managing the situation much more effectively, we could be creating one that gets out of hand.

I do not think that the power to close premises will be used frequently on the grounds of actual disorder, never mind imminent disorder. I referred to the English and Welsh example. Evidence that the Committee heard during its deliberations showed that the power is used very rarely. I think that the police will continue to deal with disorder on or in the vicinity of and related to licensed premises in the way that they have been doing. They will deal specifically with the incident rather than move in and deal with it in what might be described as the heavy-handed approach of closing down premises.

I am trying to conjure up in my head the level of disorder that would be required for closure to take place. In my view, one individual hitting another, abhorrent as that is, does not provide grounds for closure. I am almost conjuring up images of a saloon fight in a spaghetti western as the type of scenario in which the closure of premises would be required. Therefore, I do not think that the police will have to invoke a closure order because of actual disorder, never mind one for imminent disorder.

As I said at Second Stage, I am concerned that, if the power of closure is used, even where there is actual disorder, and it is later overturned by a magistrate because the use of that power by the police officer is proven to have been inappropriate, that could lead to damage to the reputation of an establishment. We all know what happens when a bar or club gets a bad reputation. It spreads in the community and has a ripple effect. I have some concerns with the use of that power, even where there is actual disorder, which I support. Those concerns are exacerbated when it comes to the power of closure for imminent disorder. An establishment could be shut for an evening even when nothing has taken place in those licensed premises. The damage to reputation that would be caused would be much greater than it would be even if a senior police officer were to get his call wrong on actual disorder.

I turn to the amendments on moving the power to enact a closure order from a senior police officer to a lay magistrate. We must remember that closing premises where there is actual disorder is a power to be used only in emergencies. It would be preposterous to have magistrates sitting in session readying themselves for applications by senior police officers. It is ludicrous to think that they would sit through the night with the attendant costs. How long would it take for a senior police officer to get to the Magistrate's Court and apply for the licence to close and then signal to his colleagues that the bar needs to be closed? The incident is likely to be over — even in a spaghetti western, the fights do not last that long. In that time and in all seriousness —

5.15 pm

Mr F McCann: We discussed this issue at length in Committee, and I understand the picture that you are painting. However, I explained to the Committee that I know of instances where the PSNI went into premises, and it ended up causing trouble. The best way to deal with the issue is not through a closure order but through trying to ensure that the owner,

manager or keyholder has a responsibility to come and clear the premises. What happens in Strangford may not be what happens in west Belfast, north Belfast or other areas. That is the emphasis that we were trying to place on the matter when we debated it in Committee. I understand what you are saying, but it is not a like-for-like situation. People have had bad experiences. In some areas, PSNI officers are anti-alcohol. Jonathan Craig shakes his head, but, believe me, in some areas, many clubs have already experienced the wrath of inspectors and others who hold that point of view.

The Chairperson of the Committee for Social Development: I thank the Member for his intervention. If the police coming into certain establishments causes disorder, it says more about the patrons of the establishment than it does about the police, who have an absolute right under the law to inspect premises. However, I take the point that the Member makes about the police: if they go into an establishment in the wrong way, it could have an undesirable effect. That is why, as I said, I will resist the amendments, which would close premises on the basis of imminent disorder, because that may exacerbate an already difficult situation. I accept that point, and I oppose the amendments partly for that reason.

The Member is arguing against himself somewhat. The point that he makes about his amendments is not the point that I am discussing now. His amendments are for actual closure. Instead of a senior police officer moving to close premises and going to a magistrate after the fact, he is arguing that the magistrate should be consulted first, and the power to close should then be granted to the police officer. In practical terms, that is unrealistic, not least because you cannot have magistrates sitting in session waiting for that to happen. Also, on a serious point, in the time that it would take for a police officer to get approval from a magistrate, low-level disorder could deteriorate into a situation in which somebody is stabbed or murdered.

Mr F McCann: I will make a point of clarification that might persuade you to support it. The Executive have adopted a position. The decision is that it should be limited and closure orders should be made for premises only where disorder is taking place. That seems to be the basis of your argument. If I withdraw my amendment that a lay magistrate has to make an order, will it change your mind and allow you to support the Executive's position?

The Chairperson of the Committee for Social Development: The Member was distracted in the early stages of the debate; I am not opposed to clause 1. I am not opposed to the power to close in situations where there is actual disorder. I support that. I am making a point in opposition to his amendment. If that amendment were withdrawn, I would welcome and accept that because I do not think that it is practical or possible, and it has negative policy implications.

I cannot support the amendment calling for closure powers for the police where there is imminent disorder because I think that it is grey, woolly and vague, and it gives far too much discretion to the police. In time, it may be proven that those powers are required, but we will see how effective the powers that are in the Bill actually are. If they are not effective enough, we may have to revert to the position that the Member has put forward. I am willing and happy to do that. I would rather build legislation from the bottom up than from the other way round.

I welcome comments on the other amendments in respect of lay magistrates. If those amendments are withdrawn, I will be content. If they are not withdrawn, my colleagues and I will oppose them.

Mr F McCann: I will be brief. In the past number of debates that I have had with Mr Hamilton, Mr Craig and Mr Easton, we have ended up at loggerheads on a number of issues, although, obviously, always for the right reasons. This matter was debated thoroughly in Committee. Several members were concerned that closure powers could be given to individual policemen. Mr Hamilton is right to point out that he raised concerns.

I seek leave to withdraw the amendment and support the Executive's position. I do not know whether that can be done at this stage. Closure orders should be limited to premises where disorder has taken place.

Mr Deputy Speaker: To clarify: are you withdrawing amendment No 2?

Mr F McCann: I am not sure whether it is amendment No 2. I am speaking in opposition to Ms Lo's amendment.

Mr Deputy Speaker: It can be done. When we come to the point at which amendment No 2

is to be moved, the Member should say, "Not moved".

Mr F McCann: I will try that.

Mr McCallister: I am not sure that I will bring much clarity to what we are doing. I want to address some key points. I will start with the Alliance Party's amendments, providing that they will definitely be moved. I have issues with some of them. I do not believe that they add benefit or clarity to the Bill, and I do not believe that they will improve the Bill. I would welcome confirmation from the Minister of whether his interpretation of disorder and public nuisance in the Bill covers that referred to in the Alliance Party's amendments. If those issues are covered in the Bill, the amendments are superfluous. My party opposes the Alliance Party's amendments in group 1, of which there are a significant number.

As regards Sinn Féin's amendments, it is not clear from Mr McCann's comments which amendments will be moved. I share the Chairperson's concern that finding a lay magistrate at a late hour could be problematic. The best way to ensure that concerns are addressed is to work with the police through good local initiatives and district policing partnerships. Those issues arise frequently in all our communities and constituencies. Problems arise even in the rural bliss of South Down occasionally. My party opposes Sinn Féin's amendments in group 1. We will look at whether the withdrawal of some of those amendments changes our position.

The Minister for Social Development (Mr Attwood): I join the Committee Chairperson in acknowledging the role of the Committee and its staff; the witnesses, to whom Mr Hamilton referred; my staff in the Department for Social Development; and those in the Bill Office, which is, clearly, a particularly busy office in the Building at present, given the frenzy of legislative activity that is now being visited on the House. The management of that and the need to protect good law and good process falls heavily not only on Members but on Committee staff, departmental staff and the staff in the Bill Office. I acknowledge that. I also acknowledge the contributions that have been made, thus far, by Members, not only from the Floor this evening but in the conversations that have been going on in corridors and offices over the past number of hours. They will be reflected more fully in subsequent discussion.

Prior to responding to the points raised by Members, I will outline the view taken by myself and the Executive in respect of the closure powers in the context of imminent actual disorder and anticipated disorder and in respect of the amendment originally tabled by Mr McCann and others on the powers of a lay magistrate. Let me be clear: the Executive and I do not support amendment No 1 or the other amendments in the first group. The Bill as originally drafted included powers that would have enabled the PSNI to close specific licensed premises or registered clubs if they considered that disorder was imminent or that a public nuisance was being caused by noise coming from the premises. Members will need to go back a number of months to confirm that. As originally drafted, the Bill contained provisions that reflected the broad content of Mrs Lo's contribution to the debate in moving amendment No 1. However, when the Bill was referred to the Executive for approval in June 2009, the office of the deputy First Minister raised concerns about those powers. As was reflected in Simon Hamilton's comments, the concerns about the powers proposed at that stage extended beyond the office of the deputy First Minister. In particular, that office felt that closure on those grounds was a sanction that could impact negatively on people's livelihoods and viewed the provisions as speculative and difficult to apply consistently.

I recognise that there is a counter-argument and a counter-view. If there are good grounds for believing that disorder is imminent, if the police behaviour is not speculative, and if, in the fullness of time, precedent and the oversight of the courts could tighten up the power of the police in that regard, it may be a direction of travel that could be taken at this time or, as Mr Hamilton indicated, could be considered at some future time. However, as a consequence and in order to bring the Bill to the House, provisions in respect of noise nuisance and anticipated disorder were edited from the original draft. The consequence is that the Bill now provides that any decisions on imminent disorder should lie solely with the courts, and there are no provisions on noise nuisance. I will touch on that in more detail shortly. The Executive support that position, and, as I understand it, the Social Development Committee did not recommend

any amendments to that or any of the other closure order provisions in its comprehensive scrutiny of the Bill.

There are differing opinions on what powers, if any, should be available to the PSNI to deal with disorderly or potentially disorderly situations. As we have heard, some believe that the police should have lesser powers and that magistrates or the courts should be responsible for any decisions on closure. Others, as we have heard, believe that the police should have greater control over closure, whether for reasons relating to disorder or noise.

The closure provisions in the Bill represent a significant improvement on the existing powers available to the Minister of Justice, which, prior to the devolution of justice, were available to the NIO. In effect, it had to rely on police intelligence reports in advance of any possible disorder before making a decision on whether premises should be closed.

That time-consuming process is unsuitable for dealing with actual disorder, as are, in our view, the amendments tabled by Mr McCann, which propose that lay magistrates, not the police, should be responsible for making a closure order where disorder has already taken place in licensed premises or registered clubs.

5.30 pm

As was indicated, especially by Mr Hamilton, there are clear issues of time and immediacy that would potentially be compromised by the involvement of a lay magistrate. We all know that, because, one way or another, we all have issues in our constituencies about disorder or potential disorder around licensed premises. It is clear that all of that should be nipped in the bud. For that reason, the Bill will allow a Magistrate's Court to order premises to close where it is satisfied that disorder is likely.

I have carefully considered the views expressed to me, both in person and in the evidence presented to the Committee, particularly on concerns about the consistency of PSNI decisions on what constitutes disorder. I am satisfied that it is right that the court should be the decision-maker in a case where disorder is expected. I will touch on that again shortly.

The Bill no longer caters for closure due to noise emanating from premises. I feel that that, too, had the potential to involve the PSNI in controversial decisions affecting the livelihood of licensed premises and registered clubs. Members should note, however, that the DOE's Clean Neighbourhoods and Environment Bill is approaching its Consideration Stage. That Bill aims to extend the Noise Act 1996 to include noise from licensed premises and registered clubs. I hope that that forthcoming legislation will be an effective tool in dealing with the problem of noise nuisance and is a sufficient reassurance to Anna Lo in respect of her proposal in that regard.

During the Bill's Second Stage debate, I informed the House that guidance on police closure powers would be issued by the Department of Justice. The objective of the guidance is to support and assist senior police officers in interpreting and implementing their new powers in the interests of public safety and the prevention of disorder. I am pleased to confirm to the House, as I was invited to do earlier, that that draft guidance will be brought before the Justice Committee for scrutiny prior to it being issued.

I will now respond to a number of the comments that were made. Given that, in one way, this will be a guide to interpretation as regards the future implementation of the proposed legislation, it might be useful to confirm in the House the circumstances in which the powers of closure are likely to be used. We have to be mindful that they are not likely to be used very much.

When considering today's debate, officials advised me that the Northern Ireland Office, which previously had custody of powers in that regard, could barely remember a case in which powers had been used in the past. That suggests that issues concerning licensed premises were being managed in other ways without the use of powers of closure. It might be somewhat surprising to the wider audience that the Northern Ireland Office had difficulty recalling when those powers had been used at all in recent times and going back some time. Nonetheless, I think that giving the power of closure to the police in respect of actual disorder is important.

The way that the power will work is that, if disorder is taking place, the police will go to the people that Mr McCann named in his contribution — the licence holder or other appropriately qualified people — and ask them

to voluntarily close the licensed premises. In the event that that does not happen, a closure order, signed off by a police officer of the rank of inspector or higher, will then impose the closure order on the premises. Remember that this issue affects not just clubs but other licensed premises as well. Thereafter, the matter has to be brought to a court as soon as possible in order for the court to confirm the situation. As soon as possible may mean within a day or a number of days, but the requirement will be that it should be as soon as possible.

The courts will then have responsibility for taking the matter forward as outlined in the legislation. There is no appeal, as such, against a closure order for disorder. Clearly, however, that matter can be tested before the courts.

That will be one of the disciplines for the police. If the courts have responsibility for considering a closure order required by the police because of disorder, then precedent, judicial interpretation and judgement will be the among the disciplines that will create a new architecture to ensure that those are used proportionately in all circumstances. That is the legal test required in such matters.

It will not be for the police to decide how long premises will be closed after disorder. The courts will make a judgement on what the closure period should be, whether small or large. At that point, as is normal practice under magistrates' court rules, there will be an opportunity for any person to appeal that decision to a higher court if that is appropriate.

I was invited to reassure the Committee about the criteria that the police will use when considering when to close premises because of disorder. The Department of Justice will issue guidance on how the powers should be exercised in practice. The purpose of that guidance will be to help senior police officers to interpret and apply the law consistently. The guidance will be brought before the Justice Committee for scrutiny prior to it being issued.

That is important because one Member raised the point about reputational damage falling to licensed premises for action taken about disorder when it was not justified. That needs to be properly regulated and the powers of the police properly scrutinised. That is why it is important that the Justice Committee scrutinises that guidance.

I assure Members that guidance issued to retailers about accreditation identifications, which was agreed by the Committee for Social Development, will contain a note on valid accreditation, particularly about the use of expired passports as proof of age. I also take up the point raised by Mr Hamilton about the small number of licensed premises, including what might be referred to as nightclubs, whose actions may be on the wrong side of the law. A number of examples of that were referred to me. I, the Minister of Justice and the Chief Constable are scheduled to meet on 15 February, to consider the issues associated with certain licensed premises that appear to be acting beyond the law and where there is prima facie evidence that the relevant authorities, including the police, are not taking all appropriate enforcement action.

I also confirm that the draft guidance on the provisions of the Bill will be largely the same as that in England and Wales. It will require the PSNI to consult with local councils responsible for entertainment licences and other relevant matters.

I acknowledge what Mr McCann said about what appears to be the proposal to withdraw or not move amendment No 2 and the related consequential amendments Nos 3, 11 and 12. That is my understanding of the position. I acknowledge a valid point: there has been bad experience in a number of licensed premises where, as the Chairperson of the Committee concurred, the police may not have gone into premises in a manner consistent with the principle of reasonable and proportionate behaviour in all circumstances. However, bad experience should not lead to bad process. The only practical way for a lay magistrate to be involved in the process with regard to disorder would be for the lay magistrate to be sitting in the back of the bar observing the disorder as it takes place.

Let us consider what actual disorder might mean. It might include a threat to life and serious damage to property. We are not talking about some minor infraction; we could be talking about serious disorder that impacts on people's safety and welfare.

Mr F McCann: The whole purpose of amendment No 2 and the consequential amendments was to try to create another level so that the powers would not be in the hands of an individual

policeman. We did that because, in our experience, an individual policeman could abuse those powers. We were trying to say that we need to ensure that those powers be taken away from individual officers and that the police have to make an application. As the Minister knows, if there is disorder in a bar, the police are called, they arrive and they leave. If the police have a problem with a bar, they take court action against it. That is exactly what we are saying should happen.

The Minister for Social Development: There is a convention, particularly in other jurisdictions, of probing amendments, which are amendments that attempt to extract from the Government, or from others, the intention of a piece of legislation. Over and above the merits that there may be in the amendment, I consider it to be a useful probing amendment, because it interrogates the provisions in an effort to determine how they might work.

Therefore, over and above the fact that the Member believes that a lay magistrate is the right person to take the decision on actual disorder, a probing amendment of this nature also enables Ministers, the Government and other people to put on record how processes might work in order to militate against abuse of process, including abuse of process by the police. That is why I put on record that guidance to the police on this will be issued by the Department of Justice. The guidance will then go before the Committee for Justice for consideration.

In any case, under the legislation, how the police behave has to be brought before a judge as soon as possible. The judge then has to make a judgement on whether the behaviour was appropriate and what the consequences of that might be. Therefore, there are safeguards and safety nets that mitigate the risks that might be talked about and are a better model for moving forward than the lay magistrate model.

Ultimately, from previous experience in Northern Ireland, the closure powers will be subject to limited use. As I said, the Northern Ireland Office cannot recall when they were last used. Therefore, in all those terms, the model in place at the moment is operationally better and has a number of safeguards.

Mr Spratt: Mr McCann made a suggestion about the abuse of police powers. Will the Minister acknowledge that there are very clear processes already in place to deal with any abuses of powers by the police? For instance, the Office of the Police Ombudsman is one place where such abuses are dealt with. It is wrong to say that the police would deal with this particular legislation any differently from how they would deal with every other piece of law in this part of the United Kingdom.

The Minister for Social Development: I note what the Member says. There are a number of levels of accountability when it comes to oversight of police powers. The Member is a member of the Policing Board, the members of which participate in DPPs. There are other legal mechanisms, including the Police Ombudsman, to challenge police power and their use of power.

Over and above all that, a parallel process is outlined in the Bill, whereby the police have to act subject to guidance that is issued by government and have to have their interventions in instances of actual disorder judged by a court. In that way, there is a closing of the circle around the police to ensure that they use those powers in a proportionate way in all circumstances.

5.45 pm

In an ideal world, we would have mechanisms that ensure that police powers are subject to further consideration in real time. Given the experience of the North, I understand that principle and that sense of things. Mr Spratt may recall that when I was a member of the Policing Board, I argued for real-time accountability of police in their interface with MI5. I proposed that human rights experts should be in the room when intelligence matters were discussed by MI5 and the police to ensure that there was real-time oversight of their decisions and accountability for their actions. Therefore, I understand the principle that the Member is taking about, because I argued for a similar principle in a different place.

However, I am dubious as to whether the mechanism that is proposed in this case, which would require the presence of a magistrate in or close to the scene of disorder, would work. I understand the sentiment, but I do not understand how it would operate. It is different to the model that I referred to with the police and MI5, because they were making real-time assessments about what they would do and acting thereafter. As a matter of principle, the proposal has some merit, even if it would not

be operationally practical in the real world. If the intention behind the amendment was that it would act as a probing amendment, it would useful to place on record what hurdles there are around police conduct, to ensure that the circumstances that the Member worries about, and that other Members hinted might arise, do not arise.

Finally, John McCallister asked me whether the actual disorder that was anticipated in the Bill would deal with the issue of public nuisance that Ms Lo referred to. That will be tested in the experience of actual disorder and the subsequent review by the courts. The police could decide, subject to guidance and their own best practice and judgement, that the actual disorder is of such weight that they must close a premises. If that premises does not consent to close, the courts will be asked to adjudicate and tell the police whether it is a legitimate use of their power to close the premises due to the public nuisance. In those circumstances, the process will more definitively answer the question posed by Ms Lo. I recommend that Members do not support amendments.

Ms Lo: I am disappointed because, by the sounds of it, my amendments will not be supported by the other parties. That is a pity, because we have the opportunity to give full powers to the police to cover all the potential grounds for disorder, violence and disruptions in society, but that is the way that it goes. Without those additional powers, the police's hands will be tied. They will be unable to use the full rigours of the law to maintain order in society and to protect —

Dr Farry: Will the Member give way?

Ms Lo: Yes.

Dr Farry: Does the Member agree that we often talk in the House about the importance of early intervention and prevention and about how intervening early in situations that may become extreme later can save a lot of money and prevent damage to property and individuals? Does she also agree that the police are well used to using their powers with discretion. As in any other public order situation, the police will have to make a decision on whether to intervene. Surely, they will apply the same logic to a situation in a pub or club.

Ms Lo: Absolutely; I thank my colleague for his intervention. One Member talked about the reputation of a pub subject to a closure order. Surely, if a pub is allowed to continue to cause nuisance and attract a lot of trouble, it will get a bad name anyway, whether it is issued with a closure order or not, and its business will suffer accordingly.

I will summarise Members' remarks briefly. I do not intend to repeat everything. As Chairperson of the Committee, Mr Hamilton thanked the Committee staff and the stakeholders who participated in the process, and rightly so. He made general remarks on the various aspects of the Bill. He commented on the competing demands between pubs and clubs and on the social consequences of alcohol abuse, and he said that a Bill was needed. However, he said that the Committee could not support the first group of amendments, as the closure orders are rarely used and do not have many benefits. The Committee felt that there was little benefit in copying the English law.

As the DUP MLA, Mr Hamilton welcomed closure orders for actual disorder but said that he was unsure about those applying to imminent disorder. He said that he favoured the lower level of power being given to the police and expressed his concern that handing them too much discretion might not be the right option at the moment. He said that, sometimes, the police approach to imminent disorder could bring about actual disorder. He said that the grounds for wider application were grey, woolly and vague but that if that argument were to prove effective, he may support powers relating to imminent disorder in future.

Mr McCallister did not feel that the amendments improved the legislation and, therefore, he opposed them. He said that rural areas of south Down also experienced disorder now and again. He also asked the Minister for a definition of disorder.

The Minister for Social Development responded fully to the queries of the two Members, and he set out the background to the consultation. When the issue was brought to the Executive, the deputy First Minister could not agree with it. It was believed that sanctions against businesses could also be negative. The Minister also said that the Department of the Environment's clean neighbourhood Bill could deal with noise nuisance and that the Department of Justice will issue guidance, which

will be forwarded to the Justice Committee for consideration.

He mentioned that the power currently vested in the NIO has not been used recently, and NIO staff could not remember when it had been used in recent years. He concluded that licensed premises are being managed in a more collaborative partnership manner. He detailed how this Order is being carried out, from police officers to the courts. Courts determine the length of closure, although there is no appeal. However, he assured us that justice will be done.

He responded to Fra McCann about lay magistrates, saying that that might be impractical. Other Members also said that the involvement of lay magistrates would be time-consuming and impractical. The Minister also reassured us that there are safeguards to prevent the abuse of police powers.

Question, That amendment No 1, be made, put and negatived.

Amendment No 2 not moved. — [Mr F McCann.]

Mr Deputy Speaker: I will not call amendment No 3, as it is consequential to amendment No 2, which was not moved. I will not call amendment Nos 4 to 7, as they are consequential to amendment No 1, which was not made.

Clause 1 ordered to stand part of the Bill.

Clauses 2 and 3 ordered to stand part of the Bill.

New Clause

Mr Deputy Speaker: We now move to the second group of amendments for debate. With amendment No 8, it will be convenient to debate amendment Nos 9, 27 and 30, which deal with restrictions on the promotion of the pricing of alcohol. Amendment Nos 27 and 30 are consequential to amendment Nos 8 and 9.

The Minister for Social Development: I beg to move amendment No 8: After clause 3, insert the following new clause

"Irresponsible drinks promotions

3A. After Article 57 of the Licensing Order insert—

'Irresponsible drinks promotions

57A.—(1) Regulations may prohibit or restrict the holder of a licence or the licence holder's servant or agent from carrying on an irresponsible drinks promotion on or in connection with the licensed premises.

(2) A drinks promotion is irresponsible if it—

(a) relates specifically to any intoxicating liquor likely to appeal largely to persons under the age of 18,

(b) involves the supply of any intoxicating liquor free of charge or at a reduced price on the purchase of one or more drinks (whether or not intoxicating liquor),

(c) involves the supply free of charge or at a reduced price of one or more extra measures of intoxicating liquor on the purchase of one or more measures of the liquor,

(d) involves the supply of unlimited amounts of intoxicating liquor for a fixed charge (including any charge for entry to the premises),

(e) encourages, or seeks to encourage, a person to buy or consume a larger measure of intoxicating liquor than the person had otherwise intended to buy or consume,

(f) is based on the strength of any intoxicating liquor,

(g) rewards or encourages, or seeks to reward or encourage, consuming intoxicating liquor quickly, or

(h) offers intoxicating liquor as a reward or prize, unless the liquor is in a sealed container and consumed off the premises.

(3) Sub-paragraphs (b) to (d) of paragraph (2) apply only to a drinks promotion carried on in relation to intoxicating liquor sold for consumption on the premises.

(4) Regulations may modify paragraph (2) or (3) so as to—

(a) add further descriptions of drinks promotions,

(b) modify any of the descriptions of drinks promotions for the time being listed in it, or

(c) extend or restrict the application of any of those descriptions of drinks promotions.

(5) A person who contravenes any provision of regulations made under this Article is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) Regulations shall not be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(7) In this Article 'drinks promotion' means, in relation to any licensed premises, any activity which promotes, or seeks to promote, the buying or consumption of any intoxicating liquor on the premises.'." — [The Minister for Social Development (Mr Attwood).]

The following amendments stood on the Marshalled List:

No 9: After clause 3, insert the following new clause

"Pricing of intoxicating liquor

3B. After Article 57A of the Licensing Order (inserted by section (Irresponsible drinks promotions)) insert—

'Pricing of intoxicating liquor

57B.—(1) Regulations may—

(a) prohibit or restrict the holder of a licence or the licence holder's servant or agent from varying the price at which intoxicating liquor is sold on licensed premises during such period or hours as are specified in the regulations;

(b) restrict the price at which the holder of a licence or the licence holder's servant or agent may sell on licensed premises a package containing two or more intoxicating liquor products.

(2) A person who contravenes any provision of regulations made under this Article is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Regulations shall not be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(4) In this Article, 'intoxicating liquor product' means a product containing intoxicating liquor and includes the container in which the liquor is for sale.'." — [The Minister for Social Development (Mr Attwood).]

No 27: In schedule 1, page 21, line 32, at end insert

"57A(5) Contravention of regulations as to irresponsible drinks promotions 5-6

57B(2) Contravention of regulations as to pricing of intoxicating liquor 5-6"

— [The Minister for Social Development (Mr Attwood).]

No 30: In schedule 3, page 24, line 3, at end insert

" . In Article 2(2) (interpretation)—

(a) in the definition of 'licence', after the word 'Articles' insert '57A, 57B,';

(b) in the definition of 'licensed premises', after '55,' insert '57A, 57B,'." — [The Minister for Social Development (Mr Attwood).]

The Minister for Social Development: I acknowledge that it is unusual to introduce amendment Nos 8 and 9 at this stage. However, some months ago, I made a judgement that, because of escalating concerns about the misuse of alcohol and much media, public and political comment over the past six to eight months, I felt that it was necessary to introduce legislative provisions at the earliest opportunity to address alcohol promotions. I am grateful to the Committee, to those who conducted the consultation and to the Assembly for enabling that consideration to proceed.

As everybody in the Chamber knows, we have all become more aware of the growing levels of alcohol misuse and its effects on health, crime and disorder. Increasing availability and affordability of alcohol has led to greater competition between retailers and the use of promotional pricing practices. It is generally accepted that such practices encourage people to drink more than they normally would and contribute to the escalating problem of harmful drinking.

6.00 pm

In the debate on the Second Stage of the Bill in June of last year, various Members expressed concerns that the Bill did not contain measures to tackle the availability of cheap alcohol, in particular for consumption off the premises. In response to Members' concerns, I indicated that immediate work may be possible in relation to controlling alcohol promotions but that the introduction of further pricing interventions, such as minimum pricing, would require an even more exhaustive approach.

I advise the House that the issue of minimum pricing is firmly on the table, in particular it is on my and Michael McGimpsey's ministerial tables. In the very near future, we intend to issue a consultation on the minimum pricing of alcohol. Much of the best evidence suggests that that is vital. It is the most important tool for us to begin to create greater discipline around the purchase and consumption of alcohol. In the very near future, a consultation will begin.

I had hoped that there might have been some wider initiatives and intervention on the island of Ireland. This week, I was scheduled to meet with the Minister for Justice and Law Reform in the South, who has been working up a wide range of proposals and interventions in respect of the consumption and abuse of alcohol. However, because of events in the Republic of Ireland even beyond that Minister's control, the meeting has been cancelled.

Three weeks ago, I travelled to Scotland and met the Deputy First Minister of the Scottish Parliament who is also the Health Minister. Attempts to have minimum pricing introduced in Scotland were cut short and derailed in the Scottish Parliament just before Christmas. I was advised that that was due to party political reasons but that many parties in the Scottish Parliament are minded to return to the issue. I hope that, in the next mandate of this Assembly, this issue will come back to the House and legislation will lay down minimum pricing requirements on the purchase of alcohol.

In respect of the current proposal on irresponsible alcohol promotions, a public consultation that ran from 11 October to 6 December 2010 sought to establish the level of agreement for the inclusion of an amendment to the Bill to restrict or to prohibit irresponsible alcohol promotions. The consultation also sought views on what people consider to be irresponsible promotions and on the likely implications of such an amendment.

Key organisations, plus a majority of respondents, 64%, supported the proposal to have a rule-making power in the Bill that would allow the Department for Social Development to bring forward regulations to restrict or to prohibit irresponsible drinks promotions. Key officials and organisations in favour included the Health Minister, local councils and a variety of health bodies, including the Public Health Agency, the Institute of Public Health in Ireland and the Centre of Excellence in Public Health Northern Ireland at Queen's University. The trade was also very supportive: Pubs of Ulster, the Wine and Spirit Trade Association and the British Retail Consortium were in favour. Therefore, I decided to propose an amendment to restrict or to prohibit irresponsible drinks promotions.

On 13 January this year, I received Executive approval for the inclusion of amendments to address irresponsible drinks promotions at Consideration Stage. Amendment No 8, therefore, provides a power for the Department for Social Development to make regulations to prohibit or to restrict irresponsible drinks promotions. The amendment also defines what is meant by a drinks promotion and specifies activities regarded as irresponsible drinks promotions.

Those activities include promotions that offer an alcoholic drink that is likely to appeal largely to under 18s; providing an alcoholic drink free or cut-price on the purchase of one or more drinks, whether alcoholic or not; providing an alcoholic drink or drinks free or cut-price on the purchase of that particular drink; providing an unlimited supply of alcohol for a fixed charge, including any entrance fee —

Mr F McCann: I will reiterate a comment that I made earlier. I do not think that anyone would object to some of the Minister's proposals. One has only to watch TV to see the effect that alcohol has, not only on the streets, but in many homes. Given that, does the Minister not agree that upwards of 70% of all alcohol is sold in supermarkets and other outlets? That is where some of the real problems lie, because, in some places, it is cheaper to buy a tin of beer than a tin of Coke.

The other aspect, which I raised with the Minister earlier, is that the problem needs to be dealt with in a different way. Many young people's view of entertainment is very different from what our view would have been many years ago, and many of them do not go out until 11.00 pm or 11.30 pm. We need to take that into consideration. There are many pubs and clubs throughout the North that do not break the law or have irresponsible drinks promotions. They go out of their way to cater for the people who drink in their bars and clubs. Will anything be built in to ensure that those pubs and clubs do not fall foul of what is a good piece of legislation?

The Minister for Social Development: I thank the Member for his various observations, and I concur with them all. Members will recall that, last summer, there was some publicity about one or two licensed premises that had drinks promotions after examination results came out. Pubs of Ulster was one of the first organisations to stand up to oppose what was going on. It did so because it recognised that the vast majority of its members and the vast majority of licensed premises, as the Member indicated, comply with

good and best practice. They do not go down the road of irresponsible promotions, nor do they, in any other way, encourage irresponsible consumption of alcohol. That is why people in that general trade were among those who responded to the consultation to confirm their support for this particular proposal. I want to make that very clear. The power that is proposed will be a sword against those who cross the line of what is irresponsible and a shield that will protect those who, although they may have alcohol promotions, do not cross the line of what is irresponsible.

The profile of alcohol consumption in Northern Ireland and in other jurisdictions has changed over the past 20 or 30 years, and so much more alcohol that has been purchased in off-sales is being consumed in the home. It is clear, therefore, that a primary intervention on irresponsible drinks promotions is necessary in the form of regulations that will be approved by the Assembly and which will apply to supermarkets and mass sellers of alcohol in very considerable volumes.

Some of the representatives of the alcohol industry on the island came to see me about the proposal, but they did not try to fight it, because they knew that there was a prevailing mood and a political will to get the Bill over the line. However, I anticipate that, in the fullness of time, the regulations that will come before the Assembly will include, and, on occasions, be specific about, drinks promotions that are part of the off-licence and off-sales industry as opposed to those in on-sales premises.

I want to make it clear that, as I will indicate later, there may be responsible alcohol promotions that are on the right side and are moderate in nature, that do not encourage people to drink beyond what they would normally drink and that will not have adverse health, welfare or public safety consequences. Any Minister for Social Development who comes to this Chamber with a proposal that would cross that line will get a quick and sharp response from the Assembly and wider public opinion that such a proposal has gone too far.

The legislation is being introduced to mitigate the effects and to correct organisations, including some corporate organisations, that are going down the road of being irresponsible and endangering people's health and the well-being of the community. I want to make that very clear.

The list of measures that I am going through is only illustrative of what may be, subject to the view of the Assembly, in future regulations. I will return to the list: providing an unlimited supply of alcohol for a fixed charge, including any entrance fee — for example, all that you can drink for £10, or pay your entry fee then drink for free; encouraging persons to buy or drink a larger measure of alcohol than they would otherwise have intended; basing a promotion on the strength of any alcohol; promotions that reward or encourage drinking alcohol quickly, such as drinking games; promotions that offer alcohol as a reward or prize, unless the alcohol is in a sealed container and is for consumption off the premises; a ban on alcohol dispensed directly by one person into the mouth of another, other than where that other person is unable to drink without assistance because of disability; and, finally, promotions that encourage specific groups to drink for free or at discount — for example, women drink for free, half-price drink for under-25s, discount nights for students, or cheap drinks for fans of a specific sporting team.

Those measures may all fall within the scope of any future regulations, subject to the agreement of the Assembly. The approach of putting all that into legislation has been adopted on advice from the Office of the Legislative Counsel, which cautioned that, without defining what is meant by irresponsible promotions, the power would be vague and loosely drafted and might be criticised as such. This approach will ensure that the primary legislation provides a clear indication of what the regulations will do.

Amendment No 9 will also provide a power that will allow my Department to make regulations to prohibit or to restrict other specified promotions that include price discounts for limited periods, such as happy hours, and price discounts where two or more alcohol products are included in the package. Irresponsible drinks promotions and other specified pricing promotions will apply, as appropriate, to on-trade and off-trade premises — that is the very point that Mr McCann made — that are regulated under the Licensing (Northern Ireland) Order 1996 and to clubs that are registered under the Registration of Clubs (Northern Ireland) Order 1996. It is important that regulations apply to both on-trade and off-trade premises to provide a level playing field.

The measures mirror the approach taken in Scotland, where the banning of irresponsible promotions and specific price promotions on trade

premises has been in place since February 2008. However, following further consultation on licensing issues, similar measures to ban irresponsible promotions in supermarkets and other off-sales premises have been introduced and are likely to come into place in late summer 2011.

I will make one final point about minimum pricing. I hope that the Northern Ireland Assembly will be the first legislature in these islands to introduce effective minimum pricing. Scotland was derailed from that line. Proposals are emanating from London in that regard, but, in my view, they set the minimum price far too low. I hope that this legislature can do this through the Department for Social Development and, more particularly, the Department of Health, Social Services and Public Safety. Minimum pricing is related to many issues, but it is primarily about people's health. I hope that we will be the first legislature on these islands to put in place minimum pricing provisions and, indeed, effective minimum pricing provisions— there is a difference.

When making regulations on drink promotions, DSD will be able to add to the list of categories of irresponsible promotions, modify them and extend or restrict their application. In effect, the Department will be able to adapt the concept of an irresponsible promotion to meet changing circumstances. It will be a level 5 offence for any premises to hold an irresponsible drinks promotion. The new penalty-points provisions will be amended to include the offence of holding an irresponsible promotion. The regulations — which, I want to stress, will be subject to further detailed consultation — must be approved in draft by a resolution of the Assembly before being made. That will provide the opportunity for further Assembly scrutiny and debate. The list of potential irresponsible promotions limits the scope of Ministers to regulate, as they will not be able to go beyond the scope of the type of examples on the list.

6.15 pm

Mrs D Kelly: I thank the Minister for giving way. Does the Health Minister intend to take a twin-track approach, in tandem with the consultation, to highlight the impact of and increase in chronic alcoholism, particularly among young people? I recently met with the Southern Trust and was alarmed to find that there has been an increase in dementia among young people, some cases of which have been alcohol induced, and in illnesses such as Korsakoff's syndrome, which was very rare in psychiatric institutions in the past.

The Minister for Social Development: I do not think that it is necessarily my place to presume to answer on behalf of the Health Minister. However, I would be very surprised if he did not concur with Mrs Kelly's comments. After I returned from Scotland a number of weeks ago, I spoke to the Health Minister about the need to get the consultation on minimum pricing out the door to create a catalyst and to get a bit of momentum going as we move into the next Assembly mandate, so that we, of the various jurisdictions on these islands, can lead from the front.

Given what happened in the Scottish Parliament just before Christmas, which, in my view, was unfortunate, I thought that it was timely and opportune to move ahead. I also made it very clear to the Health Minister that although there will be a consultation on minimum pricing, he will ultimately have to take the lead on it. For technical, legal and policy reasons, it is better that the Health Department, supported and abetted by the Executive and DSD, takes the lead on it to maximise the opportunity to get the legislation over the line and, in particular, to mitigate the risk of a legal challenge in the future. Mark my words: the corporate power of those who are involved in the alcohol business means that there will be a legal challenge to any minimum pricing legislation that is passed by any jurisdiction. That will especially be the case if that legislation is effective. That is why I believe that the Health Minister will be mindful of the Member's point about taking forward the consultation. Given the immense dramatic and tragic impact of alcohol abuse on individual, family and community lives, I think that he will be minded to support that initiative.

As I indicated to Mr McCann earlier, I want to make it clear that all that I just said in my narrative on what might and might not qualify as an irresponsible drinks promotion does not mean that every situation listed in amendment No 8 will be banned by the regulations. The provision covers all elements to ensure that, when regulations are drawn up, the Minister has the power to regulate specific types of promotions, subject to the Assembly's approval. The regulations will have to specify very clearly the details of the promotions that are to be

captured. That is why it will be necessary to consult on the regulations and to come back to the Assembly for a resolution. I am keen that, when made, the regulations will focus on alcohol misuse and will target the prevention of harmful drinking without punishing the majority of people who drink sensibly.

I recognise and stress that well-managed promotions and sales practices are a wholly legitimate way of maintaining and developing business while providing the customer with a value opportunity. That is the shape and character of how I think the Bill should look. Therefore, it is my intention that promotions such as drink sampling, meal deal offers or wine tasting events do not get caught up in the new regulations. We need to be vigilant about those types of activities to ensure that they do not stray to the wrong side of what is responsible. I believe that, with vigilance and monitoring, we can shape the legislation to differentiate between what is and is not responsible. I am also aware —

Mr Humphrey: I am grateful to the Minister for giving way. Will he expand on exactly how his Department will be vigilant about meal deals, and so on? Such activities are absolutely vital for organisations such as Belfast City Council. I met members of the chamber, and I know that such deals are hugely important, because they provide a throughput of people in bars and restaurants, especially in the lead-up to Christmas, and ensure the very survival of many establishments.

The Minister for Social Development: I fully concur with the Member. I have been advised and have picked up from various licensed premises that a lot of people who got tokens or vouchers as Christmas presents did not use them because of the adverse winter weather.

As Members know, some Christmas parties were cancelled because of the adverse weather. I heard some startling figures about the number of meal cancellations at one or two premises on the Lisburn Road at the height of the adverse weather because my brother happened to be in one of those places when nobody else was. That was within two or three days of Christmas, so I appreciate that point.

People may be aware that, over the weekend, arguably the foremost architect in the world, Daniel Libeskind, was in Belfast. He is president of a panel of people who are making an assessment of an EXPO competition about what might be built on the site of the old Andersonstown barracks. I took him around parts of Belfast on Saturday morning, including the Titanic dock and the Titanic signature project, as well as various other landmark buildings in Belfast. Strangely, or maybe not so strangely, he knew about the Titanic but he did not know that it had been built in Belfast. However, he was mightily impressed by the tourist potential of that product. In that context, alcohol and restaurants are a vital component in the tourist narrative that will bring people to the city of Belfast when that potential develops and matures.

Mr Humphrey may well be a Member of the future Assembly that will have decide whether to approve regulations in that regard. It is essential that we get the balance right between what is clearly irresponsible, and I have scoped what that might look like, and ensuring that appropriate drink sampling and meals promotions do not cross the line of being irresponsible. The promotions that are responsible should have the opportunity to prevail and prosper. It will come down to fine judgement, but the consultation on the regulations, the oversight of the Committee and the Assembly, and experience over time about what all that should look like will, hopefully, ensure that we drive a path through the middle of what is right and what is wrong. It will ultimately be for us to decide that. We will have to trust our judgement to make appropriate decisions.

I am also aware that the regulation of discounts whereby two or more alcohol products are included in a package may result in unintended consequences. For example, that may discourage supermarkets from selling beer in individual cans and encourage them to sell it only in larger packs. Therefore, I am keen to ensure that only irresponsible drinks promotions — those that encourage the recipient to consume greater amounts of alcohol than they might otherwise choose to — are targeted. I hope that that will also reassure the Member for West Belfast.

Amendment Nos 27 and 30 are consequential amendments. Amendment No 27 would amend the table of offences with penalty points in schedule 1 to include the penalty points attributable to offences related to the contravention of the regulations governing the irresponsible and specified price promotions. Amendment No 30 will amend schedule 3 to provide that the regulations on the holding of

irresponsible promotions or specified pricing promotions extend to premises for which an occasional licence has been granted under the Licensing Order 1996.

On 13 January 2011, my officials briefed the Social Development Committee. I hope that this debate will enable the Chairperson to reflect the views of the Committee on my proposed amendments. If these amendments to the Licensing Order 1996 are agreed, I intend to introduce similar provisions to the Registration of Clubs Order 1996 by way of an amendment at Further Consideration Stage. I suspect that there will be quite a number of amendments at Further Consideration Stage.

I have already stated my intention to introduce further measures to target retailers who sell alcohol at below cost price. I have made that very clear. People can watch that space and anticipate developments in the very near future. I commend the amendments to the House.

The Chairperson of the Committee for Social Development: During the progress of the Bill, the Minister brought forward proposals relating to irresponsible drinks promotions, as he outlined in his contribution. Owing to the late addition of those measures and the absence of a completed consultation, the Committee made only limited reference to that issue in its report.

The Department briefed Committee members in January on the feedback from the consultation. It is not good practice for Ministers to bring late amendments or to seek to amend a Bill in haste. However, given the importance of the subject and the concerns expressed by members, the Committee agreed to think again about how the Bill might be amended to allow the inclusion of the Minister's proposals to curb irresponsible drinks promotions. That is most unusual, and it is not conducive to good Committee scrutiny. I think that the Committee would appreciate an assurance that that will not become common practice for future legislation.

I think that every member of the Committee can think of recent examples of public disorder that was fuelled by the irresponsible sale of alcohol. There was some debate about whether that was the result of aggressive marketing and pricing strategies by off-sales retailers or by on-sales outlets, such as nightclubs, offering irresponsible promotions. The Committee took the view that the retail alcohol trade, whether off-sales or on-sales, needs to take the issue very seriously. The powers that are included in the amendments are quite wide-ranging and will allow the Department to bring forward regulations to enforce the proscription of many different types of promotions.

It is very regrettable that regulations of the type that are proposed by the amendments are felt to be necessary. I call on those few irresponsible retailers to change their ways. On behalf of the Committee, and as the Minister suggested, I encourage the licensed trade to put its house in order and bring forward its own code of practice to curb all irresponsible promotions, particularly those that may lead to public disorder. The Committee's support for the amendments in question is dependent on its review of the subsequent regulations and their application to truly problematic alcohol promotions with wider social or public order consequences.

I will make a few remarks in a personal and party capacity. The Minister talked about the process that created the amendments. Although it may be unsatisfactory in how it proceeds through the House and the denial of a proper consultation by the Committee with stakeholders, I put on record my support for the approach that has been adopted by the Minister in bringing forward the amendments. They come forward, as the Minister recognised, because there was not a single Member who contributed to the Second Stage debate some months ago who did not, while supporting the Bill's measures at that time, point out the contradiction: we propose to increase the hours or occasions on which alcohol can be consumed in society without addressing some of the more fundamental problems that I think we all recognise are occurring in our society. I will come to that issue later. There were widespread contributions from all corners of the House pointing out that although the issues in the original Bill were fine and to be supported, there were other issues, of which we were all well aware, that were completely missed, hence the move to introduce the amendments to make regulations to outlaw irresponsible drinks promotions.

The Minister referred to pricing. I will come back to irresponsible drinks promotions in a minute, but I want to touch on pricing briefly since it has been raised. Everybody realises that there is an issue. The amendments sometimes focus too much on bad practice. That tends to be few and

far between, but, as we all know, some retailers engage in it. The pricing of alcohol is one of the areas in which there is often bad practice. We have all seen promotions — we do not need to go into them — where alcohol, particularly in off-sales, is quite clearly being sold at too low a price. We have all seen the evidence that there has been a complete reversal in the habits of our society in the consumption of alcohol. It has moved away from consumption on licensed premises. Basically, the figures have switched around: now, I think that something like 70% to 80% of all alcohol consumption takes place in the home. That is clearly people who, on many occasions, are availing themselves of those very price promotions about which I have been talking.

People will sometimes buy alcohol at a low price, consume it at home and then go out later. In some respects, that is hard to prove, but I think that we all know that that is the case. There is evidence from the licensed trade that people go out later in the evening with a lot of drink already in them, they have a few more and then there is the trouble that we were talking about in relation to the previous group of amendments. We collectively point the finger at the licensed trade and say that it needs to get its house in order, but the cause is probably somewhere else.

We need to get to grips with the pricing issue, but, as the Minister said, it is fraught with difficulty.

6.30 pm

In some ways, what the Scottish Parliament is doing, which we have all observed with interest, is a test case. In many ways, it is a test case on what not to do. There have been some clear difficulties with the legislation. I was intrigued, for example, by the level at which it set prices and by the fact that they had no effect on the price of Scotch, although it did affect the price of every other type of alcoholic beverage. Nevertheless, there are lessons to be learned, and I encourage the Minister to continue working with the Health Minister to deal with the issue.

I do not know whether we will be in a position to enact the legislation that we all might want to see. It is fraught with real danger and difficulties, and it could be open to challenge from, in particular, large supermarket retailers. Let us face it, it will not be hugely popular in the wider community either. A lot of responsible drinkers avail themselves of price promotions and consume alcohol responsibly at home. We have to be careful not to punish them as well. That is all that I want to say on that issue, given that it was raised.

The subject of irresponsible drinks promotions is allied to all those points. As a result of the increase in alcohol consumption and the way in which it is consumed, we see huge public health issues. It seems to be about consuming much more and stronger alcohol more quickly than in the past. We have all witnessed and experienced the health and antisocial behaviour problems created by that. I have no qualms in passing the amendments and then, in the future, introducing regulations that outlaw irresponsible drinks promotions, such as women drinking for free. It is not that there is a problem with women drinking for free, but, in the interests of fairness and equality, it should not be just women who drink for free. I do not know why it is never men; perhaps it not very profitable to do that. Fixed charges and drinking games are other examples of irresponsible promotions. We have all seen or are aware of many drinks promotions that are so transparently irresponsible that there should be no problem in outlawing them. However, in truth, very few licensed premises in Northern Ireland would offer any such promotions. In fact, some of the examples cited in the amendments have probably never happened in Northern Ireland, but it is better to include examples that can be regulated against in the future than not to include them and look for them later.

I want to sound a note of caution, which my colleague, Mr Humphrey, alluded to. In banning drinks promotions that we can all see are irresponsible, as with the minimum pricing issue, we have to be careful not to hit responsible drinkers adversely. The vast majority of people who drink are responsible drinkers, and there are responsible drinks promotions, such as those mentioned by Mr Humphrey. Nowadays, there are very few pubs or restaurants in which we do not see some sort of meal deal going on, such as £30 for a meal for two and a free bottle of wine. I know that this is not in the Bill, but, at a future stage, it is important that we do not make regulations that would ban that, because it could harm our vital licensed trade, which feeds into tourism in Northern Ireland, an industry that we want to grow.

There is a requirement for us to be particularly careful. Amendment No 9 proposes making regulations to:

> *"restrict the price at which the holder of a licence or the licence holder's servant or agent may sell on licensed premises a package containing two or more intoxicating liquor products."*

I can cite two examples in the same establishment where, in my view, a package of alcohol is being sold at a reduced price: one that is irresponsible and one that is more responsible. I could take Members to that very establishment. I have seen the offers advertised in the window. On one banner, two bottles of a particular brand of wine are available for £9 — £4·50 a bottle — which is a reasonably average price for two bottles of wine purchased in Northern Ireland. On the other banner, two huge bottles of strong cider are available for a fiver. Each banner attracts different customers into the establishment. I argue that the cider promotion is irresponsible; the wine one is more responsible. In banning the cider promotion, perhaps rightly, we must be careful that, in the same breath, we do not outlaw —

Mr Humphrey: I understand that, in some establishments across the United Kingdom, it is now cheaper to buy a litre of cider than to buy a bottle of water.

The Chairperson of the Committee for Social Development: I thank the Member for his intervention. I have heard that as well. That is absolutely right; that is the nettle that we need to grasp on the pricing issue. Those sorts of promotions, such as the one that I outlined, clearly target a specific type of person.

Anybody can abuse any type of alcohol in lots of different ways and act irresponsibly as a result. However, the "two for £9" offer is not, by and large, being consumed by people who then go out and cause problems through their antisocial behaviour. We do not see a terrible lot of people hanging around in public drinking bottles of Shiraz or Cabernet Sauvignon. That does not seem to be the drink of choice of those who engage in public drinking, although I might be surprised by what happens in some places. I am not saying that that product could not be consumed irresponsibly. However, we must be careful, because, by and large, its promotion is clearly targeted at people who will buy and consume it in a responsible way. That applies less to the other promotion. Therefore, when trying to outlaw one, we must be careful that we do not also outlaw the other, which would have an adverse impact on ordinary decent people who consume alcohol responsibly in the privacy of their own home.

I hope that the Assembly will signal its intent and its direction of travel on the consumption, pricing and promotion of alcohol and that, as a result, the industry will recognise that it has a problem. I have spoken to representatives of the industry, as has the Minister, and they recognise that there are issues. It is now incumbent on them to act. I hope that we never have to introduce a single regulation and that the industry will self-regulate. I fear that, in some cases, that may not be possible. However, I hope that, by and large, those in the industry will see that we are on to them, that we know what they have been at in the past and that we do not want it to happen in the future. I hope that the industry will recognise that, if it does not self-regulate, we will regulate against the bad behaviour and excesses that we witnessed in the past and, indeed, sometimes, see in the present. I hope that the success of the amendments may mean that we never have to bring in regulations. We should not be in the business of making laws and regulations to deal with everything. We should encourage and nudge people in the right direction.

I support the amendments and the principle that we have adopted. There is still work to be done in that area, but, as an opening gambit, it is an immensely positive move in the right direction. I am glad that, whatever the process has been, we have, within a short period, been able to table amendments that will be wholeheartedly supported by the entire House.

Mr McCallister: I support the amendments in group 2. Given that there is still a bit of business to go through, I will not take up too much of the House's time. However, it is important to buy into the message that the Minister and Department have been putting out. The public health message is hugely important. It is vital for the health sector, as it struggles with its budget, that we address the issues. Binge drinking and the attitude to alcohol must change, and we have to find mechanisms to achieve that through, for example, dealing with the pricing of alcohol. Bearing in mind that so much alcohol comes through the supermarkets, we must face up to that when dealing with the pricing issue.

Of course, the Assembly should not encourage irresponsible drink promotions. I do not wish to sound like a member of the DUP, but, as a society, we have to address our attitude to alcohol, and the binge drinking culture must be tackled head-on. We have to deal with that, or we will struggle not only in health but with policing our town centres, too many of which have become virtual no-go areas. That has to be addressed, and this is where we have to start to do that. I welcome the clauses and the Minister's comments that he is committed to working with his colleague the Minister of Health, Social Services and Public Safety.

Mr P Ramsey: I welcome the opportunity to participate in the debate, particularly the opportunity to speak in support of amendment No 8. I am not a member of the Committee for Social Development, but the issue of irresponsible drinking is one with which we have difficulty in my constituency. I welcome the leadership, commitment and determination shown by Alex Attwood in introducing reasonable, preventative and proportionate steps to outlaw and stop those who flout the law. The Minister's efforts to regulate irresponsible alcohol promotion are badly needed across Northern Ireland.

I will mention some examples from my constituency that are relevant to the Bill. An alcohol forum has been set up in the Derry City Council area that involves all the stakeholders, from the statutory stakeholders in health to the community sector and the vintners. With that, we have a voluntary code of conduct across a range of vintners and clubs, but, unfortunately, it does not always work and is hard to enforce. That is why it is necessary to introduce the regulatory control that can put a stop to the abuse and misuse of alcohol by young people.

I agree with John McCallister that we have circumstances that require an attitudinal and cultural change, particularly among young people. We have seen generations of alcohol abuse throughout Ireland, and, unfortunately and sadly, Ireland has a reputation because of that. It is important that the Assembly takes the lead in highlighting the reckless nature of drinks promotions and of establishments that put profit before the lives of young people. At a number of the campuses in Northern Ireland, university leaders are taking proactive steps to discourage a lot of the recklessness and to oppose those who partake in the irresponsible behaviour of drinks promotions. I have seen that at the Magee campus.

Some bars in Derry have so-called pound-a-drink promotions. That includes various ranges of vodka and shots, which cannot be good for young people. The promotions are clearly aimed at very young people, and there is no doubt that they are aimed at schoolchildren. We cannot tolerate clubs and bars advertising in local newspapers to offer those drinks — that is happening. Low-cost or below-cost promotions are a serious problem, particularly when they are aimed at vulnerable young people.

During the week, I noticed on social networks that a bar in my area was offering entry for £15 and free alcohol all night. That is the sort of irresponsible behaviour that the Minister intends to stop through the Bill. In fact, I was nearly tempted to place that information with the police, because I think that that is abuse of young people. It is aimed at a certain level, and that is how binge drinking is caused. As Fra McCann said, we know only too well the consequences of the misuse and abuse of alcohol. It leads to social, domestic, community and family difficulties, including marriage breakdowns, family breakdowns and a high incidence of domestic violence. In one way, the Bill will protect so many people, including families.

I am a director of a drop-in centre for alcoholics in Derry, the Foyle Haven. I just want to declare that. We see the ongoing difficulties at the coalface, and, as the generations come through, the young people are getting younger. In fact, in Derry we have three young girls, as I would call them. The eldest is about 23, and, unfortunately, their father's circumstances were difficult. We have two brothers coming in as well. Therefore, in many regards, it is inherent in society, but we have to put an end to it. Clearly, the leadership shown by our Minister can help. Club owners and bar owners may not believe the consequences of what they are doing — plying young people with alcohol at 17, 18, 19 or 20 years of age. They do not have the constitution to help with that, and, if they continue that on a serious basis, they end up with serious alcohol problems.

6.45 pm

Recently I noted the alarming figures on what drinking is costing Northern Ireland. It is costing us £700 million a year. That figure comes from

a recent press release from Alex Attwood and refers to social, legal and policing drink-related problems across Northern Ireland. You can imagine the difference that that money would make if we invested it in other areas. However, it is important that we are shown to be leading on this. We simply cannot tolerate it. Everybody has the best of intentions, and local councils in particular take a strong role in trying to set standards. In fact, Derry City Council was the first to set the standards by having a voluntary code of conduct. However, it does not work because it is only a voluntary code of conduct. I have to say that there are a lot of responsible clubs and bars across Northern Ireland.

Mr F McCann: You raised the question about Derry City Council leading the way, and it needs to be commended for doing so. However, other aspects of drinking, such as the sale of alcohol by off-licences, have an impact. At one stage in Belfast, people tried to get a verbal agreement from off-licences to have different coloured bags marked with their names, so that, if there was underage drinking, the source of the alcohol would be clearly identifiable, and action could be taken against them.

Another concern that people have — it has been raised in Committee — is the whole question of dial-a-drink. Taxis are phoned to go away and order large amounts of alcohol, it is delivered to houses, and they put the taxi charge on top of what they pay for the drink. That is also part of irresponsible drinks promotions and the sale of alcohol.

Mr P Ramsey: I welcome those comments. I also welcome the earlier commitment from the Minister that he and the Minister of Health will commence a consultation soon.

Mr McCallister: Does the Member share with me and other colleagues our alarm at the age at which some people are getting hooked on alcohol? The harm that it does to a body at that age can be enormous. We have to address that. The issues that Mr McCann brought up are key to helping to prevent very young people from getting involved in alcohol and getting addicted to it at a shockingly young age.

Mr P Ramsey: Yes. It is something that is very close to my heart because I see it. I am sure that other Members also see young people on the street. It is not totally related to what we are discussing here, but those people seem to be getting younger. They could be 12, 13 or 14 years of age. They start off with a six-pack and then it develops. I agree with you totally.

The earlier point that I was making is that minimum pricing is important, whether in clubs and bars or as Fra McCann said. Supermarkets are also flaunting their prices to get people through their doors, offering 12 cans and 12 free. The point that Mr Humphrey made is absolutely right: in many supermarkets, still water is much more expensive than beer, cider and other alcoholic drinks.

Mr G Robinson: Does the Member agree that alcohol contributes to many road deaths among young people, particularly during the early hours of the morning? I am not saying that all young people who are involved in fatal road crashes have been drinking. However, some of them have been.

Mr P Ramsey: I welcome the Member's intervention. There is absolutely no doubt that that is the case. The PSNI released stark figures showing the number of people who were apprehended for drink-driving over Christmas. The matter is close to my own heart. My brother and sister were killed by a drunk driver. Therefore, I empathise with and support the Member's point. There is absolutely no excuse for anyone to drink and drive. I want the blood-alcohol limit to be reduced further, and I support the efforts of the police in that regard.

It is important that the consultation that the Minister for Social Development and the Minister of Health intend to carry out is holistic, full, looks at other models in Scotland and Wales and reflects their determination to make a difference. The sooner the legislation is in place and clubs and bars know that penalties will be enforced rigorously, the sooner we will put an end to irresponsible drinks promotions.

It only takes one youngster of 16, 17 or 18 years of age to be addicted to alcohol for a family unit to be devastated. That family unit can break under the strain. We know only too well the difficulties that arise when a young married person, for example, is addicted to alcohol and the consequences that addiction can have for families and communities.

On behalf of the SDLP, I support the Minister's amendment on irresponsible drinks promotions. The sooner those provisions are introduced, the better.

Ms Lo: I support the Minister's amendment in respect of irresponsible alcohol promotion and pricing. I am sure that the Bill will be welcomed strongly by the long-suffering residents of South Belfast. Indeed, many students to whom I have spoken support the Bill. They do not want to be tarred with the same brush as the drunken, irresponsible lager louts in the area. Many residents of South Belfast have, through different fora, called for measures to be taken to address alcohol-fuelled antisocial behaviour in the area. I hope that the Bill will curb that problem and prevent antisocial behaviour in South Belfast.

Irresponsible drinks promotions try to encourage people, particularly young people, to consume as much alcohol as they can within a short time. That is hazardous not only to health and well-being but to personal safety. I have seen young people fall down on the pavement, hurt themselves and end up in A&E. Furthermore, young women can make themselves vulnerable and run the risk of sexual attack. Obviously, therefore, those promotions cause a drain on public services, police time, A&E and Health Service resources.

Mr Easton: I intend to be brief. I listened to my colleague Mr Hamilton, who has left the Chamber for a moment. He discussed irresponsible drinks promotions, as did other Members. It is a serious issue. My colleague mentioned that he had seen an offer of two bottles of wine for £9 in an off-licence. In Asda, one can buy three bottles of wine for a tenner. If the average price of a bottle of wine is around £5.50, one actually gets a free bottle of wine. That type of promotion is totally irresponsible.

Mr Ramsey said that the cost to Northern Ireland is around £700 million. People may wonder how much of that money is spent dealing with health issues, probably the vast majority. The Health Minister would not be complaining about his budget if he could make that type of efficiency saving.

I welcome amendment Nos 8 and 9, which will curtail premises owners who offer drink promotions. Binge drinking has become a problem, especially in areas where there are large numbers of students. We saw that in and around Queen's University in Belfast a couple of years ago, when there were serious, devastating scenes of violence and antisocial behaviour. I believe that much of that was fuelled by alcohol and encouraged by irresponsible promotion deals on alcohol. This is a welcome step towards trying to curtail that. I welcome the rest of the amendments.

Mr Irwin: I choose not to drink alcohol, and I believe that my health is the better for that. I am firmly of the belief that alcohol is one of the biggest, most damaging and most expensive scourges that we have to deal with in the modern age. Alcohol-related crimes and alcohol-related health issues amount to a large proportion of Northern Ireland's public expenditure. For that reason, I welcome the Minister's inclusion in the Bill of measures to deal with irresponsible drinks promotions.

Something is wrong with this society. It is ridiculous that one can enter a supermarket and purchase a tin of beer for much less than the price of a bottle of water. Pubs and clubs across the country are continually devising ways of selling more and more alcohol through promotions, such as happy hours or "All you can drink for £10". Those promotions are seriously damaging people's health, especially the health of our younger people.

We have seen television footage of young people lying back in chairs and having alcoholic drinks dispensed directly into their mouth via large containers. To those involved, it seems like great fun, but it is highly damaging to the way in which other much younger people perceive such situations and, ultimately, to how they treat alcohol in later years.

Ask any paramedic for their opinion on the effects of excessive alcohol consumption. They can convey the damage that the abuse of alcohol does to people's health, some of which is irreparable. The primary aim of a pub or club is to make money. They are not primarily interested in the health of the nation. In light of that obvious problem, I feel that the Minister is correct in bringing forward this legislation.

It is depressing to hear young people and, indeed, older people boast of how much they can drink in one evening. Sometimes, they cannot remember how much drink they have taken. That is not responsible behaviour. Thousands of people do it, but that does not make it any more acceptable. In an age in which we are continually reminded to be responsible adults in respect of such issues as driving, our finances, our families and our health, there is a massive contradiction in the efforts that are

put into adjusting attitudes to alcohol among our population. For instance, one TV channel could have the hard-hitting DOE anti-drink driving campaign, while on another is soap after soap centred around drinking in pubs. Each programme subconsciously portrays a life centred around drinking alcohol.

Drinking to excess seems to be ingrained into people here in Northern Ireland and in the rest of the UK and Ireland. I believe that the Minister is sincere in attempting to address that deeply worrying trend, and the restriction on promotions will send out a stern message to licence holders that they have a responsibility for their customers' well-being and health. However, each individual is ultimately responsible for their own actions.

I therefore support the inclusion of those clauses in the Bill and urge the Minister to do more to help change attitudes.

7.00 pm

Mr S Anderson: The Consideration Stage of any Bill can be a challenge to us all. Since I became a member of the Committee for Social Development last September, I have become aware of the work that had gone before, the work that was being done at that time, and the work that has been done since then. This may be an opportune time to say something about the transfer of footballers. It is a bit like a footballer joining a team in mid-season during a transfer window. You have to get on top of your game very quickly. I would say that the Chairperson, who is not here, would agree that we in the Social Development Committee are a team at the top of the league. The Minister will be glad to hear that.

Some of the amendments before us are complex and technical, but they are very important. I broadly welcome amendment Nos 8 and 9, as tabled by the Minister. On 19 August 2010, the Minister announced his intention to introduce a range of provisions designed to control irresponsible drinks promotions. I believe that he indicated that he might use the Justice Bill as a suitable vehicle for those, but I am glad that he decided to introduce them through this Bill, which seems a more appropriate approach.

The two amendments that introduce new clauses 3A and 3B address a number of areas of concern that surfaced during consultation on the Bill and in representations to the Committee. The Bill is part of a process of ongoing liquor licensing reform. Those amendments ensure that a key area of public concern known as binge drinking is being addressed now rather than later, and that is good.

Although Northern Ireland has one of the highest rates of total abstentionism in Europe, we also have very high and increasing rates of heavy and excess drinking. A report published in 2009 suggested that that was due to the growth of clubs, possibly as a result of what came to be known as the peace process and the ending of the Troubles and 40 years of terrorism. Whatever the reasons, it is clear that heavy drinking and binge drinking are on the rise. Increasing numbers of young people and females are becoming addicted to alcohol. That can lead to chronic mental and physical health problems, with resultant pressures on the already stretched health budget, as has been mentioned.

Drunkenness also puts unacceptable pressure on the policing and criminal justice system. It contributes significantly to a range of violent crimes such as domestic abuse and the all-too-common very vicious brawls on our streets. It is clear that we need to tackle the problem of alcohol abuse and, in doing so, tackle its root causes.

Proposed new clause 3A defines irresponsible drinks promotions, including key ones such as those geared towards people under the age of 18, buy-one-get-one-free offers and all-you-can-drink offers. That broadly reflects trends in other UK jurisdictions. I believe that the measures are needed, when we consider some of the cheap drink offers that have been put in place by off-sales outlets and supermarkets. I am sure that we have all seen people wheeling out trolley-loads of cheap alcohol that will later be consumed as part of a binge. Indeed, I know that some supermarkets are able to sell alcohol cheaper than pubs can buy it from the market brands. That tells us something.

Mr Humphrey: On that point, if products can be purchased at such a low price, given the comments that were made earlier about the cost to the Health Service, we have to reflect on the commodities that are used to make those products. Over and above the damage that excess alcohol will do to anyone's system, products that are cheap and the commodities

that are used to make them up are hugely damaging to our health.

Mr S Anderson: That is a very good point from my colleague, and I certainly agree.

I do not know the make-up of the product, but one has to question how they are able to sell it so cheaply, whether it is imported or not. They seem to be able to sell alcohol much more cheaply than in years gone by, so there has to be a big question mark over how they are able to do that. That needs to be looked at as well.

Proposed clause 3B addresses another important issue; the pricing of alcohol. That needs to be considered for alcohol as it is for cigarettes. As we rightly seek to deal with the problem of binge drinking and irresponsible promotions and prices, we must make sure, as the Northern Ireland Drinks Industry Group stated, that those who run responsible promotions do not unwittingly get caught up in the new provisions. I think that that was mentioned by the Minister and by my colleague on my right. Getting the balance right will be a challenge to us all, but it can certainly be done if we investigate proper ways to do it.

The two proposed new clauses are enabling powers only. They provide for the making of regulations, and it is those regulations that will put the flesh on the bones. Drafting those regulations will require careful consideration and extensive consultation with key players. In that way, we will ensure that the sort of outcome we all desire will be achieved. I support amendment Nos 8, 9, 27 and 30.

The Minister for Social Development: I hope I will not detain the Assembly too much in replying to the debate.

Mr Humphrey: Hear, hear.

The Minister for Social Development: You must be going out for the night, are you? *[Laughter.]*

I acknowledge what the Committee Chairperson touched upon in his own eloquent phrase: it was most unusual and not conducive to Committee consideration that these matters were parachuted in later in the legislative process than might otherwise be the convention. However, there seems to be unanimity on the proposal and I welcome that very much.

There is unfinished business when it comes to alcohol issues. There will be a consultation on minimum pricing. I regret not initiating that consultation earlier. However, the thinking five or six months ago was that we would watch the experience of Scotland, learn from that, and on the basis that they would get their legislation over the line, we could piggyback on that experience and table our own proposals. I regret that I did not intervene earlier, because although this proposal about alcohol promotions is important, the unfinished business with minimum pricing and the other aspects of alcohol abuse should occupy a future DSD Minister, the Committee and the Assembly over the next three and four years.

Simon Hamilton said that minimum pricing was fraught with difficulties. Mindful that that is the case, I have already had a short preliminary conversation with the Attorney General so that if minimum pricing is endorsed through consultation and by the Assembly and Executive we can shape the legislation to mitigate the risk of legal challenge, although such challenge is probably inevitable.

I acknowledge Pat Ramsey's comments, which captured, in the context of his family situation and of Derry, many issues that we are talking about, given the tragedy that affected the Ramsey family with the deaths of a brother and sister. Beyond that, there is a voluntary code of practice operating in Derry. At the same time, however, there is still this week a promotion for £15 for a night's consumption of alcohol. That demonstrates that, although we have a code, in some cases we do not have the enforcement of best practice.

Similarly, Mr Ramsey referred to his involvement in the management committee of Foyle Haven, which demonstrates that there is a lot of good practice up in Derry in trying to deal with the issues caused by alcohol abuse. I am sure that Mr Ramsey and Mary Bradley will agree that the Northlands centre is another well-established leading organisation that tries to mitigate the issues caused by alcohol abuse.

As I said, there is unfinished business. Fra McCann, in his intervention, touched on that. There is the issue of trying to label bags. We looked at that over the past number of months but decided not to go down that road. There is also the issue of taxi firms colluding with people so that they can purchase alcohol in circumstances where there are risks, particularly to younger people.

Anna Lo made a point about alcohol abuse, the vulnerability that that creates, especially for women, and the risks that are inherent in all of that. Mr Irwin raised the issue of subliminal promotion of alcohol through product placement or TV soaps, where the characters, in one way or another, spend a lot of time in a bar.

All of that demonstrates the scale of the issues that have to be addressed and supports the compelling argument for the Assembly to try to address that as we go forward. The intervention around irresponsible alcohol promotions and the forthcoming consultation on minimum pricing are important — the minimum pricing consultation is as important as any and is probably the most critical of all — and that is the direction of travel that I hope a future Minister and Assembly will go in.

Finally, I acknowledge that Mr Anderson is correct. I would not say this simply for the sake of saying it, but the performance and conduct of the Social Development Committee has set good standards, if not higher standards, for the work of Committees in the Assembly. However, I must point out that, when I launched the proposal about irresponsible drink promotions, I was actually on my holidays in Marrenes in France, where, on occasion, but not to excess, I did enjoy — *[Interruption.]* I want to make it very clear that it was not my being on holiday and consuming alcohol that led me to consider that irresponsible drink promotions should be outlawed.

Question, That amendment No 8 be made, put and agreed to.

New clause ordered to stand part of the Bill.

New Clause

Amendment No 9 made: After clause 3, insert the following new clause

"**Pricing of intoxicating liquor**

3B. After Article 57A of the Licensing Order (inserted by section (Irresponsible drinks promotions)) insert¾

'Pricing of intoxicating liquor

57B.—(1) Regulations may—

(a) prohibit or restrict the holder of a licence or the licence holder's servant or agent from varying the price at which intoxicating liquor is sold on licensed premises during such period or hours as are specified in the regulations;

(b) restrict the price at which the holder of a licence or the licence holder's servant or agent may sell on licensed premises a package containing two or more intoxicating liquor products.

(2) A person who contravenes any provision of regulations made under this Article is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Regulations shall not be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(4) In this Article, 'intoxicating liquor product' means a product containing intoxicating liquor and includes the container in which the liquor is for sale.'." — [The Minister for Social Development (Mr Attwood).]

New clause ordered to stand part of the Bill.

Clause 4 ordered to stand part of the Bill.

Clause 5 (Closure of registered clubs)

Amendment No 10 not moved. — [Ms Lo.]

Amendment No 11 not moved. — [Mr F McCann.]

Mr Deputy Speaker: Amendment No 12 is consequential to amendment No 11, which was not moved. Therefore, I will not call amendment No 12.

7.15 pm

Amendment Nos 13 to 16 are consequential to amendment 10, which was not moved. Therefore, I will not call amendment Nos 13 to 16.

Clause 5 ordered to stand part of the Bill.

Clause 6 (Penalty points)

Mr Deputy Speaker: We now come to the third group of amendments. With amendment No 17, it will be convenient to debate amendment Nos 18 to 26, 28 and 29. The amendments deal with late licences, young people's attendance in clubs, accounting offences and restrictions on registered clubs in respect of advertising. Amendments Nos 20, 21 and 22 are mutually exclusive.

Amendment No 17 not moved. — [Mr F McCann.]

Mr Deputy Speaker: Will you clarify whether you will be moving amendment Nos 18 and 19 at this time?

Mr F McCann: Not moved at this time.

Amendment Nos 18 and 19 not moved. — [Mr F McCann.]

Mr Deputy Speaker: Amendment Nos 17 to 19 were not moved, so I must put the Question on clause 6 before we proceed with the rest of the debate.

Clause 6 ordered to stand part of the Bill.

Clauses 7 and 8 ordered to stand part of the Bill.

Clause 9 (Authorisations for special occasions)

Mr Deputy Speaker: Amendment No 20 is mutually exclusive with amendments Nos 21 and 22.

The Minister for Social Development: I beg to move amendment No 20: In page 18, line 42, leave out "120" and insert "104".

The following amendments stood on the Marshalled List:

No 21: In page 18, line 42, leave out "120" and insert "85". — *[Mr Hamilton.]*

No 22: In page 18, line 42, leave out "120" and insert "156". — *[Mr F McCann.]*

No 23: After clause 9, insert the following new clause

"Young persons prohibited from bars

9A.—(1) Article 32 of the Registration of Clubs Order (young persons prohibited from bars) is amended as follows.

(2) In paragraph (13) for '9' in each of the three places where it occurs substitute '11'." — [Mr F McCann.]

No 24: After clause 9, insert the following new clause

"Restrictions on advertisements relating to functions in registered clubs

9B. Omit Article 38 of the Registration of Clubs Order (restrictions on advertisements relating to functions in registered clubs)." — [Mr F McCann.]

No 25: In clause 10, page 19, line 4, leave out "subject to negative resolution,". — [The Minister for Social Development (Mr Attwood).]

No 26: In clause 10, page 19, line 8, leave out subsection (2) and insert

"(2) An order under this section may amend, repeal, revoke or otherwise modify any statutory provision or document.

(3) The power conferred by this section is not restricted by any other provision of this Act.

(4) An order shall not be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the Assembly." — [The Minister for Social Development (Mr Attwood).]

No 28: In schedule 2, page 22, line 20

"40(2)	*Failure to comply with requirement to—* *(1) keep proper vouchers* *(2) establish and maintain a system of control* *(3) prepare annual accounts* *(4) have accounts audited or examined* *(5) produce required records etc. to auditor or independent examiner* *(6) provide summary of accounts to district commander* *(7) provide summary of accounts to members* *(8) display accounts for 4 weeks* *(9) retain records for 6 years*	*3-4"*

— [Mr F McCann.]

No 29: In schedule 2, page 23, leave out lines 23 to 34. — [Mr F McCann.]

The Minister for Social Development: Given that a number of amendments have not been moved and others may yet not be moved, it might be helpful if I were to share some of my thinking on the matters in the group with the House. This afternoon, I forwarded a note to Executive colleagues about a number of amendments — not all — that Members tabled. In that note, I particularly dealt with amendment

Nos 17, 18 and 19, which were subsequently not moved and which dealt with the time frame in which penalty points would be endorsed on a certificate of registration for licensed premises.

(Mr Speaker in the Chair)

Other amendments have yet to be discussed on the issues of curfews and advertising, and, although it would be inappropriate for me to comment specifically on those amendments, I want to consider further the issues to which they relate. As I am obliged to do, I brought that intention to the attention of my Executive colleagues in advance of the Bill's Consideration Stage.

I do not want to pre-empt any conversation that may arise. It may be that a new consensus will emerge about how to address the issues that are named in the amendments and in the Bill, or it may be that those issues are too difficult to resolve consensually at this stage. Nonetheless, I want to explore with the Executive and others the issue of the curfew, some of the issues around penalty points and the issue of advertising functions, and identify whether there are any opportunities to adjust the Bill further. I also want to explore how those issues might impact on the licensed trade, and on clubs in particular. I do not want to prejudge the outcome of those discussions, but it would be useful to engage in them between now and the Bill's Further Consideration Stage.

I acknowledge Mr McCann for not moving those amendments at this stage, thereby enabling those conversations to mature.

I turn now to my amendments, beginning with amendment No 20. As I said previously, I want to commend the Social Development Committee for the time and trouble it took in scrutinising the draft Bill and for reaching a consensus on the issue of special occasion authorisations for registered clubs. Given that there are a number of amendments on the Order Paper, I hope that the consensus that prevailed ultimately in Committee and that equally prevailed at the Executive, reflecting the views of all Ministers and the various parties round the Executive table, will prevail as we go through the various amendments.

As has been demonstrated by amendment Nos 21 and 22, the issue has divided opinion and continues to do so. When the Second Stage of the Bill came before the House last June, many Members commented on my proposal to allow remain open until 1.00 am, subject to approval by the police. In normal circumstances, bars and clubs must close at 11.00 pm, and my proposal would have increased the number of occasions when a club could apply to the police for later opening from 52, as is currently in law, to 120 a year.

I informed Members that I would listen to their views and concerns and reflect on them as the Bill progressed through Committee Stage. Ultimately, the Committee's report on the Bill contained a recommendation that the number of special authorisations provided for should be 104, and I am satisfied that amendment No 20 accommodates that recommendation. It was my initial thinking to increase the number to 120, and I still think that there is merit in that proposal. In order to achieve the Bill's original intention, to give clubs the opportunity to have other late licences, to enable them to sustain themselves in a difficult economic environment and to recognise that the clubs are a very responsible part of the licensed trade in Northern Ireland although they operate in somewhat different circumstances from other elements of the licensed trade, it is important to accommodate the extension of late licences. I appreciate the difficulties that the issue raises for people, and I have had to compromise on my initial ambition and intention by reducing the number from 120 to 104. I understand that there was consensus at the Committee, and there is consensus at the Executive, and we should try to protect that consensus as it is a good way of moving forward and a necessary way of moving forward to sustain the life and work of various clubs.

The increase will help registered clubs in general, and sporting clubs in particular, that are finding it difficult to maintain their community service contributions in these difficult times. Some clubs form a vital part of community life in Northern Ireland. They are essential in helping young people, especially those who may be vulnerable or at risk. They are important in improving the health profile of citizens and communities, and they involve themselves in a lot of useful and charitable activities, as do many in the licensed trade. In many parts, especially in more rural and isolated areas, they are an essential part of community life and social cohesion. For all those reasons, making provision by extending the number of late licences for clubs, especially in the current difficulties, is important.

We have around 600 clubs in Northern Ireland, and, as I have indicated, they make a valuable contribution to social, recreational and community activities in our society. It is important to legislate wisely, and the proposal of 104 late licences endorsed by the Committee and the Executive strikes a fair balance between the need to regulate how and when alcohol is supplied and to provide an opportunity for registered clubs to facilitate the wishes of their members and stabilise their finances.

The figure of 85 tabled in amendment No 21 and of 156 tabled in amendment No 22 are, on the one hand, too low to be effective and, on the other hand, would invite wider criticism in a way that would be detrimental to the interests of clubs in Northern Ireland. Given that a consensus is clearly required and that the Committee reached a consensus, I am happy to endorse it. Given all the circumstances that I outlined and in the current conditions, the figure of 104 strikes the right balance, and I urge Members to support it.

I now turn to my amendment Nos 25 and 26, which are technical. Bills generally contain a standard regulation-making power that enables the Department to react to unforeseen circumstances that could otherwise prevent an Act coming fully into effect. The draft Bill contained such a power, which is subject to negative resolution. I am happy in amendment Nos 25 and 26 to follow the advice of the Examiner of Statutory Rules that the power should be by way of affirmative resolution of the Assembly, not by negative resolution.

The Chairperson of the Committee for Social Development: The Committee considered at length the Bill's provisions that are associated with registered clubs. A number of amendments to the Bill as it affects registered clubs are included in this group. The Committee considered many, if not quite all, of those during Committee Stage. By way of context, the Department advised that prosecutions or convictions on breaches of the Clubs Order have been quite rare in recent times.

I want to deal first with amendment Nos 28 and 29, which refer to penalty points and the level of fines associated with certain breaches of the Clubs Order by registered clubs. The Committee noted the concerns of some members in respect of the application of penalty points to officers of registered clubs who are often volunteers.

The Federation of Clubs suggested that the provisions relating to article 40, which is the subject of amendment Nos 28 and 29, would lead to the application of penalty points for what were described as "trivial" breaches of the Clubs Order. The Committee was advised that officer posts in a registered club can be subject to regular changes and that, consequently, persons filling those voluntary roles can be untrained or unaware of certain aspects of their responsibilities.

The amendments will reduce the level of fines for those so-called trivial breaches relating, for example, to the keeping of accounts. The Committee had some sympathy with volunteer club officers who may inadvertently breach some accounting rules associated with the Clubs Order. However, the Committee accepted the Department's argument that the provision gives clubs the opportunity to show due diligence. The Department advised that prosecutions under the Clubs Order are very rare. There was one prosecution in 2009 compared with 168 in the licensed sector in the same year. The Committee, therefore, felt that similar amendments were unnecessary.

Amendment No 23 refers to changes in licensing hours for clubs, the idea being that sporting clubs could allow younger members to be in the licensed parts of a sporting club's premises until 11.00 pm rather than 9.00 pm. The Committee heard evidence in support of that from the Federation of Clubs, the GAA and the Golfing Union of Ireland. Consistent with the Committee's position on underage drinking controls, we did not support proposals to amend the Bill in that regard.

Amendment No 24 refers to the removal of restrictions on advertising by registered clubs. The Committee received a good deal of comment on the issue from groups representing pubs and hotels. They argued that clubs already have an economic advantage because they pay lower rates and use members' fees to subsidise alcohol prices. The pubs and hotels also insisted that the law is already being flouted, with many clubs reportedly advertising Christmas events and wedding functions for non-members. The clubs' representatives disputed much of that and insisted that the removal of advertising restrictions was essential for their survival. The area of liquor licensing is fraught with difficulties and competing interests. The Bill seeks to strike a balance between

those two parts of the licensing trade. The Committee felt that the Bill generally achieves that objective, and, therefore, the Committee did not support amendments to that effect.

The Committee suggested an amendment to alter the Assembly procedure associated with provisions that the Department may bring forward to give effect to the Bill. The Minister's amendment, in line with the Committee's suggestion, will change related Assembly procedure from negative to draft affirmative resolution. The Committee, therefore, supports the Minister's amendment Nos 25 and 26.

I will now turn to amendment Nos 20 to 22, which refer to special authorisations for late licences for registered clubs.

I will first set out the Committee's view, as the Minister has expressed previously, and I will then speak to my own amendment.

7.30 pm

The Committee noted with interest the evidence from registered clubs, which suggested that additional late licences are essential for the survival of clubs. As I have said, it was argued that clubs have a positive impact on their communities and undertake extensive charity fund-raising activities. The Committee also noted the concerns of the unlicensed hotel trade suggesting that additional late opening of registered clubs would have a significantly adverse economic impact on pubs and hotels. The Committee received limited evidence from the police, which appeared to suggest that the current uptake of late licences by registered clubs is low. Some members concluded that the additional late licences for registered clubs were therefore unnecessary.

I want to record that the Committee was subsequently surprised to learn of the apparent disregard of aspects of the legislation that apply to licensed premises associated with registered clubs. A witness from the registered clubs sector indicated that illegal late opening by registered clubs may not be uncommon. I refer Members to page 104, Appendix 3, paragraph 559 of the Committee's report on the Bill. Some Members expressed the view that the practices of certain registered clubs in that regard may be viewed as leading to direct and unfair competition with pubs and hotels. I ask the Minister, in his response, to repeat assurances that he will make appropriate representations to ensure that there is enforcement of controls on clubs' licensed hours.

A significant minority of Members indicated that they supported clause 9 as drafted, which will increase late licences to 120 per year. Another significant minority of members indicated that they supported an amendment that would reduce the maximum number of late licences for registered clubs to 75. The division of opinion was based on the arguments I have just set out. On the one hand, there were concerns that clubs were unfairly and wrongly competing with pubs and hotels and that more late licences would give them further advantages. On the other hand, there were concerns that registered clubs made a positive contribution to their communities and were struggling to survive. The Committee lamented the absence of data in respect of the current uptake of late licences and the degree to which some clubs may be flouting the existing rules.

The Committee did not agree to either proposal; instead, a small majority of members supported amendment No 20, which reduces the maximum number of late licences for registered clubs to 104 rather than 120 per year.

Before I move on to speak in a personal capacity on the specific amendment, I want to register my party's support for the work done by a great many registered clubs across Northern Ireland, often without much recognition or appreciation. They are of great value to society, whether it is in their sporting work, charity work or through the community role that they fulfil. In many communities they provide sporting facilities and meeting rooms that are used extensively, particularly in rural parts of Northern Ireland. They can be vital to the vibrancy of a community.

The number of late licences was an issue that the Committee juggled with on several occasions. There were great debates and divisions about what the correct number of late licences should be. Those varied from 52, which is the current position, to 120, which is in the Bill. There were various discussions about numbers in between and numbers higher than 120. I and my colleagues felt that 120 was too high. There seemed to be no particular rationale for it. As I delved deeper into this debate, it appears that there is no number, conjured up by anybody, for which there is any particular rationale. Many suggestions were completely arbitrary. In Committee, my colleague Mr Craig

suggested an amendment to have the number set at 75, believing that that was a reasonable and proportionate increase in the number of late licences and would afford those clubs that wanted them additional scope. The amendment was defeated, and the lowest number that the Committee could support at that time was 104, which was proposed by Anna Lo. I and others were content that that was the lowest figure that could be achieved. We are now attempting to achieve 85. We thought that we could not find the right number.

We all thought that 52 was too low, 120 was too high and 104 did not feel right either. There was an attempt to find a number that members were comfortable with and that could be stood over by those of us who wanted to assist registered clubs, although not to the extent that proprietors of pubs and hotels could say that they were being unfairly treated.

Why should we have pursued a number lower than 120 or 104? It goes back to the point that I made in the debate on the first group of amendments. I would, at times, rather have an approach to legislation in which we try to build it up. If we go for 75 or 85 days, as amendment No 21 proposes, it would give us an opportunity to see how that would work in practice, whether it would have a detrimental effect on pubs and hotels, and whether it would be sufficient to meet the demands of registered clubs. We can build it up from there, if indeed there is a proven demand at a later stage. I do not think that any Member could argue against the contention that, if 85 days were proven to be insufficient and a moderate increase at a later juncture was proven not to have any detrimental effect on the licensed trade, we may seriously consider such an increase.

The Committee received its first briefing on the Bill — at least since I became the Chairperson — during a meeting that was held in licensed premises in the Slieve Donard Hotel in Newcastle. I hasten to add that the meeting did not take place in the bar. This debate has been going on since the Bill was introduced. We quizzed officials and asked them for evidence of current demand or any sort of demand for late licences from clubs. We were told then that that information could not be provided. The issue was raised again directly with the Minister at Second Stage, after which the information miraculously appeared. At that time, the Minister made the point that that information might in no way be completely persuasive, but it is, nonetheless, illuminating.

That information, although it was incomplete and not entirely up to date, gave details about five of the eight police districts across Northern Ireland. It covered 14 councils, including Belfast City Council, the biggest council with the largest number of licensed premises in the whole of Northern Ireland. It showed that only 13% of the 300-odd clubs included took up the demand for 52 nights — the maximum number of nights on which registered clubs are permitted to open under the current legislation. By anyone's assessment that is a modest and low figure. Indeed, none of the clubs in the police district that covers north and west Belfast took up the demand.

That is the only evidence that we have about the demand for late licences. In the absence of any other evidence, the club sector is arguing for more nights. Perhaps even the amendment tabled by the Members on the opposite Benches, which asks for 156 days, is insufficient for some elements of the club sector. However, we have no evidence from that sector about the level of demand or the nature of the pressure on its business.

The evidence that we have before us is all that we have. It may be imperfect, and it may not be entirely persuasive because of incompleteness or the time that has elapsed since it was produced, but it is good evidence nonetheless. It shows that around one in 10 clubs are using their 52 nights, and a great many are not using any of them at all. I pursued the matter at a local level and spoke to volunteers who operate Comber Rec Football Club, a local club in my area, which I frequently attend.

Mr Humphrey: That would drive you to drink.

The Chairperson of the Committee for Social Development: It is worse for them than that. Indeed, in a profile of the club that appeared in the amateur football section of yesterday's 'Belfast Telegraph', I was listed as the club's most famous fan.

Mr Humphrey: These things are relative.

The Chairperson of the Committee for Social Development: That is right. Watford has Elton John, Celtic has Rod Stewart and poor old Comber Rec has only me.

I spoke to the volunteers who run the bar in that premises. They said that they open late nowhere near 52 nights a year and, indeed, even in a very good year, not even close to half that number. From speaking to others who are involved in the club sector, I found that that is very much the pattern right across Northern Ireland. Clubs do not take up anywhere near their full quota of late nights.

The other reason why I think that we should be pushing for a lower number is that, although they do vital work in our community, clubs are not meant to be in direct competition with pubs, hotels, bars and restaurants. For me, that is the vital point. An arbitrary number of nights can be picked, but, whatever that number is, it should not be so high that it threatens pubs, hotels, restaurants and bars. Too high an increase can threaten the business of pubs, hotels and so on.

The figure of 156 has been produced because that is three late nights a week. However, almost any bar in Northern Ireland cannot afford to open on three late licences a week, certainly given the current economic climate. I am sure that it would be rare, these days, to find many pubs outside Belfast that open on more than one late licence a week. As everyone knows, times are difficult, but, even if times were better, those pubs would struggle to afford to do it. On the other hand, clubs' overheads are much lower because of their inherent nature and the way that they are constructed. Their rates are lower; some clubs have no rates at all. Bars, pubs and hotels, however, pay a social premium on top of their rates to cover payments for the health or policing and justice implications of some of the things that they do. They make additional payments to their rates. Many of the bars in registered clubs are manned or "womanned" by volunteers, which is clearly not the case in other licensed premises such as pubs, bars and restaurants.

Clubs are not meant, and they were never meant, to be in direct competition with pubs, bars and restaurants. To increase the number of late nights that registered clubs can open would put them in direct competition with pubs and hotels. Some may say that that is a very protectionist argument, and I suppose that it is. However, hotels, pubs, bars and restaurants are businesses that contribute considerable amounts of tax revenue to our society, which we reinvest in public services. Those businesses employ people and keep them in work, and they are an essential cog in the wheel that is our tourism industry. We threaten that in any way, shape or form at our peril. Tourists do not come to Northern Ireland to have a drink in registered clubs. They come here to have a drink in our pubs or hotels.

We need to be very careful about the level at which we set the number of late nights that registered clubs can open and, indeed, about some of the other amendments that I will refer to. I think that a total of 85 nights is a reasonable, proportionate number. It is an increase. It may be styled as a lowering because it is lower than 104, but it is an increase from 52 of nearly 63% or two thirds. I am sure that some Members would be happy for the figure to be minus 85 nights, never mind 85 nights and an increase of more than 30. We have to be realistic. We are increasing the number of nights from a base of 52, but, other than in a small number of clubs, there is no evidence of a demand pushing through that. A figure of 85 nights is a good first staging post from which to see what the demand is, gauge it at a later stage and, indeed, see whether there is a credible case for increasing that in a way that will not damage pubs, hotels and bars, which is the critical point.

The Member opposite has not moved three amendments that would effectively lower the penalty-point period. I am glad that he did not move those amendments. I have some sympathy for the point that he was making. At Committee Stage, I used the example of big supermarkets, whose transactions are worth millions and millions of pounds every year. Given the volume of alcohol that those supermarkets sell and the number of people who go through, there are bound to be infractions. I thought that a three-year period may be a bit too long.

7.45 pm

I was convinced by the argument that, at the end of the day, selling alcohol to minors is wrong, as is staying open beyond opening hours and serving and encouraging those who are already drunk to drink more. I do not think that it is right that people should get away with repeatedly committing those offences, because they are all wrong. I appreciate that the Member has not moved the amendment. However, from listening to the Minister's comments, I think that that amendment has been parked rather than completely thrown out, so I urge a note of

caution on this. If we were to lower the shelf life of penalty points, there would be the potential for clubs to get away with illegality and for them to —

Mr F McCann: I know that there were lengthy debates and that the legislation spent a long time going through Committee; the Member is right about that. However, one of the reasons why we tabled the amendment on penalty points was to address the whole issue in and around the accounting of clubs. Clubs have voluntary committee members, so membership can change yearly and many members change positions. In addition, committee members do not have experience of accounting, whereas clubs and hotels bring in professionals to do that. I, therefore, think that it would be wrong if a club accrued points over three years because of the inexperience of a committee member, which could effectively mean that it had to close. That is the reason why we tabled the amendment. It is a crucial point.

Committee members' opinions yet again varied widely on the issue of late licences. We initially narrowed the number down to, I think, 104. However, the problem is that most clubs are dying on their feet. They want the option to be able to open late in order to bring in revenue. I understand that the Member is saying that clubs are, by and large, voluntary. At this point, it would be remiss of me not to declare my interest as a member of Cumann na Méirleach in west Belfast and of the Irish National Foresters. I know from experience that many clubs are finding it very difficult. I have every sympathy with pubs and hotels, but this cannot be done at the cost of the clubs, which are also dying on their feet. That needs to be taken into consideration. In fact, when representatives of the pubs and clubs came in and we started to investigate where some of the responsibility for the problems with late licences and late events actually lay, we found that it was with the hotels and pubs rather than the clubs.

The Chairperson of the Committee for Social Development: I thank the Member for his intervention. I will take his last point first. The argument that clubs are dying on their feet can be made. However, I am sure that, if representatives from the pubs were here, they would make the same argument about their sector. The argument against the Member's point about radically increasing the number of late licences is that there is only a certain amount of revenue that the people of Northern Ireland can spend in pubs, clubs and bars. If there are more opportunities for people to consume drink in registered clubs — the Member knows from experience that the prices in clubs are significantly less than in hotels and pubs — they will clearly try to avail themselves of that, thus threatening pubs, hotels, and so on.

Mr F McCann: There is no evidence of that.

The Chairperson of the Committee for Social Development: Equally, there is no evidence that the club sector is dying on its feet. There is also no evidence to support increasing the number to 85. If I were to accept entirely the thesis that clubs are dying on their feet, I would have thought that the number of late night licences being taken up would have been higher than 13% in five out of the eight districts, which is the evidence that was put before the Committee. I would have expected that to be up at 25%, 30% or maybe even higher. That would have been persuasive evidence that there is pressure there and that clubs need to open more in order to get more revenue to support their activities. However, that is not the case and is not evident.

I understand the point that the Member made about his amendments, but I do not want to talk too much about amendments that have not been moved. Those amendments did not provide for similar reductions for shelf life in respect of pubs and hotels. I pushed that point at Committee, and I was persuaded by the arguments put forward by the Department that, in circumstances where a club committed an infraction potentially incurring penalty points, the level of the penalty could be reduced or not applied at all if an argument were accepted that there were mitigating circumstances. The fact that there have been very few prosecutions over the years for any of those sorts of offences reflects the good behaviour of most club owners. That is a persuasive argument that we do not need to reduce it any further, encouraging potential illegality.

I am completely opposed to amendment No 23, which would permit young people into licensed areas of registered clubs after 9.00 pm until 11.00 pm. I do not know whether the amendment will be moved, but, given that we are debating the group, I will address it and put a marker down. I have heard the argument made by some that, if sports clubs are running events

in the summer, and that event perhaps does not finish until 9.00 pm, children could not go into the club afterwards if there were a prize-giving ceremony, etc. I know that it is not possible in every club, but there are ways in which children can still be in clubs in other, non-licensed areas.

I do not want to sound like some sort of puritan, but I think that there are moral issues about letting children into bars until 11.00 pm, which is normal closing time. Any of us who are parents should feel a bit uneasy and a bit queasy about that becoming the norm in any licensed premises in Northern Ireland. Again, no such exemption has been put forward in the amendment for pubs or hotels: we cannot treat one establishment in one way and not the other. That could lead to a situation in which an event was taking place in a club where kids could stay until 11.00 pm, but if they were attending exactly the same type of event in a pub, they would have to be thrown out at 9.00 pm. That would be a very unlevel playing field and an unfair situation.

Amendment No 24 is about removing restrictions on advertising for registered clubs. Again, I am completely opposed to that. The point that I made previously still stands: pubs and clubs are not in direct competition. If anything, it could be argued that there is unfair competition in favour of registered clubs. I get the sense sometimes that the club sector wants all of the positives of being a registered club, with lower overheads and so on, and all the positives of being a pub as well. Clubs want to look ever more like pubs without having the downside of being in a heavily regulated sector. Who are the clubs are aiming their advertising at? Clubs are for members, not the general public. I learn something new every day in this game, and I have been told the ratio is that, for every three members of the club, only one member of the public can be signed in. Who on earth are they advertising to? If there were an Elvis Presley impersonator in my local sports club, and I wanted to go but I am not a member, I would have to find three members to sign me in. That may not always happen in practice, but that is the law: that is what I would have to do to see the Elvis Presley impersonator. That is not a good marketing strategy. Who are clubs marketing and advertising to? There is absolutely no point —

Mr F McCann: Will the Member give way?

The Chairperson of the Committee for Social Development: Yes, I will.

Mr F McCann: Some of those clubs probably have between 600 and 800 members on their books, who may live over a very wide distance. It is almost impossible to be able to keep in contact with all those members. It is about pushing an advertisement out so that members can tap into it, and if they want to bring a guest or a friend, so be it.

The Chairperson of the Committee for Social Development: The Member's interpretation of his amendment may be that clubs are advertising to their own members. That is not in any way prohibited; in fact, that is done.

Mr F McCann: It is not done through the press.

The Chairperson of the Committee for Social Development: But the point is that there is no one in the wider public to advertise to, in the traditional sense of advertising.

Take things like weddings. I know that wedding parties have been hosted in clubs. A wedding party cannot take place if there are only members of a club and a ratio of 3:1. It is preposterous. That should not happen under the law, but it does.

I accept that there is clearly confusion about what can be advertised. There is a need for this to be made clear, as there is with other aspects of the legislation. Clubs need to be clear about what their responsibilities are and what they can and cannot do. I received a document that highlights the extent of the confusion. It was from a club, and it advertised — which is wrong in itself — to everyone its full Christmas product: menus, parties and all of that.

Mr F McCann: Was it from Comber Rec?

The Chairperson of the Committee for Social Development: It was a Civil Service club, advertising its product externally. When we have a Civil Service club advertising, I completely understand the confusion. It needs to be clarified, but I do not support clarifying it by relaxing it in the way in which amendment No 24 proposes.

Finally, Members will be glad to hear, amendment Nos 28 and 28 propose fewer penalty points for failure to meet accounting or book-keeping rules. I understand where those amendments are coming from, and I have a small degree of sympathy for what they are suggesting. The

amendment to reduce the shelf life of penalty points from three years to 12 months was not moved, but the offences are in no way trivial. I accept that selling alcohol to a minor or encouraging drunkenness are severe offences. In comparison to those, keeping books and records and auditing accounts looks a bit trivial, but they are serious offences. Is anybody here seriously suggesting that we should life would tacitly say to clubs that those things do not matter as much? They do. A three-year shelf life provides the opportunity to see when clubs are not stepping up to the mark on one, two or three occasions over that period. If that happens, it is an indication that that club has a serious problem. Those matters are not trivial; they are there to make sure that there is proper conduct and probity, that there are no offences going on and that there is no potential for money laundering or abuse. Very few offences in respect of any of those breaches have been recorded. There ought not to be the degree of concern that other Members have expressed, so I oppose amendment Nos 28 and 29.

In conclusion, registered clubs do valuable work in our society, but they are not pubs and they are not meant to be in direct competition with pubs. Some of the amendments, including those concerning late nights, advertising and letting in young people, are making what some may argue is an already unfair situation even more unfair and threatening a key component of the tourism industry, which is a sector that we want to see grow over the next number of years. With that, I happily conclude my contribution. I support amendment No 21 — I encourage others to do so — and oppose all the other amendments.

Mr F McCann: I do not wish to move the other amendments.

Mr McCallister: I will keep my contribution very short. It appears that the Committee Chairman is in competition with the Minister as to who can speak for the longest. I will leave that challenge to the Minister; I am sure that he will respond in kind.

I could not quite hear what amendments Mr McCann is not moving, but I will limit my remarks to the more contentious elements in the group. I agree with the Committee Chairman about the work that clubs do across our society. I think that people are surprised by the range of sporting and leisure activities that clubs do.

Clubs are there primarily to service their members.

8.00 pm

During the debate about the appropriate number of late licences that should be granted in a year, we came to the same conclusion as the Chairperson and the Alliance Party that 85 is probably the right figure. As the Chairperson said, nobody had an absolute idea of the right number. However, 85 is the number that we decided on, and the rise from 52 to 85 is significant. Of course, that can be reviewed once we have seen what goes on.

For some of the reasons outlined, including, for example, the holding of prize nights, we are sympathetic to amendment No 23, which proposes a new clause, "Young persons prohibited from bars". We will be guided by the Minister on that. We support the technical changes. However, we are opposed to the advertising proposals, which would give an unfair advantage to private clubs. Clubs are there to service members' needs, so we have to ask why they would want to advertise particular events. Where the other amendments are concerned, particularly those on levels of fines, we are happy to be guided by the Minister according to what he and his Department feel is appropriate.

Mr Craig: I have listened to the debate with great interest. I am almost expecting a letter of congratulations from Dr Paisley, because we seem to have converted almost everyone to opposing to the drinks trade. I find that fascinating.

I will start by declaring a lack of personal interest in the drinks trade. It will come as no surprise to my colleagues that I am the third generation of my family who, frankly, never touches the stuff and never has. I am genuinely proud of that fact. If anyone were to ask me which person in history I most look up to, they would not be surprised to find that it is an individual called Billy Sunday. I threatened my colleagues by saying that I would regurgitate the speech that he made about alcohol, which took a mere hour and a half. However, I will deeply disappoint my colleague from South Down by refusing to do that. That speech had an impact in the States, because, frankly, it led to the total prohibition of alcohol in that country.

Mr McCallister: Does the Member agree that prohibition in the United States was a disaster? It led to bootlegging and all sorts of other illegal activities. The essence of the Bill and the reason why we support it is to encourage

responsible drinking. It is not designed to bring about prohibition. I am surprised that the Member did not table an amendment —

Mr Speaker: Let us get back to the grouped amendments, and leave prohibition where it should be left.

Mr Craig: I agree, Mr Speaker. If the Member had allowed me to continue, he would have been even more disappointed, because I would have agreed with him that prohibition was a disaster for the United States. If the Member cares to read amendment No 21, he will see that it has my name on it, so he will be doubly disappointed to find that I am not going down that route. I am asking for a sensible solution to what is a difficult issue for the House.

No one in the House wants to see the abuse of alcohol. In fact, Pat Ramsey made a strong and passionate speech on that subject, and I commend him for that. He outlined how it had affected his family. Few families, whether of Members in the House or in Northern Ireland as a whole, have not been adversely affected by the abuse of alcohol. I speak personally. Unfortunately, some of my friends went to their grave at a very young age because of the abuse of alcohol. One of them was in his early 30s; he left a wife and four very young children. That gives me no enthusiasm for expanding the trade; there is enough trade in Northern Ireland for alcohol.

There is a side effect to the abuse that, for some reason, we all want to ignore and bury. We discussed how the cost of alcohol abuse is £700 million a year. The Health Minister could do with that money. In fact, there would be a double advantage because, as my wife often tells me — she is a paramedic — 85% of incidents that paramedics go out to are related to alcohol abuse. Tackling alcohol abuse would massively reduce the need for emergency services, and, therefore, the Minister's budget would be well and truly down.

For those reasons, I am keen to come to a sensible balance; that is why I support amendment No 21. When we looked at the evidence on what clubs need to do to survive, I found it ironic that so few of them used the provision for 52 late openings a year. In fact, I did a survey of clubs in my constituency and discovered that none uses the 52 late openings. Perhaps that says something about the need for them. Why do some clubs want more than 52 late night openings? My colleague Simon Hamilton came very close to the reality: some of them want to go into competition with other parts of the trade. That should not happen. Are they losing sight of what they are there for? They are there to support sports financially and keep them running, and they are given distinct advantages so that that can be done efficiently. They do not have all the overheads and regulations that pubs and hoteliers have to put up with. That speaks for itself.

I reject amendment No 23. I find it repugnant that anyone would allow children to stay in a club until 11.00 pm. In fact, I find it difficult to understand why parents would want their children to be in that sort of environment even until 9.00 pm. However, that is a matter for those parents. It would not happen in my household, but that is a different matter. Am I right, Mr Speaker, that that amendment has been withdrawn?

Mr Speaker: Let us be clear: it is up to the Member to clarify his intentions at the time.

Mr Craig: Thank you, Mr Speaker. I await that with anticipation. I do not think that there would be much public sympathy for the idea that children could stay until 11.00 pm in an atmosphere where alcohol is sold openly.

I also reject amendment No 24, which would omit restrictions on clubs. It is incredibly amusing that the Civil Service club is making those advertisements down the road. In fact, what it is advertising is quite enticing, and, given the lateness of the hour, I am, to be honest, very tempted to take the offer up on the road home. Then again, I would need three members to sign me in, and it is debatable whether three of them would want to do that.

I am content to support amendment Nos 25 and 26. I reject amendment Nos 28 and 29, which weaken the penalty on licence holders for failing to provide information to the authorities. In most cases, the penalty is probably not required, but it should not be weakened.

The Minister for Social Development: I thank everyone for their contributions, and I will resist Mr McCallister's invitation to make a long speech. I will have the opportunity at Further Consideration Stage, so the punishment is only delayed.

As I said, the Executive's view and my view is that the Bill should allow 104 late licences a year. I appreciate that that is a difficult matter to judge. I am not diminishing any or all of that. Mr Craig, rightly, rehearsed the risks of alcohol abuse and said that a difficult balance is to be reached. Despite the fact that generations of his family have followed the path of temperance, it is interesting and noteworthy that Mr Craig still puts his name to the argument for an increase in the number of late licences for clubs. That reflects a proportionate and balanced approach, whatever I might think is the right number of late licences for clubs.

What I have tried to do around alcohol and, indeed, other licensing issues is to strike a balance between mitigating the worst practice and facilitating good practice. By that I mean that the proposals that might be forthcoming on the minimum pricing of alcohol and the proposal on irresponsible drink promotions, which has been endorsed tonight at Consideration Stage, are an attempt to intervene at a legislative and ministerial level to mitigate alcohol abuse and worst practice. At the same time, the proposals try to create around pubs and clubs disciplines to encourage good practice, of which there is much, and to enable pubs and, especially, clubs to have some further flexibility to build on the good work that they reflect in many of the communities around Northern Ireland. My approach is to legislate for and mitigate the worst and, at the same time, facilitate and build on the good practice. That is the approach that I am trying to work through in the various proposals and amendments before us.

The most cogent arguments were, at some length, articulated by Simon Hamilton, but there is a tension in some of the arguments that he articulated and a tension in some of the wider arguments that have been deployed in the debate. In the best argument that has been advanced in the debate, Simon Hamilton pointed out, rightly, that there is no great demand for the number of late licences to increase to 104, 120 or 156. The argument goes that, if there is such a demand, that would be reflected in clubs' uptake of late licences under the current regime. As Mr Hamilton and other Members have outlined, on that basis, there is not much evidence of demand. As Members pointed out, the figures are somewhat limited, but they suggest that only 13% of clubs use the full quota of 52 nights; only 10% of clubs use between 41 and 51 nights; only 10% of clubs use between 31 and 40 nights; 48% of clubs use between one and 30 nights; and 27% of all clubs — that is, nearly 30% — do not use any late licences at all. Therefore, in one way, the argument that there is no demand is confirmed by those figures. However, the consequence is that nobody in the Chamber, including Simon Hamilton and his colleagues, should put their name to any increase beyond 52 licences, yet they have done so. If there is no demand, we should follow the evidence, and people should hold to the argument that there should be no increase to 85 licences, never mind a higher figure. Yet, Members are going down that road because there is something informing their judgement that says that, whatever the figures might be in respect of the current entitlement under the law, people think that there is a need for more flexibility.

8.15 pm

The second argument that Mr Hamilton advanced was that, if the number of late licences were increased to 104, it would threaten other licensed outlets, such as bars and restaurants. However, if the figure were increased to 85, it would also threaten them. I do not accept the argument that, if the figure were increased to 85, it would not threaten other outlets, yet, if the figure is increased to 104, those outlets would be threatened. The difference is 19 late licences. On the basis of the current uptake of late licences, the vast majority of clubs would not use those 19 late licences. Therefore, I do not accept the argument that, if I and others endorse the increase to 104, it will somehow threaten restaurants, when, according to Mr Hamilton's logic, an increase to 85 would not threaten them. Regardless of whether the figure is 85, 104 or 156, the evidence suggests that they would not take them up anyway. Therefore, on the basis of the evidence, there is no real argument to suggest that, if the number of late licences is increased, it will have a disproportionate impact on other licensed premises. The evidence does not back it up.

Mr Craig: Will the Minister give way?

The Minister for Social Development: I will give way in a moment. The consequence is that the figure of 85 is as arbitrary as 104, which is as arbitrary as 156. There is no particular argument for coming down in favour of 85 over 104.

That leads me to my third argument. There is no credible basis for concluding that an increase

to 104 licences in all those circumstances would be a tipping point in respect of the impact on restaurants, the level of alcohol abuse or any other credible criteria. There is no reason to suggest that 104 is so different from any lesser figure that it will somehow have a disproportionate impact and mean that we cannot go down that road.

If Simon Hamilton, Jonathan Craig and others have an argument, which they do, it should be to hold to 52 late licences and oppose any increase. To oppose any increase is consistent with the apparent evidence on the take-up of existing licences. If there is a threat to other licensed premises, opposing an increase will mitigate that. If the figure remains at 52, it will create further disciplines around licensed clubs in a way that mitigates the risk of alcohol abuse. The consistent, logical, rational argument, based on those that were advanced by Simon Hamilton and others tonight is to hold to 52 late licences, do not increase it to 85 and certainly do not go any higher.

That leads me to the reason why we should decide to have 104 late licences. The figure of 104 will not have any adverse, disproportionate impact on other licensed premises. It will create an opportunity for a small number of clubs, which might increase over the next number of years, given the situation that we face in Northern Ireland where, unfortunately, people will need to rely on using their own resources to get on in life. That will lead to a greater demand for licensed clubs in the North, especially sporting clubs, to fulfil their wider social responsibilities, including social cohesion. If clubs are given 104 late licences, a small number — perhaps, only 13% now or 20% in the future — will be enabled and given the opportunity to do good work and business in communities in every walk of life in Northern Ireland. That figure may be as arbitrary as any other, but it is also as good as any other. It creates the opportunity for clubs to develop their work in communities without having to look over their shoulder and worry that they might be on the wrong side of the law when it comes to various activities. Not many clubs will take up that number of late licences, but, if just 10% or 20% of them plan to do so, they should be given that opportunity. They play a role in society that other Members have spoken about. It is as good a figure as any other. However, it does not carry the risks of any other figure. In those circumstances, I commend that amendment to the House.

I want to make a number of issues clear about other amendments, some of which are now not moved and some I am prepared to consider. As I indicated to those who tabled the amendments, there is one that I have no sympathy with: the amendment to the schedule that would treat all offences in respect of certain club activities in the same way. It is a false and bad principle of law that, regardless of whether an offence is serious or less serious, it will incur the same and equal penalty. That is hostile to all good legal practice and proper convention. As Mr Simon Hamilton mentioned, our society would not have any understanding of a principle legislated for by the Northern Ireland Assembly that says that, if someone is bad, they are treated as though they were less bad. That is a moral, political and practical principle that I do not agree with. It is hostile to all good law and precedent.

I am prepared to look at the issue of children in licensed premises between 9.00 pm and 11.00 pm. It is simply a fact that sporting activities will take place at those times. Most people believe that much of that has to do with the interests of the GAA and other sporting clubs. This afternoon, I spoke to someone from a soccer club at which almost 300 young people are involved in activities. Those young people want to go into the licensed premises, as he put it, “for a Coke and a packet of crisps”. In many instances, clubs’ premises do not have the capacity, as Simon Hamilton indicated, to dedicate a particular area for the use of young people after 9.00 pm.

The issue, now that many sports clubs have floodlights and, particularly, during the summer, is how to accommodate the needs, sporting or otherwise, of clubs that respond to the needs of young people in their area. Is there an argument that flexibility could be shown on access to licensed premises during part of the day without the worst fears, which I understand and which were outlined by Jonathan Craig, about young people being in a drinking environment?

I said that I would look at the issue of advertising. Is there an issue of fair and proper competition in allowing clubs to advertise to their own members? In respect of offences, endorsements and whether certificates of registration should be valid for three years or less, options of one, two or three years might be worth exploring.

I made it clear to those who withdrew amendments that it would be difficult to achieve consensus

on any or all of those matters. It will be very difficult, but, given the conversation that has been going on inside and outside the Chamber, it is worth exploring those matters to see whether something can be evolved and developed between now and Further Consideration Stage that will, in a sensible and proportionate way, make proposals to answer those needs.

Question put, That amendment No 20 be made.

The Assembly divided: Ayes 22; Noes 34.

AYES

Ms M Anderson, Mr Attwood, Mr Boylan, Mrs M Bradley, Mr PJ Bradley, Mr Brady, Mr Burns, Mr Butler, Mr Callaghan, Mrs D Kelly, Mr A Maginness, Mr A Maskey, Mr F McCann, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mrs McGill, Mr McGlone, Mr Murphy, Mr O'Loan, Mr P Ramsey.

Tellers for the Ayes: Mr Burns and Mr McDevitt.

NOES

Mr S Anderson, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Easton, Dr Farry, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hamilton, Mr Humphrey, Mr Irwin, Ms Lo, Mr Lunn, Mr Lyttle, Mr McCallister, Mr McCausland, Mr B McCrea, Mr I McCrea, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr Ross, Mr Spratt, Mr Weir.

Tellers for the Noes: Mr Craig and Mr McCallister.

Question accordingly negatived.

Mr Speaker: Amendment No 21 is mutually exclusive with amendment No 22.

Amendment No 21 proposed: In page 18, line 42, leave out "120" and insert "85". — *[Mr Hamilton.]*

Question put.

The Assembly divided: Ayes 34; Noes 21.

AYES

Mr S Anderson, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Easton, Dr Farry, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hamilton, Mr Humphrey, Mr Irwin, Ms Lo, Mr Lunn, Mr Lyttle, Mr McCallister, Mr McCausland, Mr B McCrea, Mr I McCrea, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr Ross, Mr Spratt, Mr Weir.

Tellers for the Ayes: Mr Craig and Mr McCallister.

NOES

Ms M Anderson, Mr Boylan, Mrs M Bradley, Mr PJ Bradley, Mr Brady, Mr Burns, Mr Butler, Mr Callaghan, Mrs D Kelly, Mr A Maginness, Mr A Maskey, Mr F McCann, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mrs McGill, Mr McGlone, Mr Murphy, Mr O'Loan, Mr P Ramsey.

Tellers for the Noes: Mr Burns and Mr McDevitt.

Question accordingly agreed to.

Mr Speaker: Amendment No 22 is mutually exclusive to amendment No 21, which has been made. Therefore, I will not call amendment No 22.

Clause 9, as amended, ordered to stand part of the Bill.

Amendment Nos 23 and 24 not moved.

Clause 10 (Ancillary Provision)

Mr Speaker: Amendment No 25 is a paving amendment for amendment No 26.

Amendment No 25 made: In page 19, line 4, leave out "subject to negative resolution,". — *[The Minister for Social Development (Mr Attwood.)]*

Amendment No 26 made: In page 19, line 8, leave out subsection (2) and insert

> *"(2) An order under this section may amend, repeal, revoke or otherwise modify any statutory provision or document.*
>
> *(3) The power conferred by this section is not restricted by any other provision of this Act.*
>
> *(4) An order shall not be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the Assembly." — [The Minister for Social Development (Mr Attwood.)]*

Clause 10, as amended, ordered to stand part of the Bill.

Clauses 11 to 14 ordered to stand part of the Bill.

Schedule 1 (Schedule to be inserted in Licensing Order as Schedule 10A)

Mr Speaker: Amendment No 27 is consequential to amendment Nos 8 and 9.

Amendment No 27 made: In page 21, line 32, at end insert

"57A(5)	*Contravention of regulations as to irresponsible drinks promotions*	*5-6*
57B(2)	*Contravention of regulations as to pricing of intoxicating liquor*	*5-6"*

— [The Minister for Social Development (Mr Attwood).]

Schedule 1, as amended, agreed to.

Schedule 2 (Schedule to be substituted in Registration of Clubs Order for Schedule 6)

Amendment Nos 28 and 29 not moved.

Schedule 2 agreed to.

Schedule 3 (Amendments)

Amendment No 30 made: In page 24, line 3, at end insert

" . In Article 2(2) (interpretation)—

(a) in the definition of 'licence', after the word 'Articles' insert '57A, 57B,';

(b) in the definition of 'licensed premises', after '55,' insert '57A, 57B,'." — [The Minister for Social Development (Mr Attwood).]

Schedule 3, as amended, agreed to.

Schedule 4 agreed to.

Long title agreed to.

Mr Speaker: That concludes the Consideration Stage of the Licensing and Registration of Clubs (Amendment) Bill. The Bill stands referred to the Speaker. I ask the House to take its ease before we move to the next item of business. However, I ask Members to maintain a quorum.

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

Transport Bill: Further Consideration Stage

Mr Deputy Speaker: I call on the Minister for Regional Development to move the Further Consideration Stage of the Transport Bill.

Moved. — [The Minister for Regional Development (Mr Murphy).]

Mr Deputy Speaker: As no amendments have been tabled, there is no opportunity to discuss the Transport Bill today. Members will, of course, be able to have a full debate at Final Stage. Further Consideration Stage is, therefore, concluded. The Bill stands referred to the Speaker.

Motion made:

That the Assembly do now adjourn. — [Mr Deputy Speaker.]

Adjournment

Mr Paul McCauley

Mr Deputy Speaker: The proposer of the topic for debate will have 15 minutes in which to speak. All other Members who wish to speak will have approximately six minutes. Given the topic of tonight's debate, I warn Members to exercise the utmost caution and to be particularly careful to say nothing that may prejudice any future proceedings.

Ms M Anderson: Go raibh míle maith agat, a LeasCheann Comhairle. I thank the Business Committee for agreeing to the debate. I also thank those Members who have stayed on, and I particularly thank Minister Conor Murphy for staying to hear the opening contribution.

I pay tribute to Paul McCauley's family and to all families in similar situations. I accept that many families have suffered, and I put on record that all of those families are entitled to justice. However, we focus this evening on the attack on Paul McCauley, and this Adjournment debate is on behalf of his family.

I first met Paul's father, Jim, formally on St Patrick's Day last year after he had requested my help, as a member of the Policing Board, in getting the PSNI to renew its investigation. Since then, we have met on many occasions. Throughout, I have been in awe at the quiet dignity and determination that the McCauley family have displayed during their heartbreaking search for justice. They spend hours every day with Paul in hospital talking, playing music, reading to him, caring for him and just being there with him. Their courage and commitment to their son is a fine example to us all.

It is almost five years since their lives were shattered by the brutal sectarian attack on their much-loved son in July 2006. Paul, a young father with his whole life in front of him, was cruelly robbed of his future during a frenzied attack that caused devastating injuries. Now, Paul is capable only of blinking, which his family believe is his means of communicating with whoever is speaking and trying to make themselves understood to him.

Paul, like any young person on a summer's evening, had been enjoying a barbecue at a friend's home in the Waterside area when a gang carried out an unprovoked attack. His head was repeatedly stamped on as he lay on the ground. He has never regained consciousness and is still in a vegetative state. His two friends, one of whom is disabled, were also severely beaten.

Up to 15 people were involved in that brutal attack, but only one person has been convicted. That is why we are here today. There is nothing that any of us can do to give Paul back the life that was stolen from him. There is nothing that we can do to bring back the son, brother or father who is trapped in a nightmare from which there is no waking. The only thing that we can do is to help to get justice for Paul and his family. They are enduring a life sentence while the perpetrators of this cowardly and brutal crime are free to walk the streets of our city.

I acknowledge the fact that the PSNI agreed to review its investigation and that it has directed additional resources towards it. All of us remain hopeful that a renewed focus might provide a breakthrough. However, that is only the first step. The fact is that up to 15 people were involved in the attempt to murder Paul and his friends, and their identities are well known in their community. They received assistance on the night of the attack, but there is no doubt that information has been withheld from the PSNI. Jim McCauley, Paul's father, refers to that as the wall of silence. He has made a direct appeal to unionist politicians and people with influence in the area of unionism from which those individuals came to help to break that wall of silence in their tradition.

I have visited Paul, as I know others such as my fellow MLA Pat Ramsey have done, and I wish only that those who continue to protect Paul's attackers could see the pain and suffering that he and his family endure. Perhaps then they would have second thoughts about shielding those responsible. There is an onus on every one of us, and particularly on elected representatives, to encourage those with information about the attack to come forward. If leaders of unionism were to join us in that appeal and work in their tradition to get people to come forward, that would send a positive and reassuring message

to the McCauley family and, indeed, the wider community of Foyle.

I do not underestimate the challenge. When Emmet Shiels was murdered under terrible circumstances, the Bogside and Creggan rallied round, and Raymond and I, along with many others, were involved in that rallying and encouraged people to work with the PSNI. I appeal to anyone with influence in the unionist tradition to help to break this wall of silence.

Mr McCallister: I am grateful to the Member for taking an intervention.

The Member describes a terrible and dreadful case and circumstances that no one would wish on any person or family. It was a despicable and deplorable attack on someone enjoying an evening out that ended in such awful and tragic circumstances. The family has to live with the nightmare of the stress and strain and has to endure that for the duration of their lives. That is a difficult sentence for any family.

As an elected representative of the Ulster Unionist Party, I have no trouble whatsoever in calling, and supporting the Member's call, for people to come forward with information to the police in whatever format or in whatever way that is of use to bring the perpetrators of this dreadful attack to justice. As elected representatives, we want to encourage people to come forward, and sometimes that is not easy. I join her in calling anyone from any side of the community who has information please to come forward and give it to the police. The information can be given directly to the police or via a confidential telephone. I urge our councillors on Derry City Council to give that information because it is vital that the perpetrators be brought to justice.

Ms M Anderson: I really appreciate the Member's intervention and all that he said. Without even having spoken to Jim McCauley and his wife Cathy, I know that they will appreciate everything that the Member said.

It is that direct appeal for information and assistance that prompted me to secure this debate, after having raised the idea with the McCauley family. It is also an opportunity to encourage the Justice Minister to utilise all means at his disposal to ensure that the perpetrators are caught and convicted.

9.00 pm

As I have already stated, the PSNI has reviewed its investigation and additional resources have been directed towards it. However, it would be reassuring for the McCauley family to hear directly from the Minister. I know that he will respond to the debate, and I thank him for being in the Chamber. I know that he will leave no stone unturned in the hunt for justice.

It is not just about resources. There are many legislative implications that the Department of Justice should be exploring. For example, the one person convicted of this attack, Daryl Proctor — I assume that I can name him because he was charged and convicted — was sentenced for causing grievous bodily harm with intent. Despite what he was charged with, that is what he was convicted of. Many people will ask why an attack of this nature, which caused such terrible injuries, was not treated as attempted murder.

It is easy, therefore, to understand the hurt and pain that the family feel and what they have endured. Instead of the community challenging Daryl Proctor and all the others who were involved — I listened to the intervention made this evening — that man was given a reference from a leading community worker in the Fountain. That is a very negative message to send out to people. I say that especially given the continued refusal of Proctor to co-operate with the PSNI. That, in itself, should be a primary consideration when he applies for parole, if that is within the gift of the Minister.

Other disturbing aspects of this case have come to light largely as a result of the efforts of the McCauley family. I mean things like the hate messages and the sectarian bile that have been posted on social networking sites by those allegedly involved in the attack. That behaviour, along with the apparent inability of the PSNI to take decisive action against the hate crime, are issues that the Department could look at and address.

Although there are many issues that the Assembly should address as a result of this case, today should also be about showing solidarity and support to the McCauley family on a human level. Not everyone in the Chamber would have attended the event that I was at this weekend, but I joined many thousands of others from across Ireland and across the world in a march through Derry in support of the Bloody Sunday

families and their long arduous 39-year battle for justice. Here we have another grieving family who are facing their own battle for justice, and it is important that we send the message to the McCauley family that they are not alone. There will be people with them every step of the way. They have our love, solidarity and support, and we will do everything in our power to help them to get justice for Paul. Go raibh míle maith agat.

Mr P Ramsey: I thank Martina Anderson for securing this Adjournment debate. It is an appropriate debate for the Assembly, given the awfulness of the circumstances and the shadow that is hanging over the crime against Paul McCauley.

Paul McCauley was 33 years of age. In July 2006, he and a number of friends were having a summer barbecue, as young people do when the weather is good, when, unprovoked, a gang attacked them, viciously and badly. Martina made the point that Jim and Cathy are so deeply, deeply distressed by all this. They are very proud parents of Paul, who was doing exceptionally well within the Civil Service. He was working for the Department of Finance and Personnel and was moving in the right direction in the Civil Service.

I am delighted that the Minister of Justice is here to listen to the debate. Jim and Cathy McCauley have behaved in the most dignified manner in the circumstances, but they feel desperately let down by the justice system. They feel that a proper, full police investigation did not take place in 2006 in the Waterside in Derry. Martina Anderson, rightly, referred to that. Jim McCauley will not mind me saying that he is forensic in his outlook. He painstakingly tried to gather evidence about what happened in order to present a circumstantial case. He was always met by barriers.

I visited the young man in the brain injury unit in Altnagelvin Area Hospital, as did Martina. No one would want to visit a son or a brother in those circumstances. When I was there for half an hour on two occasions, I saw only absolutely limited movement in his body. To all intents and purposes, he is in a long-term coma. His parents visit him daily to carry out what they believe are various types of therapy; Cathy McCauley is a nurse herself. However, they are struggling to make sure that he is getting the proper treatment from the Health Service. They struggled at the beginning to get the various levels of therapy that are necessary for bodily movements.

Paul McCauley should have died as a result of his injuries. He is only living today because of the skilful hands of the surgeons at Altnagelvin Area Hospital and the Royal Victoria Hospital. Jim and Cathy are thankful for that, and, as they say themselves, only the prayers of their family and friends have kept their hope and desire alive that there will be further movement, development or progression in Paul's health.

Martina Anderson said that she took the case to the Policing Board. Along with Jim McCauley, I have met senior police officers in Strand Road at different times when we felt that more progress should have been made, whether on CCTV evidence; on apprehending those people who would appear to have been identified as being responsible for the attack; or on following up on material, thoughts and suggestions that Jim had. He is painstaking and methodical in his pursuit of the matter, because he does not believe that people should be getting away with murder. I concur with that. Paul McCauley is, to all intents and purposes, in a long-term coma. We all hope and pray that a miracle could occur that would enable his mother and father to have the joy that a son can bring.

One young man, a teenager from the Fountain, has been found guilty of grievous bodily harm and is serving a 12-year custodial sentence. There are others who the McCauley family believe are finding some comfort in the unionist or loyalist communities in the Waterside. An IMC report in 2008 confirmed that there was UDA involvement in the attack, but the IMC did not even tell the McCauley family about it. Jim McCauley only found out about it when someone in the press contacted him to ask whether he had seen the IMC report. There is a lot of material around that should and could have been dealt with better by the justice system or whoever was responsible.

However, that is no reflection whatsoever on the current Minister of Justice. I have confidence in David Ford that he would feel that meeting Mr and Mrs McCauley — Jim and Cathy — who, like their son, are decent, honourable and law-abiding people, would be time spent appropriately. It is tragic that, really, a young man's life has been taken away.

Mr Spratt: I thank the honourable Member for giving way. I apologise for not being here at the

start of the debate, but I heard some of it from my office upstairs. I have read about this case in the press and, as a member of the Policing Board, I know that Martina Anderson has raised it at several of our meetings. I do not know the full ins and outs of the case. However, a horrific crime such as this cannot be condoned by any section of the community, no matter what side that is. If stones have been left unturned by the Police Service or in the investigation, and if there is fresh evidence, the crime needs to be revisited and reinvestigated.

It appears that a number of elements of the case need to be re-examined. If anyone from the unionist community has any information whatsoever, they should present it to the PSNI. As a former police officer, I make no distinction between any cases. I have urged that approach in cases right across the board. I just wanted to put on record, from this side of the House, that we would support any further investigation. I do not want to eat into the Member's time any further, and I thank him for allowing me to intervene.

Mr Deputy Speaker: The Member was given an extra minute, but it is nearly up already.

Mr P Ramsey: I genuinely welcome Jimmy Spratt's intervention. It is most appropriate, because the family feel that, at times, they did not get enough support. The concerns that have been expressed, and the fact that John McCallister and Roy Beggs are here as well, will be noted. Jim McCauley has some hope that the new inquiry, led by new detectives, will uncover something that can bring closure to the case and bring those responsible for attempting to murder their son to justice.

Mr McCartney: Go raibh maith agat, a LeasCheann Comhairle. I, too, welcome the fact that this subject has been brought to the Floor of the Assembly. I thank Martina Anderson for doing that and those who have contributed to date. I have not met the McCauley family. However, in the aftermath of the sentencing of the man responsible, Mr McCauley gave an interview on Radio Foyle. Over the best part of an hour, he outlined, in very clear, precise and straightforward terms, what he and his family expect from the justice system. He identified particular failings, but he did not do so with any sense of rancour or bitterness. He did it with a sense of what he felt people should expect the justice system to deliver and a sense that the justice system had failed him in this circumstance.

The fact that we are having this debate tonight will give the reassurance and support that he asked for. He said in very eloquent terms that the court case should not mean that the case is finished. Martina Anderson has led on behalf of my party, and Pat Ramsey has done a great deal of work to ensure that no stone is left unturned. The PSNI has reinvestigated the circumstances and said that they are hopeful that more charges will follow with more evidence, and we all hope that that will be the case.

We want to reassure the McCauley family and offer them support and guidance, and I think that they will take some comfort from tonight's debate. Adjournment debates are sometimes the preserve of Members from a particular constituency. However, the fact that John McCallister, Jimmy Spratt and Roy Beggs, who are not from the Foyle constituency, are here tonight will give some comfort and solace to the McCauley family.

9.15 pm

Mr Beggs: I wish to put my comments on the record. Clearly, this was an unprovoked attack by a gang. I think that the case has similarities to one in my constituency in recent years in which a UDA gang was responsible for an attack on a man. The full support of the rule of law should be given to this. Therefore, I urge anyone who has any information to pass it directly to the police or, if necessary, to contact Crimestoppers on its confidential number so that the case can be further progressed and those responsible held to account.

Mr McCartney: I thank the Member for his intervention. His point is well made. Indeed, the fact that the Minister is here and will respond to the debate is another plank in the support and reassurance that the Assembly is offering to the family. During the Radio Foyle interview, Mr McCauley said that when looking for support and guidance, he was able to get it from people directly linked to the Policing Board. He talked about the absence of access to the justice system, which at that time may have been remote. At least we now have a Minister who is here and is accountable. He is open to meeting families, victims and other people who may have questions about the justice system, and they will get answers, although perhaps not the answers that they seek. However, they

will certainly have a sense that the Minister is listening and willing to respond.

I again thank Martina Anderson for bringing the Adjournment topic to the House and I welcome the fact that all the MLAs from Foyle are here and there is cross-party support. The Speaker cannot be part of this discussion because of protocol, but I have absolutely no doubt from his public statements that he, too, is very supportive of the McCauley family. He has shown leadership in this when, at times, it might have been absent elsewhere.

Mrs M Bradley: We always say that our thoughts and prayers are with the families, but we do not really know how they feel, and no one can imagine how the McCauley family feels. This has been going on for far too long, and I am sure that the family are worn out. I just hope that the Minister highlights the case, gives it whatever priority that he can and keeps it before the police at all times, because they really need to reinvestigate it. The case must not go away until the police have found the people who committed this awful deed against that young man. Until then, they need to keep working at it.

I ask anyone in the communities with even the smallest piece of information to come forward and give it to the police. The tiniest piece of information could be the most important that the police ever get. I urge anyone who has information please to come forward to help the family to find those who did this to their beloved son and help them to get the peace that they need to live again. At least they will then know that they got justice for their son. Paul has not had justice, because he has been lying in a hospital bed for years and can do nothing at all. He cannot communicate with anybody. His parents can go to the hospital to see him and tell him how they feel, but he cannot speak to them. Therefore, if people in the communities know anything, their conscience should be telling them to come forward. Please have the courage to come forward for the family.

Mr Callaghan: Go raibh maith agat, a LeasCheann Comhairle. I also thank Martina Anderson for bringing the topic to the House for our attention. It is evident that the family have suffered not only a heinous wrong but an ongoing trauma as a result of this despicable attack. However, the wider community in Derry has experienced its own shock and trauma at the fact that such hatred was present on its streets and that such a deed could be committed on the back of that hatred.

It is also worth noting that although Paul was obviously the person who was most grievously affected by the events of that evening, other people were injured. Many people who witnessed the savage attack remain traumatised as a result of that heinous barbarism. The House should also note, and I think that it already has, how the barbarity inflicted by that gang in the Waterside on that occasion contrasts starkly with the heroism of the paramedics who attended the scene, the hospital staff who treated Paul then and since, and all those who continue to provide care, treatment and support to him and his family.

For many people, the 'Spotlight' programme that was shown in 2009 brought back in a very real way the impact and effect of that action on the family and our community. It uncovered a very disturbing and deep sectarianism that, if we are honest, many of us in Derry did not realise was quite so deep and still so live, particularly the bile that was published on Facebook by Daryl Proctor and others.

Since then, there appears to have been an omertà, with information not coming forward from parts of the community in our city. I reiterate the call from other Members for anybody with any information whatsoever to bring it to the police through whatever means they feel most comfortable with. The family deserves justice. As Jimmy Spratt said, no stone should be left unturned; there should be a full and complete investigation.

In his decision on the Daryl Proctor case, Justice Hart was absolutely unequivocal as to the sectarian intention of the gang. Sectarianism has deprived Paul of a fulfilling life. He is more or less the same age as me. It has deprived his family of many special moments over the next decades. The message that should go out from this House is that there can never be any cover for sectarianism in our country. The message that should come out from every citizen of our city is that there is no place for sectarianism there either. People in our city and in our community clearly have information relating to this attack, and they need to bring it forward, in the interests of justice and decency.

I call on everybody, including Daryl Proctor, who was at the scene at the time of the attack, to make known whatever information they have to the relevant authorities. They need to look to

their own humanity and they should make that information available to the police for the sake of that family and the wider community and for better relations and a better future for our city and for the North.

Mr B McCrea: I realise that the hour is late, and it was entirely appropriate that Members from the constituency should speak first, but I wanted to stay to add my contribution. It is worth saying, although it has been mentioned a number of times, that there has been an omertà, a failure by people from one section of the community or another to come forward.

I am aware that other Members here — Mr McCallister, Mr Beggs and my friend Jimmy Spratt from the DUP — have already spoken. That is testament to the horror that we all feel about this particular issue. No one who knows anything about even the most basic humanitarian aspect of this can feel anything other than abject horror about what happened to this individual. In a very genuine sense, our thoughts are with the family.

Of course, other Members have spoken about that more eloquently than I can. Suffice it to say that we recognise that it is a very human tragedy. The little contribution that I can make, being some distance removed, is to say to those Members who talk about sectarianism or its root causes that there is absolutely no justification whatsoever for anything as abhorrent as what happened. I do not care what those people's motivations were; it was just not right. It was not humanity.

What happened brings us certain challenges. One has to be careful in how one addresses the matter because there are, of course, deep and underlying issues. It is important that all of us look to find ways to make sure that that sort of thing is not tolerated in our society. There is always a challenge when people speak the platitude that they would like people to come forward with more information. That can be very challenging for people; it is not an easy option. People worry about what the fallout might be for them. They probably think that they do not know very much anyway. We, as politicians, have to try to find a way to create the conditions in which people can come forward and help, no matter how much they think they know. Even sympathy has a part to play. Even if someone can do nothing about solving the crime — I would like to hear from them if they could — it is absolutely appropriate that we say collectively that we will not tolerate that type of behaviour.

I realise that the point of having this Adjournment debate is to highlight an issue that is not being focused on. The benefit of the debate is that we will address it again. Mr Spratt said that he and other colleagues will raise the matter at the Policing Board, and I will certainly do the same. We will look at it again. I suspect that it is not an issue of policing. I suspect that the police want to investigate, but that can only be taken as far as the evidence allows.

On that note, I conclude. I offer my sincere and heartfelt sorrow to the family and to Paul. I pledge to do whatever my colleagues and I can to help.

The Minister of Justice (Mr Ford): In securing this debate, Martina Anderson has raised concerns about a matter that is obviously of considerable importance in Derry. However, the debate has also flagged concerns that Members from other parts of Northern Ireland may well recognise. As others have said, unusually for an Adjournment debate, Members from outside Foyle are present and a number have participated. Importantly, the debate has brought home to us the deep sorrow and anguish of the McCauley family. It has confirmed the universal sympathy of the Assembly for their present troubles. Indeed, it has also shown a significant unanimity against acts of sectarianism and hate crime.

I pay tribute to the McCauley family for the strength and dignity that they have shown since Paul was so brutally attacked. Coming to terms with Paul being left in a coma has been an extremely harrowing experience for them, and I am sure that Members agree that that trauma continues daily. I am fully aware that everyone must be circumspect when discussing in a public forum a matter that is still the subject of a live police investigation. It would be a particularly unforgivable fault for a Minister of Justice to in any way compromise the likelihood of success in an investigation or jeopardise the possibility of further prosecution and conviction. Therefore, I am keen to temper Members' expectations of what I can say this evening.

In any case, I, as Minister, should not expect, nor should I be expected, to know the details of a police investigation. Extensive reforms of policing have been undertaken to ensure that any perception of ministerial involvement or interference in operational policing is removed.

It is the bedrock of the confidence that the public have in the PSNI. It is fundamental to the role of the Chief Constable and the basis of the functioning of the Policing Board. Likewise, it is essential that decisions on prosecution are taken out of the reach of politics, and that decisions of guilt or innocence are made without political interference.

9.30 pm

However, in light of the Member securing the debate, I have asked the PSNI to provide me with an update on the current position so that I may inform colleagues in the Chamber. It is important, therefore, to place on record the following points. As is standard practice, a serious crime review into this particular crime commenced in March 2010. As a result of the review by the PSNI's serious crime review team, a number of investigative lines of inquiry were proposed. On completion of the review, in September 2010, responsibility for the investigation was passed to C2 serious crime branch. The senior investigating officer in the case met Paul McCauley and his parents, and he has given assurances that the investigation is a priority case for the C2 serious crime branch and is progressing to identify persons not yet charged for the attack on Mr McCauley. A number of lines of inquiry are being pursued. The senior investigating officer is satisfied that he has sufficient resources to advance the investigation.

Alongside those specific facts that I have received from the PSNI, I can make some further general points about the dedication and capabilities of the Police Service. The case is being treated with the utmost seriousness. It is being dealt with by the most senior investigative authority in the PSNI, namely C2 serious crime branch, and the family are being kept informed of the progress of the investigation. I understand that they remain hopeful of further successful outcomes.

On the views that have been expressed generally and, to some extent, this evening on the insufficiency of police resources at the time of the initial investigation, I can say that I have received reassurances from the PSNI that resourcing was not a critical issue, although the type of investigation and the paucity of investigative opportunities were relevant. On the wider issue of the adequacy of police resources, I confirm that I remain committed to ensuring that the PSNI has sufficient resources to enable it to deliver an effective police service to all parts of the community. Work is ongoing with key stakeholders in the PSNI to help to inform Budget 2010 priorities. I am determined to protect front line services and to make back-office efficiencies, to ensure that we get the best possible value for money. That is reflected in the fact that the PSNI budget is being protected more than any other part of the Department of Justice budget. I am also assured that other resources needed in the Department are being made available to the investigation.

A couple of specific questions were asked concerning details of the legal process regarding Daryl Proctor. The issue is that it is for the police to draw evidence and the PPS to lay charges. Sentencing issues are most definitely not for the Minister; they are for the courts. I am not party to the decisions of the prosecutor or the courts. Nevertheless, there are clearly issues of concern, which cannot be answered at this stage. For example, why was the charge of attempted murder not proceeded with? Ms Anderson asked whether the statute book is adequate in that respect. I give her an undertaking to look into the issue. Likewise, any parole decisions in relation to Daryl Proctor or anybody else are for the independent Parole Commissioners, not for the Minister.

The focus of this evening's debate has been on justice for Paul McCauley. As the Minister of Justice, I want to see that delivered. However, more than that, I want to see justice for all, not just as a catchphrase, but as a genuine means of tackling delays in the criminal justice system, speeding up justice and delivering a justice system that everyone can have confidence in. I believe that we need to do that for two reasons. First, because a system with avoidable delays is inefficient and costly, and money could be better spent, and, secondly, and most importantly, because it simply is not fair on victims, their families or, indeed, those on trial that it is so long from the date of a crime to the sentence date. It is right that we have high expectations of the police. On the other hand, we must not leave it to them to solve all society's problems.

In holding the police to account, let us not lose sight of our responsibilities. Tonight's debate is a timely opportunity to remind Members that, in investigating crime, the police need evidence in order to bring charges. The PSNI

relies on the support of the community and on people bringing forward vital information that may provide the key that, in turn, leads to a successful prosecution. I urge anyone with information about the brutal attack on Paul McCauley just over four years ago to come forward to the police, because their information could make a difference. I welcome that fact that John McCallister, Roy Beggs, Jimmy Spratt and, most latterly, Basil McCrea — as unionist Members — repeated that call this evening.

Mr Deputy Speaker, as you will know, Mr Speaker, Mr Hay, has privately and outside the Chamber made the same call. As Minister of Justice, I repeat that call: anyone who has any information whatsoever that could assist in any way has a duty to assist the police to ensure that the other perpetrators of this crime are brought to justice.

In conclusion, I reiterate my sympathy for Paul and his family and make it absolutely clear that although I cannot interfere in operational decisions, if the family wishes to meet me, I am available to meet them, as I have met other victims of other serious crimes. I know that in expressing that sympathy, I speak, as other Members have done, for the entire community in which we live.

Adjourned at 9.35 pm.

Published by Authority of the Northern Ireland Assembly,
Belfast: The Stationery Office

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ISSN 1463-7162

Daily Editions: Single copies £5, Annual subscriptions £325
Bound Volumes of Debates are issued periodically during the session: Single copies: £90

Printed in Northern Ireland by The Stationery Office Limited