

# Report on Rights, Safeguards, Equality Issues and Victims

**TOGETHER WITH THE MINUTES OF PROCEEDINGS,  
OFFICIAL REPORT AND PAPERS SUBMITTED BY PARTIES  
TO THE COMMITTEE ON THE PREPARATION FOR GOVERNMENT**

*Directed by the Secretary of State for Northern Ireland to be printed 19 September 2006*

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# Committee on the Preparation for Government

Under the terms of the Northern Ireland Act 2006 the Secretary of State for Northern Ireland, the Rt. Hon Peter Hain MP, directed on 26 May 2006 that a Committee should be established on the necessary business relating to the preparation for government. On 12 June 2006, the Secretary of State directed that the Committee should be chaired by the deputy presiding officers, Mr Jim Wells and Mr Francie Molloy.

## Membership

The Committee has 14 members with a quorum of seven. The membership of the Committee since its establishment on 26 May 2006 is as follows:

Mark Durkan MP	Dr Sean Farren
David Ford	Michelle Gildernew MP
Danny Kennedy	Naomi Long
Dr William McCrea MP	Dr Alasdair McDonnell MP
Alan McFarland	Martin McGuinness MP
*David McNarry	Lord Morrow
Conor Murphy MP	Ian Paisley Jnr

\* Mr McNarry replaced Mr Michael McGimpsey on 10 July 2006.

At its meeting on 12 June 2006, the Committee agreed that deputies could attend if members of the Committee were unable to do so. The following members attended at various times:

Billy Armstrong	George Ennis	Alban Maginness
Alex Attwood	Michael Ferguson	Alex Maskey
Esmond Birnie	Arlene Foster	Sean Neeson
Dominic Bradley	William Hay	Dermot Nesbitt
PJ Bradley	Derek Hussey	John O'Dowd
Francie Brolly	Dolores Kelly	Pat O'Rawe
Thomas Buchanan	Gerry Kelly	Edwin Poots
Gregory Campbell MP	Patricia Lewsley	Pat Ramsey
Wilson Clyde	Fra McCann	Margaret Ritchie
Fred Cobain	Kieran McCarthy	George Robinson
Michael Copeland	Raymond McCartney	Peter Robinson, MP
Bob Coulter	Nelson McCausland	Caitriona Ruane
John Dallat	David McClarty	Kathy Stanton
George Dawson	Michael McGimpsey	Mervyn Storey
Diane Dodds	Patsy McGlone	Peter Weir
Alex Easton	Philip McGuigan	Jim Wilson
		Sammy Wilson, MP

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# Executive Summary

- 1 On 26 May 2006, the Secretary of State for Northern Ireland, the Rt Hon Peter Hain MP, directed that a Committee should be established:

*‘to scope the work which, in the view of the parties, needs to be done in preparation for Government’.*

- 2 At its meeting on 24 July 2006, the Committee on the Preparation for Government agreed to take forward, within the Committee, work on a number of issues identified in the work programme published by the two governments rather than set up sub-groups to consider the issues.
- 3 On 26 July 2006, the Committee considered how to take forward work on these issues and decided that the Committee would meet each Friday to address rights, safeguards, equality issue and victims. The Committee agreed on 4 August 2006 to deal with these issues as follows:

## **Rights/safeguards**

- Bill of Rights
- Human Rights
- Parades

## **Equality and shared future issues**

- Equality
- Good relations
- Shared future

## **The past and its legacy**

- The disappeared
- Dealing with the past and its legacy
- Truth and reconciliation
- Victims

## **Culture and confidence building**

- Confidence building
- Culture, including:
  - Ethnic communities
  - Nationalist
  - Unionist

### **Rights/safeguards**

- 4 The Committee began its consideration of rights and safeguards at its meeting on 11 August at which each party gave brief presentations on these issues.
- 5 The discussion on rights included consideration of the extent to which socio-economic rights should be included in a Bill of Rights; the degree to which such a Bill should draw on European and international law; the need for a Bill of Rights to reflect the particular circumstances of Northern Ireland and the possibility of establishing a Round Table Forum on a Bill of Rights. The Committee also considered issues surrounding the remit and make-up of the Northern Ireland Human Rights Commission including its requirement to be representative of all sections of the community in Northern Ireland and the need for public confidence in, and a sense of ownership of, human rights.
- 6 The Committee agreed that it supported the creation of a Bill of Rights for Northern Ireland but did not reach agreement on the proposal that a Round Table Forum should be established to help with work on a Bill of Rights.
- 7 The issues discussed by the Committee in relation to parades included the cross-cutting nature of parades which encompasses good relations, the rule of law and human rights issues; parading as an expression of cultural identity; the right to assembly, including to parade and object to parades, in the context of the European Convention on Human Rights and the role of the Parades Commission.
- 8 The Committee considered a proposal to split the functions of the Parades Commission, with one body dealing with mediation and one dealing with determinations but did not reach agreement on the proposal.

### **Equality and shared future issues**

- 9 The Committee considered equality and shared future issues at its meeting on 18 August 2006 at which each party gave brief presentations on these issues.
- 10 The discussion on equality included issues about the interaction between equality, a shared future and good relations; the central role that equality plays in ensuring that everyone has a stake in society and the effect of state violence on good relations. The Committee also considered legislative matters; measurements of inequality; issues surrounding appointments to, inter alia, the public sector and the Police Service of Northern Ireland (PSNI) and the composition and powers of the Equality Commission.
- 11 The Committee agreed that equality measures need to be implemented to address objective need and current trends to avert future problems and that all interested parties, including Government, should be fully committed to addressing this issue.
- 12 In respect of good relations and a shared future, the Committee looked at issues around the current education system and the question of whether there should be a single, integrated education system. The Committee also considered the 'Shared Future' framework document including perceived weaknesses in it; the development and promotion of good relations; issues relating to the development and application of community relations policies and the



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effect of conflict, state violence and continuing paramilitary activity in progressing good relations in many communities.

- 13 The Committee agreed that all parties should call for an immediate stand-down of all paramilitary organisations as the best contribution to a shared future and that all parties should stress their commitment to a shared future.
- 14 The Committee considered a number of proposals about the education system, the ‘Shared Future’ framework document and the Equality Commission but did not reach agreement on these matters.

### **The past and its legacy**

- 15 The Committee considered the past and its legacy at its meeting on 25 August at which each party gave brief presentations on these issues.
- 16 Discussion on the disappeared centred on the need for those with primary responsibility for their disappearance to finally resolve this issue and the need for greater support for the families of the disappeared. The Committee agreed that a family liaison officer should be established immediately to support the families.
- 17 When discussing the past and its legacy, the Committee considered the importance of dealing with this matter in the context of reconciliation and a shared future; the legacy of paramilitarism and state violence and their effect on communities; the need to address the issue of exiles and unresolved criminal cases.
- 18 The Committee also considered issues relating to truth and reconciliation. The discussions ranged through the difficulties with, and benefits of, a truth recovery process; the need for full disclosure and co-operation with such a process and whether lessons could be learnt from other countries. The Committee also considered issues surrounding the ‘On-the-Run’ legislation and the limitations of The Inquiries Act 2006. The Committee considered a proposal that full, independent, Cory-compliant inquiries for those promised at Weston Park should take place but did not reach consensus.
- 19 When considering the issue of victims and survivors, the Committee spent some time discussing the definition of ‘victim’; the development of processes for remembrance and the level of support for victims and victims’ support groups. The Committee agreed that the issue of victims should be identified and made a priority within the Programme for Government.
- 20 The Committee considered proposals that there should be a Day of Remembrance and Reflection and that a Victims Forum should be established but was unable to reach agreement on these matters.

### **Culture and Confidence building issues**

- 21 The Committee considered culture and confidence building issues at its meeting on 1 September at which each party gave brief presentations on these issues.

- 22 The discussions on confidence building were wide ranging. Issues included the link between confidence building and the restoration and future stability of the political institutions; the importance of a cessation of all violence and paramilitary activity in building confidence; tackling poverty based on objective need; support for border communities and young people and the need for balance and fair representation in employment in the voluntary sector.
- 23 The Committee agreed that there should be non-lottery funding for those who refuse lottery funding on moral grounds.
- 24 The Committee considered a number of proposals regarding community disadvantage and alienation within communities; the need for support for those living in border areas; support for the political institutions, the rule of law and policing and the availability of British passports to those born in the Republic of Ireland since 1949 but was not able to reach agreement.
- 25 Issues considered in relation to culture included the right of individuals to learn about, experience and express their culture; the promotion of the principles of inclusion and respect for all cultures; issues surrounding language and problems experienced by ethnic communities.
- 26 The Committee agreed that there should be a greater recognition and provision for sign language and that the Department of Education should initiate a programme of work to ensure that the cultural rights of children as set out in the United Nations Convention on the Rights of the Child are implemented and monitored across all school sectors.
- 27 The Committee considered proposals relating to the Irish language; Gaelic sports; parity of esteem and equal treatment for the identity, culture and aspirations of all communities but was unable to reach agreement on these matters.

### **Proposals**

- 28 The Committee agreed that there needs to be further discussions on many issues. The proposals put to the Committee, and agreed, during its deliberations on the issues are set out in the following section on Conclusions. The proposals, on which the Committee did not reach consensus, are set out in Appendix 3.

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# Conclusions

## Proposals agreed by the Committee

Paragraph	Proposal
14	That this Committee supports the creation of a Bill of Rights for Northern Ireland.
20	That equality measures need to be implemented to address objective need and current trends to avert future problems and that all interested parties, including Government, should be fully committed to addressing this issue.
23	That all political parties call for an immediate stand-down of all paramilitary organisations as the best contribution to a shared future.
23	That all parties stress their commitment to building a shared future.
28	That a family liaison officer should be established immediately to support the families of the disappeared.
33	That the issue of victims should be identified and given priority within the Programme for Government.
37	That there should be a non-lottery fund for those who refuse lottery funding on moral grounds.
40	That the Committee agrees, in principle, that there should be greater recognition and provision for sign language.
40	That the Department of Education should initiate a programme of work to ensure that the cultural rights of children as set out in the United Nations Convention on the Rights of the Child are implemented and monitored across all school sectors.

## Introduction

1. The Committee on the Preparation for Government met on 37 occasions between 5 June and 15 September 2006. At the first meeting on 5 June the Committee considered the direction from the Secretary of State dated 26 May 2006 and the term ‘consensus’ in the direction relating to decisions of the Committee. A discussion followed and it was agreed that the Committee would regard consensus as ‘general all party agreement’. (A copy of the directions issued by the Secretary of State, which are relevant to the work of the Committee, is attached at Appendix 5).
2. At the first three Committee meetings the members debated the arrangements for chairing the Committee but were unable to reach consensus on what these should be. The Secretary of State was advised on 7 June that the Committee was unable to select a Chair. **On 12 June, the Secretary of State directed that the Committee should be chaired by the deputy presiding officers, Mr Jim Wells and Mr Francie Molloy.**

### **Referral by the Secretary of State**

3. At the meeting on 12 June 2006 the Committee noted that on 26 May 2006, under the provisions of section 1(1) of the Northern Ireland Act 2006, the Secretary of State had referred the following matter to it:

*‘To scope the work which, in the view of the parties, needs to be done in preparation for Government.’*

4. During June each of the parties made a detailed presentation on the issues that it considered needed to be scoped in preparation for government. These began with the presentations from the Alliance Party and the DUP on 20 June. The presentation from Sinn Féin took place on 21 and 22 June and was followed by the presentation from the SDLP on 26 June. The presentations concluded with the UUPAG on 28 June. The minutes of proceedings and minutes of evidence relating to these discussions can be found on [http://www.niassembly.gov.uk/theassembly/Committees\\_Homepage.htm](http://www.niassembly.gov.uk/theassembly/Committees_Homepage.htm).

### **Establishment of sub-groups**

5. On 3 July the Secretary of State wrote to the Speaker to the Assembly on a number of issues, including the establishment of a working group on economic challenges. The Secretary of State advised that he was referring the matter of discussion of economic issues to the Committee on the Preparation for Government under section 1(1) of the 2006 Act and directing them, under paragraph 4(1) of Schedule 1 to that Act, to set up a sub-group and report back to the Assembly in September.
6. The Secretary of State also directed, under paragraph 4(1) of Schedule 1 to the 2006 Act that the Committee should set up two sub-groups on two issues identified in the work plan

published by the two Governments on 29 June (copy attached at Appendix 6). These were on changes to the institutions and on the devolution of justice and policing.

7. This was followed on 11 July by a further direction from the Secretary of State to the Committee directing the establishment of three sub-groups on:
  - The devolution of policing and justice;
  - Changes to the institutions; and
  - The economic challenges facing Northern Ireland.
8. On 17 July the Committee agreed the terms of reference for the sub-group on the Economic Challenges facing Northern Ireland. On 4 September, the Committee accepted the recommendations and conclusions in the sub-group's report and agreed that it should be printed as the first report from the Committee on the Preparation for Government.

### **Issues to be considered in preparation for government**

9. The Committee agreed on 24 July that the issues identified for the two sub-groups on institutions and policing and justice, should be taken forward by the Committee itself and not by sub-groups. At the meeting on 26 July the Committee considered how to take forward the work on all the issues, including rights and safeguards etc., which had been identified during the party presentations and during discussions as those that needed to be considered in preparation for government. It was agreed that the Committee would meet:
  - Each Monday to address institutional issues;
  - Each Wednesday to address law and order issues; and
  - Each Friday to address rights, safeguards, equality issues and victims.

### **Rights, safeguards, equality issues and victims**

10. The Committee decided at its meeting on 4 August to deal with these issues as follows:

#### **Rights/safeguards**

- Bill of Rights
- Human Rights
- Parades

#### **Equality and shared future issues**

- Equality
- Good relations
- Shared future

**The past and its legacy**

- The disappeared
- Dealing with the past and its legacy
- Truth and Reconciliation
- Victims

**Culture and confidence building**

- Confidence building
- Culture, including:
  - Ethnic communities
  - Nationalist
  - Unionist

11. The Committee met on seven occasions in August and September to discuss these matters. Its deliberations and conclusions in relation to these issues are set out in this report.

# Consideration of Rights and Safeguards

12. The Committee met on 11 August 2006 to consider the issues surrounding rights and safeguards. Members agreed that this discussion should focus on two areas – firstly, human rights and a Bill of Rights for Northern Ireland and secondly, parades.

## **Bill of Rights/Human Rights**

13. Each party gave a brief presentation<sup>1</sup> followed by a substantive debate.

Issues considered included:

### **Bill of Rights**

- The question of whether socio-economic rights should be protected through a Bill of Rights or through other legislation.
- The degree to which a Bill of Rights should draw on European and international law including the European Convention on Human Rights.
- The need for a Bill of Rights to reflect the particular circumstances of Northern Ireland.
- Issues surrounding the establishment of a Round Table Forum to assist in the process of drafting a Bill of Rights.

### **Human Rights**

- The remit and make-up of the Northern Ireland Human Rights Commission and its requirement to be representative of all sections of the community in Northern Ireland.
- Issues surrounding the rights of the individual and group/community rights.
- The development of an All-Ireland Charter on Human Rights and the role of North-South co-operation in human rights issues.
- The need for public confidence in, and a sense of ownership of, human rights issues.
- The application of human rights issues to non-state bodies, including paramilitary organisations.
- Issues surrounding international legal principles.

14. **It was agreed that:**

***This Committee supports the creation of a Bill of Rights for Northern Ireland.***

15. A proposal was made that the Committee should, in principle, support the formation of a Round Table Forum to help establish the creation of a Bill of Rights for Northern Ireland.

**The Committee, after consideration, did not reach consensus.**

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<sup>1</sup> Official Report 11 August 2006

## **Parades**

16. Each party gave a brief presentation<sup>2</sup> on matters relating to parades. A paper entitled ‘Parades: A Step in the Right Direction’ was received by the Committee<sup>3</sup>.

Issues discussed in relation to parades included:

- The cross-cutting nature of parading, which encompasses good relations, the rule of law and human rights issues.
- The right to assembly, including to parade and to object, in the context of the European Convention on Human Rights.
- Existing regulatory mechanisms for contentious parades and the factors used by the Parades Commission in determining whether a parade should take place.
- The possibility of splitting the mediation and determination functions of the Parades Commission.
- The role of local dialogue in resolving parading issues.
- Parading as an expression of cultural identity.
- The continued existence of the Parades Commission.
- Solving the problems that have been associated with parades as a fundamental prerequisite to political progress and stability in Northern Ireland.

17. At its meeting on 1 September<sup>4</sup>, the Committee discussed a proposal that the Parades Commission’s functions should be split to create a mediation body and a determination body.

**The Committee, after consideration, did not reach consensus.**

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<sup>2</sup> Official Report 11 August 2006

<sup>3</sup> DUP Paper ‘Parades: A Step in the Right Direction in Appendix 4

<sup>4</sup> Official Report 1 September 2006



## Consideration of Equality and Shared Future Issues

18. The Committee met on 18 August to discuss issues relating to equality and shared future. The Committee agreed that the discussions should focus on three areas:

- Equality
- Good relations
- Shared future

### **Equality**

19. Each party made a brief presentation on equality matters<sup>5</sup>. A paper entitled ‘Equality (Labour Market Issues)’ was received by the Committee<sup>6</sup>.

The list of issues considered by the Committee included:

- The cross-cutting nature of the relationship between equality, shared future and good relations.
- The central role of equality measures in ensuring that everyone has a stake in society.
- Issues relating to the rights of individuals and the rights of groups and the importance of taking full account of differences between individuals.
- Issues relating to discrimination on the grounds of gender, race, disability and sexual orientation, as well as religion.
- The use of positive discrimination or affirmative action.
- The effect of criminal and paramilitary activity on good relations.
- The effect of state violence on good relations.
- The need for effective equality delivery mechanisms.
- The importance of the objective targeting of need.
- Concerns, from a unionist perspective, about a ‘chill factor’ within Northern Ireland universities.

### **Legislative matters**

- The importance of fully utilising and reviewing existing fair employment legislation and monitoring mechanisms.
- Issues relating to the application of the statutory equality duty under Section 75 of the Northern Ireland Act 1998, including the assessment of present equality policy.

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<sup>5</sup> Official Report 18 August 2006

<sup>6</sup> UUPAG paper on Equality (Labour Market Issues) in Appendix 4

- The possibility of designating additional public bodies –Treasury, Public Prosecution Service for Northern Ireland, BBC, Ministry of Defence, the Secretary of State for Northern Ireland – under Section 75.

### **Measuring inequality**

- The need to base equality measures on empirical evidence rather than emotion or past experience.
- The need to eradicate unemployment differentials.
- The difficulties surrounding the usage of the unemployment differential measured as a ratio.
- The effect on employability of factors such as religion, education, qualifications and social mobility.
- The links between discrimination, disadvantage and unemployment.

### **Appointments**

- The use of 50/50 recruitment to the PSNI.
- The need for balance and fair representation in the public sector and, in particular, within the Housing Executive.
- The procedures for public appointments, e.g., to the Human Rights Commission, Police Ombudsman.
- The need to uphold the primacy of the merit principle in making public appointments or making offers of employment.

### **The Equality Commission**

- The composition of, and appointments to, the Equality Commission and the need for it to be representative of the whole community.
- The question of whether the Equality Commission's powers of investigation and enforcement should be enhanced and its level of resources increased.
- The need to ensure that the Equality Commission's existing policies are fairly and effectively implemented.

20. Following the discussions a number of proposals were made. **It was agreed that:**

***Equality measures need to be implemented to address objective need and current trends to avert future problems and that all interested parties, including Government, should be fully committed to addressing this issue.***

21. The Committee then discussed the following proposals:

‘That the Northern Ireland Act 1998 should be amended to give the Equality Commission enforcement powers’.

‘That all public bodies should be designated to comply with Section 75’.

‘That the British Government needs to establish an independent recruitment and selection panel for the Equality Commission to ensure that the Commission is representative and balanced in its composition’.

**The Committee, after consideration, did not reach consensus.**

## **Good relations and shared future**

22. Each party made a brief presentation<sup>7</sup> on good relations and shared future matters.

The issues considered included:

### **Education**

- The current structure of the education system.
- The question of whether there should be a single, integrated education system.
- The effectiveness of the existing school curriculum in promoting cultural identity and diversity.

### **A Shared Future**

- Issues surrounding the ‘Shared Future’ framework document (March 2005) and Shared Framework Action Plan (April 2006).
- The perception, from a nationalist perspective, that the analysis contained in the ‘Shared Future’ framework document failed to address the British Government’s role in causing division.
- The extent to which a shared future should feature in government policies and programmes.
- The model of a single shared, united and inclusive community rather than a two-community model as the basis for building a shared future and good relations.

### **Good relations**

- The question of where responsibility for good relations should lie, i.e., with the Community Relations Council or with the Equality Commission.
- The identification of the ‘building blocks’ essential for good relations.
- The extent to which good relations should feature in government policies and programmes.

### **Community Relations policies**

- Issues relating to the development and application of community relations policies and objectives in order to:
  - Develop a society in which the main drivers are tolerance and mutual respect.
  - Strive to develop respect so that different cultures and traditions can be celebrated in a way that adds to society, rather than being seen as a cause of offence.

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<sup>7</sup> Official Report 18 August 2006

- Be able to embrace and promote other communities, such as other faiths, ethnic groups and those who are less able.

#### **Views and beliefs**

- The need for individuals and groups to be able to express and promote their views and beliefs in a climate of respect and tolerance.
- The extent to which citizenship, cultural aspiration and identity are different but not mutually exclusive.
- The link between nationality and citizenship.

#### **Communal division and community conflict**

- The relationship between disadvantage and community conflict.
- The importance of addressing communal division by placing the restored institutions on a durable and sustainable basis.
- The detrimental impact of violence and paramilitarism in progressing good relations in many communities.

23. Following the discussions, a number of proposals were made. **It was agreed that:**

*All political parties call for an immediate stand-down of all paramilitary organisations as the best contribution to a shared future.*

And

*All parties stress their commitment to building a shared future.*

24. The Committee also discussed the following proposals:

‘That all parties should endorse the aspiration of having a single shared education system in Northern Ireland’.

‘That all parties should endorse the ‘Shared Future’ framework document (March 2005) and the Shared Future Action Plan (April 2006) and regard their implementation as critical to political progress’.

‘That the Equality Commission should be identified as the primary body responsible for promoting good relations’.

**The Committee, after consideration, did not reach consensus.**

# Consideration of the Past and its Legacy

25. The Committee met on 25 August to discuss issues relating to the past and its legacy. The Committee agreed that the discussions should focus on four areas:
- The disappeared
  - Dealing with the past and its legacy
  - Truth and reconciliation
  - Victims
26. Each party made a brief presentation<sup>8</sup> on these matters.

## **The disappeared**

27. The issues considered included:
- The need to address the matter of the disappeared particularly by those with primary responsibility for their disappearance.
  - The extent of support available for the work of the Independent Commission for the Location of Victims Remains.
  - The need for greater support for the families of the disappeared.
28. **It was agreed that:**
- A family liaison officer should be established immediately to support the families of the disappeared.*

## **Dealing with the past and its legacy**

29. The issues considered included:
- The importance of dealing with the past and its legacy, in relation to reconciliation and building a shared future.
  - The legacy, and continuation, of paramilitarism and its effect on communities.
  - The legacy of state violence and its effect on communities.
  - The need to address the practice of exiling.
  - The work and resourcing of the Historical Inquiries Team.
  - The requirement that any process for dealing with the past should be victim-centred.

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<sup>8</sup> Official Report 25 August 2006

## **Truth and Reconciliation**

30. The issues considered included:

- The possible benefits and difficulties surrounding a truth recovery process such as a Truth Commission or an independent international truth body.
- The extent to which lessons could be learnt from truth processes in other countries.
- The degree to which there would be full disclosure and co-operation within any truth recovery process.
- Issues surrounding the ‘On-the-Run’ legislation.
- The limitations of the Inquiries Act 2006 and the need for inquiries to be full and independent.

31. The following proposal was made:

‘That full, independent, Cory-compliant inquiries for those promised at Weston Park should take place’.

**The Committee, after consideration, did not reach consensus.**

## **Victims and Survivors**

32. The issues considered included:

- The extent to which there could be an agreed definition of ‘victims’ among the political parties.
- The definition of ‘victims’ within the draft Victims and Survivors (Northern Ireland) Order 2006.
- The development of processes for remembering such as memorialisation, recording experiences and a designated day of remembrance.
- The existing level of support for victims and the need for increased support and proper funding for victims’ groups including:
  - A Victims’ Forum to increase the voice for victims and survivors;
  - A review of the level of compensation paid in the past; and
  - Consideration of international best practice to support the development of special community-based initiatives such as trauma and counselling services.
- The question of whether the monitoring of victims’ services should be carried out by the Interim Commissioner for Victims and Survivors.
- The differing needs of individual victims and the need for equality of treatment for all victims and survivors.
- The requirement for victims to be made a priority in the Programme for Government.

33. **It was agreed that:**

***The issue of victims should be identified and given priority within the Programme for Government.***

34. The following proposals were made:

‘That there ought to be a Day of Remembrance and Reflection’.

And

‘That a Victims Forum should be established’.

**The Committee, after consideration, did not reach consensus.**

## Consideration of Culture and Confidence Building Issues

35. The Committee met on 1 September to discuss the final area of the work plan. The Committee agreed that the discussions should focus on two areas:

- Confidence building; and
- Culture, including:
  - ethnic communities
  - nationalist
  - unionist

### **Confidence Building**

36. Each party made a brief presentation<sup>9</sup> on confidence building. A paper entitled 'Employment Patterns in the Voluntary Sector' was received by the Committee<sup>10</sup>.

The issues considered included:

### **The Institutions**

- The centrality of the restoration of the political institutions to confidence building and the need for stability of those institutions.
- The link between political progress and economic enhancement.
- The need to demonstrate that devolution has made a real and positive difference to life in Northern Ireland.

### **Rule of Law**

- The link between confidence building and the cessation of violence, intimidation and paramilitary activity.
- The central role of the support for the rule of law and for policing in building confidence.
- The central role of the support for the rule of law and for policing in building confidence within the context of functioning institutions and the devolution of policing and justice powers.

### **Poverty**

- The requirement for tackling poverty based on objective need.
- The part which education can play in finding a way out of poverty.

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<sup>9</sup> Official Report 1 September 2006

<sup>10</sup> DUP paper 'Employment Patterns in the Voluntary Sector' in Appendix 4



### General Issues

- The problems faced by border unionist communities and the need for an appropriate level of support.
- The problems faced by border communities and the need for an appropriate level of support based on objective need.
- The right of citizens born in the Republic of Ireland since 1949 to be allowed British passports.
- The need for balance and fair representation in employment in the voluntary sector.
- Support for young people including fair and equitable resourcing and training opportunities for youth workers and the promotion of shared space initiatives.
- The question of whether there is a ‘chill factor’ in the universities for those from a unionist background.
- Issues relating to lottery funding and those who refuse lottery funding on moral grounds.

37. **It was agreed:**

**That there should be a non-lottery fund for those who refuse lottery funding on moral grounds.**

38. The following proposals were made:

‘That the Committee should agree that community disadvantage and alienation are obstacles to political progress and are particularly evident in the unionist community’.

‘That the Committee should agree that community disadvantage and alienation are obstacles to political progress and where these conditions exist, or are perceived to exist, appropriate action should be taken based on objective need’.

‘That the Committee should agree that disadvantages within communities seriously undermine confidence in the political process, particularly within those communities, and that currently this is particularly apparent within unionist communities’.

‘That the Committee should agree that disadvantages within communities seriously undermine confidence in the political process’.

‘That the Committee should recognise the unique problems faced by some local communities along the border who have suffered from a campaign of ethnic cleansing and support the development of a border fund to support these communities’.

‘That consideration should be given to resources being targeted to maintain border communities and enhance initiatives where there are cross border projects’.

‘That there should be work within Northern Ireland universities to eliminate the ‘chill factor’ towards the unionist community’.

‘That the Committee should call for the full restoration of the Assembly and its institutions, for Sinn Fein to support the rule of law and policing and for the DUP to sign up to the institutions’.

‘That the Committee should call for full restoration of the Assembly and its institutions’.

‘That the Committee should call for all parties to support policing and justice and for all parties to work fully with all authorities to bring about an end to criminality and establish democratic structures inclusive of those committed to exclusively democratic and peaceful means’.

‘That British passports should be made available to citizens born in the Republic of Ireland after 1949’.

‘That the question of the availability of passports should be referred to the two Governments for consideration’.<sup>11</sup>

**The Committee, after consideration, did not reach consensus.**

## **Culture**

39. Each party made a brief presentation<sup>12</sup> on cultural issues. A paper which had been prepared by the Central Community Relations Unit of the Northern Ireland Civil Service at the end of 1997 on the European Charter for Regional or Minority Languages and other Irish language issues was presented to the Committee<sup>13</sup>.

The issues considered included:

- The need to recognise the right of individuals and communities to learn about, experience and express their culture.
- The promotion of the principles of inclusion and respect for all cultures.
- Issues surrounding language including:
  - The status of the Irish language
  - The promotion of Ulster-Scots language and culture
  - The recognition of sign language
- The need for festival funding to be seen to be fair and equitable and the better promotion of cultural tourism.
- The need for the sensitive and respectful use of all cultural and political symbols.
- The level of racially motivated incidents and the need to monitor the implementation of the Government’s racial equality strategy.
- Issues surrounding Gaelic sports.
- The United Nations Convention on the Rights of the Child and the promotion of cultural education in all school sectors.

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<sup>11</sup> This matter, which had been agreed on 1 September, was further discussed at the meeting on 8 September when there was not consensus on the proposal.

<sup>12</sup> Official Report 1 September 2006

<sup>13</sup> Briefing paper on European Charter for Regional or Minority Languages and other Irish language issues presented by the DUP in Appendix 4

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40. **It was agreed:**

*That the Committee agrees, in principle, that there should be greater recognition and provision for sign language.*

And

*‘That the Department of Education should initiate a programme of work to ensure that the cultural rights of children as set out in the United Nations Convention on the Rights of the Child are implemented and monitored across all school sectors’.*

41. The following proposals were made:

‘That there should be an Irish Language Act with Irish language rights incorporated into the Bill of Rights and overseen by the appointment of an Irish language commissioner; that the British Government should ratify the additional clauses in the European Charter on Regional and Minority Languages related to the promotion of language in public life and that the British Government and its departments should communicate through the medium of Irish when requested and make publications available in Irish when requested’.

‘That all parties should accept the principle of parity of esteem and just and equal treatment for the identity, culture and aspirations of all communities’.

‘That the Committee should call for the GAA to work with the Sports Council and the Community Relations Council to ensure Gaelic sports are depoliticised as part of the contribution to a shared future’.

**The Committee, after consideration, did not reach consensus.**



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## **Appendix 1**

# Minutes of Proceedings Relating to the Report



# Monday, 24 July 2006 in Room 144, Parliament Buildings.

**In the Chair:** Francie Molloy

**Present:** Diane Dodds  
Dr Sean Farren  
David Ford  
Naomi Long  
Dr Alasdair McDonnell MP  
Alan McFarland  
David McNarry  
Lord Morrow  
Conor Murphy MP  
John O'Dowd  
Margaret Ritchie

**In Attendance:** Nuala Dunwoody (Clerk Assistant)  
Debbie Pritchard (Principal Clerk)  
Jim Beatty (Assistant Clerk)  
Pauline Innes (Clerical Officer)  
Peter Gilleece (Senior Researcher)

**Apologies:** Mr Durkan MP (Ms Ritchie attended the meeting as SDLP representative in place of Mr Durkan MP)  
Ms Gildernew MP  
Mr Kennedy  
Dr McCrea MP  
Mr McGuinness MP (Mr O'Dowd attended the meeting as Sinn Féin representative in place of Mr McGuinness MP)  
Mr Paisley

*The meeting commenced at 10.06am.*

## 1. **Previous Minutes**

The minutes of the meeting of 17 July 2006 were agreed, subject to the following:-  
'Item 9. The date of the next meeting should read - 24 July 2006.'

## 2. **Sub-groups on Changes to the Institutions and Devolution of Policing and Justice**

The Deputy Speaker asked for nominations from the parties for the sub-groups on Changes to the Institutions and Devolution of Policing and Justice.

The following were nominated as members of the sub-group on Changes to the Institutions:-

Alliance -	David Ford	Kieran McCarthy
SDLP -	P J Bradley	Dr Sean Farren
Sinn Fein -	Conor Murphy	John O'Dowd

The Chairperson advised that party nominations to the sub-group on Changes to the Institutions should be notified to the Clerk by close of play on Tuesday, 25 July 2006. The DUP stated that it would not be nominating members to the two sub-groups.

The Terms of Reference for the sub-group on Changes to the Institutions were agreed.

*Mrs Dodds joined the meeting at 10.13am as DUP representative in place of Dr McCrea MP.*

*Dr McDonnell MP joined the meeting at 10.18am.*

*Mr McFarland joined the meeting at 10.25am.*

Dr Farren proposed that the Preparation for Government Committee continue to discuss the issues identified for the other two sub-groups on Institutions and Policing and Justice and other matters, in this Committee. There was consensus and the proposal was agreed.

It was agreed to advise the Secretary of State of this decision.

*The meeting adjourned at 11.25am*



## Wednesday, 26 July 2006 in Room 144, Parliament Buildings.

**In the Chair:** Jim Wells (Francie Molloy took the Chair at 12.18pm)

**Present:** John Dallat  
Diane Dodds  
Dr Sean Farren  
David Ford  
Alan McFarland  
Martin McGuinness MP  
David McNarry  
Lord Morrow  
Conor Murphy MP  
John O'Dowd  
Margaret Ritchie  
Tom Buchanan

**In Attendance:** Debbie Pritchard (Principal Clerk)  
Martin Wilson (Principal Clerk)  
Jim Beatty (Assistant Clerk)  
Pauline Innes (Clerical Officer)  
Peter Gilleece (Senior Researcher)

**Observing** Francie Molloy (Chairperson) (*until 12.18pm*)

**Apologies:** Mr Durkan MP (Mr Dallat attended the meeting as SDLP representative in place of Mr Durkin MP)  
Ms Gildernew MP (Mr O'Dowd attended the meeting as Sinn Fein representative in place of Ms Gildernew MP)  
Mr Kennedy  
Ms Long  
Dr McCrea MP (Mr Buchanan attended the meeting as DUP representative in place of Dr McCrea MP)  
Dr Alasdair McDonnell MP (Ms Ritchie attended the meeting as SDLP representative in place of Dr McDonnell MP)  
Mr Paisley (Mrs Dodds attended the meeting as DUP representative in place of Mr Paisley)

*The meeting commenced at 10.10am.*

1. **Previous Minutes**

The minutes of the meeting of 24 July 2006 were agreed, subject to the following: -

Item 3, line 1. Delete 'It was agreed that the Committee should set up'

Insert 'The Deputy Speaker asked for nominations from the parties for'

2. **Table of issues raised by parties.**

The parties considered the table of issues prepared from their written submissions and presentations.

*The meeting was suspended at 10.33am.*

*The meeting reconvened at 10.55am.*

It was agreed that Priorities for Government/Programme for Government would be considered under Agenda Item 3.

It was agreed that '(Institutional Issues)' would be added after 'Belfast Agreement'

It was agreed to include 'Voting System' as an issue within Institutional Issues.

It was agreed to include 'Peaceful Summer' within 'Good Relations' and to include this in the section on Rights; safeguards; equality issues; victims.

It was agreed to move 'Parades' from Law and Order Issues to Rights; Safeguards; equality issues; victims.

It was agreed to include 'Community Restorative Justice' within the section on Law and Order Issues.

It was agreed to include 'Intelligence Services' within the section on Law and Order Issues.

It was agreed to change 'Unionist Culture' within Rights; safeguards; equality issues; victims to -

'Culture – Ethnic Communities

Nationalist

Unionist'

It was agreed that the issue of Victims, Truth and Reconciliation should be treated as two issues, namely, 'Victims' and 'Truth and Reconciliation'.

*Mr Molloy joined the meeting at 11.30am to discuss this item.*

Under 'Other' it was agreed to change the description to 'Other issues which may be raised that are of concern, or of interest, to the parties.'

It was agreed that the Secretary of State should be asked to invite the Alliance Party, the SDLP and the UUPAG to each nominate a member who, along with the two Deputy Speakers, would comprise a list of chairs for chairing meetings of the sub-group on the Economic Challenges facing Northern Ireland. Those on the list would chair the meetings of the sub-group on an alternating basis.

It was agreed that the two Deputy Speakers should continue to chair meetings of the Preparation for Government Committee.

It was agreed that the Committee would meet on Mondays to address Institutional Issues, on Wednesdays to address Law and Order Issues and on Fridays to address Rights; safeguards; equality issues; victims. Each meeting will start at 10.00am.

It was agreed that one researcher from each party may sit at the back of the room during these meetings.

It was agreed that witnesses would be called, if necessary.

It was agreed that each party would submit a paper on Institutional Issues to the Clerk by lunchtime on Friday 28 July 2006; on Law and Order Issues by lunchtime on Monday 31 July 2006 and on Rights; safeguards; equality issues; victims by lunchtime on Wednesday, 2 August 2006.

*Mr Molloy took the Chair at 12.18pm.*

3. **Committee Work Programme – referral by the Secretary of State on 3 July (draft Programme for Government and draft Ministerial Code)**

It was agreed to deal with this matter at a future meeting.

*The meeting adjourned at 12.24pm.*

## Friday, 4 August 2006 in Room 144, Parliament Buildings.

**In the Chair:** Francie Molloy

**Present:** Wilson Clyde  
Rev Dr Bob Coulter  
Dr Sean Farren  
Michael Ferguson  
David Ford  
Arlene Foster  
Patricia Lewsley  
Naomi Long  
Dermot Nesbitt  
John O'Dowd  
Edwin Poots  
Kathy Stanton

**In Attendance:** Debbie Pritchard (Principal Clerk)  
Martin Wilson (Principal Clerk)  
Jim Beatty (Assistant Clerk)  
Pauline Innes (Clerical Officer)  
Patricia Casey (Senior Researcher)

**Observing:** Jim Wells (Chairperson)  
Brian Barrington (SDLP researcher)  
Chrissie McAuley (Sinn Fein researcher)  
Clive McFarland (DUP researcher)

**Apologies:** Mr Durkan MP (Ms Lewsley attended as the SDLP representative in place of Mr Durkan MP)  
Ms Gildernew MP (Mr Ferguson attended as Sinn Fein representative in place of Ms Gildernew MP)  
Mr Kennedy  
Dr McCrea MP (Ms Foster attended as DUP representative in place of Dr McCrea MP)  
Dr McDonnell MP  
Mr McFarland (Mr Nesbitt attended as UUPAG representative in place of Mr McFarland)  
Mr McGuinness MP (Mr O'Dowd attended as Sinn Fein representative in place of Mr McGuinness MP)  
Mr McNarry (Rev Coulter attended as UUPAG representative in place of Mr McNarry)  
Lord Morrow (Mr Poots attended as DUP representative in place of Lord Morrow)

Mr Murphy MP (Ms Stanton attended as Sinn Fein representative in place of Mr Murphy MP)  
Mr Paisley (Mr Clyde attended as DUP representative in place of Mr Paisley)

*The meeting commenced at 10.00am.*

1. **Declaration of interests**

Members were reminded that they should declare any relevant interests.

2. **Rights; safeguards; equality issues and victims - Issues agreed by the Committee**

Each party gave a short presentation on the issues.

*Mr Ford joined the meeting at 10.27am.*

It was agreed to change the heading of 'The Past' to 'The Past and its Legacy'

It was agreed to include 'The Disappeared' as an issue within 'The Past and its Legacy'.

It was agreed to change the heading of 'Equality Issues' to 'Equality and Shared Future Issues'

It was agreed to move 'Good Relations' from 'Culture and Confidence Issues' to 'Equality and Shared Future Issues'.

*Mr Wells left the meeting at 10.57am.*

It was agreed to deal with the issues in the following order:-

Rights/Safeguards

Equality and Shared Future Issues

The Past and its Legacy

Culture and Confidence Building

*Mr Nesbitt left the meeting at 11.05am.*

It was agreed to call for witnesses and papers, as required.

3. **Letters from the Secretary of State**

The Committee noted that the Secretary of State had written confirming that Naomi Long, Jim Wilson and Alban Maginness have been added to the panel to chair meetings of the sub-group on the Economic Challenges facing Northern Ireland.

The Committee noted the letter of 3 August 2006 from the Secretary of State regarding the proposed dates for plenary in September. It was agreed that the Secretary of State's response about the request for a copy of a report following meetings between the parties and Mr Hanson should be considered at the meeting of the Committee on 7 August.

*The meeting adjourned at 11.17am.*

## Friday, 11 August 2006 in Room 144, Parliament Buildings.

**In the Chair:** Jim Wells

**Present:** Michael Copeland  
Michael Ferguson  
Arlene Foster  
Patricia Lewsley  
Naomi Long  
Alban Maginness  
Lord Morrow  
Kieran McCarthy  
Alan McFarland  
Dermot Nesbitt  
Patricia O’Rawe  
Edwin Poots

**In Attendance:** Martin Wilson (Principal Clerk)  
Christine Darrah (Committee Clerk)  
Joanne Adair (Assistant Clerk)  
Jim Beatty (Assistant Clerk)  
Pauline Innes (Clerical Officer)  
Patricia Casey (Senior Researcher)

**Observing:** Francie Molloy (Chairperson)  
Brian Barrington (SDLP researcher)  
Stephen Farry (Alliance researcher)  
Chrissie McAuley (Sinn Fein researcher)  
Clive McFarland (DUP researcher)  
Mark Neal (UUPAG researcher)

**Apologies:** Mr Durkan MP (Mrs Lewsley attended the meeting as SDLP representative in place of Mr Durkin MP)  
Dr Farren (Mr Maginness attended the meeting as SDLP representative in place of Dr Farren)  
Mr Ford (Mr McCarthy attended the meeting as Alliance representative in place of Mr Ford)  
Ms Gildernew MP (Mr Ferguson attended the meeting as Sinn Fein representative in place of Ms Gildernew MP)  
Dr McCrea MP (Mr Poots attended the meeting as DUP representative in place of Dr McCrea MP)  
Mr McNarry (Mr Copeland attended the meeting as UUPAG

representative in place of Mr McNarry)

Mr Paisley, Jnr (Ms Foster attended the meeting as DUP representative in place of Mr Paisley)

Mr Murphy MP (Ms O’Rawe attended the meeting as Sinn Fein representative in place of Mr Murphy MP)

*The meeting commenced at 10.04 am.*

*Ms Foster joined the meeting at 10.06 am.*

**1. Previous Minutes**

The minutes of the meeting of 4 August 2006 were agreed.

Mr Nesbitt asked whether it would be possible for Hansard to record the ‘comings and goings’ of Members in the Official Record’. The Chairman agreed to seek a response from the Editor of Debates on this matter.

**2. Revised List on Rights, Safeguards, Equality Issues and Victims**

Members noted the revised list of issues agreed at the meeting held on 4 August. It was agreed that the heading ‘Dealing with the Past and its Legacy’ should be revised to read ‘The Past and its Legacy’.

**3. Letter from the Northern Ireland Human Rights Consortium**

The Committee considered a letter from the Northern Ireland Human Rights Consortium in relation to the establishment of a Round Table on a Bill of Rights. It was agreed not to move beyond the Committee’s original decision that submissions and evidence from the various bodies with an interest in human rights, etc. would be sought only if and when it became necessary to do so.

**4. Discussion on Rights and Safeguards**

**Bill of Rights/Human Rights**

Each party gave a short presentation on the issues of a Bill of Rights for Northern Ireland and Human Rights.

It was agreed that the Committee supported the creation of a Bill of Rights for Northern Ireland.

Patricia Lewsley proposed that the Committee should support the formation of a Round Table Forum to help establish the creation of a Bill of Rights for Northern Ireland. It was agreed to defer a vote on this proposal to the meeting on Friday, 18 August 2006.

*The meeting was suspended at 12.23 pm.*

*The meeting reconvened at 12.50 pm*

*Mr Copeland joined the meeting at 12.50 pm. Mr Copeland declared an interest as a member of the Loyal Orange Institution.*

*Lord Morrow rejoined the meeting at 12.52 pm.*

It was agreed that a paper should be prepared for the Committee on the introduction of the European Convention for Human Rights (ECHR) into domestic legislation in the Republic of Ireland.

*Mr McCarthy left the meeting at 1.31 pm.*

### **Parades**

Each party gave a short presentation on the issues of Parades.

It was agreed to accept an offer by the DUP to share its paper ‘Parades, A Step in the Right Direction’.

*Mr McCarthy rejoined the meeting at 2.04 pm.*

It was agreed that the Committee should give further consideration to the DUP paper on Parades.

## **5. Revised Committee Work Programme**

The Committee noted the revised work programme.

*The meeting adjourned at 2.49pm.*



## Friday, 18 August 2006 in Room 144, Parliament Buildings.

**In the Chair:** Francie Molloy

**Present:** Dominic Bradley  
Francie Brolly  
Gregory Campbell MP  
Derek Hussey  
Danny Kennedy  
Patricia Lewsley  
Naomi Long  
Kieran McCarthy  
Dermot Nesbitt  
John O'Dowd  
Pat O'Rawe  
Ian Paisley. Jnr  
Edwin Poots

**In Attendance:** Nuala Dunwoody (Clerk Assistant)  
Martin Wilson (Principal Clerk)  
Joanne Adair (Assistant Clerk)  
David Douglas (Clerical Officer)  
Pauline Innes (Clerical Officer)  
Patricia Casey (Senior Researcher)

**Observing:** Jim Wells (Chairperson)  
Stephen Barr (UUPAG researcher)  
Stephen Farry (Alliance researcher)  
Eilish Haughey (SDLP researcher)  
Mark Neal (UUPAG researcher)  
Philip Weir (DUP researcher)

**Apologies:** Mr Durkan MP (Mrs Lewsley attended the meeting as SDLP representative in place of Mr Durkan MP)  
Mr McDonnell, MP (Mr Bradley attended the meeting as SDLP representative in place of Mr McDonnell)  
Mr Ford (Mr McCarthy attended the meeting as Alliance representative in place of Mr Ford)  
Ms Gildernew MP (Mrs O'Rawe attended the meeting as Sinn Féin representative in place of Ms Gildernew MP)  
Dr McCrea MP (Mr Poots attended the meeting as DUP representative in place of Dr McCrea MP)

Mr McNarry (Mr Nesbitt attended the meeting as UUPAG representative in place of Mr McNarry)  
Mr McFarland (Mr Hussey attended the meeting as UUPAG representative in place of Mr McFarland)  
Mr Murphy MP (Mr O'Dowd attended the meeting as Sinn Fein representative in place of Mr Murphy MP)  
Mr McGuinness, MP (Mr Brolly attended the meeting as Sinn Fein representative in place of Mr McGuinness, MP)  
Lord Morrow (Mr Campbell MP attended the meeting as DUP representative in place of Lord Morrow)

*The meeting commenced at 10.03 am.*

*Mr Hussey joined the meeting at 10.05 am*

**1. Previous Minutes**

The minutes of the meeting of 11 August 2006 were agreed.

**2. Matter Arising**

The Committee noted a response from the Editor of Debates regarding a question from Mr Nesbitt on whether the 'comings and goings' on members could be recorded in the Official Report.

Members noted the research paper on the introduction of the European Convention on Human Rights (ECHR) into domestic legislation in the Republic of Ireland.

**3. Rights and Safeguards**

**Formation of a Round Table Forum on a Bill of Rights**

Mrs Lewsley proposed that the committee should support, in principle, the formation of a Round Table Forum to help establish the creation of a Bill of Rights for Northern Ireland. There was not consensus and the proposal fell.

**Parades**

It was agreed to defer for future consideration the issue of whether the Assembly might wish to have devolved with policing and justice 'appointments to the Parades Commission and its operation'.

**4. Discussion on Equality and Shared Future Issues**

**Equality**

Each party gave a short presentation on the issue of Equality.

*Mr Hussey left the meeting at 12.24 pm*

It was agreed that equality measures need to be implemented to address objective need and current trends to avert future problems and that all interested parties, including Government, should be fully committed to addressing this issue.

*The meeting was suspended at 12.31 pm*

*The meeting reconvened at 12.53 pm*

Mrs O’Rawe made the following proposals:

‘That the Northern Ireland Act 1998 should be amended to give the Equality Commission enforcement powers’.

‘That all public bodies should be designated to comply with Section 75’.

‘That the British Government needs to establish an independent recruitment and selection panel for the Equality Commission to ensure the Commission is representative and balanced in its composition’.

There was not consensus and the proposals fell.

It was agreed that the Ulster Unionist Party paper ‘Equality: Labour Market Issues’ should be placed on the Preparation for Government Committee pages of the Assembly website.

**5. Good Relations/Shared Future**

Each party gave a short presentation on the issues of Good Relations and a Shared Future.

*Mr O’Dowd left the meeting at 12.56 pm*

*Mr Hussey rejoined the meeting at 1.00 pm*

*Mr Poots rejoined the meeting at 1.14 pm*

Ms Long proposed that all parties should endorse the aspiration of having a single shared education system in Northern Ireland. There was not consensus and the proposal fell.

*Mr Wells left the meeting at 1.56 pm*

*Mr Bradley left the meeting at 2.15 pm*

Mr McCarthy proposed that all parties should endorse the Shared Future Framework Document (March 2005) and the Shared Future Action Plan (April 2006) and regard their implementation as critical to political progress. There was not consensus and the proposal fell.

It was agreed that all parties should stress their commitment to building a Shared Future.

*Mr McCarthy left the meeting at 2.20 pm*

Mrs O’Rawe proposed that the Equality Commission should be identified as the primary body responsible for promoting Good Relations. There was not consensus and the proposal fell.

It was agreed that all parties call for an immediate stand down of all paramilitary organisations as the best contribution to a Shared Future.

*The meeting adjourned at 2.24 pm*

## Friday, 25 August 2006 in Room 144, Parliament Buildings.

**In the Chair:** Jim Wells

**Present:** Alex Attwood  
David Ford  
Derek Hussey  
Patricia Lewsley  
Naomi Long  
Alban Maginness  
Lord Morrow  
Nelson McCauseland  
Alan McFarland  
Philip McGuigan  
Dermot Nesbitt  
John O'Dowd  
Edwin Poots

**In Attendance:** Nuala Dunwoody (Clerk Assistant)  
Christine Darrah (Committee Clerk)  
Joanne Adair (Assistant Clerk)  
Gillian Lyness (Assistant Clerk)

**Observing:** Stephen Farry (Alliance researcher)  
Clive McFarland (DUP researcher)

**Apologies:** Mr Durkan MP (Mrs Lewsley attended the meeting as SDLP representative in place of Mr Durkan MP)  
Mr Kennedy (Mr Hussey attended the meeting as DUP representative in place of Mr Kennedy)  
Dr McDonnell MP (Mr Attwood attended the meeting as SDLP representative in place of Dr McDonnell MP)  
Dr Farren (Mr Maginness attended the meeting as SDLP representative in place of Dr Farren)  
Mr Murphy MP (Mr McGuigan attended the meeting as Sinn Fein representative in place of Mr Murphy MP)  
Mr McGuinness MP (Mr O'Dowd attended the meeting as Sinn Fein representative in place of Mr McGuinness MP)  
Dr McCrea MP (Mr McCauseland attended the meeting as DUP representative in place of Dr McCrea MP)  
Mr McNarry (Mr Nesbitt attended the meeting as UUPAG representative in place of Mr McNarry)

Mr Paisley, Jnr (Mr Poots attended the meeting as DUP representative in place of Mr Paisley, Jnr)

*The meeting commenced at 10.08 am.*

*Mr Hussey joined the meeting at 10.10 am*

1. **Previous Minutes**

The minutes of the meeting of 18 August 2006 were agreed.

2. **Matter Arising**

The Committee noted that the Ulster Unionist Party paper 'Equality: Labour Market Issues' had been placed on the Preparation for Government Committee pages of the Assembly website.

3. **Discussion on the Past and its Legacy**

Each party gave a short presentation on the issue of the past and its legacy.

*Mr Nesbitt left the meeting at 11.15 am*

Naomi Long proposed that a Victims Forum should be established. There was no consensus and the proposal fell.

*The meeting was suspended at 12.20 p.m.*

*The meeting reconvened at 12.43 pm*

*Ms Long rejoined the meeting at 12.45 pm*

*Mr Poots left the meeting at 12.45 pm*

*Mr O'Dowd left the meeting at 12.45 pm*

*Mr Hussey rejoined the meeting at 12.47 pm*

*Mr Attwood rejoined the meeting at 12.49 pm*

It was agreed that the issue of victims should be identified and given priority within the Programme for Government.

*Mr O'Dowd rejoined the meeting at 1.07 pm*

*Mr Poots rejoined the meeting at 1.08 pm*

It was agreed that a Family Liaison Officer should be established immediately to support the families of the Disappeared.

Alban Magennis proposed that full, independent, Cory-compliant Inquiries for those promised at Weston Park should take place. There was not consensus and the proposal fell.

Naomi Long proposed that there ought to be a Day of Remembrance and Reflection. There was not consensus and the proposal fell.

*Mr Attwood left the meeting at 1.59 pm*

*The meeting adjourned at 2.00 pm*

## Friday, 1 September 2006 in Room 144, Parliament Buildings.

**In the Chair:** Jim Wells

**Present:** Alex Attwood  
Esmond Birnie  
Michael Ferguson  
Patricia Lewsley  
Naomi Long  
Alban Maginness  
Lord Morrow  
Kieran McCarthy  
Nelson McCausland  
Alan McFarland  
Michael McGimpsey  
Philip McGuigan  
Dermot Nesbitt  
Edwin Poots

**In Attendance:** Nuala Dunwoody (Clerk Assistant)  
Debbie Pritchard (Principal Clerk)  
Joanne Adair (Assistant Clerk)  
Elaine Farrell (Clerical Supervisor)

**Observing:** Stephen Barr (UUPAG researcher)  
Clive McFarland (DUP researcher)  
Chrissie McAuley (Sinn Fein researcher)  
Mark Neale (UUPAG researcher)

**Apologies:** Mr Durkan MP (Mrs Lewsley attended the meeting as SDLP representative in place of Mr Durkan MP)  
Mr Kennedy (Mr Nesbitt attended the meeting as UUPAG representative in place of Mr Kennedy)  
Dr McDonnell MP (Mr Maginness attended the meeting as SDLP representative in place of Dr McDonnell MP)  
Dr Farren (Mr Attwood attended the meeting as SDLP representative in place of Dr Farren)  
Mr Murphy MP (Mr Ferguson attended the meeting as Sinn Fein representative in place of Mr Murphy MP)  
Mr McGuinness MP  
Ms Gildernew MP (Mr McGuigan attended the meeting as Sinn Fein representative in place of Ms Gildernew MP)



Dr McCrea MP (Mr Poots attended the meeting as DUP representative in place of Dr McCrea MP)

Mr McNarry (Mr McGimpsey attended the meeting as UUPAG representative in place of Mr McNarry)

Mr Paisley, Jnr (Mr McCausland attended the meeting as DUP representative in place of Mr Paisley, Jnr)

Mr Ford (Mr McCarthy attended the meeting as Alliance Party representative in place of Mr Ford)

*The meeting commenced at 10.03 am.*

*Mr McFarland and Mr McGimpsey joined the meeting at 10.04 am*

**1. Previous Minutes**

The minutes of the meeting of 25 August were agreed subject to the following amendment:

Change ‘Corey-compliant Inquiries’ to ‘Cory-compliant Inquiries’.

It was agreed that the names of all members proposing motions would be included in future minutes.

*Lord Morrow joined the meeting at 10.30 am*

**2. Discussion on confidence building and culture**

Confidence building

Each party gave a short presentation on the issue of confidence building.

*Mr Maginness joined the meeting at 12.01 pm*

*The meeting was suspended at 12.17 p.m.*

*Mr Nesbitt left the meeting at 12.17 pm*

*The meeting reconvened at 12.49 pm*

*Dr Birnie joined the meeting as UUPAG representative in place of Mr Kennedy at 12.49 pm*

*Mr McCarthy and Mr McGuigan declared an interest as members of the Gaelic Athletics Association.*

Nelson McCausland proposed that the Committee should agree that community disadvantage and alienation are obstacles to political progress and are particularly evident in the Unionist community. There was not consensus and the proposal fell.

Naomi Long proposed that the Committee should agree that community disadvantage and alienation are obstacles to political progress and where these conditions exist, or are perceived to exist, appropriate action should be taken based on objective need. There was not consensus and the proposal fell.

Michael McGimpsey proposed that the Committee should agree that disadvantages within communities seriously undermine confidence in the political process particularly within those communities and that currently this is particularly apparent within Unionist communities. There was not consensus and the proposal fell.

Alban Maginness proposed that the Committee should agree that disadvantages within communities seriously undermine confidence in the political process. There was not consensus and the proposal fell.

Nelson McCausland proposed that there should be a non-lottery fund for those who refuse lottery funding on moral grounds. There was consensus and the proposal was agreed.

Nelson McCausland proposed that British passports should be made available to citizens born in the Republic of Ireland after 1949. There was not consensus and the proposal fell.

Nelson McCausland proposed that the matter be referred to the two Governments for consideration. There was consensus and the proposal was agreed’.

*Mr Ferguson left the meeting at 1.19 pm*

Nelson McCausland proposed that the Committee should recognise the unique problems faced by some local communities along the border who have suffered from a campaign of ethnic cleansing and support the development of a border fund to support these communities. There was not consensus and the proposal fell.

Alex Attwood proposed that consideration should be given for resources being targeted to maintain border communities and enhance initiatives where there are cross border projects. There was not consensus and the proposal fell.

*Mr Attwood left the meeting at 1.20 pm*

*Mr Ferguson rejoined the meeting at 1.21 pm*

Nelson McCausland proposed that there should be work within Northern Ireland universities to eliminate the ‘chill factor’ towards the Unionist community. There was not consensus and the proposal fell.

Patricia Lewsley proposed that the Committee should call for the full restoration of the Assembly and its institutions, for Sinn Fein to support the rule of law and policing and for DUP to sign up to the institutions. There was not consensus and the proposal fell.

Michael Ferguson proposed that the Committee should call for full restoration of the Assembly and its institutions. There was not consensus and the proposal fell.

Edwin Poots proposed that the Committee should call for all parties to support policing and justice and for all parties to work fully with all authorities to bring about an end to criminality and establish democratic structures inclusive of those committed to exclusively democratic and peaceful means. There was not consensus and the proposal fell.

## **Culture**

Each party gave a brief presentation on the issue of culture.

*Mr Maginness left the meeting at 1.49 pm*

*Lord Morrow left the meeting at 1.54 pm*

*Mr Poots left the meeting at 2.24 pm*

*Mr McGimpsey left the meeting at 2.41 pm*

Michael Ferguson proposed that there should be an Irish Language Act with Irish language rights incorporated into the Bill of Rights and overseen by the appointment of an Irish language commissioner, that the British Government should ratify the additional clauses on the Europe Charter on Regional and Minority Languages related to the promotion of language in public life and that the British Government and its departments should communicate through the medium of Irish when requested and make publications available in Irish when requested. There was not consensus and the proposal fell.

Patricia Lewsley proposed that the Committee should agree, in principle, that there should be greater recognition and provision for sign language. There was consensus and proposal was agreed.

Patricia Lewsley proposed that all parties should accept the principle of parity of esteem and just and equal treatment for the identity, culture and aspirations of all communities. There was not consensus and the proposal fell.

Nelson McCausland proposed that the Department of Education should initiate a programme of work to ensure that the cultural rights of children, as set out in the United Nations Convention on the Rights of the Child, are implemented and monitored across all school sectors. There was consensus and the proposal was agreed.

Nelson McCausland proposed that the Committee should call for the GAA to work with the Sports Council and the Community Relations Council to ensure Gaelic sports are depoliticised as part of the contribution to a Shared Future. There was not consensus and the proposal fell.

## **3. Issues deferred from previous meetings**

Nelson McCausland proposed that the Parades Commission's functions should be split to create a mediation body and a determination body. There was not consensus and the proposal fell.

The Committee considered the issue, referred from the Wednesday meeting, of whether the Assembly might wish to have devolved, together with powers on policing and justice, appointments to, and the operation of, the Parades Commission. There was not consensus on the matter..

*The meeting adjourned at 3.13 pm*

## Friday, 8 September 2006 in Room 144, Parliament Buildings.

**In the Chair:** Francie Molloy

**Present:** Alex Attwood  
George Ennis  
Sean Farren  
David Ford  
Michael Ferguson  
Derek Hussey  
Naomi Long  
David McNarry  
Lord Morrow  
Dermot Nesbitt  
Edwin Poots  
George Robinson (from 12.49pm)  
Caitriona Ruane

**In Attendance:** Nuala Dunwoody (Clerk Assistant)  
Debbie Pritchard (Principal Clerk)  
Joanne Adair (Assistant Clerk)  
Elaine Farrell (Clerical Supervisor)  
Eileen Regan (Senior researcher)

**Observing:** Clive McFarland (DUP researcher)  
Stephen Barr (UUPAG researcher)

**Apologies:** Mr Durkan MP (Mr Attwood attended the meeting as SDLP representative in place of Mr Durkan MP)  
Mr McFarland (Mr Nesbitt attended the meeting as UUPAG representative in place of Mr McFarland)  
Dr McDonnell MP  
Mr Murphy MP (Mr Ferguson attended the meeting as Sinn Fein representative in place of Mr Murphy MP)  
Mr McGuinness MP  
Ms Gildernew MP (Ms Ruane attended the meeting as Sinn Fein representative in place of Ms Gildernew MP)  
Dr McCrea MP (Mr Poots attended the meeting as DUP representative in place of Dr McCrea MP)  
Mr Kennedy (Mr Hussey attended the meeting as UUPAG representative in place of Mr Kennedy)

Mr Paisley, Jnr (Mr Ennis attended the meeting as DUP representative in place of Mr Paisley, Jnr)

*The meeting commenced at 10.15 am.*

1. **Chairperson's business – report on the Economic Challenges facing Northern Ireland**

The Committee agreed that it was content for an embargoed copy of the report to be sent to those who gave oral evidence and agreed the draft press release.

2. **Agenda item 1 – minutes of the meeting on 1 September 2006**

*Mr Poots joined the meeting at 10.21am*

*Mr Ennis joined the meeting at 10.24am*

*Mrs Long joined the meeting at 10.25am*

*Mr Hussey joined the meeting at 10.26am*

The minutes of the meeting of 1 September were agreed subject to the following amendments:

Under 'Apologies' amend the reference to Mr Nesbitt and the DUP to read 'Mr Nesbitt attended the meeting as UUPAG representative in place of Mr Kennedy'.

The reference to 1941 should be amended to 1949.

*The meeting was suspended at 10.45am and resumed at 10.59am*

Delete - 'Nelson McCausland proposed that British passports should be made available to citizens born in the Republic of Ireland after 1941 and this should be referred to the two Governments for consideration. There was consensus and the proposal was agreed'

And insert –

'Nelson McCausland proposed that British passports should be made available to citizens born in the Republic of Ireland after 1949. There was not consensus and the proposal fell.

Nelson McCausland proposed that the matter be referred to the two Governments for consideration. There was consensus and the proposal was agreed'.

Sinn Fein advised that it did not support this motion. The Chairperson ruled that the deletion and insertion were an accurate reflection of the record of the meeting on 1 September as set out in Hansard.

Mr Ford left the meeting at 11.10am

3. **Agenda item 2 – draft report on Rights; Safeguards; Equality Issues and Victims**

It was agreed that the Committee's deliberations on the report would not be included in Hansard.

*The meeting was suspended at 12.15 p.m.*

*Mr Attwood left the meeting at 12.15 pm*

*Mr Poots left the meeting at 12.15pm*

*The meeting reconvened at 12.49 pm*

*Mr Robinson joined the meeting as DUP representative in place of Dr McCrea MP at 12.49 pm*

*Mr McNarry left the meeting at 1.38pm.*

*The meeting was suspended at 3.07pm and resumed at 3.19pm*

A number of amendments to the draft report were agreed. It was agreed that the remainder of the draft report, from paragraph 48 onwards, the Executive Summary and the Conclusions, would be considered at the meeting on 15 September.

*The meeting adjourned at 4.12 pm*

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## **Appendix 2**

# Official Reports Relating to the Report

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## Monday 24 July 2006

### Members:

The Chairman, Mr Francie Molloy  
Mrs Diane Dodds  
Dr Seán Farren  
Mr David Ford  
Mrs Naomi Long  
Dr Alasdair McDonnell  
Mr Alan McFarland  
Mr David McNarry  
Lord Morrow  
Mr Conor Murphy  
Mr John O'Dowd  
Ms Margaret Ritchie

*The Committee met at 10.06 am.*

*(The Chairman (Mr Molloy) in the Chair.)*

1. **The Chairman (Mr Molloy):** The minutes of the meeting of 17 July are attached to the papers. The only point that I would make is that the last paragraph of the minutes states that the next meeting will take place on 17 July. That date should be changed to “24 July”. Does anyone have any other points to raise about the minutes? Are they agreed?

*Members indicated assent.*

2. **The Chairman (Mr Molloy):** On the subgroups on changes to the institutions and devolution of criminal justice and policing, I ask members to note that the title of the second subgroup has changed to “subgroup on devolution of policing and justice”, as was the term used in the Secretary of State’s letter. Are we in a position to proceed?

3. **Lord Morrow:** What was that subgroup’s title before this massive change?

4. **The Chairman (Mr Molloy):** It was to be the subgroup on devolution of criminal justice and policing. It is now to be called the subgroup on devolution of policing and justice. Can we proceed to set up those two subgroups at this stage?

*Members indicated assent.*

5. **The Chairman (Mr Molloy):** We move now to the issues raised in the letter from the Secretary of State to the Chairpersons, and to the terms of reference for each subgroup.

6. Can we have nominations for the subgroup on changes to the institutions?

7. **Dr Farren:** I nominate P J Bradley and myself.

8. **Mr Ford:** I nominate Kieran McCarthy and myself.

9. **Mr Murphy:** I nominate John O’Dowd and myself.

10. **Mr McNarry:** When is the cut-off time for nominating? By what day do you need to know?

11. **The Chairman (Mr Molloy):** That is up to this Committee.

12. **Mr McNarry:** A couple of days were allowed for nominations to be made to the previous subgroup.

13. **The Chairman (Mr Molloy):** Is close of play tomorrow OK?

14. **Mr McNarry:** That is fine.

15. **The Chairman (Mr Molloy):** Maurice, I know that the DUP has had communication with the Secretary of State. When can we expect a reply from your party on its position?

16. **Lord Morrow:** I understood that we had replied at the previous meeting. Did Dr McCrea not state our position? I am sorry, but I was not there.

17. **The Chairman (Mr Molloy):** Yes, he did, but your party had communication with the Secretary of State in between. The DUP said that it was meeting with the Secretary of State to discuss the voting procedures and other issues. I am just seeking clarification as to whether there has been any change in the party’s position.

18. **Lord Morrow:** No, there has not been.

19. **The Chairman (Mr Molloy):** I invite members to look at the terms of reference for the subgroup on devolution of policing and justice and to agree them.

20. We shall now consider the terms of reference to see whether we can agree them.

21. **Dr Farren:** Chairman, before we leave the issue, is it correct that four of the five parties will have nominated by the close of play tomorrow?

22. **The Chairman (Mr Molloy):** Yes.

23. **Dr Farren:** I understand that the DUP will not nominate.

24. **The Chairman (Mr Molloy):** That is correct.

25. **Dr Farren:** I just wanted to know where we stand.

26. **The Chairman (Mr Molloy):** Members will have copies of the terms of reference for the institutions subgroup. The terms of reference list several issues, in no order of preference, that came up in proposals and discussions on the institutions. That list can be added to if members have other issues that they wish to discuss, but what we have should suffice to start off with.

27. **Mr Ford:** The list does not cover all the institutions. For example, there is no mention of the inter-parliamentary body between the Oireachtas and the Assembly. However, the list is comprehensive enough to include that body somewhere in the discussions.

28. **The Chairman (Mr Molloy):** Are we agreed on the terms of reference?

29. **Mr Murphy:** Is it a matter for the subgroup to add to the list if it wishes?

30. **The Chairman (Mr Molloy):** Yes.

*Members indicated assent.*

31. **Dr Farren:** Chairman, is it in order to ask the DUP why it declines to participate in the subgroup?

32. **Lord Morrow:** Which one?

33. **The Chairman (Mr Molloy):** The one to consider changes to the institutions.

34. **Lord Morrow:** I thought that Mr McCrea made it clear that the only subgroup that had been agreed to through the Assembly was the working group on economic challenges; the other two subgroups have not been agreed through the Assembly.

35. **Dr Farren:** We left last week's meeting on the understanding that the DUP was to seek clarification from the Secretary of State. Despite that view being expressed, the door was not closed on the issue, as it were. Are we to understand that now the reason for the DUP's not nominating to the institutions subgroup is that that subgroup did not come through the Assembly? Are the issues to be discussed in the subgroup of no concern to the DUP?

36. **Lord Morrow:** Whatever the subgroups agree must come back to the Committee to be agreed. This Committee is a catch-all. Therefore although we have decided not to nominate to the subgroups, we recognise that the purpose of the Preparation for Government Committee is to scope the issues. That is what the Secretary of State told us at the start, and that is what we are sticking to.

37. **Dr Farren:** Of course that is correct. However, in order to scope the issues in sufficient depth so that we all understand and appreciate them, it is necessary to form the subgroups. The DUP is declining to participate in further elaboration and scoping of the issues in a way that would help the rest of us to understand its position. It is particularly interesting that the DUP, in any comments that it made on the review of the institutions, made great play of those issues. In fact, since the DUP insisted that many issues relating to the operation of the institutions were of concern to it, I would have thought that it should be to the DUP's advantage — and to the advantage of the rest of us — to hear its elaboration and full scoping of the issues, as that might help us to move forward. It is a matter of regret that the DUP has declined to do so.

38. The DUP is abdicating a clear responsibility, as far as the terms of reference of

this Committee are concerned, to help the rest of us to understand its position. Since the DUP is not participating in helping the rest of us to understand its position on those issues, I am sceptical of the views that it expresses.

*10.15 am*

39. **Lord Morrow:** Will I have to respond to every view expressed around this table? Our position is clear. No one should be under any misapprehension about where we stand on the return of devolution. The dogs in the street know the issues that are holding up the return of devolution. We are not being allowed to have debates in the Assembly because Sinn Féin has said that it will not take part in them, and the Secretary of State obviously takes that line. Therefore what is the point of scoping the issues further? This Committee is designed to scope all the issues. We understood that that had been done and we thought that we had made that clear to everyone around this table, but it seems that we have not.

40. **Dr Farren:** Would the DUP be happy for this Committee to turn itself into a subgroup and continue its work on focusing on institutional and policing issues in a way that would enable us to understand the DUP's approach? Over the next few weeks we would focus sequentially on those two issues in this Committee. The DUP would have the opportunity to focus on the issues here since it will not participate in subgroups.

41. **Lord Morrow:** The DUP has no problem with this Committee. We understood that the role of the Preparation for Government Committee was to identify and scope the issues. Now we are being told that this Committee needs subgroups to identify the issues, and no doubt in a couple of weeks' time we will be told that those subgroups will need subgroups to identify the issues. We are rolling this out into an array of subgroups that will not deliver anything. This Committee was quite capable of identifying and scoping the issues no matter what they were. We have been sitting on this Committee — even though it has been difficult over the holiday period to get Members to sit on it due to holiday arrangements. However, we

have been able to muster people for every meeting. We see no need for the subgroups on the two issues that are being identified this morning. The economic working group is different as it was agreed following debate in the Assembly.

42. **The Chairman (Mr Molloy):** Seán, are you making a proposal?

43. **Dr Farren:** At the moment the matter is up for discussion. Either these issues are important and need further elaboration and discussion or they are not — and if there is no consensus that there is anything to be discussed then I must accept that. However, it is very curious that the DUP, which went to considerable lengths to express concerns about the operation of the institutions, is declining to avail of the opportunity to let the rest of us — who would have to operate those institutions together with the DUP — hear its position.

44. Although I may not agree with the positions that the DUP was putting forward, I am anxious to hear them. My party had an exchange with the DUP at Leeds Castle to which that party did not respond in any detail. Given that experience, I am anxious that we know its response to our proposals. We have never gone through the issues in any detail at our meetings here. Even if the DUP is frightened of negotiating and wishes to remain at the level of scoping, surely it should be more than anxious to let the rest of us hear what it has to say.

45. We are not going to bend over simply to accommodate the DUP, but I am making a suggestion that might be discussed here for a few minutes before it turns into any kind of proposal, because that may not be what we should do. My suggestion is that this Committee should focus on the two issues on which the DUP will not participate in subgroups. Members can be represented by one, two, or all of their delegates as they choose, and they can send whomever they like — it is not necessary to have the same faces around the table on those issues. Effectively, this Committee could become the subgroups. It is a device to get around our difficulty. Perhaps, of course, we should proceed without listening to the DUP.

46. **Lord Morrow:** You have done that for years.

47. **Dr Farren:** Now that you are being given the opportunity, I cannot imagine that you want to scorn it.

48. **Mr Ford:** I am at a loss to know quite where we are. Last week the DUP conceded the establishment of the subgroup on economic challenges as a subgroup of this Committee, despite previously maintaining that it should be set up by the Assembly and the Business Committee. I accept that as a gesture on their part towards the rest of us to enable something to get under way.

49. Maurice Morrow now seems to be saying that there is some concern about further scoping the issues, but we do not agree on the mechanism for that. Interesting though they were, the five sets of inquiries, when proposals were teased out over a few days, did not actually constitute dealing in full detail with every outstanding issue. There is much “mining down further” — in Alan McFarland’s elegant phrase — to be done. The view from the DUP this morning is that that is so, but the structures to do it have not been agreed.

50. Can the DUP confirm that it is content that there is further scoping out in detail to be done on some issues, and that it is simply a matter of the mechanism by which we do it? Or does the DUP believe that the job is now completely finished?

51. **Lord Morrow:** I repeat — perhaps I did not make it clear — that my understanding was that this Committee was to identify and scope the issues. Is that the Alliance Party’s understanding?

52. **Mr Ford:** That was certainly our understanding; however, as I thought I had made clear a few moments ago, it was not our understanding that the process had been clarified. Scoping the issues is more than publishing a list that says: “Party A believes items 1 to 27”, and: “Party B believes items 28 to whatever”. It is a matter of establishing in greater measure, through discussion, any overlaps and differences between parties that

may not be immediately apparent. That is a valid job to continue, either in this Committee or in subgroups.

53. **Lord Morrow:** The DUP has never seen this as a negotiating committee.

54. **Mr Ford:** No, and, conscious of your concerns, I did not suggest that it was. I suggested that it was a committee for further elaboration of where parties stood.

55. **The Chairman (Mr Molloy):** Referring to what Seán said, there is no reason why the possible ongoing work of this Committee should not deal with some of the issues that are not being discussed in subgroups.

56. **Mr Murphy:** That reinforces the DUP’s position all along with regard to this Committee, which has been that it is a tactical engagement with no serious intention to work to prepare for Government here but to secure plenary debates in the Assembly.

57. Ironically, the DUP, in many of its submissions and interventions, accused the rest of us of running away from issues, particularly policing and justice. Now it has a chance to join a subgroup to deal with those issues. The DUP asked that it might raise all sorts of issues, and that was granted. Yet it still does not want to get down to work. The DUP accused the rest of us of not facing up to the issues; now it spurns a chance to get down to them. That reinforces the view that we have had throughout our engagement with this Committee: the DUP’s approach has been merely tactical; it goes through the motions without doing any real business.

58. I have sympathy with Seán’s frustration, and I would be prepared to explore other ways of doing business. The difficulty is that we have a direction from the Secretary of State to set up two subgroups to do the work. We would have to look at ways of trying to get around that. We can dance around the issue to try to find a more amenable way to get the DUP to do business. However, since coming onto this Committee the DUP representatives have shown themselves consistently unwilling to get down to any serious engagement with the rest of us. They are not prepared to negotiate on any institutional issues;



neither are they prepared to negotiate on any of the issues in order to prepare for the devolution of policing and justice. They are consistent in refusing to engage in the subgroups.

59. **Mr McNarry:** Chairman, I hope that we are not going to get into another two-hour wrangle about business that we have covered repeatedly. The way that we work here is clear: there is consensus or there is not. There seems to be a proposal from Seán Farren, which may or may not be a way ahead. I am uncomfortable with the DUP position on the Committee, because we operate on consensus. If Seán has a proposal, we need to know whether there is consensus for it.

60. We began the proceedings by establishing consensus to set up two subgroups, and there was no disagreement. Trouble arose only when we moved to nominations. What Maurice Morrow has reported is no surprise, as the signals given by William McCrea were clear. Therefore it should be no surprise that my party has discussed the potential of the DUP position — we picked up those clear signals. William McCrea also clearly said that the DUP would abide by the rules, yet it does not do to criticise what you have been a part of.

61. We do not have control of this Committee; that is our weakness. When we encounter a problem, we run like children to the Secretary of State, who issues letters that are contrary to previous letters, and we do not know what the hell we are working to. We have bowed to Sinn Féin on debates — no debates because Sinn Féin does not want them — a position that has been facilitated by the Secretary of State. We now have an economic subgroup, which, I must say on behalf of those of us who attended it, worked very well. It seemed to have a good programme; it had agreed a very full agenda; and the participation in it seemed of the highest quality. What do we do now? We allow the Secretary of State to tinker and to take control away from us, while we sit here like plebs.

62. We have to get a grip on that, because we are now tinkering with it. I understand and I sympathise with Seán's proposal, because the

tinkering is intended to keep us together so that we do not go into subgroups from which one party is absent. As Maurice said, quite rightly, a subgroup would report to this Committee; and then this Committee — after some of the people on it had changed their hats — would decide whether or not it would adopt the report. The essential thing, unless I am wrong, was that we agreed that all reports on the three issues would be debated in the Assembly.

63. I challenged Conor Murphy last time, and he gave me as good an answer as he could — by quoting Martin McGuinness. Hansard will have recorded my reaction to that.

*10.30 am*

64. Could we perhaps get to the point? Assurances were given, which I took in good faith, that the reports would be debated in the Assembly. The objective of this Committee to ensure that reports are completed remains. The problem is which mechanism is used to complete those reports.

65. To facilitate colleagues in the DUP, as we facilitated colleagues in Sinn Féin in relation to participating in Assembly debates, is there something within Seán Farren's proposals that would retain those issues within this Committee or a subgroup of its membership? I am a bit concerned about the loose talk about having a subgroup with different faces. That changes the entire outlook of this Committee. There are substitutes in this Committee today, but those members came as substitutes. We should not send members to be surrogate PFG Committee members. That must be clarified.

66. If, in the interests of collectivity and co-operation, there is a proposal to allow this Committee to deal with the two outstanding issues, which the DUP is prepared to accept and which we all accept, is there consensus to explore that? I appreciate Conor Murphy's words that he would be prepared to explore that. It was very interesting and helpful, and I appreciate it. Could that exploration be tied to Seán's proposal?

67. If there is no consensus, we go back to what the Secretary of State said, which was: "I

am directing; I am the boss; I am the overseer; and I am the colonial custodian of Northern Ireland at the moment”. Ha ha, big deal. The Secretary of State also introduced new rules to help some people and offend others. One new rule was that consensus was unnecessary in a subgroup. Would that rule apply to a subgroup of this Committee dealing with those issues? He also said that there did not need to be consensus and that a majority vote would do. Those issues need to be clarified, Chairman.

68. **The Chairman (Mr Molloy):** A subgroup of this Committee is what we were directed to set up. Whatever term people wish to use, they are all subgroups of this Committee.

69. **Mrs D Dodds:** I have a number of points; I will ask Seán for clarification on his point in a moment.

70. First, this party never agreed with the consensus to set up subgroups last week. The establishment of subgroups was directed by the Secretary of State. That is apparent from his letter, which is included in the papers for today’s meeting. The Secretary of State directed us to do that, whether or not I like subgroups.

71. Maurice Morrow has made our party’s position clear; we are not running away from any of the issues. We have sat on this Committee for a number of weeks; we have scoped issues and prepared a lengthy report for the Committee, which seems to have disappeared into the ether.

72. There is much work to be done, which involves a wide range of issues, but the subgroups’ remits are narrow. Other issues, such as criminality and paramilitary activity — which parties in this room want to run away from — are exceptionally important to the DUP and must be dealt with extensively.

73. I would like Seán Farren to clarify his point; if he would like this Committee to deal with the issues assigned to the subgroups, does he agree that the Committee should deal with all the issues that have been scoped to date, not just the couple of issues that have been identified in the Secretary of State’s directives?

74. **Dr Farren:** The SDLP is not afraid to address the issues on which you focused — paramilitarism and criminality. The Secretary of State explicitly included those issues on the agenda for the subgroup on policing and justice, so it will deal with those concerns of the DUP. There is no question of them, or any other issues, being avoided. If parties wish to address any other issues, there is absolutely no reason why, under the broad umbrella of preparing for Government, they should not be on the agenda of this Committee or one of its subgroups.

75. I raised the possibility of the PFG Committee addressing the issues earmarked for the two remaining subgroups to ensure that the DUP would be able to participate, given its refusal to nominate to those subgroups — its reasons are beyond me; nonetheless, the party seems to have adopted that position and is not budging from it. Notwithstanding his directions, if the Secretary of State heard that this Committee was anxious to continue discussion on those issues, I would not imagine that he would insist that they be dealt with by the subgroups simply because he directed that they should be established. Let us remember, directions were only issued because this Committee has been unable to reach any consensus. The Secretary of State took it upon himself to provide a way for us to continue to operate.

76. I recognise that my suggestion is really a contrivance, but sometimes contrivances are necessary in politics to hide parties’ shame or to protect them from their own intransigence, which backs them into corners.

77. We must first establish whether there is a clear acceptance that the issues on the two subgroups’ agendas need to be scoped, discussed, explored or whatever word one wants to use — Alan McFarland uses the word “mine”. If we can agree on that, then, as David said, the mechanisms become just a way of achieving our goal and are of lesser importance than the agreement that we should continue to discuss, explore, mine, scope, identify — or whatever the suitable word.

78. **The Chairman (Mr Molloy):** When we started the discussion this morning about setting

up the subgroups, I asked whether there was any problem with setting them up this morning, and there was no objection. The Secretary of State's direction may mean that we do not need consensus.

79. **Lord Morrow:** Members could not object to them. He has made it clear. The Secretary of State is the boss. He will tell us what we should or should not do, and that is what he has been doing. He has determined that the Assembly cannot meet. He has said that. His words are: "I have directed." He is not asking for agreement.

80. **The Chairman (Mr Molloy):** I am just clarifying the point that Diane raised. Diane, do you want to respond? The Secretary of State is really asking whether, if this Committee were to deal with the issues, the DUP would be happy to sit on it to deal with them?

81. **Mrs D Dodds:** This Committee has set itself a very large programme of work. Our statement earlier in the week said that this Committee is perfectly capable of dealing with the issues. However, that will be all of the issues — every issue that has been identified, on an issue-by-issue basis, and it will not be confined to the narrow remit of subgroups. There is no need for subgroups.

82. **The Chairman (Mr Molloy):** The problem I have is that we have been trying to expand, or have been accused of expanding, the remit of this Committee. Now members have been told that it has too narrow a remit.

83. **Mrs D Dodds:** No. I am sorry. The remit of this Committee is very wide. It is to scope the issues. Members have already spent weeks and weeks doing that. Now you say to us that we are going to expand the Committee. I am interested to see how you want to expand the remit of the Committee.

84. **Mr O'Dowd:** The wider the scope or remit of this Committee, the greater the need for subgroups to break down that work and look at it in a detailed manner and report back. However, I wish to clarify the position for the DUP. Our party is more than keen — indeed, champing at the bit — to discuss the issue of criminality and paramilitary activity. If that

helps the DUP's deliberations, we are more than happy to do that.

85. **The Chairman (Mr Molloy):** That could be done in the Subgroup on Devolution of Criminal Justice and Policing.

86. **Mr McFarland:** I apologise for being late this morning. We had a meeting with the Secretary of State at 9.15 am, which overran. Mr Kennedy sends his apologies.

87. Forgive me if I cover ground already covered. This Committee was tasked with identifying the issues. It has perhaps identified most of them, but we do not know. It was decided that we should break into three subgroups to try to find out whether, within those areas, there are other issues that have not yet been identified; and to expand those areas and find out whether we have identified all the issues that are important. As Lord Morrow said while I was coming in, this is not a negotiating Committee. That is absolutely clear. Negotiation will take place elsewhere. We still have work to do on identifying issues. There are lots of sub-parts of these issues that we have not yet got round to examining, because we have been operating at a more macro level.

88. Rightly or wrongly, the Secretary of State has said that we should have three subgroups. It is in the middle of summer. Mr Kennedy, for example, has now left for a fortnight's holiday. I have no doubt that colleagues will be back and forward over the summer. We cannot operate this Committee and the subgroups at full pace, because the Secretary of State has decreed that each member is to sit on a subgroup. Therefore it is not possible, with holidays and everything else, to run these two organisations side by side. There is a logic in moving it down to a more micro level to examine what is going on within those issues.

89. We had a difficulty with the phrasing of the terms of reference, because it looked as though we were involved in dealing only with the Government's paper on policing. We have enormous problems with that. The five options are not the only options; there are many others, but that is a matter for negotiation.

10.45 am

90. We identified many sub-areas within the issue of policing and justice. When criminality and paramilitary activity were not being discussed in that subgroup, William McCrea said that the DUP wanted those issues on the agenda. That makes a lot of sense, because there are many areas within criminality that we need to explore in a subgroup — whether organised crime is carried out by individuals, who sanctions such activities, and other questions.

91. There is work to be done. However, I am still confused about whether the DUP is refusing to take part in the subgroups as a matter of principle — no matter how useful the work might be or how important it is to identify and scope the detail of these issues. Why? It is not ideal that the Secretary of State has ended up directing the subgroups. Is the DUP objection on principle or does it object because it does not have control, in that subgroup decisions are not based on unanimity?

92. No other system operates on the consensus basis of this Committee, and if we are ever to succeed as an Assembly or a Government, we must realise that. In the Assembly last week, Peter Robinson said that parties operating outside unanimity would take hits that they do not like on certain matters, but that is the way it is. That seems sensible.

93. If we approach the issues in an adult and sensible fashion through subgroups, I cannot see why we cannot do some more good work in identifying the issues — not negotiating — that can be brought before the Assembly for debate. We must keep reminding ourselves why we are here: it is so that the DUP can have an enormous four or five days of debate in the autumn.

94. **Lord Morrow:** Do you not want a debate also, Alan?

95. **Mr McFarland:** I absolutely do; but if there are no subgroups, there will be no debate. The problem is that we are trying to get debates. We need debates in the Assembly, with everybody present, so that the public can see that we are operating properly. If the subgroups do not identify detailed areas of discussion, the

Secretary of State will have problems producing debates. That will be unfortunate.

96. **Mrs Long:** Further to what David Ford asked earlier, the DUP seems to agree that the scoping exercise, which is the job of this Committee, is incomplete, in that there is still further work to be done. The question is how we go about doing that.

97. I am unclear whether the DUP's objection is to the idea of subgroups. I understood that its fundamental objection was that subgroups could end up negotiating. If the subgroups are set up with the same remit as this Committee — to further scope the issues — I do not see how that is any different from our discussing matters in this Committee or in a subgroup. That is why I am slightly confused by the DUP's current position. It has no fundamental principled objection to subgroups, as such — by the DUP's own admission, the Subgroup on Economic Challenges is working well.

98. The issue seems to be where subgroups blur into negotiation. That is what I am asking. If the remit of subgroups is to further scope the issues, is it not sensible to proceed so that the subgroups can report to this Committee, where reports would be agreed by unanimity, if that is part of the objection?

99. Diane mentioned the issues that would not be dealt with under the remits of the subgroups. I would have thought that any outstanding issues from the subgroups would be better dealt with through this Committee. That way, no issues would be left outstanding. It would simply be a case of the subgroups further scoping those issues that fit comfortably into their remits, while those issues not within the remits of the subgroups remain with this Committee. That would be a way of addressing all the issues. Clearly, we all agree that they have not all been scoped in any depth.

100. **Lord Morrow:** There are a couple of points that Mrs Long has got right, and others on which she is wrong. She said that, by our admission, the Subgroup on Economic Challenges was working well. I never mentioned that subgroup in our deliberations,



and neither did Diane Dodds. I do not know whether it is working well.

101. In relation to the subgroups that have been born of this Committee, I said that there would no doubt be subgroups out of subgroups.

102. How many subgroups do we need?

103. Secondly, you said that we did not object to the subgroups. I am sure that you have read the correspondence, so you will know that the Secretary of State directed the subgroups to meet. Therefore, there was no need to object or to agree; he is the king of the castle. The DUP did not initiate this debate — others sitting around this table did that. We simply said that we would not nominate members to two of the subgroups. Where is the ambiguity in that?

104. **Mrs Long:** That is the point. The ambiguity lies in the fact that the DUP will not nominate members to sit on two of the three subgroups. It is willing to nominate members to sit on one of the subgroups, but not the other two.

105. **Lord Morrow:** Yes, because we made it clear —

106. **Mrs Long:** And —

107. **Lord Morrow:** If I can interrupt you —

108. **The Chairman (Mr Molloy):** One at a time.

109. **Mrs Long:** I would like to finish my point. That is where the ambiguity lies.

110. **Lord Morrow:** She will not listen.

111. **Mrs Long:** It seems that the issue is not with the subgroups; rather it concerns what they will be dealing with.

112. **Lord Morrow:** That is not what I said. I said that the economic subgroup was born out of the Assembly debate.

113. **Mr Ford:** It is a direction from the Secretary of State.

114. **Lord Morrow:** It was born out of the Assembly debate; the Assembly requested it, and the Secretary of State acceded to that request.

115. **Mrs Long:** Not as a subgroup of this Committee.

116. **Mr McFarland:** I am confused as to why Maurice is unhappy with the subgroups. I could understand his objections if the subgroups had powers to negotiate, in the same way as I could understand objections to this Committee having those powers. However, if the subgroups will not be negotiating, but rather scoping and identifying issues in finer detail, what is the difficulty with them? Is it because they will operate a non-consensual voting system or because the terms of reference are not right? I am trying to understand why the DUP is saying that it will not sit on the subgroups.

117. **Lord Morrow:** We believe that the PFG Committee could adequately deal with the issues.

118. **Mr McFarland:** Chairman, the problem is that the PFG Committee will not meet because, as directed by the Secretary of State, its work areas have been divided among the three subgroups. It will be impossible for members of this Committee to sit here and on the subgroups. The subgroups will discuss the work areas in more detail, and party experts on those matters will sit on the subgroups. The Secretary of State is expecting the subgroups' work to be fed back to this Committee so that it can decide on matters for debate in September. Without the work of those subgroups, how does Maurice think that those debates can be arranged? Is he not concerned about whether we can arrange five debates in the autumn?

119. **Lord Morrow:** Sinn Féin is already on record as saying that it will determine whether there will be any debates.

120. **Mr McFarland:** The Secretary of State has already determined that the debates will take place.

121. **Lord Morrow:** You are right. The Secretary of State has said many things. Your colleague, David McNarry, said that every time we get a letter from the Secretary of State it contradicts and changes what he said in previous letters. Therefore, do not set too much store by what the Secretary of State has determined or not determined because he will change his mind at the next call.

122. It is time that we moved on from this issue.

123. **The Chairman (Mr Molloy):** We are reaching that stage now.

124. **Lord Morrow:** We are just going round in circles, and there is nothing around this circle.

125. **Mr McFarland:** I do not understand the DUP's objection.

126. **Lord Morrow:** We will not sit on negotiating subgroups. We have made that quite clear from day one, and, Alan, you know that.

127. **Mr McFarland:** They are not negotiating subgroups.

128. **Lord Morrow:** That is Mr McFarland's interpretation. One of his colleagues said in the newspaper recently that negotiations were going on in this Committee. Who is right? I understand why he looks bewildered.

129. **The Chairman (Mr Molloy):** For clarification, rather than have a subgroup, the consensus was that there would be a working group, which would produce a report — a majority report or a minority report — until voting procedures are established. The subgroup on policing and justice would deal with issues such as criminality and paramilitaries. The Committee's agenda could be expanded to include those issues further if there is agreement. The subgroups would have a clear line as to what they can deal with.

130. If the subgroup is set up, the Secretary of State's direction will be fulfilled. The reports will come back to the Committee — where consensus comes back into play — so the majority issue is not damaging in any way in the subgroup. A debate in the Assembly will follow the submission of the subgroup's report.

131. **Mr McNarry:** It is vital that the Committee reach a decision to get down to work. The outcome that I am looking for is that we produce reports for debate. The Secretary of State has given dates in September for debates, and I take it that we are still working towards having those debates. I presume that they will cover the reports that the Committee will have approved, or will have been part of approving, and that there will be a report on rural planning.

We must find a compromise whereby those reports can be compiled through the Committee.

132. I feel privileged to be here, but I share my party colleagues' anxiety to know what the Committee is doing and how it is progressing with issues. There are not 108 MLAs in this room, and the only place where there will be 108 MLAs is in the Assembly, where all Members will have the right to discuss the issues and reports that the Committee discusses.

133. This is the Committee on the Preparation for Government, yet it is extraordinary that the scoping issues so far have not included such matters as education, health and development. I have some sympathy with that view. If we are serious about preparing for Government, we should discuss the issues that we will inherit; for example, we may have ideas on how to design the future of the institutions and of policing and justice. However, there are other issues, and that is why I am glad that there is a subgroup on the economy.

134. We have come to today's Committee sitting on the back of news that the Government have frittered away millions on consultation. They are suffering from "consultation-itis" and cannot move without consulting the people. However, when the Government have consulted people on issues such as education, they ignore them. Would we have done that? We need to prepare for Government by establishing the background to that consultation.

135. The levels of consultation prove to me that the Government cannot govern properly. That is lamentable, and their management of Northern Ireland is dreadful, but that is also part of preparation for Government. I know that we have timescales and that people are going on holiday, etc, and those should be facilitated, but I hope that we can deal with such issues in order to get to the wider issues in the lifetime of the Committee. Therefore, that seems to put pressure on the Committee to make decisions here and now.

136. Do we go for a subgroup that my party may not participate in, or do we try to facilitate to keep us all together? It seems a nonsense that people may abstain — my party included —

from a subgroup and yet discuss the reports of the subgroups on changes to the institutions and the devolution of criminal justice and policing — a point that has already been made.

137. Can we either decide to move on with the subgroups without parties, or find a compromise that will keep us together on these issues?

*11.00 am*

138. **Dr Farren:** I plead guilty to initiating this procedural debate. I understood from initial comments made by the DUP that it would not be nominating members to the two subgroups on changes to the institutions and the devolution of criminal justice and policing, although last week we were given to understand that it might be in a position to do so following consultations with, and clarification from, the Secretary of State.

139. The DUP is not nominating to those subgroups, and, rather than have those two subgroups, I thought that we might continue to debate the issues related to those two agenda items in this format. The DUP seems anxious that these matters should be discussed, but, rather than say: “Yes, that would be a way forward”, it seems to be trying to find ways to obscure the issue, and it will not make a commitment to have the issues scoped further — to use its language — within this Committee.

140. However, if it is saying that this Committee could do so, then there would be no need for the subgroups, whatever the directions of the Secretary of State. We would tell the Secretary of State that we have agreed to continue to discuss those issues in this format and that we do not need the other two subgroups.

141. Will the Secretary of State say that we must have those two subgroups? Will he not be pleased that we will be discussing the matters further in this format?

142. **Mr McNarry:** I said before that we should get the Secretary of State to come to this Committee and answer those questions.

143. **Dr Farren:** He is unlikely to accede to that request. However, we could agree to scope those issues in this Committee. Would the DUP

be happy for us to proceed without the subgroups and to scope the issues in here in this format?

144. **The Chairman (Mr Molloy):** We need to reach a conclusion. If Dr Farren’s proposal were put forward and we had consensus that we do not need the subgroups, we would need legal opinion and the opinion of the Secretary of State, as we would not be complying with his direction.

145. **Dr Farren:** We would suspend the implementation of the direction. Is there a serious suggestion that the Secretary of State will say that we must operate those two subgroups even though we have decided to continue with those issues in this Committee? It may be that some other party will object to that procedure. I began by saying that I was thinking off the top of my head as to how we might proceed with these two issues — if they are important to the DUP in particular — and how we might overcome the problem that the DUP has with nominating.

146. **The Chairman (Mr Molloy):** Dr Farren, are you making that a proposal?

147. **Dr Farren:** I am making a proposal in order to bring this to a head. It will test whether or not people are happy to proceed.

148. **Mr Murphy:** It should be brought to a head. We are in danger of talking this to death. The DUP has not shown any willingness to deal with these matters as agenda items here, and it is unwilling to go into subgroups.

149. David McNarry has suggested that the UUP might abstain, and that would mean that the subgroups would not be workable anyway. Alan McFarland challenged the DUP as to why it would not join the subgroups, and David McNarry said that his party might abstain anyway. It is getting ridiculous.

150. David McNarry is out of the room now, but he has suggested several times before, and also today, that the other parties facilitated Sinn Féin in not having Assembly debates. I have to correct him: they did not facilitate us.

151. Sinn Féin objected to every plenary session of the Assembly except for the failed

attempt to elect the First Minister and the Deputy First Minister. On four or five occasions, our objections were overruled, overlooked or ignored, and the Secretary of State proceeded with his plans. No one facilitated Sinn Féin in that regard.

152. Sinn Féin has made clear its position on this Committee: it is a Preparation for Government Committee, not a preparation for debates committee. It seems that Alan thinks that the emphasis of this Committee is on facilitating a debate in September. The emphasis from our perspective is to get down to talking about some of the serious issues that need to be discussed in order to meet the deadline for restoration on 24 November. That is Sinn Féin's purpose. If part of that work involves debating some of those matters in the Assembly, and those are genuine debates in relation to work that has been done in this Committee, we are happy to co-operate.

153. The objective of this Committee is to do the required work. However, we have been talking for an hour, and I have seen no indication yet of any progress on the two topics. The other subgroup is up and running, and there is no indication of the other two getting under way. If the UUP abstained from participation in the subgroups, as it seemed to indicate earlier, they could not function anyway. It is time for some straight answers. Is this work going to happen or not? Frankly, we could be doing something more useful than sitting here in circular discussions every Monday.

154. **Mrs Long:** The Alliance Party does not care whether the discussions take place in the Committee or a subgroup, so long as they take place and do so quickly. At present, we seem to be going round in circles and getting nowhere. If having the discussions in the Committee makes it easier for other people to participate, we are happy to have them here, and if it is easier to do it in subgroups, that is fine. The meat of the issue matters, not the structure of the discussions. We must focus on that.

155. Following the questioning of the DUP's position, I was surprised to hear the Ulster Unionists suggest in the last intervention that

they might not participate in the subgroups. That question was asked of them earlier today, and no indication of their position was given until the end.

156. If we are going to proceed with the subgroups, there must be a commitment from all parties to be present. We could proceed with the subgroups without the DUP — and I understand its frustration with this discussion — but that would be pointless, because all parties around the table need to make some kind of submission and be party to the discussions. The non-participation of any party would not be helpful to any of us, and that is why we are having this hour-long circular discussion.

157. We want to see how we can do business, with the DUP and everyone else at the table contributing something, because we all believe that that is not only positive, but necessary. That is why we have been teasing this out, but there must be a commitment from all five parties that they will sit around the table and be willing to get on with the business, wherever it may take place.

158. **The Chairman (Mr Molloy):** That is the key point. If the subgroup is not set up and the topics are to be debated here, it must be established whether all parties will participate.

159. **Dr Farren:** I will put my proposal, in that case.

160. **The Chairman (Mr Molloy):** Alan wanted to speak first.

161. **Mr McFarland:** Seán asked Maurice whether the DUP would take part in the discussions if they took place in this format. It would be useful to know the answer to that before we take decisions.

162. **Dr Farren:** It is a rhetorical question, because they are members of this Committee. If they do not turn up —

163. **Mr McFarland:** If the DUP objects to negotiating policing and justice in a subgroup, it is as likely to be neurotic about discussing it in this Committee — or perhaps not, as the case may be. I am curious to get an answer.

164. **Mr Ford:** I asked that question directly in my first contribution to this discussion. If we



are merely scoping further — or in your terms, mining down — is there a suitable format in which to do that? I was trying to see whether we could assist the DUP in getting engaged in that, while accepting that it would not engage in anything that it regarded as negotiations.

165. **The Chairman (Mr Molloy):** We need a commitment from all parties, not just the DUP, that they will be happy to discuss policing, justice and other issues in this Committee if there is not going to be a subgroup.

166. **Lord Morrow:** Under what circumstances would Alan McFarland or his party not participate in subgroups?

167. **Mr McFarland:** Hold on for a moment. We are back to Seán Farren's question: if those issues were kept in this Committee and in this format, would the DUP take part?

168. **Lord Morrow:** We have made it quite clear from day one that we see this as a scoping Committee. We can scope whatever issue under the sun that members wish.

169. **Mr McFarland:** The subgroups scope at a micro level. The DUP disagreed with that and said that that was negotiation. Is the DUP happy to do micro-level scoping in this format?

170. **Lord Morrow:** I am sure that Alan McFarland will answer my question in a moment or two. If there is further scoping of the issues within this Committee, we expect that to include all the issues that have been raised in the Committee but that we were never allowed to debate in the Assembly.

171. **Mr McFarland:** So the answer is that the DUP is happy to discuss institutions and policing and justice in this Committee as part of a scoping exercise. That seems to be a yes.

172. **Lord Morrow:** It is your turn to reply.

173. **Mr McFarland:** Hold on; I am trying to go through the logic of this. The DUP's objection to the subgroups was nothing to do with scoping, because what was to be discussed in the subgroups is the same as what we discussed in this format. Therefore, the objection must be to the lack of a requirement for consensus on the subgroups, because the

issues and the terms of reference are the same. The difference is in the formats of this Committee and the subgroups. If the DUP is happy with that, its problem must be something other than the scoping exercise.

174. **Mrs D Dodds:** I am very anxious to allow Alan McFarland to reply to Maurice Morrow's question. Our objection is not to subgroups per se, but to the voting system in the subgroups. It is interesting to see that so many parties in this room are now content with majority rule in some cases.

175. **Mr McFarland:** That is how the first Assembly operated, and the next Assembly will operate in that way.

176. **Mrs D Dodds:** Before the end of June, this Committee prepared a comprehensive list of issues that had been scoped and identified as the obstacles to the return of devolution in Northern Ireland. For example, on the matter of debates, we had a report that quite easily could have gone to the Assembly for a valuable debate that would have allowed 108 Members to contribute. I entirely share Mr McNarry's frustration at the way in which that has been handled and blocked by parties in this room and by the Secretary of State.

177. We have a full report and a full list of issues. We cannot pick and choose those issues, which are far too narrow as defined by the remits for the two subgroups. We will not agree to those remits.

178. Maurice Morrow asked some time ago — and I would really like to get round to Alan McFarland's answer — on what basis the Ulster Unionists would not nominate to the two subgroups. We have already made our position quite clear.

179. **Mr McFarland:** All the issues that we identified fit into one of the three subgroups. You can see that. That is why we have established subgroups. The Secretary of State wants subgroups to identify particular issues. We are trying to agree the format because, as others have said, to have one of the major parties, the DUP, not playing its part clearly does not help the work of this Committee at all.

180. Why does the DUP not want to play its part? It is not because of the scoping exercise that the subgroups could do, because the DUP is happy to do that in this format. There must be some other reason, to do with the voting system or whatever, for its not being happy to sit on subgroups.

*11.15 am*

181. **Mrs D Dodds:** I am sorry, I am still waiting —

182. **Dr Farren:** I have a point of procedure, Chairman. The debate is moving away from the proposal. Whether one, two or three parties decide not to nominate to subgroups is not the point; it is whether we have a format in which the issues can be addressed. My proposal aims to establish whether there is consensus for such a format; that is, this Committee. That is all. After the proposal has been put, members can question each other as to whether they would participate in subgroups, were they to exist. However, my proposal would probably push the subgroups aside and render them unnecessary.

183. **The Chairman (Mr Molloy):** I will put your proposal to the Committee.

184. **Dr Farren:** My proposal should be put, because it does not require any further debate, in my view.

185. **Mrs D Dodds:** For weeks, we have openly discussed these issues and answered parties' questions. Maurice put a question to the Ulster Unionist Party, and I would really like to hear the answer.

186. **Mr McFarland:** The answer is absolutely irrelevant, because the subgroups will not function. There cannot be a situation whereby only four parties sit on a subgroup and produce a report that must come back to this Committee for consensual agreement before it goes before the Assembly. If the DUP does not sit on the subgroup, there is no subgroup. Asking silly questions about who else might sit on the subgroup and what its terms of reference might be is —

187. **Mrs D Dodds:** I did not raise that issue. It was raised by a member of Mr McFarland's party, and I am keen to know his view.

188. **Mr McFarland:** But it does not matter.

189. **Lord Morrow:** There is an inference that everyone else is asking silly questions and that only questions asked by Alan are intelligent.

190. **Mrs D Dodds:** It is a particularly pejorative way of speaking.

191. **The Chairman (Mr Molloy):** Will you restate your proposal, Dr Farren?

192. **Dr Farren:** I propose that this Committee continues to discuss issues other than those being discussed in the Subgroup on Economic Challenges. Whether we decide that subgroups are necessary is an aside at this point. Let me make it simple: I propose that we continue to discuss the issues identified for the other two subgroups, on institutions and policing and justice, and other matters, in this Committee. That is all.

193. **The Chairman (Mr Molloy):** Is there consensus?

194. **Mr Murphy:** I am sceptical, given the DUP's refusal to give a direct answer to whether it would get down to business in this Committee. The DUP seems to be evading that. If we try to have some sort of micro-discussion on those issues, as Alan suggested, the DUP will use that to introduce other issues in order to avoid getting down to the serious issues.

195. Nonetheless, in order to advance this discussion, which is what we are trying to do, Sinn Féin is prepared to go along with the proposal. I must say, however, that I am quite sceptical about the outcome, but we are prepared to consent to Seán's proposal and see how this process develops. If we are to try to do some serious work on the issues outlined in the terms of reference, and people just play with that, we will obviously have to reassess our position. However, in order to move this discussion on, and with that health warning attached, Sinn Féin is prepared to go along with Seán's proposal.

196. **Mr Ford:** We certainly agree with Seán Farren’s proposal. There is clearly no way in which subgroups can function at this stage. Whether issues can be scoped in greater detail in this Committee will have to be demonstrated by those who participate. The fact that people are playing games is not much of a reason for walking out — otherwise this Committee would never have started.

197. **Lord Morrow:** We need clarification that further scoping will be wide-ranging and on an issue-by-issue basis. We also need clarification that, if members — and I include the DUP in that — feel that it is necessary, further scoping is possible on the report that has already been produced. In fairness, Seán Farren mentioned “any other issues”.

198. **Mr McFarland:** We are happy with the proposal.

199. **The Chairman (Mr Molloy):** Is that agreed?

*Members indicated assent.*

200. **The Chairman (Mr Molloy):** All right, we will refer that to the Secretary of State. Perhaps we can delay the establishment of subgroups rather than clear them from the table completely.

201. **Dr Farren:** Perhaps the secretariat could help us to identify those issues that require further scoping and circulate them to us. We can then agree an order and add to that list if necessary. Obviously, the Secretary of State may have a view, but I would be surprised if he should intervene when we have reached a rare level of consensus.

202. **Mr McFarland:** I presume that it is open for parties to bring their subject experts into the subgroup as substitutes for other members?

203. **Mrs D Dodds:** What subgroup?

204. **Mr McFarland:** Sorry, I meant the Committee.

205. **Mr Murphy:** I assume that the topic for discussion at a PFG Committee meeting will be clearly identified from now on. We must know whom to bring along.

206. There are two main topics listed for our attention. I am not averse to anyone raising something new, as that is his or her entitlement. However, if we get into the business of listing, as Seán Farren has suggested, and dabbling into a wide range of issues, it will be difficult to produce a report in the time allotted. It will be possible to report on the two main issues if the proper work is done and the Committee meetings are structured in such a way that we know what topic is coming up and who is to be sent along. Otherwise, the chances of our producing a report for September are very slim.

207. **The Chairman (Mr Molloy):** Do members wish to propose a first item at this stage, or should the Clerks decide?

208. **Mrs D Dodds:** I propose that we go back to the list that the parties produced, correlate that with the issues that were identified during the scoping exercise and the tentative report that resulted, and thus identify a running order.

209. **The Chairman (Mr Molloy):** The Clerks will do that and circulate it to members. Agreed?

*Members indicated assent.*

210. **The Chairman (Mr Molloy):** We must also agree a date for the next meeting.

211. **Mr Murphy:** Can I presume that that is item 3 out of the water and that the draft programme for work is not going to be referred to us?

212. **The Chairman (Mr Molloy):** Yes, although it could become part of that discussion too. The Secretary of State mentioned working in the context of the Programme for Government.

213. What will be the date of our next meeting?

214. **Dr Farren:** We would need to meet not later than next Monday.

215. **The Chairman (Mr Molloy):** We could meet on Wednesday. The economic subgroup will meet tomorrow and on Thursday.

216. **Mr McFarland:** We now have a chunky programme of work to discuss: the institutional issue; the policing and justice issue; and all that

relates to those topics. We must report by 18 August, is that correct?

217. **Dr Farren:** We should meet on Wednesday.

218. **Mr McFarland:** I should think we would need to meet twice or even three times a week.

219. **The Chairman (Mr Molloy):** Will we try for Wednesday at 10.00 am?

220. **Mr Murphy:** I have a difficulty.

221. **The Chairman (Mr Molloy):** Is there a time that is suitable for everyone?

222. **Mr McNarry:** Will both Chairmen be able to sit in for continuity?

223. **The Chairman (Mr Molloy):** Yes. Jim Wells is off today and sends apologies for the economic subgroup tomorrow too. I am not sure of his arrangements after that, but we will endeavour to ensure continuity.

224. **Mr McNarry:** I am just mindful of the workload of the two Deputy Speakers. If that becomes a problem, will we be advised?

225. **The Chairman (Mr Molloy):** Yes, and then we will look at alternative arrangements.

226. Wednesday at 10.00 am, is that OK?

227. **Mr Murphy:** That is to look at all these issues and decide how we are proceeding from there?

228. **The Chairman (Mr Molloy):** Yes.

229. **Mr McNarry:** Can “Slab” Murphy be the first witness to be brought forward?

230. **Mr Murphy:** If you can find him.

231. **The Chairman (Mr Molloy):** The meeting is closed.

*Adjourned at 11.25 am.*



## Wednesday 26 July 2006

### Members:

The Chairman, Mr Jim Wells  
Mr Thomas Buchanan  
Mr John Dallat  
Mrs Diane Dodds  
Dr Seán Farren  
Mr David Ford  
Mr Alan McFarland  
Mr Martin McGuinness  
Mr David McNarry  
Lord Morrow  
Mr Conor Murphy  
Mr John O'Dowd  
Ms Margaret Ritchie  
Observing: Mr Francie Molloy

*The Committee met at 10.10 am.*

*(The Chairman (Mr Wells) in the Chair.)*

232. **The Chairman (Mr Wells):** We will get cracking. We have been asked not to wait for the Alliance Party delegation, but they will be here. Who are the deputies?

233. **Ms Ritchie:** I am representing Dr McDonnell.

234. **Mr O'Dowd:** I am representing Michelle Gildernew.

235. **Mr Buchanan:** I am representing Rev Dr William McCrea.

236. **Mr Dallat:** I am representing Mr Durkan.

237. **Lord Morrow:** Diane Dodds will be here later, and she will be representing Ian Paisley Jnr.

238. **The Chairman (Mr Wells):** Apologies have been received from Mr Kennedy who is on holiday. Mrs Dunwoody is also on holidays, so the Clerks for today's hearing are Principal Clerks Mrs Pritchard and Martin Wilson.

239. Hansard has been effective in producing the report on the meeting of 24 July. Does anyone have any amendments or additions to make to it or the minutes?

240. **Mr O'Dowd:** The comments attributed to me on page 18 — while I wholeheartedly agree with them — were spoken by my colleague Mr Murphy.

241. **The Chairman (Mr Wells):** That would be more properly addressed by contacting the Hansard staff and making certain that it is corrected before it becomes the official version that goes on the website. However, you have put it on the record, and that is a handy way of letting the folk upstairs know that the correction should be made.

242. Is everyone else content?

*Members indicated assent.*

243. **The Chairman (Mr Wells):** I was not present on Monday, but I understand that the Committee decided not to form the two additional subgroups and that the subjects that they were to cover would be dealt with by full meetings of the Preparation for Government (PFG) Committee. The Clerks have advised the Secretary of State of that decision, and he is content with that. He says that that is in accordance with his direction.

244. **Mr McFarland:** Perhaps I am being dozy here, but it states in item 3 of the minutes:

*"It was agreed that the Committee should proceed to set up the subgroups on Changes to the Institutions and Devolution of Policing and Justice".*

245. I thought that the Committee had agreed not to set up the subgroups but that those issues would be dealt with by the PFG Committee.

246. **The Chairman (Mr Wells):** Dr Farren came in at that stage and made his proposal. He felt that as one party at least would not be attending, there was no sense in going ahead with the subgroup, so he proposed that it would be dealt with by the full PFG Committee.

247. **Mr McFarland:** Are we dealing with the minutes of the last meeting?

248. **The Chairman (Mr Wells):** Yes.

249. **Mr McFarland:** It says in the minutes that this Committee, which operates by consensus — including the DUP — agreed that the Committee should proceed to set up subgroups on institutions and policing and justice. The Committee did not agree to set up subgroups; it objected to subgroups. It agreed to deal with policing and justice and institutions in this forum.

250. **The Chairman (Mr Wells):** You did agree to set up the subgroups and then changed your mind.

251. **Lord Morrow:** That is not right. We were never asked to agree to set up subgroups. We were never asked that question. The Secretary of State made a directive that they would be set up, therefore we were not asked to approve or disapprove them. We said that we would not nominate.

252. **Dr Farren:** It would more accurately reflect what happened by saying that we nominated members to the subgroups.

253. **Mr McFarland:** That is not what is stated in the minutes.

254. **Dr Farren:** I know that. It would be more accurate to leave out “agree” and say that we nominated members to the subgroups. Since the minutes only record decisions, it would be right to say that we nominated members. Those parties who were content to nominate members did so. However, I made my proposal when it was discovered that there would be no participation by one party.

255. **The Chairman (Mr Wells):** You could get round this by deleting the first paragraph of item 3.

256. My reading of the situation is that, when it became apparent to Dr Farren that one party was not going to nominate, another motion was more or less tabled.

257. **Mr McFarland:** That may well have been the case. However, in order for paragraph 3 of the minutes to state that it was “agreed”,

consensus must have been reached that the Committee should proceed to set up subgroups. I arrived late to the meeting, but I was present to hear members make it clear that they were not going to set up subgroups. Therefore, the minutes should not say that there had been any agreement on the subgroups.

*10.15 am*

258. **The Chairman (Mr Wells):** Mr Morrow made it very clear that the DUP would not be nominating.

259. **Mr McFarland:** I suggest that we take that line out. If someone from outside the Committee were to read it, they would think it really odd that the Committee had agreed by consensus — because it operates by consensus — to set up the subgroups and then had two hours of rows about not wanting to set them up. The first paragraph does not make sense. Dr Farren’s suggestion should be adopted: the paragraph makes sense only if it reflects the fact that members simply nominated to the subgroup.

260. **The Chairman (Mr Wells):** Are members content with that proposal?

261. **Lord Morrow:** That is not a true reflection. The Committee was never asked to agree or disagree on the setting up of subgroups. The Committee received a simple direction from the Secretary of State that subgroups would be set up: the DUP simply said that it would not nominate to them.

262. **The Chairman (Mr Wells):** Are there any other comments? Mr Morrow, are you objecting to the deletion of that comment?

263. **Lord Morrow:** It should clearly state that the Secretary of State directed that subgroups be established.

264. **The Chairman (Mr Wells):** The difficulty that I have with that, Mr Morrow, is that on page 1 of Hansard, Mr Molloy, who was in the Chair, said:

*“It was to be the subgroup on devolution of criminal justice and policing. It is now to be called the subgroup on devolution of policing and justice. Can we proceed to set up those two subgroups at this stage?”*

265. It continues:

*“Members indicated assent.”*

266. Then Mr Molloy called for nominations.

267. **Lord Morrow:** What happened then?

268. **The Chairman (Mr Wells):** Mr Farren nominated Mr Bradley and himself, and three of the parties provided nominations. The difficulty is that “Members indicated assent” suggests that consensus was reached.

269. **Mr Murphy:** There was consensus to begin the proceedings to set up a subgroup, and that is when the parties nominated. David McNarry said that the UUP would nominate by close of play the following day, and the DUP said that it would not nominate. We then discussed ways of working around that. If one is splitting the difference, we agreed to begin the proceedings to have the subgroups in operation, and that is when the nominations were asked for. We did not have to agree on the establishment of subgroups because they were already established.

270. **The Chairman (Mr Wells):** How do we get around this?

271. **Lord Morrow:** Mr Deputy Speaker, why is there no mention of the Secretary of State’s directive in the minute?

272. **The Chairman (Mr Wells):** It is not mentioned because at the previous meeting we spent about 40 minutes assessing the exact meaning of the directive and the accompanying letter. By that stage, it was taken that people were very clear about what the Secretary of State meant.

273. **Lord Morrow:** Yes, but to get an understanding of the situation, it must be re-established in the minute that, following the Secretary of State’s direction, subgroups were to be established.

274. **The Chairman (Mr Wells):** A phrase could be inserted stating that the Committee agreed to implement the Secretary of State’s direction to set up the subgroup.

275. **Lord Morrow:** We were not asked to agree that. You do not have to agree a directive,

Mr Deputy Speaker. We were given no choice in the matter. We were told to get on with it and make nominations, and parties started to do that.

276. **Dr Farren:** I would have thought that this problem could be very easily solved. Could we say that it was agreed that nominations be invited from the parties? That is what happened.

277. **The Chairman (Mr Wells):** Would that be acceptable?

278. **Dr Farren:** The nominations that were made could be recorded.

279. **Lord Morrow:** It should be recorded that the Deputy Speaker asked for nominations.

280. **The Chairman (Mr Wells):** Of course, Lord Morrow, your remarks will be put on the record anyhow, and will now appear in Hansard. Are folk happy with that suggestion?

281. The Deputy Speaker asks for nominations to the subgroups on institutions and on the devolution of criminal justice and policing. Can we have agreement on that in order to get the minutes out of the way?

282. **Mr M McGuinness:** Does it matter one way or the other? It is down to whether the DUP is prepared to accept that formula.

283. **Lord Morrow:** We are happy as long as the minutes clearly reflect that we were never asked to agree or disagree anything. The problem arose when we said that we would not nominate.

284. **Mr M McGuinness:** That is clear enough. We appear to be agreed on a form of words that has just been suggested by the Deputy Speaker. I suggest we sensibly move on.

285. **The Chairman (Mr Wells):** Have we consensus?

*Members indicated assent.*

286. **The Chairman (Mr Wells):** Good.

287. We have agreed the minutes. I have allowed Mr McFarland to come back in on the minutes when, really, we had gone past them. A nice try and it succeeded.

288. We have reported to the Secretary of State and he is content that we go forward as we have planned, so there does not seem to be any

difficulty there. On tab 2 of your papers the Clerks have helpfully devised a table of issues raised by parties during the presentations and the submissions.

289. **Mr McNarry:** Before we get into that, may I raise an issue. On the radio this morning, it was related that the Secretary of State had set up a group to deal with rates, and in particular with industrial derating. Should we ask the Secretary of State whether he intends to set up other groups outside the remit of this Committee? I ask because industrial derating has been discussed by this Committee and forwarded to the Subgroup on the Economic Challenges facing Northern Ireland, which has it in mind to invite that lobby group on industrial derating. I am totally in favour of that group being set up by the Secretary of State. However, on the one hand, he directs us to carry out work; on the other, he meets people and sets up groups without acknowledging to this Committee what he is doing. In view of the long list of issues that we have now to discuss, would it be proper to seek his mind and ask whether he is engaged in any issues outside this Committee and, if so, would he make us aware of them?

290. **The Chairman (Mr Wells):** The Subgroup on the Economic Challenges facing Northern Ireland meets tomorrow morning at 10.00 am and I am in the Chair. Derating is a relevant and important issue for the work of that subgroup. It is any Committee member's right to raise it first thing tomorrow morning; and if the Committee votes by a majority to do so, it could ask the Secretary of State to give evidence on this issue so that Committee members can express whatever concerns they may have. It is not a matter with which the PFG Committee should be dealing directly.

291. **Mr McNarry:** Chairman, in case you misunderstood, I meant that it is relevant because the subgroups are under the auspices of this Committee. That is why I raise it. I am not raising it as an issue for this Committee, although tomorrow I intend to do what you suggest. However, as we move down the long list, it appears inconceivable for the Secretary of State to speak to others about these issues

with a view to setting up groups, as he has done on the derating issue. It would only be proper for us to seek his mind.

292. **The Chairman (Mr Wells):** Yes, if your concern is that, as we work through these issues, we find that the Secretary of State has set up an ad hoc group to deal with some or all of those matters. It is unlikely that we will start the work today, but as soon as we do, we could well agree to write to the Secretary of State.

293. **Mr McNarry:** I appreciate that.

294. **The Chairman (Mr Wells):** I can see the difficulty that that causes. Of course, the Secretary of State may have made that decision before he was aware of the progress that the Committee has made.

295. **Mr McNarry:** I do not think so.

296. **The Chairman (Mr Wells):** Mr Murphy, do you have the list?

297. **Mr Murphy:** Yes. Over the past week, we have received three broad remits for the subgroups, one of which is the economic subgroup referred to by David McNarry. It strikes me that the bulk of items on the list fall into those three categories. Perhaps we should identify those items, allocate them to categories, decide what is left over and agree a focused series of meetings to deal with the outstanding issues.

298. The Committee has agreed to deal with two of those issues — the devolution of policing and justice and the establishment of the institutions. Some of those items rightfully belong to the economic subgroup, which is meeting. We should identify which of the remaining items fall into the other two broad remits and see what is left, so that we can set an intensive timetable of work to achieve some progress on those two issues before the end of the summer.

299. **The Chairman (Mr Wells):** The Clerks have helpfully drawn up a table. I will talk through it while it is being distributed. We have tried to bring the issues under four main headings: Government; institutional issues; law and order issues; and rights, safeguards, equality issues and victims. It is purely for



guidance, but it might help us to focus on how to deal with the issues. I have had a brief look: some of issues sit comfortably in the groups, while others are perhaps open for debate. Members might want to consider the table to decide whether it shows a way forward in tackling the issues in groups of eight to 11.

300. **Mr McFarland:** The Secretary of State tried to put three areas into subgroups. The Committee decided to deal with two of those, but that does not mean that they cannot be dealt with separately.

301. One could argue that the safeguards and rights issues would sit well in the institutional issues category, in that they are related directly to the agreement and the comprehensive agreement and involve setting up institutions. For example, the bill of rights is related directly to the Northern Ireland Human Rights Commission, which is part of the institutional side. Policing and justice and the institutions could be dealt with in alternate Committee meetings. That would package things up easily.

302. **Mr Ford:** I take the point made by both Conor and Alan. However, the matters covered under the final heading of rights, safeguards, equality and victims are distinct and discrete. The needs of victims and building a shared future do not sit that easily with discussions on the structure and architecture of the institutions. There would be merit in keeping those matters out as, in effect, a fourth pillar.

303. **Dr Farren:** I had begun a similar exercise and I came up with broadly the same headings. Human rights, parades and equity issues form a cluster, which can be addressed as a whole. I identified victims and the past as a separate matter, but institutional issues, policing and justice, paramilitarism, criminality and decommissioning — as far as we can deal with them — flow from the Committee's remit. As I said, I identified human rights, parades and equity issues and victims and the past as two further subheadings.

304. However, we should try to get under way with the first two, which, by common assent, are at the top of the list. We will not get any

more than an interim report finalised before the end of August.

*10.30 am*

305. **The Chairman (Mr Wells):** Part of the reason why we were constrained was that if we had set up subgroups to deal with the issues, it would have taken two weeks for us to consider their reports. However, the PFG Committee will produce the report, so that will free up some time. We could produce an interim report in September charting the progress and then perhaps report a month later. That would relieve some of the pressure we have in dealing with the issues more carefully.

306. **Dr Farren:** The Committee should have some type of report ready by the end of August whether it be an interim or final report. That will take a great deal of time, and the Committee will probably have to meet twice a week for quite some time to get through all the issues that are covered by the various headings insofar as it is possible to make any progress in the next four weeks.

307. **The Chairman (Mr Wells):** Are there any other views? There seems to be slight disagreement about the groupings.

308. **Mr McFarland:** I am happy to go with that grouping. I was simply trying to keep it logical on the basis of what we have discussed before. It will be a matter for the Committee to decide whether we deal with those headings in turn.

309. **The Chairman (Mr Wells):** There seems to be some support for Mr Ford's view that "rights" and "safeguards" do not sit easily under the heading "Institutional issues".

310. **Lord Morrow:** Would it facilitate the meeting if we had a short adjournment to let the groups retire and go through the list for 10 minutes? It would be helpful to come back after each group has discussed the issues.

311. **Mr McNarry:** I have no objection to what has been said, but I express my sensitivity at seeing "Parades" under the heading of "Law and order issues". That is not where I would put it.

312. **Lord Morrow:** That is the sort of issue that an adjournment would facilitate.

313. **Mr McNarry:** That would be helpful. I am pleased that the list has been drafted and it is well intended, but we need some cohesive thinking that parades are not a law and order issue.

314. **Mr M McGuinness:** Does the member think that we should put “Parades” under the heading of “Hillwalking”?

315. **Mr McNarry:** We had a discussion on walking, and I would prefer to see the heading “Walking”. I am glad that the Member has learned from that discussion.

316. **The Chairman (Mr Wells):** The Committee has a precedent of granting a brief adjournment to any group that requests it. That is entirely acceptable.

317. **Mr McFarland:** The category “Other” covers “Other issues raised with the Government which require delivery for the return of devolution”. It would be helpful if those who have raised those issues with the Government would let us know what they are. Presumably, unless there is something magical that we have not spotted yet, they are already reflected in this list. All parties have made their submissions and the issues have been listed. What could appear under the category “Other”?

318. **The Chairman (Mr Wells):** That was part of the DUP’s submission. The party may wish to expand on that following the adjournment.

319. **Mr McFarland:** Most of the topics come under one of the headings, unless there is something that no one has thought of.

320. **The Chairman (Mr Wells):** I am sure that the DUP will expand on that when it returns.

*The Committee was suspended at 10.33 am.*

*On resuming —*

*10.55 am*

321. **The Chairman (Mr Wells):** The meeting is reconvened. Members have had a chance to look at the list. As I have not heard any

dissension on the principle of trying to group items, can I take it that members are happy that we go down the list and make sure each is in the right pocket, as it were?

322. Obviously the first item on the list will be referred to the Subgroup on the Economic Challenges facing Northern Ireland, and the first section could also be dealt with by the subgroup.

323. The Secretary of State has made reference to the Programme for Government and we will come back to that later as a separate item.

324. Are we content that the Belfast Agreement is an institutional issue?

325. **Lord Morrow:** Could I have clarification? I missed what you said in relation to Government.

326. **The Chairman (Mr Wells):** This matter arose at a previous meeting. The Secretary of State referred three sets of issues for discussion by subgroups, but he has also referred to the Programme for Government separately in a letter dated 3 July, which is in your pack. At two previous meetings, Mr McCrea made it clear that he objected to this Committee dealing with that issue, so it will be dealt with as a separate issue today because of the strong views on the subject. I suggest that we come back to it later, because if we start debating it now we will be very slow in dealing with the other issues.

327. **Lord Morrow:** The DUP does not see items 2 and 3 as blockages to the restoration of devolution. We believe that the priorities for Government and the Programme for Government come after devolution and will be worked out by those who will be forming the Government.

328. **The Chairman (Mr Wells):** There will be an opportunity to make that point at the end of the meeting. Do we accept that the Belfast Agreement is an institutional issue?

329. **Lord Morrow:** A very bad one, but yes.

330. **The Chairman (Mr Wells):** Dr Farren, do you accept that?

331. **Dr Farren:** There are institutional issues within the Good Friday, or the Belfast

Agreement. The Belfast Agreement is much more comprehensive than the institutional issues that it contains. It deals with constitutional and human rights issues. As long as it is clear that it is only the institutional matters that fall under this heading then, in one sense, specific reference to it is redundant, but I am happy to keep it there as long as that is what is understood by it. Aspects of the Good Friday Agreement come in under each of the headings. If we are discussing institutional issues, let us confine ourselves to institutional issues of the agreement under that heading, and deal with the human rights issues, and any other issues, under the appropriate headings.

332. **Mrs D Dodds:** The Belfast Agreement is an extremely important issue for unionists. My party has never supported the Belfast Agreement, and, indeed, the majority of unionists do not now support the Belfast Agreement. Any committee set up to look at the blockages to devolution, which did not take into account the Belfast Agreement, and the lack of support within the unionist community for the Belfast Agreement, would be denying reality. Therefore it is important that we discuss these issues.

333. **Mr M McGuinness:** A number of parties were involved in the discussions that took place during the greater part of the autumn of 2004: the British Government, the Irish Government, Sinn Féin and the Democratic Unionist Party, albeit at some distance. Anyone who was there could come to no other conclusion than that, during those discussions, the Democratic Unionist Party accepted the Good Friday Agreement as the template for future politics on this island, and specifically in the North.

*11.00 am*

334. The Good Friday Agreement has effectively been accepted as an international agreement between two Governments. The broad headings allow, as they should, all parties on the Preparation for Government Committee to discuss any issue of their choice. The DUP can spin that how it likes, but the agreement is the template from which all participants on this Committee are working.

335. **The Chairman (Mr Wells):** I have a slight concern: we are not debating the merits, or otherwise, of the Belfast Agreement. If we go down that route, we will occupy the next six hours.

336. **Mr M McGuinness:** That is why I do not intend to prolong my contribution, except to say that all participants have a right to express their views and opinions. Let us not fool ourselves, however — the template from which we are all working is the implementation of the Good Friday Agreement.

337. After all parties met with the Taoiseach and the British Prime Minister in Parliament Buildings a number of weeks ago, the two leaders issued a joint communiqué that clearly indicated that the job of work ahead for all of us was to restore the institutions by 24 November 2006. The Secretary of State set out a programme of work. That is why we are sitting on this Committee, and that is the basis on which we will move forward these discussions.

338. **The Chairman (Mr Wells):** All we need to establish is whether all Committee members agree that the institutional issues in the Belfast Agreement — it would almost be better to put institutional issues in brackets after each point — is a subject that falls neatly into the institutional issues section and should be debated in that category. We do not require people to suggest what they feel that the Belfast Agreement means.

339. Is there any objection to that?

340. **Mr McFarland:** Chairman, may I suggest that you ask whether there are additions to be made to the list or points that can be moved elsewhere? If you go down the list, one by one, each party feels that it must say something about each of them, and we will be here until 5.00 pm.

341. **The Chairman (Mr Wells):** I suggest that members comment only on whether they feel that a particular point should be included in that category, rather than what they feel about the issue. There will be ample opportunity for comment when we debate the issues.

342. Do members accept that the Belfast Agreement should be there? Do they accept that the Civic Forum should be there as an institution? What about the comprehensive agreement?

343. **Mr McFarland:** May I suggest that you ask the parties which points they do not want included?

344. **The Chairman (Mr Wells):** Do all members feel that every point from 1 to 11 is totally relevant, should be there and should not be moved?

*Members indicated assent.*

345. **The Chairman (Mr Wells):** OK, so we believe that every point under institutional issues should remain. Does anyone have any additions, or has anything been missed?

346. **Mr Ford:** Given all the Alliance Party's remarks on the subject, particularly since November 2001, I am disappointed that the Assembly voting system is not listed as a separate point.

347. **The Chairman (Mr Wells):** Yes, that could come under point 7 on the list. We hold the view that if a certain issue is important to a party, it should be considered. You are talking about the d'Hondt voting system.

348. **Mr Ford:** We have made it clear that it is a key issue.

349. I am not blaming the Committee staff. Despite what the Alliance Party has said to the Northern Ireland Office (NIO) over the past five years, the NIO still does not realise the significance that our party attaches to the voting system — that is obvious from correspondence that we receive from it. We consider the voting system significant enough to be listed individually.

350. **The Chairman (Mr Wells):** A great many items come under "Institutional issues".

351. **Mr McFarland:** The voting system can be number 12.

352. **The Chairman (Mr Wells):** If we get consensus, I am happy to put it in at number 12,

because it is an important issue for the Alliance Party. Is there consensus?

353. **Mr M McGuinness:** I think that there is an acceptance — although I do not wish to tempt providence — that some of the headings allow for all sorts of issues to be discussed. Sectarianism and racism are important issues that will have to be dealt with at some stage of our deliberations. The broad headings adequately deal with all the issues that are of concern to all parties around the table. If we try to outline the detail of each issue, we will be making unnecessary work for ourselves.

354. **The Chairman (Mr Wells):** That suggests that we do not have consensus on number 12.

355. **Mr M McGuinness:** I am not saying that I oppose it.

356. **Mr McFarland:** The Alliance Party has raised this from day one, and if it is something that it feels strongly about I have no objection to making it number 12.

357. **Mr M McGuinness:** I have no objection, but we should resist the temptation of expanding all the issues.

358. **Mr Ford:** Chairman, I assure you that I will resist the temptation to put any of my other general concerns. However, since the Assembly voting system is the one part of the agreement that failed to work when implemented in good faith on 2 November 2001, it merits individual mention.

359. **The Chairman (Mr Wells):** Have we consensus that the voting system be number 12?

*Members indicated assent.*

360. **The Chairman (Mr Wells):** Those are the 12 points under "Institutional issues".

361. We move on to "Law and order issues". Mr McNarry has a concern about parades being in this category.

362. **Mr McNarry:** We would like "Parades" and "Peaceful summer" to be removed from that list.



363. **The Chairman (Mr Wells):** Do you want them moved to “Rights; safeguards; equality issues; victims”, or do you want them deleted?

364. **Mr McNarry:** We do not want them deleted; we would like them to be put into another category.

365. **The Chairman (Mr Wells):** It might sit under “Rights; safeguards; equality issues; victims” — particularly the third category.

366. **Mr McNarry:** It is not an equality issue. It would stand alone in a discussion in which equality was included, but it is not an equality/parades issue.

367. **Mr Ford:** In the past, Mr McNarry suggested that parading is a human rights issue. Since “Rights” appear as the first part of that heading, does he accept that parades could fit in there?

368. **The Chairman (Mr Wells):** Or as part of “Unionist culture” perhaps.

369. **Mr McFarland:** Parading has been mentioned through many a discussion. It is an issue for several parties for different reasons, and it would merit being added as point 9 under “Rights; safeguards; equality issues; victims” so that it can be discussed discretely. There are issues connected with it that are not directly connected with equality or human rights — although there are connections. However, as a stand-alone issue it is one that exercises many people for different reasons.

370. **The Chairman (Mr Wells):** Do you want it as number 9 in the third category?

371. **Mr McNarry:** Yes.

372. **The Chairman (Mr Wells):** “Unionist culture” is number 7 in that category.

373. **Mr McFarland:** That might relate to Ulster Scots being part of the unionist culture, for example, which is not connected to parading. Parading is a separate issue.

374. **The Chairman (Mr Wells):** Therefore you are content for “Parades/Peaceful summer” to be number 9 under “Rights; safeguards; equality issues; victims”. That deletes two items from “Law and order issues”.

375. **Mrs D Dodds:** We should not lump “Parades” and “Peaceful summer” together. Parading is an important issue. It is an issue of human rights, culture and identity for the unionist community. It is extremely important, and it must be dealt with on its own. It must be sorted out, as it poses an important question.

376. **Mr McNarry:** As we approached the summer, we discussed whether it would be peaceful.

377. Conor Murphy is not present, but I am mindful of the fact that he said — and I am paraphrasing — that Sinn Féin’s attitude to the Committee and the Assembly would depend on what happens over the summer. That is what I understood from his comment.

378. Discussions on a “Peaceful summer” would give us an opportunity to find out from Sinn Féin what it thought of the summer and what its attitude is. I will not talk about this issue in depth, but I agree with Diane Dodds; “Parades” should be a stand-alone category.

379. **Mr McFarland:** Do we need the “Peaceful summer” category at all? I agree that it is not necessarily connected to parades. It is on the list because the issue was raised in June as we led up to the compilation of this list. It is now approaching the end of July, and it will soon be August. Events to come may influence whether we have a peaceful summer, but by the time the Committee gets beavered on the list, the issue may not need to be treated as a discrete topic, although it can be mentioned in passing. “Parades” should be dealt with separately at point 9. We could simply abandon “Peaceful summer” as a separate category and include it in the rest of the discussions.

380. **The Chairman (Mr Wells):** At the rate we are going, we will be talking about a peaceful winter.

381. **Mr O’Dowd:** I would like to respond to David’s comments by clarifying what Sinn Féin said, which was that a peaceful summer would facilitate a better atmosphere for this Committee to carry out its work on the wider preparation for Government. I do not think that Sinn Féin

said that it was a precondition — in fact, I know that it did not.

382. **Mr McNarry:** I am sorry to interrupt you, but you need to read Hansard.

383. **Mr O'Dowd:** That is one of the few advantages of having Hansard in the room; we can go back and read the record.

384. If some parties want to place “Parades” at point 9 and “Peaceful summer” at point 10, treating them as separate categories, Sinn Féin is more than happy to do that. The summer is rolling on, but Sinn Féin wants to work towards an even better summer next year. If we can deal with the matter, we should do so.

385. **Mr McNarry:** To conclude on the “Peaceful summer” category, it would be remiss of anyone not to recognise the summer that we have had so far and the work, from many quarters, that went into that — particularly in certain parts of Belfast, where people worked very hard to achieve objectives. Perhaps under a separate “Peaceful summer” category, recognition can be duly given. People in those areas would appreciate it.

386. **The Chairman (Mr Wells):** Mrs Dodds, would two separate headings at points 9 and 10 address your concerns?

387. **Mrs D Dodds:** There certainly should be two separate headings. A peaceful summer is not simply identified with parades and unionist culture; if you lived on the Suffolk estate on Black's Road, you would know that a peaceful summer is dependent on whether nationalists and republicans will stop stoning your house or coming to your estate with hurley bats at 5.30 am, as happened at the weekend.

388. I object to the two categories being lumped together because they are not completely linked. It would be remiss of me not to object; I would not be doing my duty for those constituents who voted for me if I said that the two categories should stay together. I will be very interested to see how the summer progresses, especially in west Belfast in August.

389. **The Chairman (Mr Wells):** We seem to have consensus.

390. **Dr Farren:** Although, in one sense, the issue of a peaceful summer is of grave concern, it sits uneasily among the issues to be addressed in order to prepare for Government.

Sectarianism, of whatever kind, is, of course, an issue. I could cite incidents in North Antrim that are not dissimilar to those to which Diane referred, but the shoe was on the other foot, if I can put it that way.

391. An entire nest of issues related to community relations and sectarianism underlie what I understand to be the concerns about a peaceful summer. Chairman, as you said, it may be a case of a peaceful winter, or, as John said, a better summer next year. However, none of that will happen unless we get community relations right. Therefore, I would rather discuss community relations issues, if they are what really underlie the notion of a peaceful summer.

392. **Mr M McGuinness:** We can become fixated with where different items are categorised in the course of this work; however, more important is what we do about the issues. There is no point in Mrs Dodds's referring to an incident, which she says occurred recently, because that just invites people to come forward with other incidents that happened in different parts of the North. A young man, Paul McCauley, is critically ill at the moment as a result of a severe beating that he received on the Chapel Road in Derry some time ago. The attacks on Catholic churches and schools and on orange halls are disgraceful. All members of the Committee have a duty and a responsibility not to select one particular incident and proclaim it worse than all the rest.

*11.15 am*

393. Despite the type of society that we live in and the difficult circumstances that we have all faced, we have experienced a relatively peaceful summer. Many parties contributed to that. Many within the broad Unionist community, the UUP, MLAs, our own party, people such as Gerry Kelly and others worked hard to ensure that we came through many difficult situations in a way that the vast majority of our people find satisfactory.

394. However, let us not fool ourselves that that resolves the difficulties: violence is still

taking place against orange halls, schools and Catholic churches. It is despicable and it must stop. This Committee must give a lead; so I am not that concerned about how we categorise individual issues. I am more concerned about what we do about them.

395. **The Chairman (Mr Wells):** Again, we are in danger of starting a debate on sectarian attacks on halls or parading or whatever. The only issue that members are addressing here is whether they perceive an issue to be of such importance to one party that it should have a separate heading. Remember, and I am sure Mr Molloy will agree with me on this, when it comes up for debate at the hearings, no Chairman will stop any member raising these valid points under whatever heading they feel fit, because these are important issues. Everyone accepts that.

396. **Mrs D Dodds:** I shall refrain from further comment, except to say that I cannot accept Sinn Féin's eulogy to some of the people whom they credit with producing a peaceful summer, when they were the very people who went out of their way in the past to create the problem. Picking up on Seán Farren's point, perhaps a "Peaceful summer" more readily sits under the title "Good relations".

397. **The Chairman (Mr Wells):** Mr McNarry, are you happy with that suggestion?

398. **Mr McNarry:** Yes.

399. **The Chairman (Mr Wells):** We are getting somewhere.

400. **Ms Ritchie:** Mrs Dodds's suggestion has resolved the problem. However, we should be looking at the causes of where we are today; what members have been suggesting in the past few minutes are perhaps symptoms. We have to look at the causes before applying solutions. "Good relations" covers many facets, including respect for difference, which we should be trying to address.

401. **The Chairman (Mr Wells):** You have squared the circle. We have two separate new items under "Rights"; one is "Parades" and the other is "Good relations". Is everyone happy?

402. **Lord Morrow:** Have you left "Law and order issues"?

403. **The Chairman (Mr Wells):** No. As we move issues into other categories, we go back to the original category to see whether anything in it needs to be changed or deleted. We have consensus on that. Now we are back to "Law and order". We have "Criminality", "Decommissioning", "Devolution of Policing and Justice", etc. "Parades" has gone; "Paramilitarism" stays, as do "Policing" and "Rule of Law." Are there any issues to be added?

404. **Lord Morrow:** We would like to add "Community Restorative Justice" as number 9.

405. **The Chairman (Mr Wells):** That would be new number 7. Does anyone have any problems with that suggestion?

*Members indicated assent.*

406. Right, that is 7. Is anyone looking at 8?

407. **Mr M McGuinness:** Yes, MI5.

408. **The Chairman (Mr Wells):** MI5?

409. **Mr McNarry:** Are you going to be a witness on that, Martin?

410. **The Chairman (Mr Wells):** Does anyone have any views on that as an issue?

411. **Dr Farren:** Is that not included under policing issues?

412. **The Chairman (Mr Wells):** Yes, I would say —

413. **Mr M McGuinness:** Well, is Community Restorative Justice (CRJ) not included under policing?

414. **Dr Farren:** I did not object. I am only asking a question. If that is the response, OK, but —

415. **The Chairman (Mr Wells):** There is absolutely no doubt that a Chairman would allow that issue to be discussed.

416. **Dr Farren:** I have absolutely no objection to discussing that issue separately, but I just asked. There seems to be no answer to the question in the terms that I asked it.

417. **The Chairman (Mr Wells):** Do we have consensus on MI5 going in as number 9?

418. **Ms Ritchie:** To cover MI5, would it not be better to have “policing and intelligence services”, or a separate title under intelligence services? That would cover any other matter under that umbrella.

419. **The Chairman (Mr Wells):** That would cover a wider area. “Intelligence services” sits a bit more neatly. Are there any problems with that? Do we have consensus? It is instead of MI5 — “Intelligence services”.

420. **Mrs D Dodds:** Just to clarify: you are putting policing and intelligence services together? They are not necessarily the same thing.

421. **The Chairman (Mr Wells):** No, they are separate. Is there consensus on that?

*Members indicated assent.*

422. **The Chairman (Mr Wells):** Right, OK. We shall move on to rights and safeguards etc. We have added the parades issue and good community relations. Are there any issues? We may have to use this as a catch-all for anything that has been missed.

423. **Dr Farren:** The Good Friday Agreement refers to the two dominant cultures here. If we are going to discuss one, we must discuss the other. However, in the light of the significant migration of other ethnic communities that has occurred in Northern Ireland since the Good Friday Agreement in particular, we should widen the cultural debate.

424. I have no objection to discussing what is referred to here as “Unionist culture”, but we should include recognition and expression of all the different cultural traditions that are here. How we label that without getting long-winded can be left to the wordsmiths in the secretariat, but there is a cluster of issues that can be taken together, because it relates back to issues on good relations and sectarianism.

425. Martin mentioned the need to address the issue of racism. There is a negative and a positive side to that matter. If we are going to debate issues of culture, we must do so

comprehensively and not just focus on one. In case someone on the other side of the table thinks I am trying to smother it, I am not saying that we should not give explicit recognition to unionist culture.

426. **The Chairman (Mr Wells):** I am looking for a snappy title for all of that, Seán.

427. **Dr Farren:** That is why I said I would leave it to the wordsmiths.

428. **The Chairman (Mr Wells):** One suggestion is “Cultural issues”, but I am sure there are —

429. **Mr McFarland:** The essence of what Seán is saying is that this is about ethnic communities. We have covered most of the other traditions and cultures. Seán used the words. Is “Ethnic communities” too broad a term?

430. **Ms Ritchie:** “Ethnic communities and culture”?

431. **The Chairman (Mr Wells):** We have to get round Seán’s difficulty that there is reference to unionist culture but none to nationalist culture.

432. **Mr Ford:** If the Clerks are suggesting “Cultural issues”, that seems to cover everything that Seán raised. We can all refer back to Hansard to all the things he raised.  
*[Laughter.]*

433. **The Chairman (Mr Wells):** “Cultural issues”? Is that agreeable? It is instead of unionist culture or in addition to unionist culture.

434. **Mr M McGuinness:** “Multicultural issues”.

435. **Mr McNarry:** Could we perhaps take stock? There is a specific reason why the unionist culture is there. It is something that we spent time discussing, and there was agreement that it would be there. Without offending anyone else — and I understand what Seán was saying — could we have “Other cultures”?

436. **Dr Farren:** No. If you name one, you need to name them all.



437. **Mr McNarry:** But you are only raising this now. You did not raise it at the time, and there was no discussion of it. This is an extraction, a compilation, of headings of issues raised by parties during presentations.

438. **Dr Farren:** But we are not excluded from introducing additional issues.

439. **Mr McNarry:** I am not saying that they should be excluded, but —

440. **The Chairman (Mr Wells):** Dr Farren is wise, because that issue could arise. It could be argued that it was not implicit that we would discuss ethnic issues or nationalist culture. One suggestion was to have a broad heading of “Unionist culture, nationalist culture and ethnic communities”. That would give the two Chairmen clear direction that those issues would have to be discussed. Even though nationalist culture was not raised in the scoping exercise, it will be discussed. The Ulster Unionist Party and the DUP raised the issue of unionist culture, but there was no reference to nationalist culture.

441. The view of this Committee has always been that if a party considers an issue to be important, we allow them to include it for discussion. Would the subheadings of unionist culture, nationalist culture and ethnic communities be helpful?

442. **Mr M McGuinness:** That will cover everything.

443. **Mr McFarland:** Would those headings be on one line?

444. **The Chairman (Mr Wells):** Those issues can be listed separately or on one line under the heading of “Unionist/nationalist culture and ethnic communities”. Do members want them on one line or as three separate headings?

445. **Mr M McGuinness:** Let us be united for once.

446. **The Chairman (Mr Wells):** Are members agreed to list those issues on one line?

*Members indicated assent.*

447. **The Chairman (Mr Wells):** That leaves us with 10 points for discussion, which is a manageable amount. Are there any other issues?

448. **Lord Morrow:** The DUP moved the issue of parades from the heading of “Law and order issues” to “Rights; safeguards; equality issues; victims”. We also consider victims and truth and reconciliation to be separate issues. I am interested to hear what Mr Ford has to say about that.

449. **The Chairman (Mr Wells):** That puts us up to 11 points. Are members happy to split those two issues? The subject of victims is a big issue in its own right.

*Members indicated assent.*

450. **The Chairman (Mr Wells):** Do members feel exercised about any other items that have been left out?

451. **Dr Farren:** We are free to add to the list at any time.

452. **The Chairman (Mr Wells):** No reasonable issue will be excluded from these categories simply because it is not listed. If we listed everything, we would have pages and pages of headings.

453. **Lord Morrow:** The heading of “Other” can safely accommodate issues not yet included. It is hard to envisage a subject that has not yet been mentioned, but it has been known to happen.

454. **Mr McFarland:** If it were open to members to introduce additional issues into each of those categories, we would not need “Other” as a separate category.

455. **The Chairman (Mr Wells):** I will ask Mr Molloy’s opinion. I have expressed my views on how I see this going forward, but he may wish to agree or disagree. It is important that we agree, as we both chair the Committee.

456. **Mr Molloy:** I have no problems. The main thing is that all the issues are listed; the overarching heading of “Other” is useful for subjects that may arise during discussions.

457. **Mr M McGuinness:** Under the heading of “Other issues”, it is only sensible to ask what

the issues are that have been raised with the Government and require delivery before the return of devolution. The rest of the packages dealing with financial business, institutional issues, law and order issues, and rights and safeguards all have explicit headings. I presume that whoever wrote the “Other” heading knows what those other issues are. They should share them with the rest of us.

11.30 am

458. **The Chairman (Mr Wells):** Am I right in thinking, Lord Morrow, that that is in case another issue emerges? Perhaps an issue will develop in the media which has not been included in any of these headings, and despite the assurances that I have given that I would allow it, you want a catch-all category just in case.

459. **Lord Morrow:** That is exactly it. If someone has an afterthought, he or she would not feel that the subject is blocked out, and it can be accommodated here. There is nothing more sinister about it than that.

460. **Dr Farren:** I take it, Chairman, that the term “raised” does not refer to matters that have already been raised, but matters that may be raised? If it concerns matters which have been raised and of which we were unaware, we should be made aware of them. However, if they were matters that may be raised and which we have not anticipated, then they should appear on our agenda. Is that how I should understand “raised”?

461. **Mr M McGuinness:** That is specifically what I am referring to. We need an explanation of what these terms actually mean. If “raised” means “may be raised”, then we should specify that. If these issues have already been raised then the Preparation for Government Committee is entitled to know what they are.

462. **Mr McFarland:** Peter Robinson said in the media recently that the DUP had additional issues that it was raising with the Government in relation to the reduction in Departments and the number of seats for MLAs. Presumably those issues would be discussed under item 7 of institutional issues.

463. **Lord Morrow:** Yes, that is probably right. I suspect that some of those issues might have been raised already under the comprehensive agreement.

464. **The Chairman (Mr Wells):** If members fear that issues will be ruled out of order by the two Chairmen because members were not given advance notice about them although they are relevant, I can reassure them that I think that will not happen.

465. Mr McNarry, I will need to read the DUP’s submission on this.

466. **Mr McNarry:** I want to come back to what I said earlier about the Secretary of State’s role in this. As that category is included, it is incumbent on the Secretary of State that he does not go on “Lone Ranger” jobs during the course of our deliberations, and that the Committee might be given some advance notice — even if it is through the Deputy Speakers. There should be no surprises.

467. A statement from somebody that is contrary to something that may have been discussed the day before could destroy any of these meetings. I am anxious about that.

468. **The Chairman (Mr Wells):** The DUP’s original submission states:

*“In addition to these matters” —*

469. meaning the DUP’s list —

*“there are also a significant number of issues which we have raised with the Government which also require delivery before the return of devolution. We intend to raise the matters again with the Government in the future.”*

470. I assume that the DUP wants to raise those issues at various points. I presume that this is a reference to confidence-building measures.

471. **Mr McFarland:** Logically, they should have been part of the DUP’s original submission. If there are secret issues that are subject to deals with the Government and have not appeared here — and presumably there are not — it would be useful for the Committee to be made aware of them. However, there may be side games going on. We might ask ourselves

why we are bothering if issues are being identified and raised separately with the Government.

472. **Mr M McGuinness:** The extract that the Chairman read out from the DUP's submission was enlightening and helpful. It brings us to the heart of the problem. The DUP's contribution clearly refers to these issues being raised with the Government in the context that there will be no devolution if they are not resolved. The Committee is entitled to know what those issues are.

473. If, as Maurice has said, there is a more benign interpretation of what that means, the sentence should be changed to refer to dealing with other issues that may be of concern or interest to the parties. It is important that the DUP offer some clarification on the "issues". The import of the last sentence of what you read from the DUP's submission is that the issues are preconditions for the return of devolution. If so, this Committee is entitled to know that they are.

474. **The Chairman (Mr Wells):** Lord Morrow, have you any comments on that?

475. **Lord Morrow:** Some around this table will try to see something sinister in everything that we say. They will try to twist and turn it to mean something different. Seán Farren is close to the mark in his interpretation. The "Other" category is for issues that may have been missed, or which suddenly become relevant but have not been listed. It is there so that no member from any political grouping feels obstructed in raising a particular issue, simply because it does not appear on the list.

476. New issues may arise. As David has said, we run the danger of having the "Lone Ranger" in the Northern Ireland Office issuing a statement every now and again. The Secretary of State told us yesterday that the Provos are now cleaner than clean. I suppose that the next statement will be that they are reforming into a Boy Scout organisation.

477. We will go through that whole process between now and 24 November. Things are undoubtedly being done deliberately to unsettle this Committee and to hinder the restoration of devolution. Therefore, as issues arise it may be

that a member feels he wants to raise them here. That is purely what the "Other" section is for.

478. **The Chairman (Mr Wells):** Are members content with that assurance?

479. **Dr Farren:** Maurice referred to what I said. I asked for clarification on how to understand the sentence. I said that if "issues" are to be understood as issues that have been raised, we should know about them. If the submission refers to issues that may be raised in the future, no one will know what those are until they have been raised, at which point they can be logged with this Committee.

480. If the issues have already been raised and are additional to what we have heard about from the DUP, we should be told what they are. It is as simple as that. Is Maurice now saying that the interpretation should be that the submission refers to issues that may be raised but that we have not yet anticipated? If that interpretation is correct, I am happy to leave the list as it has been agreed. However, if the other interpretation is correct, we are entitled to know what those issues are.

481. **Mr M McGuinness:** I agree with Seán Farren. It is essential that we know whether the DUP is speaking about issues it has raised with the Government and that require delivery, or, as Maurice has indicated in the course of this, that the submission refers to future issues.

482. **Mr McNarry:** Is it not fair to say that it is essential that we all know what each party is doing? Martin may be talking to the Taoiseach. Sinn Féin could be doing some sort of deal down there. Goodness knows, it has done it before. [Laughter.]

483. We should not become involved in a conspiracy theory. Lord Morrow has been clear, and we are prepared to accept what he has said about future issues. You have introduced the other Deputy Speaker so that you are clear on how to interpret "issues".

484. **The Chairman (Mr Wells):** That is why I did that.

485. **Mr McNarry:** I think that was worthwhile, and I suggest that we move on now.

486. **Mr M McGuinness:** I propose that the heading reflect Maurice Morrow's contribution, on which there appeared to be agreement.

487. **The Chairman (Mr Wells):** I have a suggestion. Lord Morrow's comments are now on the record, and we understand their import. The Committee Clerks are suggesting a heading: "Other issues that may be of concern or interest to the parties". Mr Molloy and I have listened to the discussion, and we understand those issues. If an issue emerges like a rabbit from a hat, we will know whether it meets Lord Morrow's assurance.

488. **Mr M McGuinness:** I am content with the Committee Clerks' suggestion.

489. **Lord Morrow:** Do other parties have to give the same assurance?

490. **The Chairman (Mr Wells):** If a party raised an issue that we had been notified about and that had not emerged out of the blue, we would have to apply the same criteria.

491. **Lord Morrow:** I suspect that, from time to time over the next couple of months, all the political groupings around this table will air their concerns at meetings with the British or Southern Governments. Perhaps the parties will have meetings with other people or organisations. Nobody could deny the parties those meetings. Parties are good at putting their concerns into the public domain.

492. **The Chairman (Mr Wells):** We have a suggestion for a heading: "Other issues that may be of concern or interest to the parties". We understand the context of that suggested heading. Do we have consensus?

*Members indicated assent.*

493. **The Chairman (Mr Wells):** Mr Molloy, do you agree with what has been established? We need to understand how we are to proceed.

494. **Mr Molloy:** Some of the issues may have been raised with the Secretary of State, or someone in the Northern Ireland Office may raise other issues. It might be worthwhile for the Committee to write to the Secretary of State asking that his views come through to this

Committee. He may not do that, but at least he would have the opportunity to do so.

495. **The Chairman (Mr Wells):** That is Mr McNarry's point. We should let the Secretary of State know exactly what we are doing, although I suspect that he will know five minutes after this meeting is over. We ask him not to take on any initiatives that may pre-empt or torpedo our work, at least not without consulting us.

496. **Mr McNarry:** We do not want any surprises.

497. **The Chairman (Mr Wells):** We want no surprises from the media.

498. **Dr Farren:** Does that mean that the DUP no longer stands over the penultimate sentence of its initial submission to the Committee? It reads:

*"In addition to these matters there are also a significant number of issues which we have raised with the Government which also require delivery before the return of devolution."*

499. The unidentified issues referred to in that sentence are the bone of contention.

500. **Mr McNarry:** We have dealt with that issue. This is the second time that Dr Farren has come back on an issue after consensus had been reached.

501. **Dr Farren:** Correct me if I am wrong, but has consensus not been reached on issues that may be raised in future?

502. **Mr McNarry:** Consensus has been reached about the wording of this heading. A proposal was made, and it was accepted.

503. **Lord Morrow:** Mr Deputy Speaker, I want to reinforce what David has said. Did you not invite the second Deputy Speaker, Mr Molloy, for his clear understanding, which was to draw a line under the entire issue?

504. **Dr Farren:** With all due respect, Mr Chairman, I must ask for clarification. If the Chairman says that I am incorrect, I will stand corrected. I accept that we now understand the meaning of the sentence concerning matters that may be raised in the future. I am not referring to



that sentence but to the penultimate sentence of the DUP's initial submission. It reads:

*“In addition to these matters there are also a significant number of issues which we have raised with the Government which also require delivery before the return of devolution”.*

505. Will all those matters be included under the various headings outlining the Committee's future business? Is that what is being said?

506. **The Chairman (Mr Wells):** I think that I raised that point and that the DUP said that it came under confidence-building measures in point 2. Those have been well highlighted publicly. However, perhaps I picked up Lord Morrow wrong on that.

507. **Lord Morrow:** No.

508. **Dr Farren:** I apologise for wasting the Committee's time if I did not pick up on that point. However, I thought that it was very important that I had the meaning clarified. Like other members, I do not want the SDLP to find itself in the situation in which matters that have already been addressed by the two Governments and that are pertinent to the restoration of the institutions are not being addressed here.

11.45 am

509. **The Chairman (Mr Wells):** I can see the logic of what you are saying — we need to get the point clarified.

510. **Mrs D Dodds:** There are no issues that have not been discussed over and over again. This is an irrelevant discussion.

511. **The Chairman (Mr Wells):** That is the real issue, Dr Farren; you do not want to see the rabbit out of the hat.

512. **Dr Farren:** I am sorry if I have misunderstood.

513. **The Chairman (Mr Wells):** It is a valid point to want to have clarified.

514. We seem to have reached agreement on the main headings of what we will discuss. However, we have not agreed how we will discuss those matters. Before I ask Mr Molloy to return to his normal position, I will check whether members have any other problems with

the headings. In fact, I will ask Mr Molloy to stay because we will have to move on to the nitty-gritty of how to proceed. Do members have any final points about the headings? I am sure that this section of Hansard will be well quoted in future, especially if anything is brought up that members feel is unacceptable.

515. **Mrs D Dodds:** Will we return to points 2 and 3 under the “Government” heading?

516. **The Chairman (Mr Wells):** Yes; it is a separate item.

517. Are we agreed on the content?

*Members indicated assent.*

518. **The Chairman (Mr Wells):** I thank members for their help on that.

519. We now have to agree the modus operandi of how we proceed: how often we will meet; whether we will call witnesses; and whether we will ask parties to submit papers in advance of the meetings. We have a heavy schedule ahead of us, and we should expect to meet at least twice a week as a full Committee over the next few weeks. I am sure that you are all very pleased to hear that — I can see why Mr Kennedy went on holiday.

520. Can we perhaps get the practical points out of the way? Should we meet twice a week or more? When should we meet?

521. **Mr McFarland:** The Committee now has three issues with which to deal. We agreed that we would bring in our experts on these issues — we have people who deal with human rights, victims, and so forth, who would obviously want to attend meetings on those matters. The logic is that we would have at least three meetings a week, with one on each topic. Ideally, we would want two meetings a week on each topic. That would mean that we would have six meetings of this Committee a week, plus the twice-weekly meetings of the subgroup on the economy. That adds up to at least eight meetings that Mr Wells and Mr Molloy will chair. A while ago it was suggested that we have more chairmen in order to facilitate such meetings. That idea was rejected at the time, but I wonder whether it is worth revisiting.

Otherwise, Chairman, you will be fairly ragged if you have eight meetings a week — there are only five days in a week.

522. **Dr Farren:** There are seven days in a week.

523. **Mr McFarland:** There are five working days. Members will have spotted immediately that that does not compute with two Chairmen.

524. **Dr Farren:** Why not?

525. **The Chairman (Mr Wells):** Today is my twenty-third wedding anniversary, and I have lost brownie points for being here instead of at home.

526. **Mr McFarland:** The question is whether, with the experts involved, we will run the meetings in parallel. On some days, this Committee may meet several times and in different formats. If it remains in the one format, there will be time constraints for the Chairmen, for example. We could follow the standard Assembly procedure of calling witnesses and hearing evidence, but members will know from previous experience that if one particular witness is called and not everybody else, we could get into the most awful trouble in the media for not taking things seriously. I am thinking of victims' groups, for example.

527. There are major issues to be discussed as to how we deal with this.

528. **The Chairman (Mr Wells):** There was a proposal for additional Chairmen, but there was no consensus.

529. **Mr McFarland:** Might we revisit it now in the light of current developments?

530. **The Chairman (Mr Wells):** I am advised that we can revisit it. The proposal that the Secretary of State suggested was that with our agreement by consensus we could have one SDLP, one Alliance and one Ulster Unionist Chairman, which would give us five — one per working day, basically.

531. I will put that proposal again. Is it acceptable to the Committee?

532. **Dr Farren:** Yes.

533. **Mr McFarland:** It would certainly ease the burden that the two current Chairmen will

carry in trying to cover what is potentially eight Committees a week.

534. **The Chairman (Mr Wells):** If there were consensus on this we would advise the Secretary of State, and he would then ask the parties to nominate their representatives.

535. **Lord Morrow:** Deputy Speaker, you are going down the road of —

536. **The Chairman (Mr Wells):** I stress that that is if there were consensus.

537. **Lord Morrow:** But that is tantamount to going into subgroups and taking it away from the Committee.

538. **Mr Ford:** Even in the terms that Maurice has just outlined, presumably it would not be objectionable to him to have alternate Chairpersons taking the Chair of the economic matters subgroup, which would relieve the two of you of a share of the burden.

539. **The Chairman (Mr Wells):** You mean keeping the same two Chairmen for the PFG Committee?

540. **Mr Ford:** Yes. I do not accept Maurice's argument, but if that is his feeling, surely it still merits considering alternate Chairs for the subgroup.

541. **Mr McFarland:** This is a difficult issue in that if the PFG Committee adopts different guises, as in this case, the make-up of the Committee will be different for each subject it tackles. We will have different party experts in to explore institutional issues, policing, human rights and equality. Although they are not subgroups, the make-up of the Committee will change. Each of these "Committees" will try to get on with the issues involved, some of which are extremely difficult to identify. If we get into hearing witnesses, each of these groupings might work for three or four days a week. This is a major problem, particularly in terms of chairmanship.

542. Also, when we had subgroups, the Secretary of State had decreed that each should be made up of one member of the Committee and one expert. Presumably that is no longer the case, because there is no rule in the PFG

Committee to stop substitution. The three SDLP members currently in attendance need not stay; Dr Farren, who is almost always here, could technically leave and have two substitutes sitting here as members.

543. Although one member from this Committee from each party must sit on a subgroup, because the subgroups on changes to the institutions and on policing and justice do not exist, the make-up of the delegations that attend the Committee on the Preparation for Government can be different for each of the issues to be discussed. Is not that correct? It is up to the parties to choose their representatives.

544. Therefore, it is possible that different pairs from each party will be looking at each of the three areas for discussion. Sittings will not constitute meetings of subgroups but rather meetings of this Committee. However, if three different pairs can represent each party at those meetings, and the Committee is under time constraints, the issue arises about how meetings can be chaired by two people only.

545. **The Chairman (Mr Wells):** It would be helpful if the role of Chairman of the Subgroup on the Economic Challenges facing Northern Ireland could be rotated. That is a separate group that deals with economic rather than political issues. A compromise would be to spread that load and continue with two Chairmen for the PFG Committee.

546. **Mr McNarry:** What is the Speaker's position? What is she doing?

547. **The Chairman (Mr Wells):** The Speaker will have absolutely nothing to do with this. She has made it very clear that she will not be participating. It was only on the Secretary of State's directive that the Deputy Speakers are here.

548. Do we have consensus on rotating the chairmanship of the Subgroup on the Economic Challenges facing Northern Ireland?

549. **Mr M McGuinness:** What would that mean? Would the chairmanship rotate between the five parties on the subgroup or the three parties that do not chair this Committee?

550. **The Chairman (Mr Wells):** It would rotate among the five parties. It is to be hoped that to do so would make it less onerous for Mr Molloy and me, who will be locked up here for most of the week chairing this Committee. The problem is that Mr Molloy and I are present at almost all meetings. Although we may miss the occasional meeting, we have effectively signed up for all of them. It is very difficult to take the Chair the following day unless we are present to watch developments.

551. **Mrs D Dodds:** You definitely make the point about your needing to chair this Committee by emphasising the need for continuity in the Chair.

552. **The Chairman (Mr Wells):** I said that continuity in the Chair is not as important for the Subgroup on the Economic Challenges facing Northern Ireland.

553. **Lord Morrow:** You still make the point.

554. **Mrs D Dodds:** We see the difficulty, but you make the point very well for the two Deputy Speakers to chair this Committee continuously.

555. **The Chairman (Mr Wells):** What is your view on sharing the chairmanship of the Subgroup on the Economic Challenges facing Northern Ireland among the five parties?

556. **Mrs D Dodds:** That could be shared between the five parties.

557. **The Chairman (Mr Wells):** It looks as though we have agreement to nominate three other Chairmen to rotate as part of the five for the Subgroup on the Economic Challenges facing Northern Ireland.

558. **Mr McFarland:** Will you be one of the five, Mr Chairman?

559. **The Chairman (Mr Wells):** Yes. Mr Molloy and I will be among the five.

560. **Mr McFarland:** Therefore, we have four groups. Each group can meet once a week, and one can meet for a second time each week, unless we are to meet in both the morning and the afternoon.

561. **The Chairman (Mr Wells):** Yes. There could be a Committee meeting in the morning and a separate Committee meeting in the afternoon.

562. **Dr Farren:** It was generally understood that, given the volume of work that seems to be before us, it is unlikely that we will produce final reports by the end of August. Let us not overload people, particularly the secretariat, which will have work to do before and after each meeting. I suggest that the Subgroup on the Economic Challenges facing Northern Ireland meet as it can determine and that this Committee, meeting three days a week, deal with the other three issues.

563. Let us leave it to the parties to nominate whom they wish. That is not a matter for us. If they wish to send the same people or different people to all three meetings, that is their business.

564. If this Committee were to meet three days a week and the Subgroup on the Economic Challenges facing Northern Ireland were to meet twice a week, that would mean a meeting on each day of the working week.

565. We might need advice on whether we could be serviced if we met quite so extensively and frequently.

566. **The Chairman (Mr Wells):** The Clerks had developed a system for covering three subgroups.

567. **Dr Farren:** Are they saying that they could —

568. **The Chairman (Mr Wells):** The Hansard reports would be slow, because a large burden would be placed on the staff. However, the meetings would have been recorded.

569. **Dr Farren:** I can certainly live with that.  
*12.00 noon*

570. **The Chairman (Mr Wells):** Have we reached consensus on the appointment of three additional Chairmen for the economic subgroup?

*Members indicated assent.*

571. **The Chairman (Mr Wells):** Debbie Pritchard will inform the Secretary of State of that, and he will ask the parties to make nominations. That will help to relieve the load on Mr Molloy and me.

572. Dr Farren has made a scaled-down proposal, to the effect that rather than meet twice a week — as Mr McFarland suggested — we meet every day, with the economic subgroup meeting twice a week. In other words, on Monday, we would deal with institutional issues; on Tuesday, we would deal with law and order; and on Wednesday, we would deal with rights and safeguards, etc.

573. **Dr Farren:** Or whatever.

574. **The Chairman (Mr Wells):** Yes; that is not hard and fast. Perhaps we could meet on Monday, Wednesday and Friday, with the economic subgroup meeting on Tuesday and Thursday.

575. **Mr M McGuinness:** From a practical point of view, given that parties will send different people to the various meetings, and given that you and the other Deputy Speaker will chair most of those meetings, are you both available to do that throughout August?

576. **The Chairman (Mr Wells):** I am. Mr Molloy?

577. **Mr Molloy:** Yes.

578. **Mr M McGuinness:** You are gluttons for punishment.

579. **The Chairman (Mr Wells):** We shall meet on Monday, Wednesday and Friday. The economic subgroup will meet on Tuesday and Thursday. I presume that those meetings will begin at 10.00 am. The staff will rejig their rotas accordingly.

580. How shall we deal with the running order? Shall we start with institutional affairs or with law and order?

581. **Dr Farren:** Start with the institutions.

582. **The Chairman (Mr Wells):** The first week will be institutions, law and order, and then rights, safeguards, etc.



583. **Mr McFarland:** Law and order on Wednesday, and rights on Friday. Is that correct?

584. **The Chairman (Mr Wells):** Yes. We have got that out of the way.

585. **Mr Ford:** I wish to follow on from a point that Alan made about parties sending their experts to meetings. Some time ago, we discussed the question of parties' entitlement to bring research staff, or whomever, as back-up to their negotiators — I am sorry; I should not use that word in front of the DUP.

586. Given that we are seeking to go into some detail, I wonder whether other parties have a view at this stage on allowing party staff to attend as note-takers, note-providers, or whatever.

587. **The Chairman (Mr Wells):** That is entirely up to the parties. We took that decision before we decided to bring in Hansard. Everything is a matter of public record, so there is nothing to be gained by secrecy.

588. **Mr Ford:** Not only has that changed, but so has the intensity of the work that we are planning.

589. **Mr McFarland:** Another issue is that parties have various people who are away. It would be useful to have some form of continuity. Perhaps someone could sit at the back of the room to ensure that members do not drop bombs — metaphorically speaking — on different weeks.

590. **The Chairman (Mr Wells):** If parties have whizz-kids who are experts in particular issues, they could sit at the back of the room. We may need to move to a bigger room. That raises the difficult issue of whether we allow the press to sit in on meetings.

591. **Mr McFarland:** One of our successes is that, although we have Hansard reports, we are building relationships through people's ability to speak to one another. If a press chap is here, the moment a member says something outrageous, he will be out the door, and when we leave the Committee, it will be on the one o'clock news.

592. The workings of the Committee will be easier if the reports are in Hansard, and we can

do our stuff later. However, if we effectively do it live, we will all be bouncing in and out of meetings to make comments to the press or to appear on 'Talkback', or whatever. That stands to wreck our work, which is building quite sensibly among the parties. We are getting some proper work done.

593. **The Chairman (Mr Wells):** There is much merit in what you say, Mr McFarland.

594. The Committee Clerk has suggested that we decide whether we discuss institutional affairs on a Monday, and revisit it on consecutive Mondays, or whether we discuss institutional affairs three days in a row next week. Institutional affairs will be the time-consuming issue. What sort of continuity will we have if we discuss institutional affairs on a Monday, have another bite at it a week later and a further bite the week after that?

595. **Mr McFarland:** Chairman, you are involved in only two of every five meetings. The Subgroup on Economic Challenges facing Northern Ireland is to meet twice a week. Technically, there is nothing to stop this Committee discussing institutional affairs on a Monday. If somebody other than you or Mr Molloy were to chair the Tuesday meeting of the economic challenges subgroup, you would both be free on Tuesdays and Thursdays to chair another meeting of this Committee.

596. **The Chairman (Mr Wells):** Remember that the only difficulty is that a substantial proportion of the membership of this Committee will also sit on the economic challenges subgroup.

597. **Mr McFarland:** No; they are different. I said that different people are involved in this.

598. **The Chairman (Mr Wells):** At least one member from each party must sit —

599. **Mr McFarland:** No. That was the case for the two proposed subgroups, which no longer exist.

600. **The Chairman (Mr Wells):** The economic challenges subgroup was established under the regulations for subgroups.

601. **Mr McFarland:** Yes, and Mr McNarry represents our party on that subgroup. He is the only person who is out of the loop. *[Laughter.]*

602. My point is that, in discussions on institutional issues, law and order issues and safeguards issues, our party can be represented by two Members other than Mr Kennedy, Mr McNarry or me. There are no rules in this Committee about that, because substitute members can sit on the PFG Committee.

603. **Dr Farren:** We will need to have a big recruitment drive.

604. **Mr McFarland:** Had the subgroups been formed, either Mr Kennedy or I would have had to sit on it.

605. **The Chairman (Mr Wells):** On that basis, 99 of the MLAs will have eventually sat in this room.

606. **Mr McFarland:** Absolutely. There are no rules for this Committee, other than that substitute members can sit on it.

607. **Mrs D Dodds:** Would it not be wise to leave the make-up of the delegations to the parties?

608. **Mr McFarland:** Yes, but the make-up of party delegations is directly related to how many times a week we can meet.

609. **Dr Farren:** Parties must answer to themselves.

610. **The Chairman (Mr Wells):** Is there anything, for example, to stop this Committee meeting on Tuesday to discuss institutional affairs?

611. **Dr Farren:** No.

612. **The Chairman (Mr Wells):** The economic challenges subgroup would meet in the morning and this Committee could discuss institutional affairs on Tuesday afternoons, if needs be. Are you suggesting that as a practical way forward, Mr McFarland?

613. **Mr McFarland:** A programme needs to be set out. If you chair a meeting on a Monday, Mr Molloy is present. Similarly, if Mr Molloy chairs a meeting on a Wednesday, you are present. If both Chairmen attend a Committee

meeting, they cannot chair another meeting. Although it is useful to have the other Chairman present, it is neither effective nor efficient. If you were a time and motion man, you would be sacked for suggesting that.

614. The question is whether both Chairmen can afford to continue attending the same meetings. I argue that they cannot. It is very useful and helpful, but you will not be able to sustain that if there are other meetings because, logically, if you chair a meeting on a Monday and Mr Molloy chairs a meeting on a Wednesday, you cannot chair the economic challenges subgroup. Do you see what I mean?

615. **Mr M McGuinness:** As we have agreed the number of groups and so forth, I am not that sure that we should begin to work out the detail of how the issues will be taken forward. A more sensible way to proceed is for the two Deputy Speakers to meet a representative from each party to devise a programme for the coming weeks. If we continue as we have, we will be here until midnight.

616. **Mrs D Dodds:** There is no reason why we cannot agree to Seán Farren's suggestion that this Committee meet on Mondays, Wednesdays and Fridays and the economic challenges subgroup meet on Tuesdays and Thursdays. This Committee can sit into the afternoon, if it so desires.

617. **Lord Morrow:** Or into the night.

618. **Mrs D Dodds:** That would resolve the issue.

619. **Mr Molloy:** If it is decided on a Monday that the Preparation for Government Committee must meet on Tuesday, members who do not sit on the economic subgroup could attend the Committee. If membership of the economic subgroup were kept separate from that of this Committee, the Committee could meet on any day of the week.

620. **Mr M McGuinness:** The problem is that we are thinking on our feet about this matter. Members must reflect on today's discussion and send a representative to meet the Chairmen to work out a programme of meetings. The arrangements for how and when the Committee

and the economic subgroup will meet are likely to be made through an ongoing process of amendment and change.

621. **Mr McNarry:** Members of the economic subgroup were issued with a schedule. Therefore, they know what commitments they have until 18 August. A similar schedule would be helpful for the business of the Committee. Members have other commitments at their constituency offices and other people to meet. Committee staff should be able to organise a schedule for future meetings.

622. **The Chairman (Mr Wells):** The Committee is staffed by two experienced Clerks, who have formulated schedules for other Committees. We need to decide whether we wish to spend three days in a row discussing one topic, such as institutions, followed by, if required, three days in a row on law and order, or do we want to take forward business on a Monday-Wednesday-Friday basis? For example, each week, the Committee could concentrate on institutions on a Monday, law and order on a Wednesday, etc.

623. What is the best way to deal with those issues? That is the only guidance that the Clerks need. Beyond that, we should let them use their expertise. What do members think? Should the Committee discuss institutions every Monday, or should it take one subject and discuss it on Monday, Wednesday and Friday?

624. **Dr Farren:** I can see the attraction of trying to achieve much on one of the issues in one week. However, we need to engage others. Next week, we should start with institutions on Monday, use Wednesday for law and order, and discuss rights and safeguards on Friday. One subject — for example, institutions — may gather a head of steam and need more and more time devoted to it. If we address the issues in parallel, the other subjects are less likely to get pushed down the agenda.

625. **The Chairman (Mr Wells):** Are members agreed that we must build in flexibility to ensure that if one issue needs further discussion, that can take place?

626. **Dr Farren:** Yes.

627. **Mr M McGuinness:** Absolutely.

628. **The Chairman (Mr Wells):** That is a good compromise.

629. **Dr Farren:** That would be wise.

630. **The Chairman (Mr Wells):** Members must decide whether to ask the parties to submit papers. May I assume that we will call witnesses?

631. **Mr McFarland:** Time is against our inviting witnesses, unless they could substantially enlighten the Committee. Members have been discussing many of these issues for four or five years, or longer. In some areas, we may need expert witnesses, but we have no time. If we are to have one meeting a week on each of the issues, and we have to report in three weeks' time —

632. **The Chairman (Mr Wells):** Can we leave it that, in principle, if we decide that we need to call witnesses, we will do so? That does not mean that we must call witnesses, but that the mechanism is there should witnesses be required.

*12.15 pm*

633. **Mr McFarland:** We should err on the side of caution with witnesses because of the time factor and the trouble that we could get into by not inviting of all the interested parties who may wish to give evidence.

634. **The Chairman (Mr Wells):** That brings us to an important issue. To assist the Committee, do parties wish to produce papers for each meeting? If so, papers for Monday meetings will need to be with Committee staff by the previous Friday.

635. **Mr McFarland:** There is an awful shortage of time and many different topics to cover. Parties will be pushed enough to get this done with the personnel that they have. Hansard is recording the meetings, and, obviously, parties will be organised within their own systems.

636. If we are to produce papers for each of the topics, the key people will have to spend all their time engaged in that when they should be at one of the subgroups. Parties may need to

submit a paper on a particularly complex issue, but if we have to produce a paper on each topic, we will run out of time, effort and hours available.

637. **Dr Farren:** The institutional issues are essentially inter-party ones, and we should not have to call expert witnesses on them. The parties had already prepared papers, some long and some short, in the run-up to the Leeds Castle discussions and what flowed from them and during the review that was undertaken a few years ago. There is unlikely to have been a great deal of change since. We have already initiated the procedure to produce a briefing paper on the issues, and if anything is missing, we will take it from the list that the Committee Clerks have prepared and from what we have prepared ourselves. We can have a paper ready for circulation on Friday. It is helpful if parties can produce brief papers on the issues. Otherwise, no one is very clear about people's approaches until they start to talk.

638. **The Chairman (Mr Wells):** The problem is that we need to have some structure for Monday's meeting. At the moment, all we have is 10 or 11 points. It would help if the parties could at least provide sub-headings to each point.

639. May I apologise to the Committee: I simply have to attend an incapacity tribunal in Newry, so Mr Molloy will be taking over from me in five minutes' time.

640. Do the parties agree that they will be able to produce something for the Clerks on the institutional issues, no matter how brief, by lunchtime on Friday? Then at least we will have some structure to the discussions that Mr Molloy will be chairing. I do not have to worry too much about it. Is everyone happy with that?

*Members indicated assent.*

*(The Chairman (Mr Molloy) in the Chair.)*

641. **The Chairman (Mr Molloy):** Could we have papers on the law and order issues by lunchtime on Monday and papers on rights and safeguards by lunchtime on Wednesday? It is also helpful for Hansard if the parties, and any witnesses that they may call, provide papers in advance.

642. The next item of business is the future work programme. Members will have the work plan that was issued by the Secretary of State after the meeting held by the Prime Minister and the Taoiseach. There is also the suggested work plan for the Programme for Government, which is to be dealt with today.

643. Can we take the work plan issued by the Secretary of State?

644. **Mrs D Dodds:** Mr Deputy Speaker, are there spare copies of the work plan?

645. **The Chairman (Mr Molloy):** Yes.

646. Can we close the windows? There is a terrible smell of diesel.

647. The Committee needs to decide whether to accept the work programme and how our work will fit into it. Do members have any views?

648. **Mr McFarland:** Originally, it was discussed whether the Committee would report by 18 August. Can I get an update? Is there a date by which the Committee must have its work completed in order for the debates on the report to be held at the beginning of September?

649. **The Chairman (Mr Molloy):** We need to go the Business Committee by 25 August in order to meet the date of the proposed plenary meeting on the report.

650. **Mr McFarland:** Working back from that date, at what stage do we have to meet as a full Committee to agree the report?

651. **The Chairman (Mr Molloy):** The deadline for the economic challenges subgroup is 18 August. Because this Committee is not forming subgroups, it will have a wee bit of extra time to meet. The date that we are working to is 25 August, at which time we will go to the Business Committee, provided that the report is finalised by that date.

652. **Mrs D Dodds:** This Committee must also consider the report from the economic challenges subgroup.

653. **Dr Farren:** How fixed in stone are the dates of the plenary meetings? In order to gain a little more flexibility in the Committee's work



programme, and that of the subgroup, would the Secretary of State concede a week's delay?

654. **The Chairman (Mr Molloy):** My understanding is that, unless the Preparation for Government Committee proposes subjects for plenaries, the dates are not fixed at this stage. If the completion of the report were to be delayed by a few days, the Business Committee and the parties, rather than the Secretary of State, would be flexible in arranging plenary meetings.

655. **Dr Farren:** It would allow us a little flexibility, and we would not be shackled to dates to which we need not be shackled.

656. **The Chairman (Mr Molloy):** There could be another way around it: if the economic challenges subgroup's report were ready, it may be debated in a plenary meeting before the debate on this Committee's report. The economic challenges subgroup has been asked to submit a report early so that this Committee can consider it. That will take slightly longer than the other way.

657. The Programme for Government is one of the tasks set by the Secretary of State for this Committee to conclude by October. A draft Programme for Government and a draft ministerial code will be finalised. That will obviously be completed after the September deadline.

658. Do members have any opinions on that? Parties obviously need to agree the order of work.

659. **Mr O'Dowd:** I am getting a headache from the diesel fumes. Can we adjourn to get some fresh air?

660. **The Chairman (Mr Molloy):** The fumes could be coming from a generator.

661. **Mr McFarland:** It seems that the fumes are being pumped into this room.

662. **The Chairman (Mr Molloy):** The order of work is the final issue to be dealt with. Shall we discuss it at a future date?

663. **Mr O'Dowd:** Perhaps we can discuss it in future.

664. **The Chairman (Mr Molloy):** We can note the issue today, and parties can return to

the Committee with an opinion. We obviously cannot decide everything today. We will meet again next Monday at 10.00 am.

*Adjourned at 12.24 pm.*



## Friday 4 August 2006

### Members:

The Chairman, Mr Francie Molloy  
Mr Wilson Clyde  
Rev Dr Robert Coulter  
Dr Seán Farren  
Mr Michael Ferguson  
Mr David Ford  
Mrs Arlene Foster  
Ms Patricia Lewsley  
Mrs Naomi Long  
Mr Dermot Nesbitt  
Mr John O'Dowd  
Mr Edwin Poots  
Ms Kathy Stanton

*The Committee met at 10.00 am.*

*(The Chairman (Mr Molloy) in the Chair.)*

665. **The Chairman (Mr Molloy):** Members should ensure that their mobile phones are switched off, because they interfere with the Hansard recording system.

666. I draw members' attention to the requirement to declare any interests that might be relevant to the work of the Committee. I am not sure what those interests might be.

667. I ask the deputies from each party to confirm whom they are replacing.

668. **Mr O'Dowd:** Michael Ferguson, Kathy Stanton and I are standing in for our party's usual team.

669. **Ms Lewsley:** I am standing in for Mark Durkan.

670. **Rev Dr Robert Coulter:** I do not know whom I am replacing. I was told to be here in a telephone call last night at 11.00 pm.

671. **Dr Farren:** You have a choice of three members to replace.

672. **Mrs Foster:** Mr Clyde, Mr Poots and I are standing in for our party's usual Committee on the Preparation for Government (PFG) team.

673. **The Chairman (Mr Molloy):** We have copies of the paper that the PFG Committee agreed on the issues to be considered under the title of "Rights; Safeguards; Equality Issues and Victims". I propose that we work our way through that list to identify which issues members wish to deal with first. Before we do that, each party may present a five-minute introduction. The Alliance Party will start.

674. **Mrs Long:** Thank you, Mr Chairman. The list covers many of the issues that the Alliance Party raised in its initial submission; namely equality issues, community relations, rights and safeguards, victims, and dealing with the past. Although the Alliance Party wishes to highlight several items on the list, it does not have a comprehensive list of concerns.

675. We welcome the work that the Northern Ireland Human Rights Commission (NIHRC) has done to develop human rights legislation. That work represents a step forward, but a bill of rights is necessary and must be developed. Our particular concern is that the focus should be on the rights of the individual, not on those of groups. Our fear is that those who are not associated with groups would find that their human rights were diminished. Therefore, it is important that the exercising of human rights is based on an individual's rights, not on group rights.

676. If people choose to exercise their rights in groups, that is entirely a matter for them, but a person's ability to exercise his or her rights should not be in any way diminished because he or she has not chosen to be part of a group. That is particularly important in a changing Northern Ireland, which has an increasing ethnic-minority population and higher levels of inward migration. Individuals must be reassured at both a policy and political level that their rights will be respected in the same way as those of people who associate with the larger and more traditional groups in Northern Ireland. Therefore, the

Alliance Party wishes to highlight that matter under the “Rights/safeguards” heading.

677. The Alliance Party’s view is that, in addition to establishing people’s rights, there must be provision for the responsible exercising of those rights. Everyone has rights that should be established in law. However, how rights can be exercised in a responsible way must be established to ensure that other issues, such as good relations and stability in our communities, are not affected negatively. It is important that collective responsibility and a sense of community are maintained in order that, although the rights that are determined under law can be exercised, that is not done in a negative and destabilising way. At all times, people must respect the rights of others.

678. There are clearly issues surrounding dealing with the past, and truth and reconciliation. There are several models for dealing with issues from the past. The Alliance Party has made it clear in all its submissions that simply transplanting the mechanisms that have been used in another community is not necessarily the way forward. It will have to be explored in detail, for the definition of a victim is a very sensitive issue in our society. We have to deal with it, because the rights of those who have suffered most have to be protected if any process that we take forward is to be stable and healing for our community.

679. I will link “Good relations” directly to the shared future agenda. If we are to move forward as a society and have a stable base on which to build institutions and democracy, we must have some shared sense of community. That must be at the forefront of people’s minds.

680. Returning to some of our discussions on the institutions, we believe that the ministerial code of conduct should include a responsibility to behave in a way that is conducive to the promotion of good community relations.

681. There are several overlapping issues in relation to a shared future. Parades have been identified as one issue, but we see them as part of an overall community relations remit. The way in which those issues, and the rights and equality issues around them, are handled is a

mark of how we handle other disputes in our communities. The parades issue is often a touchstone rather than the core issue. We need to look at it in that context.

682. We wish to see a good-relations responsibility placed on statutory authorities, so that Departments and statutory agencies, when deciding how to administer their finances and discharge their responsibilities, would have to consider the impact of those decisions on community relations.

683. We also wish to see the implementation of policy appraisal for sharing over separation in order that future decisions would be considered on whether they increase or decrease segregation. That is an important consideration. We recognise that it will not be the deciding factor on every occasion, but it should at least be an important consideration.

684. That is a brief overview of some of the key points. We will raise and elaborate on other matters in future meetings, but that is probably sufficient for the meantime.

685. **The Chairman (Mr Molloy):** Thank you for being precise.

686. **Mrs Foster:** Thank you, Chairman. I agree with Naomi that this is a huge area. I want to skirt through a couple of the issues and draw them out. When we get to the work plan we will be able to flesh them out in more detail.

687. A bill of rights would require the support of an overwhelming majority of people in Northern Ireland, and it would also need cross-community backing in the Assembly. The Human Rights Act 1998 achieved many of the desired objectives and balance, but the DUP is not averse to discussing how to move the debate forward on a bill of rights. We have engaged with various non-governmental organisations (NGOs) on that. I am sure that we will discuss it when the time comes.

688. The Northern Ireland Human Rights Commission has exceeded its terms of reference as set out in the Belfast Agreement. Its focus should reflect the circumstances of Northern Ireland, but, unfortunately, in many cases it has exceeded that and has commented on issues that

fall firmly outside its remit — issues that are the responsibility of the legislature.

689. As for the other commission, it is no secret that we believe that the Parades Commission should be abolished. It is part of the problem — it does not provide a solution to issues around parades. An alternative framework needs to be found for dealing with them. The Parades Commission is an unelected quango that has made many inconsistent determinations; it has punished those who have obeyed the law and rewarded those who have engaged in or threatened violence. We believe firmly that the Parades Commission is one of the issues that need to be discussed.

690. The sub-heading “Culture” on the generic list is broken down into “Ethnic communities”, “Nationalist” and “Unionist”. Each party will have a view on what is important under each of those. There is no necessity at the moment to go through the list of what the DUP believes should be included. We will consider those individually when we come to the work plan.

691. It is suffice to say that the ethnic-minority problem is new to this part of the UK. The nationalist and unionist issues are probably well rehearsed, but the ethnic minority issue must be foremost in our minds when we discuss the issues, and it must be tackled.

692. As far as the DUP is concerned, “Dealing with the past” encompasses quite a few other sub-headings. However, I do not see the plight of the disappeared on the list, and it must be included. The DUP also wants to include: compensation for victims, dealing with unsolved crimes, and sustainable funding for victims’ groups, which was highlighted most recently in a report from the Interim Commissioner for Victims and Survivors of the Troubles.

693. The DUP agrees with Naomi Long that, when considering how to deal with truth and reconciliation issues, Northern Ireland’s unique circumstances must be taken into account rather than simply copy something from another area or country. It is unhelpful to look at what is being done in other places, because people there are dealing with their own specific issues.

694. I have already highlighted that good relations are not confined to the unionist/nationalist divide. They also concern what is happening within the ethnic minorities. That will be discussed later.

695. Finally, “Confidence building” is included on the list. Since the Belfast Agreement, the unionist community has suffered a huge loss of confidence, and it is no secret that the DUP has made a number of suggestions to the Government on how to build the confidence of the largest community. The DUP will be happy to expand on those measures when the time comes.

696. **Mr Ferguson:** Sinn Féin has consistently pressed for progress on the human-rights and equality agendas, and it will continue to do so. Some detail of what is required to advance those agendas is set out in this paper.

697. Much of what Sinn Féin has pressed for to advance those issues is, however, the responsibility of the British Government. The Irish Government also have a responsibility to advance this agenda in the Six Counties. The Irish Government have a co-equal responsibility to implement the Good Friday Agreement and to ensure that the British take the necessary steps to give effect to that agreement.

698. There is an obvious need for an all-Ireland harmonisation of human-rights protection and equality provision. The Good Friday Agreement envisaged the establishment of a Human Rights Commission in the North and one in the South. It also envisaged a joint committee of representatives from the two commissions that would act as a forum for the consideration of human-rights issues on the island of Ireland, with a view to establishing a charter of rights for everyone, North and South.

699. Sinn Féin is, of course, prepared and willing to engage with any party on how to progress that agenda. Agreement among the parties on this Committee on how best to progress the various human rights issues and the equality agenda would send out a positive signal that all parties are committed to the achievement of what was envisaged in the Good



Friday Agreement in respect of both human rights and equality.

700. However, reaching agreement on how to progress those issues is not a prerequisite for the restoration of the political institutions. Discussions on those issues will, presumably, continue beyond the restoration of the institutions, but they must not be used as an excuse to delay restoration. Issues raised by parties are listed under the heading, “Rights; safeguards; equality issues and victims.” Further issues may be added to the list in future. Although many issues are self-explanatory, it is not clear how the various parties will approach them or whether they will attempt to make a case that discussion or agreement on each issue is part of a necessary preparation for Government.

701. It is not clear, for example, what any party will raise under the heading of “Confidence building”, although a couple of references have been made to that today.

*10.15 am*

702. Sinn Féin’s template is the Good Friday Agreement, and the positions that we have formulated on the identified issues are, therefore, consistent with the Good Friday Agreement. As regards prioritising the issues and the importance of moving forward on the bill of rights, British Minister Hain agreed in February to establish a round-table forum to facilitate grass-roots consultation and provide a momentum to move forward with a bill of rights. The Irish and British Governments must support that. Sinn Féin hopes that a round-table forum will provide the momentum, information and recommendations for the Secretary of State to introduce legislation.

703. The Human Rights Commission and its powers are also important, and those powers are high on our priority list. Sinn Féin believes that the British Government need to come forward with their review of the HRC’s powers, so that political representatives and the wider community can ascertain whether they are sufficient. We want more powers to be given to the HRC and more resources made available to it. We want it to be allowed to investigate more thoroughly. The resourcing of the HRC is of

primary importance, because only 80% of it is located in salaries.

704. An independent mechanism must be put in place to facilitate the method by which appointments are made to the Human Rights Commission, as it is an important issue. Sinn Féin believes that those appointments should not be political, but that they should comprise human-rights experts and representatives from NGOs and trade unions. Appointments should be Paris Principles compliant — international best practice should apply.

705. The issues of “Dealing with the past” and “Truth and Reconciliation” have come up. My colleagues have referred to them, and they are important. All the relevant parties need to have a genuine focused debate on the timing and purpose of any truth process. I do not accept the notion that we cannot learn from other experiences. Central to that must be the acknowledgement by the British state of its role as a primary protagonist in the conflict. Clarification of actions throughout the process is also important.

706. **Ms Lewsley:** The SDLP also has important points to make, but the issues that we will debate did not give rise to suspension. We hope that none of the parties will elevate those issues into a precondition for restoration.

707. The SDLP is saddened by the fact that the bill of rights has taken so long to come to fruition. We have worked for a long time with the Human Rights Consortium to ensure that it is brought about. It has been mentioned today that British direct rule Ministers promised many times to establish a round-table forum. The SDLP wants such a forum, with an international chairperson who is independent of Government, parties, the NIO and the NIHRC, with its own secretariat. Most importantly, it must bring together all the political parties. The round-table forum should report to the NIHRC, which, in turn, should report to the Secretary of State. That would not prevent the NIHRC from contributing to the forum, if the chairperson requests it to do so. A worthwhile provision of the comprehensive agreement was that the forum could get under way before restoration,

so the SDLP calls on all the parties to ensure that that happens.

708. With regard to the issue of “Confidence building”, a peace process has been in place for a decade, and often we have taken small, minimal steps.

709. We must now take a very large step to ensure that there is restoration of the institutions for the people of Northern Ireland.

710. The key to the culture and identity issue is contained in page 2 of the Good Friday Agreement, which says:

*“parity of esteem and of just and equal treatment for the identity, ethos, and aspirations of both communities”.*

711. Parties must take that collective approach.

712. “Dealing with the past” has been included as an issue, and the SDLP would like the disappeared to be included under that heading. There is a need for a victims’ and survivors’ forum, which should be victim-centred and victim-led. More funding should be made available for the work that the Historical Enquiries Team (HET) and the Police Ombudsman are carrying out on the past. Of course, all that work must be human-rights compliant; there should be no return to the failed proposals of the Northern Ireland (Offences) Bill.

713. “Shared future” and “Good relations” have been identified as issues, and they must include everybody. It should not be a matter of those who shout the most getting the best rewards. Often people have no involvement with particular organisations, but as individuals their voices still need to be heard. We must therefore ensure that our approach is inclusive.

714. The SDLP has called on all parties to encourage dialogue between the Parades Commission and residents, because that is the only way forward. The party is opposed to any dilution of the Parades Commission’s powers and to any reviews that would bring that about. I have touched on a few issues, and I am sure that the debate around this table will enable the Committee to discuss them in more detail.

715. **Mr Nesbitt:** This is my first opportunity to participate in the Committee on the Preparation for Government, and I welcome this chance to engage in dialogue. I view the subject of human rights and equality — in the wider sense, as distinct from the aspects on which the Committee will focus — as fundamental to making progress in Northern Ireland. Members would probably all disagree with each other’s citizenship, but we could all agree that we are citizens of a greater Europe. Looked at from that wider perspective, I, as a citizen of Europe, can expect no more or no less than to enjoy the same rights and equalities that obtain elsewhere in the wider Europe.

716. I note the remarks of Sinn Féin, the SDLP and the DUP, and I am sorry to have missed the early part of the Alliance contribution. There is a coalescing of views. I could not disagree with Sinn Féin that human rights and equality are important — it says that in nearly every one of its statements. The party says that the Good Friday Agreement is the template and that it wants to achieve what has been set out in that agreement. I agree with that as well. Therefore this Committee must have rigour and structure, and it must adhere to and address those issues in that context.

717. Not to cherry-pick, but I note that, only this week, Prime Minister Blair referred to the human spirit, and that is very important. When he was in California, he referred to the essential elements of democracy: rule of law; justice; and human rights. In fact, any functioning political institution — the establishment of which is the purpose of this Preparation for Government Committee — must have an effective democracy, underpinned by an understanding of and adherence to human rights. That understanding and adherence form the basis of any democracy. Thus I hope that the Committee will take those two words on board — it must first understand the issues and then adhere to them.

718. I note also that, in the past 10 days, the UK Government, the Irish Government, Sinn Féin and many others have said that we must abide by international law. Indeed, one of the Sinn Féin representatives in the Oireachtas said

that if the Israeli Government do not abide by international law, they should be subjected to European trade sanctions. I agree with abiding by international law. That principle underpins many of the topics that this Committee should be examining.

719. We talk about structure and rigour in the Committee, but if we do not understand the problem, we cannot address the issue and find a solution. We are told that a lack of equality, a feeling of second-class citizenship and even the British presence in Ireland are part of the problem. We certainly have an identity problem; it is mentioned in the Good Friday Agreement, or the Belfast Agreement, as it is properly known. I look to human-rights legislation to address that difficulty.

720. As I understand it, only one piece of hard law that deals with group accommodation is currently invoked — the Framework Convention for the Protection of National Minorities. I do not wish to play on the words “national” or “minority”, because I am conscious that the word “minority” may make people feel inferior. I do not use the word “minority” in any such context. It just means a lesser number.

721. The framework convention has been ratified by the British and Irish Governments — the latter having done so under the terms of the Belfast Agreement. Therefore we need to understand what that convention says in order to make progress on human rights.

722. I have tried to lay down some parameters for examination during the Committee’s discourse on human rights. However, I am content that an outside agency be called to give evidence. I would very much like to hear the Northern Ireland Human Rights Commission’s view on what rights need to be addressed. Without any party predisposition, I would like to hear from Colin Harvey, a professor of human rights law at Queen’s University. He is a former member of the SDLP and a member of the Human Rights Commission, so he could not be viewed as a unionist. I would like him to help us in our discourse. The economic subgroup has called many witnesses to give

evidence and advice, so I do not have a problem with people coming to speak to the Committee.

723. Those are my views on the human-rights dimension. It is an important issue and is central to our deliberations. We need rigour and structure, and we need to know what the problem is and where we are coming from. We already have a framework in situ, which is laid down in international law, and which we should abide by. I use the phrase “abide by”, because in my initial comments I talked about an understanding of and adherence to human rights.

724. I agree with the sentiments of the DUP person to my left.

725. **Mrs Foster:** My name is Arlene, in case you had forgotten.

726. **Mr Nesbitt:** Yes, I know. This time yesterday I was in an aeroplane somewhere north of Iraq, so I am just trying to find my feet. I apologise, Arlene. This will be suitably transcribed, so I apologise on the record for not remembering Arlene’s name. I had no doubt she would remind me as she did.

727. As Arlene stated, let us take, for example, a bill of rights, which is important. We already have an international bill of rights comprising the UN Convention and political rights. Therefore, we should again adhere to what is in the agreement.

*10.30 am*

728. I welcome Arlene Foster’s comment about adhering to the Belfast Agreement.

729. I will move quickly to my second point. I am sorry that I will have to leave at 11.10 am.

730. Equality is the second dimension to this important issue and, again, structure and rigor are needed to address it. The issue of equality was seen as a problem, but I have no difficulty with officials from the Equality Commission telling the Committee what the problems are. We must find the problems and see whether issues highlighted in the 1998 agreement have been dealt with, and if not, why not, and find a way to rectify the problem. Indeed, we must consider whether the problems were properly analysed in 1998 and, if they were or were not,



were solutions properly derived to combat the problems?

731. Discrimination featured very strongly in 1998. Was that addressed or is it still a problem? That all builds into a shared future. The summary by Darby and Knox, 'An Analysis of the Responses to the Shared Future Consultation', stated that equality of opportunity will lead to a better future and understanding of each other, rather than the other way around. In other words, better community relations will result from equality of opportunity, rather than the other way around. The cause and effect is important. I am more than happy for Bob Collins, the Equality Commission's Chief Commissioner, to speak to the Committee about discrimination.

732. Robert will make a few concluding comments on truth and reconciliation and victims.

733. **The Chairman (Mr Molloy):** At this early stage, parties are meant give short, five-minute presentations. Can you sum up quickly, Robert?

734. **Rev Dr Robert Coulter:** This is my first time at the Committee, and I am not sure of the usual format.

735. I have been asked to speak about victims. The first thing that comes to mind is that the old maxim of philosophical reason remains true: if the first premise is flawed, all that follows, including the conclusion, will be flawed. We must define what constitutes a victim. As there is diversity of opinion on that, it is vital to determine the definition at the beginning, so that all that follows can be debated within that context.

736. The post of victims' commissioner should be made permanent and not an interim post, as it is at present, because of the importance of the victims issue in the future. Victims' groups should be registered and their financing should be regulated to ensure equitable treatment among groups and clear and understandable administration.

737. Truth has been one of the rarer commodities in Northern Ireland in the past,

and, like Pilate, I could ask: "What is truth?". Again, we must have a definition of truth. On the issue of reconciliation, because victims have such a diversity of need, I agree that the emphasis should be on the individual and that each individual should be treated in his or her own right. There are many diversities among victims: a diversity of need; a diversity of reaction; a diversity of suffering; a diversity of memory — I could continue.

738. Wearing my other hat in relation to forgiveness, we must look at the two sides of forgiveness. Both sides must be in operation if forgiveness is to take place: there must be a willingness to be forgiven, and a willingness to forgive.

739. Far too much emphasis has been placed on the willingness to forgive without the willingness to be forgiven being brought to the fore. Perhaps a truth and reconciliation forum is not the best way forward for Northern Ireland; no one size of shoe fits everybody. Each individual has his or her own requirements: some people want to be left alone with their grief; some want to contact the Historical Enquiries Team, so that they might discover the truth; and some want to be part of a support group. There is diversity, and the situation in South Africa is not comparable to the situation in Northern Ireland.

740. **The Chairman (Mr Molloy):** All the issues will be discussed in detail later. This is an introductory stage, and we will identify categories as we proceed.

741. **Rev Dr Robert Coulter:** My apologies if I have overstepped the mark.

742. **The Chairman (Mr Molloy):** I am sorry to have cut across you. We will deal with individual issues presently.

743. The Committee Clerks have compiled a list of suggested themes headed "Rights; safeguards; equality issues and victims", of which members now have copies. Members can suggest additional issues — a couple of items have already been mentioned. We should try to position any new issues under the existing headings rather than create new categories.

Items on the list are not in any order of priority and nothing is written in stone. Future evidence sessions may be informed by these headings.

744. **Mrs Foster:** Can “The disappeared” be included under the heading “The Past”?

745. **Mrs Long:** Perhaps “The Past” is not the best heading under which to include “The disappeared”. People continue to be exiled from society, and victims are being created even as we speak. “Legacy issues” might be a better heading.

746. **Mrs Foster:** We could change the generic term.

747. **Mrs Long:** I understand the thinking behind the heading “The Past”, but new victims can be created at any time.

748. **Mr O’Dowd:** In previous meetings of this Committee, Sinn Féin said that it is happy to discuss any issues that are presented by any party. We are more than happy to discuss the issue of the disappeared. However, parties cannot come to meetings wanting the latest news headlines to be included on the list of issues. This Committee has been up and running for seven weeks, and the DUP has had plenty of opportunities to introduce the issue of the disappeared. We are more than happy to discuss that issue, but we do not want it to be used as a political football or as a point-scoring exercise. The way to proceed is to discuss the issue sensitively and constructively in order to help families to retrieve the bodies of their lost loved ones.

749. **Mrs Foster:** I must respond to that. The person who has just spoken knows that it was not only the DUP that raised the issue of the disappeared. It is not simply a reaction to this week’s news; the disappeared has always been an issue. It is contained under the sub-heading “Victims issues”, and the DUP insists that it be included on the list because the issue must be dealt with. Other parties will feel the same way.

750. **Mr Ford:** The Alliance Party mentioned the issue of the disappeared at an early stage, as did the SDLP. Should “The disappeared” appear as a separate category under the sub-heading “Victims issues”? This is not about

grandstanding; some of us have been talking about this issue for years.

751. On the list, “Shared future” is a sub-heading under “Equality issues”, and “Good relations” is a sub-heading under “Culture and confidence issues”. “Shared future” means significantly more than “Equality issues” and should be linked to “Good relations”.

752. **Dr Farren:** I wish to focus on David Ford’s last point. Along with “Good relations”, “Shared future” must be identified as an issue in itself, because, as the term suggests, it points to the future. I suggest that that sub-heading be removed. I do not see any distinction between the concept of a shared future and that of good relations. I want to see the issue of a shared future treated distinctly. Whether people refer to that as “Good relations” is neither here nor there in one sense, but it is of such significance that it must be identified as a heading in itself.

753. **Mr Ferguson:** “Good relations” should be taken out from under the heading “Culture and confidence issues”. That sub-heading very clearly belongs under the heading “Equality issues”, primarily because the Equality Commission should be clearly identified as the public authority responsible for dealing with that matter. That matter should not lie with the Community Relations Council. The Equality Commission already has responsibility for promoting good relations in respect of race. “Good relations” should not be dealt with under its current heading; its home is with other equality issues.

754. **Ms Stanton:** I wish to reiterate that point. The Equality Commission should be clearly identified as having sole responsibility for promoting good relations. Sinn Féin supports the establishment of a commission for national reconciliation under the authority of the North/South Ministerial Council, which would report to the Executive and to the Dáil, and would instigate and participate in consultation and research on the question of inclusivity.

755. **Mr Nesbitt:** I largely agree with the points made by Seán Farren and David Ford, followed by those of Michael Ferguson. Although the issues are placed under four

discrete headings, there is, nonetheless, overlap and interplay among three of the four headings. The heading “The Past” is slightly different — Arlene Foster has referred to the phrasing of that — but the other three headings clearly overlap.

756. In my introductory comments, I said that John Darby and Colin Knox’s Government-commissioned policy document ‘A Shared Future’ was very clear in one of its conclusions that equality of opportunity would lead to good relations, rather than vice versa. Good relations will not lead to equality of opportunity, so there is a highly important relationship between equality and good relations. If we have equality and good relations, we will have a shared future. All those matters are subject to interplay.

757. Under the sub-heading “Culture”, the sub-entries are “Ethnic communities”, “Nationalist” and “Unionist”. I have no problem with those wordings. However, it is highly important that, from an international law perspective, to which all Governments are expected to subscribe, a cultural dimension is fundamental to a bill of rights and to human rights.

758. Culture is not decoupled from rights and safeguards — quite the reverse. The right to one’s culture is an integral part of one’s rights. I have no problem if we keep those matters separate, so long as the Committee accepts the fact that rights, safeguards, equality, culture and confidence issues may all interrelate and that there is interplay among them. Each matter is somewhat dependent on the other.

759. **The Chairman (Mr Molloy):** All those issues are interrelated. The Clerks have decided to allow four days for evidence sessions and four days for this Committee to meet. As I said at the outset, there is no order of priority among the issues that are listed. The list consists of groupings to cover the issues. All the issues are interrelated and overlap at times. There is no order of priority in the groupings, and the Committee can decide which grouping it wishes to consider first.

760. **Mrs Long:** This discussion does not concern only the structure of the four days of meetings, although I understand that that is the idea behind setting out the list. Simply placing

“Good relations” under the heading “Equality issues” would limit our discussions, because that already frames that matter as simply an equality issue, which it is not.

761. “Good relations” has a much wider scope than simply that of an equality issue. That is the point that we were trying to make. “Good relations” is not limited to equality, and it is quite clear that a wider discussion is required on that matter.

762. Sinn Féin has gone further than disagreeing with the placing of “Good relations” under its current heading for the purposes of discussion. That party has said that it is within the remit of the Equality Commission to promote good relations. I made it clear in my earlier statement that we believe there should be a statutory duty on all Government Departments and agencies to promote good relations. That is already an issue for discussion, but we cannot prejudge that discussion by subsuming “Good relations” and “Shared future” under the banner of “Equality issues” because, as far as we — and to some extent, the SDLP and the UUP — are concerned, they have a much wider remit.

763. **The Chairman (Mr Molloy):** Let us start at the beginning of the list. There are four categories in the suggested list. Is “Rights/safeguards” an accepted heading?

*Members indicated assent.*

764. **The Chairman (Mr Molloy):** What sub-headings do members wish to include under that heading?

765. **Mr Ferguson:** “Bill of Rights”.

766. **The Chairman (Mr Molloy):** Are members agreed that “Bill of Rights” belongs under “Rights/safeguards”?

*Members indicated assent.*

767. **The Chairman (Mr Molloy):** Do Members have other issues?

768. **Mr Ferguson:** “Human Rights”.

*10.45 am*

769. **Dr Farren:** What distinction are you making? A bill of rights is more specific than

the concept of human rights in general, but what is the specific distinction?

770. **The Chairman (Mr Molloy):** That may not matter, because the list is based on parties' submissions.

771. **Dr Farren:** OK. If someone sees a clear distinction, that is fine.

772. **Mrs Foster:** I assume that there are separate headings because a Human Rights Commission exists, and we have some difficulties with it.

773. **Mr Ford:** It may have been the case that two separate parties suggested different wording covering the same issue.

774. **Dr Farren:** Fine; let us leave that for now.

775. **Mr Nesbitt:** Mr Chairman, could you briefly summarise for me — the new boy at the table — in what context this agenda will be dealt with? That is not a negative question; I am simply seeking information.

776. **The Chairman (Mr Molloy):** I am not sure that I understand the question.

777. **Mr Nesbitt:** Someone mentioned parties making submissions, four days of meetings, etc. I am conscious of how the Committee has operated previously, when party submissions were made and party representatives were questioned. How will the Committee handle the four issues that we are trying to agree?

778. **The Chairman (Mr Molloy):** The list emerged from the presentations made by all of the parties during the early stages of the PFG Committee. Clerks drew out of that list—

779. **Mr Nesbitt:** I am not disputing that.

780. **The Chairman (Mr Molloy):** It was suggested that we break the work down into four days of evidence sessions, because that is the time limit within which we are working. We have been given an extension of one week for the preparation of a report, but if we are going to take evidence, we will break that down into four days.

781. It is up to the Committee how to deal with each item on the list. Members may wish to call witnesses, for example. Is that clear enough?

782. **Mr Nesbitt:** Yes.

783. **The Chairman (Mr Molloy):** Parades was another proposed topic. Is that agreed?

*Members indicated assent.*

784. **The Chairman (Mr Molloy):** Would anyone like to add anything else under the "Rights/safeguards" heading?

785. Right, there is nothing else at this stage, but we can come back to it. Let us move to "Equality issues". Are members content with that heading?

*Members indicated assent.*

786. **The Chairman (Mr Molloy):** The first sub-heading under "Equality issues" is the obvious one of "Equality". Are members content with that?

*Members indicated assent.*

787. **The Chairman (Mr Molloy):** Do members have any comments?

788. **Dr Farren:** Those sub-headings are "Equality" and "Shared future". As I said earlier, someone looking at this list might suggest that "Shared future" was being subsumed into some of the other topics.

789. If we have four days, there is no reason why a morning cannot be devoted to "Equality" and an afternoon to "Shared future", so that "Shared future" appears in bold type. That is an important concept, and not to have it recorded as such would convey an incorrect message.

790. **The Chairman (Mr Molloy):** Therefore we add it to the title, which becomes "Equality and shared future".

791. **Dr Farren:** Yes. That is the proper way to deal with it.

792. **Mr Ferguson:** I would like to see "Good relations" included for the reasons that I have already given. The power and responsibility for that clearly lie with the Equality Commission.

793. **Mr Ford:** Mr Chairman, Michael can keep repeating that if he wishes —

794. **Mr Ferguson:** Excuse me. Mr Chairman, I was speaking.



795. **Mr Ford:** Sorry. I thought that the member had given way.

796. **Mr Ferguson:** You did not ask me to give way.

797. I think it would be remiss not to include “Good relations” along with

798. discussions on “Shared future”. They both fall within the remit of equality and, for that matter, human rights. From the point of view of responsibility for moving forward and ensuring that it is enshrined within a legal framework, “Good relations” must come under the heading of “Equality issues”.

799. **Mr Ford:** Michael can repeat as often as he wishes that “Shared future” and “Good relations” fit solely under “Equality issues”. That is simply not accepted by at least two parties at this table. There is not much point in his continuing to repeat that point if we have to continue repeating our disagreement.

800. **The Chairman (Mr Molloy):** Let us all calm down. We have a number of new members in attendance today who have not dealt with this matter before.

801. **Mr Nesbitt:** We have read the Hansard report, Mr Chairman. We are very conscious —

802. **The Chairman (Mr Molloy):** I am not saying that you have not read it.

803. **Mr Ferguson:** In the Middle East, no less.

804. **Mrs Foster:** I was going to make a suggestion along the lines of Seán Farren’s. Just because we have four days does not necessarily mean that we must have four topics. I received the paper on the institutions yesterday, and there are considerably more than four topics in it. I suggest that we leave “Equality issues” with “Equality” and have “Good relations” and “Shared future” as a separate bold heading. We will probably deal with those on the same day because we are working within such a tight time frame. That is where we would like to see that topic placed.

805. **Mrs Long:** At the very least, it should be a bold heading. If we are going to rework it as one session, I suggest that the heading should be “Equality and shared future” with separate

sub-headings of “Equality” and “Good relations” underneath. Simply to subsume “Good relations” and “Shared future” under the equality remit is to prejudge the outcome of these discussions. That would not be acceptable to us or, I suspect, to other parties.

806. **Ms Lewsley:** I agree. Let us be clear: the Equality Commission oversees the duty to promote equality of opportunity and the duty to promote good relations. However, the Community Relations Council also has a role in promoting good relations, as set out in the document ‘A Shared Future’. Therefore, there is not only one body dealing with this matter. We agree with Naomi’s recommendation.

807. **Ms Stanton:** We can leave that as it is and discuss it under “Equality issues”. However, the Equality Commission already has responsibility for promoting good relations in respect of race. Therefore, it should be given the additional responsibility of promoting good relations between people of different religious and political beliefs. However, that is open for discussion.

808. **Mr Nesbitt:** To repeat what Patricia and Naomi said, the Equality Commission has a clear legal remit — section 75(1) and section 75(2) of the Northern Ireland Act 1998 deal with equality of opportunity and good relations — but just because it has the sole remit does not mean that it is the only body with any responsibility. As Patricia rightly said, the Community Relations Council has a role. I referred to the Darby and Knox policy document ‘A Shared Future’. All of that is to do with community relations, so it is much wider than simply a matter for the Equality Commission.

809. **Mr Poots:** There appears to be general agreement around the table, so can we move on instead of waffling on?

810. **The Chairman (Mr Molloy):** Are members agreed that the main heading should be “Equality and shared future” with the sub-headings “Equality”, “Shared future” and “Good relations”?

*Members indicated assent.*

811. **The Chairman (Mr Molloy):** We now come to “The Past”.

812. **Mr Poots:** I suggest that heading “The past and its legacy” and the sub-heading “Dealing with the past and its legacy”. That covers what has happened already and what is happening now.

813. **The Chairman (Mr Molloy):** Do we have agreement?

*Members indicated assent.*

814. **The Chairman (Mr Molloy):** We will move on to the sub-heading “Truth and Reconciliation”. Was another title suggested?

815. **Mr Poots:** My suggestion was “Dealing with the past and its legacy”.

816. **The Chairman (Mr Molloy):** Is this the right place to insert the issue about the disappeared?

*Members indicated assent.*

817. **The Chairman (Mr Molloy):** Are members content that “Victims issues” be inserted here?

*Members indicated assent.*

818. **The Chairman (Mr Molloy):** Should anything else be added to this section?

*Members indicated dissent.*

819. **The Chairman (Mr Molloy):** We move to the heading “Culture and confidence issues”. The sub-heading “Good relations” has been removed from here. The first sub-heading is “Confidence building”. The second is “Culture”, and no priority is ascribed to the order in which the items within that sub-heading have been printed.

820. **Mr Nesbitt:** I repeat that culture, in the understanding, definition and acceptance of those dealing in human rights, is a central element of human rights. The same is true of the sub-headings “Good relations” and “Shared future”, which are under the heading “Equality issues”. I am not sure that culture can be segregated from human rights, but if the Committee wishes to do so then I do not mind. The subject matter will be dealt with whether it is under a sub-heading or a separate heading.

821. **Mrs Foster:** I recognise what Dermot is saying, but this is much wider than just the legalistic aspect of human rights. The DUP wishes to bring many issues to the table under the sub-heading that would not be on the human rights agenda. I would prefer that the sub-heading remain under the heading “Culture and confidence issues”.

822. **Mr Nesbitt:** I do not disagree with what Arlene is saying but, as a lawyer, I look forward to hearing what she is going to ask this Committee to do that is not based on the law.

823. **Mrs Foster:** You will just have to wait and see.

824. **Mr Nesbitt:** The problem is that we have got an illegal lawyer.

825. **Mr Ford:** We should not tell the judiciary that we said that.

826. **The Chairman (Mr Molloy):** Dermot, are you finished? [*Laughter.*] I do not mean that in any derogatory sense.

827. **Mr Nesbitt:** What did you say? I hope that Hansard records what you said.

828. **The Chairman (Mr Molloy):** All I said was: “Are you finished?”

829. **Mr Nesbitt:** Yes.

830. **The Chairman (Mr Molloy):** I did not mean any disrespect.

831. **Dr Farren:** I am at a loss to understand what confidence building might mean under the heading “Culture and confidence issues”. My understanding of the term goes back to the agreement. There is a host of measures, some of which would fall under the previous headings. However, if someone has a clear understanding of what it might mean in this context I would like to hear it. I do not recall in earlier meetings of the Committee any specific discussion of what confidence building might mean apart from the totality of measures that amount to building our confidence in our commitments to whatever we have to do.

832. **Mr Poots:** There is a huge number of issues to be addressed under confidence building. Sinn Féin in particular in the past has

derided the unionist community as being on its knees. A substantial element of that occurred in the aftermath of the Belfast Agreement and is about how the unionist community has been treated during that period. As things go on, I am sure that we will get our teeth into the meat of this.

833. **Dr Farren:** That still does not indicate anything specific. Some of the measures I might understand Edwin to be referring to have to be dealt with in other sessions of the Preparation for Government Committee. We will soon be turning to the question of who we are going to invite to speak to us about the issues — and who we will be inviting to speak to us about confidence building. I am not terribly sure about who that will be. On the other issues that we have identified I am sure that I would have some suggestions for witnesses.

*11.00 am*

834. **The Chairman (Mr Molloy):** I take it, Seán, that you are looking for sub-headings.

835. **Mr Poots:** I can provide the flavour for which Seán is looking. We have an Equality Commission, and two thirds of its make-up is Roman Catholic, yet it is supposed to be delivering on equality issues. We have a divided society, yet we have an Equality Commission, which oversees businesses on equality and fairness issues, that has not delivered fair and equal employment in its own organisation. That has to be challenged.

836. There is an issue with the Housing Executive and the number of houses that are being built in unionist areas. There is also the issue of the chill factor against Protestants in our universities. Another example is the Queen's University Belfast School of Law, in which the unionist community is vastly outnumbered. Why has that not been dealt with? That is a small flavour of the range of issues that we wish to look at and challenge.

837. **Dr Farren:** Those are specific issues that relate to equality measures, and those can be discussed under the heading "Equality issues". I have no problem with the DUP raising those issues. However, if we take confidence-building

measures separately, that would mean calling a lot of the same people back. I am just at a loss to understand that.

838. **Mrs Foster:** I do not understand, Seán. We are not calling witnesses — except, perhaps, the Secretary of State — to attend the PFG Committee meetings on "law and order". There is no need to call witnesses on every single topic. Parties will be aware that the DUP submitted to the Government a 64-page document on confidence-building measures for the community. I have it in front of me, but I am loath to go through every single part of it now. Suffice to say, it should stay on the agenda.

839. **The Chairman (Mr Molloy):** Can the Committee agree that Arlene wants "Confidence building" on the agenda and that if other parties have papers on confidence-building measures that they want to put forward — from whichever community they come — those papers can become part of their submissions?

840. **Ms Stanton:** Sinn Féin does not have a problem with that, but we believe that confidence building is about showing leadership. When it comes to political representation, it is about restoring the institutions. Confidence-building measures involve the restoration of the institutions and power sharing. That is where confidence building begins — it is about leadership and about giving people confidence.

841. **Mr O'Dowd:** I just want to correct a statement by Edwin. Sinn Féin has never stated that the unionist community is on its knees. We do not wish to see the unionist community on its knees. It is the DUP that is saying that there is no confidence among members of the unionist community, something with which I do not agree.

842. **The Chairman (Mr Molloy):** We shall not go into that.

843. **Mr Ferguson:** John has raised one of the issues that Edwin has brought to the floor. I understand Edwin's concerns, and we will probably agree that an independent mechanism should be put in place for appointments to the Equality Commission.



844. **The Chairman (Mr Molloy):** We are actually identifying what the issues are; we can debate them later. Confidence building forms part of them. Do we agree that “Ethnic communities”, “Nationalist” and “Unionist” should go under the sub-heading “Culture”? Are there any additions?

845. **Mr Ford:** We are happy enough, Mr Chairman, as long as we do not regard those as comprising an exclusive list under “Culture”, but as exemplars. Otherwise, there could be people left out who do not belong to an ethnic minority and are neither nationalist nor unionist, which would hardly be inclusive.

846. **The Chairman (Mr Molloy):** Is there anything you want to add to the list at this stage?

847. **Mr Ford:** As long as they are taken as exemplars and are not definitive, I have no problem.

848. **The Chairman (Mr Molloy):** Is that agreed?

*Members indicated assent.*

849. **The Chairman (Mr Molloy):** We have four headings now: “Rights/safeguards”; “Equality issues”; “The Past”; and “Culture and confidence issues”.

850. Can we select the issue that we want to deal with first?

851. It is not a priority, but one issue is the work programme. If the Committee decides to call witnesses, the time involved in that must be factored in. As many issues will have to be agreed by the parties, witness evidence may not be of much value.

852. **Mr Poots:** Many of these issues are cross-cutting, and some have been discussed in the past. We should not get too hung up about the order, because some issues will cut across two or three headings. I do not see any difficulty in dealing with them as they are set out.

853. I imagine that witnesses will be called to give evidence on the bill of rights and on human rights in general. The Equality Commission may be called to speak about equality. If witnesses are called, it may be better to deal first with the issues that do not require

witnesses, in order to allow more time to arrange for witnesses to appear before the Committee.

854. **Mrs Long:** Perhaps the least contentious solution would be to discuss the issues in the order in which they are presented. If we rearrange them, it might suggest that we were trying to prioritise one issue over another. I do not think that anyone would suggest that the order in which we deal with the issues in any way indicates their priority. I suggest that we deal with them in the order that they appear at present, accepting that that does not give them priority.

855. We do not object if the Committee decides to call witnesses. However, the economic challenges subgroup has become bogged down with many delegations, and that has absorbed a lot of time. The subgroup has had a much longer time frame in which to continue its work. This Committee needs to bear in mind that, if witnesses are called, the tendency will be for other members to call witnesses to dispute the witnesses that they do not like, and that will result in a cyclical situation. Unless witnesses are urgently required to speak about human rights and parades, which are among the first issues for discussion in the proposed order, it may be better to reconsider calling witnesses later. A long list of witnesses may not be constructive.

856. **Mr O’Dowd:** We have no difficulty with calling witnesses in principle. However, I accept what Naomi has said. Time is against us, and we have four, possibly five, sittings ahead of us. As the Chairman said, it is for the parties to put their points and to reach agreement on the issues, and we should proceed with that.

857. **Mr Poots:** Will the order give Committee staff flexibility to move issues around if there is difficulty in arranging when witnesses appear before the Committee? We should not be too hung up on the order.

858. **The Chairman (Mr Molloy):** Yes. Are members agreed on the order as set out? At the next meeting, the Committee will deal with rights and safeguards.

*Members indicated assent.*

859. **The Chairman (Mr Molloy):** Are there any particular witnesses that members feel should be called to speak about rights and safeguards?

860. **Ms Lewsley:** The Northern Ireland Human Rights Commission.

861. **Rev Dr Robert Coulter:** The Equality Commission for Northern Ireland.

862. **Ms Lewsley:** The Northern Ireland Council for Ethnic Minorities (NICEM).

863. **Dr Farren:** Equality issues are separate.

864. **Mr Ferguson:** The Committee on the Administration of Justice (CAJ).

865. **Mrs Foster:** If we call NGOs, we will be here for a heck of a long time.

866. **The Chairman (Mr Molloy):** We can keep adding to the list and toing and froing.

867. **Mr Ferguson:** Surely we are not going to be prescriptive either?

868. **Mr O'Dowd:** Thirty seconds ago, most parties said that witnesses would not be required; now we are producing a list of potential witnesses. If we do not have an agreed list of witnesses, we will have no witnesses.

869. **Mrs Foster:** I would be happy not to call any witnesses.

870. **Mr Ford:** Mr Chairman, when this Committee met to discuss another strand of issues, you highlighted the danger of inviting witnesses unless they have something specific to add. Unless the witnesses are limited to a very small number of statutory bodies, this tit for tat will continue.

871. **The Chairman (Mr Molloy):** That is the problem. Many of the witnesses that have appeared before the economic challenges subgroup — and no disrespect to any of them — have concentrated on the issues that are important to them rather than deal with the main issues and impediments.

872. **Mrs Long:** Would it be best for the Committee to do as it did on the policing issue? Parties would discuss the issue, and witnesses

or written submissions could be requested to answer questions or technical points that we do not have the expertise to answer and where the input of witnesses is necessary. That may be a more constructive way forward.

873. I am conscious that our first meeting on this is in one week's time, which is a very short time considering that our remit is essentially unclear now. If the Human Rights Commission were to appear before the Committee to talk about human rights, a couple of weeks would need to be set aside — not just a morning. We must be realistic when calling witnesses and ensure that there are discrete issues that we want them to cover. The best solution may be for the Committee to have its preliminary discussions and identify areas in which that type of support would be necessary.

874. **Dr Farren:** Perhaps this Committee needs a clear sense of what it is trying to achieve in relation to human rights. As things stand, there is a Northern Ireland Human Rights Commission, a requirement to prepare a bill of rights and considerable disagreement among the parties about how to make progress.

875. The Human Rights Commission has been charged with developing a bill of rights. This Committee is not here to reinvent a bill of rights or to consider existing fundamental human rights. Our consideration is the specific requirement for a bill of rights in Northern Ireland, problems that will arise in obtaining that and the issues that the bill should address.

876. It would be helpful to hear from the Human Rights Commission as to the current state of play on the preparation of the bill of rights, so that the Committee can be well informed. If members can reach a collective position, we could consider how we want to see the bill of rights taken forward in the medium term. The Committee is not reinventing the wheel; it is dealing with specific issues that have arisen over the past few years and with which the parties have identified problems.

877. **Mr Ferguson:** In general, I do not disagree with you, Seán. However, the parties around the table know that there was an agreement to set up a round-table forum for the

purpose of generating a momentum, which is currently absent, in the creation of the bill of rights. If I am not mistaken, four of the parties agreed to that, and Sinn Féin wants that round-table forum up and running by the autumn. Reaching agreement on that would be a positive step. I do not know whether it is necessary for the HRC to come in to tell the Committee what needs to be done, because we have already agreed to it.

878. **Mrs Foster:** I broadly support what Naomi said: the Committee should start the scoping exercise and any specific issues that arise can be raised with invited witnesses or requested in written form.

879. **The Chairman (Mr Molloy):** This Committee works on the basis of consensus, so if some parties do not agree to call witnesses at this stage, perhaps we should first examine the issues that have been raised, as Naomi suggested. The Committee could return to the question of calling witnesses if members feel that they want specific answers from specific people.

880. **Ms Lewsley:** Does the timescale allow for that?

881. **The Chairman (Mr Molloy):** Our next meeting is next Friday.

882. **Ms Lewsley:** I understand that. What I meant was that if the issues that are raised result in members wanting to invite witnesses, will there be there additional time for that? Already, four days have been assigned to the different topics. That schedule brings us into the fifth week.

883. **The Chairman (Mr Molloy):** We are tight for time. However, the Committee could have an extra day to call witnesses under the “Other” heading on the paper. Some issues may not take up a full day, so there is that flexibility. It would probably mean sitting for an extra day to hear from witnesses, as their presentations can be quite lengthy. Are members content with that?

884. **Rev Dr Robert Coulter:** I agree with what has been suggested and with what Arlene has said, because from my experience on the Committee for Health, Social Services and Public Safety, I know that inviting a lot of

witnesses led to a great deal of repetition. The Committee needs to define the areas on which it wants information in order to avoid that.

885. **The Chairman (Mr Molloy):** Do members agree?

*Members indicated assent.*

886. **The Chairman (Mr Molloy):** The Committee has received a letter from the Secretary of State notifying us of three Members who will be added to the list of Chairpersons for the economic challenges subgroup. They are: Naomi Long, Jim Wilson and Alban Maginness. Are members content with that?

*Members indicated assent.*

*11.15 am*

887. **The Chairman (Mr Molloy):** The economic challenges subgroup will be notified of those changes.

888. The Committee has received another letter from the Secretary of State regarding its request to postpone the first plenary sessions from 4 September and 5 September to 11 September and 12 September to allow more time for the Committee to produce its reports. The Secretary of State’s response relates more to the part of the Committee that is dealing with “Institutional issues”, which this part of the Committee has already discussed, rather than to our request for a meeting with Mr Hanson to discuss the devolution of policing and justice. I suggest that we forward the letter to the part of the PFG Committee that is dealing with “Institutional issues”, which will meet on Monday 7 August. Are members content to do that?

*Members indicated assent.*

889. **The Chairman (Mr Molloy):** The next PFG Committee meeting is on Monday 7 August, but the next meeting of the Committee dealing with “Rights; safeguards; equality issues and victims” is on Friday 11 August.

890. **Mr O’Dowd:** It is perhaps not for discussion now, but it would be useful if advisers to the political parties sat closer to the parties, rather than at the back of the room. I do

not wish to debate that now, but it could be included on an agenda for a future meeting.

891. **Ms Stanton:** They do not want to sit at the back of the bus.

892. **The Chairman (Mr Molloy):** Members should prepare for an all-day sitting next Friday.

*Adjourned at 11.17 am.*



## Friday 11 August 2006

### Members:

The Chairman, Mr Jim Wells  
Mr Michael Copeland  
Mr Michael Ferguson  
Mrs Arlene Foster  
Ms Patricia Lewsley  
Mrs Naomi Long  
Mr Kieran McCarthy  
Mr Alan McFarland  
Mr Alban Maginness  
Lord Morrow  
Mr Dermot Nesbitt  
Mrs Patricia O’Rawe  
Mr Edwin Poots  
Observing: Mr Francie Molloy

*The Committee met at 10.03 am.*

*(The Chairman (Mr Wells) in the Chair.)*

893. **The Chairman (Mr Wells):** Ladies and gentlemen, our meetings have settled into a well-tested format. Lunch will be delivered at 12.10 pm. There will follow a short adjournment, and, when the meeting resumes, I encourage members to take their places and continue their lunch. I expect the meeting to finish at 4.00 pm, which will probably be the case for each meeting from now on.

894. I hope that no one needs to be reminded of the mobile phone issue. Members may put them in the hold, but they cannot bring them into the room. *[Laughter.]*

895. Folk are still trying to slip their mobile phones in, keep them on silent mode, and receive text messages. I must insist that they are switched off. I say that at the beginning of each meeting, and during each meeting, I hear the little “beep beep, beep beep” that tells me that members are receiving text messages.

896. The full complement of DUP members is now present. Therefore, we will go through the apologies and list the deputies. Lord Morrow,

will you indicate who is representing whom from the DUP?

897. **Lord Morrow:** I will do so if I can think clearly.

898. **Mrs Foster:** Unfortunately, I am not Lord Morrow today; I am probably Ian Paisley Jnr.

899. **The Chairman (Mr Wells):** That is a big improvement. Am I right to presume that Mr Poots is representing William McCrea and that Lord Morrow is himself?

900. **Lord Morrow:** Yes.

901. **Mr McFarland:** Mr Nesbitt is representing Mr Kennedy, and I am expecting Mr McNarry to arrive shortly.

902. **Mrs Long:** I am myself, and Kieran McCarthy is David Ford.

903. **Mr A Maginness:** I am representing Seán Farren.

904. **Ms Lewsley:** I am representing Mark Durkan.

905. **The Chairman (Mr Wells):** What about the SDLP’s third representative?

906. **Ms Lewsley:** There is no one else coming.

907. **Mr Ferguson:** Pat O’Rawe is representing Michelle Gildernew, and I am representing Conor Murphy.

908. **The Chairman (Mr Wells):** Will a third member from Sinn Féin be attending?

909. **Mr Ferguson:** No.

910. **Mr Nesbitt:** I attended a meeting of the PFG Committee for the first time last Friday. Before the meeting, my colleague Alan McFarland said to me on the phone that my first words to the Committee should be to tell the Chair that I am Alan McFarland. I asked him what he meant, and he told me that I would be deputising for him. I would have thought that attendance would have been as simple as three members coming from each party. It seems odd



to ask members to state who they are and to hear them say, for example, that they are Seán Farren or Alban Maginness. I accept that that is the procedure, but it struck me as odd to ask members who they are.

911. **The Chairman (Mr Wells):** Each of the four largest parties, plus the Alliance Party, formally nominated three of their members to attend the Committee. However, confusion has arisen when a fourth member from a particular party has attended, and no one knew who was deputising for whom. That is why we ask members to state the member for whom they are deputising. The system has worked well, and the Committee has maintained a good, quorate turnout.

912. **Mr Nesbitt:** As I say, I was curious to know why that happens. I thought that parties could count —

913. **Mr McFarland:** To clarify, this is the Committee on the Preparation for Government, and three members from each of the four largest parties, plus the Alliance Party, attend its meetings. Parties are allowed to substitute their named members with members who are experts on particular subjects, which means that extra light can be shed on the topics that are being discussed. That is why members are brought in to deputise.

914. **The Chairman (Mr Wells):** To prevent members swapping, with each pretending to be the same member, something that has happened, it is important to know whom members represent.

915. **Mr Nesbitt:** Does that mean that if three members name themselves at the beginning of a meeting, there can be no duplication for the duration of that meeting?

916. **The Chairman (Mr Wells):** There could be duplication, but the members would have to name the members whom they were replacing. For example, a member could replace Mr Smith who had been deputising for Mr Jones. I am sure that that is clear.

917. **Lord Morrow:** It is, but I think that it should be left for now.

918. **The Chairman (Mr Wells):** The next item on the agenda is to agree the minutes of the meeting of 4 August. They have been circulated. Are members content that the minutes are an accurate record of proceedings?

*Members indicated assent.*

919. **The Chairman (Mr Wells):** Normally we would move straight to the substantive issue, but we have received a letter from the Northern Ireland Human Rights Consortium —

920. **Mr Nesbitt:** I am sorry, Mr Chairman, but I have another point to make. I do not disagree with the minutes, but I am conscious that although they show when a member enters or leaves the Committee room and show which members were present at particular times, Hansard reports do not. Members know the purpose of Hansard. However, Hansard reports do not show whether I was present for something or whether I did not speak or vote. That may be because I was not there or I declined to the opportunity to speak. Given that Hansard indicates certain timings, would it help with clarity if the times at which members enter or leave meetings were recorded in small italics in the Official Report? The reader would then know whether members had been present for particular debates. That is only a suggestion; I am not saying that it must happen.

921. **The Chairman (Mr Wells):** Hansard lists —

922. **Mr Nesbitt:** I have mentioned this matter to officials. That is why I have held back until now.

923. **The Chairman (Mr Wells):** We can check that matter with the Editor of Debates, Mr Burrowes. Hansard reports include references to the time every 15 minutes. The difficulty is that those must be cross-referenced with the Committee minutes.

924. **Mr Nesbitt:** Mr Chairman, one cannot cross-reference those documents.

925. **The Chairman (Mr Wells):** One can work out whether a member was in the room when a decision was made.



926. **Mr Nesbitt:** I am sorry, Mr Chairman; one cannot do that.

927. **The Chairman (Mr Wells):** If you check the minutes, you will see that they list very clearly when members arrive and leave.

928. **Mr Nesbitt:** That is correct. For example, the minutes might state that I left the meeting at 11.05 am. However, one cannot detect from Hansard whether I was present for a certain discussion.

929. **The Chairman (Mr Wells):** We can ask Mr Burrowes to consider that matter.

930. **Mr Nesbitt:** I have asked officials about the matter. I hoped that a comment might have been forthcoming this morning.

931. **The Chairman (Mr Wells):** Obviously, Mr Burrowes will be upstairs, listening to this discussion. He will look into the matter, and we will ask him to come back to the two Chairmen and to make a ruling.

932. **Mr Nesbitt:** I am not trying to be awkward, Mr Chairman, I am just trying to ensure that there is clarity on who is present when a discussion takes place.

933. **The Chairman (Mr Wells):** Members of Hansard staff are present at meetings to list members' names as they speak, so that the voice on the recording matches the name in the record. Are members content that we seek clarification on that matter?

*Members indicated assent.*

934. **The Chairman (Mr Wells):** Members will have a copy of a letter received from the Northern Ireland Human Rights Consortium. In the letter, the Human Rights Consortium requests the opportunity to appear before us to make a presentation. I have mentioned the letter now, because there is little sense in discussing a bill of rights and coming back to the letter later.

935. We have considered calling witnesses, and we took the view that, no matter how valid their relevance to the work of the Committee, if we went down the route of inviting one set of witnesses, inevitably — this being Northern Ireland — within five minutes that information would get out, and people would question why

we took evidence from the Human Rights Consortium, but did not take evidence from whomever else. That is the problem that we face.

936. So far, we have decided not to call witnesses unless a burning issue emerges on which we require further clarification from a group or an individual. However, because of time constraints, and having seen the amount of work that calling witnesses has created for the Subgroup on the Economic Challenges facing Northern Ireland, that has been our position. However, Maggie Beirne has written to us to say that her organisation is keen to appear before us.

937. What do members feel about that?

938. **Mr Nesbitt:** I noted the discussion on that matter in the Hansard report, and the comments that I made last week. There is a distinction to be made between the two statutory bodies — the Northern Ireland Human Rights Commission and the Equality Commission, which, as Government agencies, are tasked to deal with those two issues — and other interested groups. I would decouple them from, as you rightly say, a plethora of other interested groups. If we invited one group, where would we stop?

939. **The Chairman (Mr Wells):** It is not the Northern Ireland Human Rights Commission that has asked to appear before us; it is the Northern Ireland Human Rights Consortium.

940. **Mr Nesbitt:** I am not saying that the Northern Ireland Human Rights Commission has asked to appear before us. You raised this issue because Maggie Beirne and Patrick Corrigan asked to appear before us. Mr Chairman, you posed the question: if we invite one of those groups, where do we stop? I am trying to point out the distinction between the Human Rights Commission and the Equality Commission, and the rest of the interested groups.

941. **Ms Lewsley:** I wish to clarify that the Human Rights Consortium is an umbrella organisation for the majority of those other groups. It is different from the Human Rights Commission in that it is a self-contained body. Mr Chairman, you have rightly pointed out that, at our last meeting on 4 August, we decided that

we would prefer to get on with the work in hand, and then decide whether we wished to call witnesses for any type of evidence or questioning. I propose that we do that.

942. **Mr Poots:** I second that.

943. **Mrs Foster:** The DUP supports that contention. In her letter, Maggie Beirne clearly makes the point that she has met all the political parties. We are all very aware of the work of the Northern Ireland Human Rights Consortium. Therefore, unless there is some other burning issue to address, we should move on.

944. **The Chairman (Mr Wells):** The caveat is that, if we feel that we need to go back to any group, we can. Are members content with that position and the decision to advise the Northern Ireland Human Rights Consortium accordingly?

*Members indicated assent.*

*10.15 am*

945. **The Chairman (Mr Wells):** The next issue is the revised list of rights, which has been broken down into headings. Are members content to proceed on the basis of those headings? I emphasise again that they are in no particular order of priority; the list simply gives us a structure in which we can debate the issues in a rational manner.

946. **Mr McFarland:** Chairman, unfortunately I was unable to attend last week, but I see from the Hansard report that the Committee did not carry out the exercise that it did on the other topics that it has covered. That exercise involved giving some thought to issues that could be influenced by decisions that the Committee can make. In its other guises, the Committee decided that there were certain issues that it could flag up and make noises about but, in essence, would have to park either for the Assembly or others to deal with. Would it be worth bearing in mind what effect we can actually have on the matter that is under discussion? We can spend quite a long time going round the houses on lots of interesting stuff without making a difference to anything.

947. I raise this matter because the agreement was specific about the bill of rights. It might be

worthwhile to refresh our memories about what it says in paragraph 4 of “Rights, Safeguards and Equality of Opportunity” before getting into three hours of discussion on issues that do not fall within the agreement, around which the parties here are focusing their discussions. The Prime Minister referred to this, and Peter Robinson is on record as saying that we are here to try to improve and modify the agreement. Clearly, if we get into areas that fall outside that scope, we will be wasting our time. We have two meetings left to get through this enormous list, some of which is extremely complicated, so it would be helpful if we could go through the issues and note those that it is possible to deal with and those that it is not.

948. **The Chairman (Mr Wells):** I do not think that there is any great disagreement about the parties’ desire to have a bill of rights. Looking at the submissions, everyone is agreed on that.

949. **Mr McFarland:** May I read what the agreement says, Chairman? It states:

*“The new Northern Ireland Human Rights Commission...will be invited to consult and to advise on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland”.*

950. That is a fairly clear definition of what we should be looking for in a bill of rights. It attempts to define the rights, specific to Northern Ireland, which are not enshrined in law. Previously, we discussed the wish of the Human Rights Consortium and others to include socio-economic rights —healthcare, and so on — in the bill of rights, but that is outwith the agreement. This Committee is about preparation for Government, about getting the Assembly up and running. However nice it might be to examine, in the future, whether the agreement got it wrong, the fact is that this is a wide topic. As colleagues have pointed out, if we start taking evidence from all the parties here and all the groups that believe that they should have the right to medical care, regardless of cost, we would be into a long and protracted discussion.

951. **The Chairman (Mr Wells):** That is a valid point. However, as I found when chairing the discussions on the institutions, any issues that are major impediments to devolution for one or more of the parties were parked, to be dealt with at a later stage.

952. There are issues on which parties disagreed but felt could be resolved after devolution. There are minor issues on which the parties agreed; indeed, all the parties have agreed on issues that we thought would be impediments. The Committee is agreed that there should be a bill of rights. There may be some argument as to its content; however, this is not the vehicle in which to discuss the contents. However, no member has stated that the omission of a certain issue in a bill of rights is a major impediment to devolution.

953. **Mr McFarland:** Absolutely. I wanted to clarify that up front, rather than spend three hours discussing it.

954. **The Chairman (Mr Wells):** The proposed format is to allow each party a couple of minutes to outline its major concerns on each of the three headings, and then open up the discussion. Each party submission raised issue. No one party highlighted a bill of rights as a major issue.

955. **Mr Poots:** Mr Chairman, some members seem to think that they can discuss everything but the items listed on the agenda.

956. You asked whether members were satisfied with the headings. The third heading is listed as “Dealing with the Past and its Legacy”. It should be “the Past and its Legacy”, with the subheading “Dealing with the Past and its Legacy”.

957. **The Chairman (Mr Wells):** I did not hear any objections to the list, but Mr Poots has raised that amendment to the headings.

958. **Mr Poots:** That is how it is referred to in Hansard.

959. **The Chairman (Mr Wells):** The heading is “the Past and its Legacy”, with a subheading of “Dealing with the Past and its Legacy”.

960. **Ms Lewsley:** The heading is wrong.

961. **Mrs Foster:** It is on page 14 of Hansard of 4 August 2006.

962. **The Chairman (Mr Wells):** I was present for that discussion. Mr Poots is correct. However, it does not greatly change the thrust of our discussion. Before we move to the substantive debate, are there any other problems with the headings? Again, no reasonable issue will be excluded because it is not included on the list.

963. Alan is right; we could spend a long time discussing the bill of rights. However, that will not make much practical difference to whether we discuss the more difficult issues.

964. **Mrs Long:** Can we be clear? My understanding is that today’s discussion would be on rights and safeguards, which some parties have already specified that they wish to discuss. Thus far, the procedure has been that if a member specified an issue for discussion, we discussed it. The second issue is human rights and the third is parades. Those three subjects form today’s agenda. To cut short the discussion on the bill of rights and human rights does not actually progress the Committee, because those were the subjects for discussion today.

965. **Mr Nesbitt:** I note, and concur with, what Naomi has said. She summarised correctly that it was agreed at the last meeting that one meeting would be spent discussing each issue. I am also very conscious that everyone around this table, and elsewhere, emphasises the importance of equality and human rights to democracy. To give a two-minute presentation, and to say that we must get through the issues, would demean those issues. We are supposed to be spending time dealing with those matters. I am here to spend some time, not two minutes, giving my views.

966. **The Chairman (Mr Wells):** I did not make it clear. Each party will give a presentation, and then we will have an open discussion. The presentations are simply to start the ball rolling and to set the scene for the bill of rights. Any subsequent discussion will be open-ended, and members can discuss the topics for as long as they like.

967. I was making the point that, further to Alan's comments, this issue may not be a major impediment to progress because there is general agreement that there should be a bill of rights. There may be arguments as to the content, but there is not much disagreement as to whether there should be a bill of rights.

968. **Ms Lewsley:** The time is now 10.25 am, and we have not even started the business. Naomi and other members are correct: we have an agenda, which I want to start. Many members will agree that we should not get into huge amounts of detail today. Hopefully, this discussion will glean some consensus and agreement on the way forward and how we progress that. We can consider the detail at a future date. I just want to get started.

969. **The Chairman (Mr Wells):** The normal procedure is to take the parties in alphabetical order, which means that the Alliance Party will start.

970. **Mr Nesbitt:** I agree with Patricia that we should get started, but she said that we would consider the detail at a future date. When will that be?

971. **Ms Lewsley:** That needs to be agreed.

972. **Mr Nesbitt:** We have four issues to discuss and four meetings in which to discuss them. That will take us into September. On which future date will we consider rights and safeguards?

973. **Ms Lewsley:** That can be agreed during the discussion today.

974. **Lord Morrow:** This is just a scoping exercise.

975. **The Chairman (Mr Wells):** In the other formats of the Committee, we have discovered that certain issues can be resolved without the need for future debate. There are also one or two thorny issues on which we disagreed and to which we will have to return. Until we have the discussion, we will not know whether a bill of rights falls into one category or the other. The number of issues that we thought would be difficult, but on which we have agreed, has been

surprising. To allow everyone a chance to speak, we will not limit the discussion.

976. It is unfortunate that Naomi always ends up going first.

977. **Mrs Long:** That is not unfortunate at all.

978. **The Chairman (Mr Wells):** Naomi, could you start and give us a general overview.

979. **Mrs Long:** May I seek clarification? Are we to make a presentation on all three topics — a bill of rights, human rights and parades?

980. **The Chairman (Mr Wells):** No, we will deal with the three issues separately.

981. **Mrs Long:** The Alliance Party does not make a distinction between human rights and a bill of rights. We will address the two issues together.

982. The Alliance Party has been a long-standing supporter of human rights and supports the introduction of a bill of rights for Northern Ireland. The incorporation of the European Convention on Human Rights into domestic law, through the Human Rights Act 1998, went a long way to addressing human rights needs. However, the Act was drafted in 1948 and deals only with civil and political rights. Since then, several European and international conventions have been drawn up that deal with economic and social rights and the rights of persons belonging to minorities. The British and Irish Governments are signatories to those conventions. Those social and economic rights, and the rights of persons belonging to minorities, must be addressed. Therefore, the Alliance Party supports the creation of a Northern Ireland bill of rights, which should draw, to a large extent, on the relevant and appropriate sections of the European and international conventions.

983. There will be further debate on whether the mandate of the Northern Ireland Human Rights Commission, which stems from the Good Friday Agreement, extends to advising the Secretary of State on the scope of a bill of rights and the drafting of that bill. We want to put on record that we support the Commission's interpretation that its mandate does extend that far.



984. The Alliance Party supports a round-table forum of political parties and civil society to engage in the process of drafting a bill of rights. However, we want to ensure that such a forum would not detract from the Northern Ireland Human Rights Commission's role as the primary body advising the Secretary of State. The forum would market-test the current thinking of the Human Rights Commission and look for ideas during the drafting and consultation process rather than try to draft a bill of human rights from first principles.

985. We want to reiterate a point that we made in our opening submission: we believe in rights for individuals rather than group rights. We support economic and social rights and rights for persons belonging to national minorities, provided they are framed in terms of the individual. Any such protections — that is those associated with persons belonging to national minorities — must be multi-directional and not applied to one section of society only.

986. We are opposed to any explicit rights for unionism or nationalism. We are also opposed to any form of wording that would entrench a vague notion of parity of esteem and further institutionalise sectarianism. International norms also recognise the right of people not to be treated as part of a minority against their will, and that is an important right.

987. We support a draft bill of rights that focuses primarily on general principles, the interpretation of which should be a matter for the courts

988. During our discussions on this Committee, we should not try to delve into those issues in too much detail or negotiate individual aspects of what should, and should not, be included in a bill of rights. If we could agree the nature of a round-table forum, and its relationship with the Human Rights Commission, and so forth, we could make a useful contribution to the process. However, the actual drafting of a bill of rights should be left to the commission.

*10.30 am*

989. The Good Friday Agreement envisaged that an all-Ireland charter on human rights, which has

been subject to consultation, would be developed by the Northern and Southern human rights commissions. The Alliance Party sees the charter as a means of ensuring a similar high standard of protection in both jurisdictions — not as a dissolution of national sovereignty, which would be contrary to the Good Friday Agreement and the principles enshrined within it.

990. **The Chairman (Mr Wells):** Thank you, Naomi. That was an interesting point; Naomi decided to take the bill of rights and human rights as one topic. Members seem to be content to take them together. Obviously there is a huge overlap, so it would save time to deal with them simultaneously.

991. **Mr Nesbitt:** Chairman, I wish to decouple them, but it does not really matter.

992. **The Chairman (Mr Wells):** Will you agree to debate them in tandem?

993. **Mr Nesbitt:** Yes.

994. **The Chairman (Mr Wells):** The DUP will now address the issue.

995. **Mrs Foster:** The human rights remit was set out in the Belfast Agreement of 1998 and the joint declaration of April 2003 extended that remit. The development of the NIHRC's proposal for a round-table forum comes from annex 3 on page 20 of the latter. The DUP believes that the NIHRC has exceeded its remit on a number of occasions and intends to exceed it when it comes to the bill of rights.

996. The bill of rights should be confined to those areas of the European Convention on Human Rights (ECHR) that do not reflect adequately Northern Ireland's specific circumstances. In response to your question, Chairman, the DUP is indeed in favour of a bill of rights for Northern Ireland, but only in relation to that narrow remit. That remit has been vastly exceeded to date, and people are still trying to push the boundaries.

997. The terms of reference cover matters that are of special concern to Northern Ireland, but lengthy consultation by the Northern Ireland Human Rights Commission has sought again and again to draw that out.

998. The DUP has spoken to the Human Rights Consortium and other groups that raise the issue of economic and social rights. Clearly, many of the groups within the consortium have issues that need to be addressed. We have said that on many occasions, but we do not believe that the bill of rights is the correct vehicle for dealing with those issues. Issues such as the healthcare system should be tackled through legislation before the Assembly. Although it would be remiss not to point out that the cost of social and economic rights is a huge issue, it is not an overriding factor. The DUP believes that the best place for those rights to be outlined is in ordinary legislation.

999. The proposed round-table forum has not been established to date. The DUP met with Minister Hanson several times to discuss the modalities of that forum, but there has not been any agreement. Agreement will be very difficult to achieve, given the history of unionism and its engagement with the human- rights agenda. I have long argued that the unionist community has nothing to fear and everything to gain from human rights. However, because of our history, human rights are seen, regrettably, as a nationalist issue. Work must be done to build confidence and a sense of ownership of human rights. If, when it does come about, the round-table forum can help to build that confidence, that would be most welcome.

1000. The DUP as a party continues to have fundamental concerns about the Human Rights Commission and its composition.

1001. **The Chairman (Mr Wells):** Sinn Féin will now address the issue.

1002. **Mr Ferguson:** The Human Rights Commission's remit for consulting and providing advice on a bill of rights for the Six Counties is in paragraph 4 on page 16 of the Good Friday Agreement. I restate that, as it will always be our reference point. I welcome confirmation from the other members that that will also be their starting-point.

1003. In Sinn Féin's opinion, however, the first Human Rights Commission failed on several levels to present to the general public a non-partisan rights-based approach to the more

sensitive conflict-related issues that require safeguards in any bill of rights. That failure has led to hostility, suspicion and political polarisation on several key issues. For example, the commission made a dangerous attempt to dilute long-established safeguards contained in equality of opportunity legislation, such as community-designation monitoring

1004. Another example was the Human Rights Commission's attempt to undermine the status of the Irish language, which is protected under the EU Framework Directive and the Good Friday Agreement. Furthermore, the Human Rights Commission has failed to provide clear direction on rights to reflect parity of esteem and the principles of mutual respect for the identity and ethos of both communities, as contained in the Good Friday Agreement.

1005. Those criticisms aside, and in the hope that we can progress to a more substantive bill of rights enshrined in law, Sinn Féin acknowledges the sterling educational and outreach work that the first commission did to raise awareness of rights in general.

1006. However, the bill of rights has, sadly, been in hibernation, and the team working on it is nowhere near bringing to a conclusion its advice to the British Secretary of State before the bill can enter the legislative process at Westminster. Sinn Féin therefore recommends that the bill of rights be progressed by means of the establishment of the round-table forum by the autumn. I welcome the fact that the Human Rights Consortium also referenced the need for the round-table forum to be established. Sinn Féin reinforces that by stating that an internationally appointed person must chair the forum.

1007. Both Governments and four parties at this table have agreed to the establishment of the round-table forum, which should engage in an open, transparent and wide-ranging grass-roots consultation process with civic society and the political parties. Sinn Féin recommends that the two Governments consult with established human rights bodies on potential chairpersons for the round-table forum.

1008. The two Governments must conduct a short, sharp consultation process with



representatives of civic society to determine who will be their representatives at the round-table forum. It is also important that recommendations emanating from the forum be given due weight when the Human Rights Commission formulates its advice to the Secretary of State on the content of the bill of rights. The bill of rights must be as strong as possible and include, at its heart, a robust commitment to social and economic justice. The bill of rights must be placed in the legislative process at the earliest possible date, and it must be a document of enforcement, not of aspiration.

1009. **Ms Lewsley:** I welcome the opportunity to contribute to today's debate, which represents a step forward. The Committee may not have a round table, but all parties are sitting around an oblong table and discussing the issue, and that is important.

1010. I want to point out at the beginning of my presentation, as I did at our previous meeting on 4 August, that I hope that any decisions that the Committee makes do not become preconditions to restoration. The SDLP, like many other parties, wants to see the best possible bill of rights for Northern Ireland, one in which not only political rights but socio-economic rights are reflected.

1011. Above all, the SDLP wants a bill of rights that everyone in Northern Ireland can buy into, so that the rights are not solely for nationalists or for unionists but for every single individual who lives in Northern Ireland today.

1012. The best way in which to reach agreement on a bill of rights is through a round-table forum that involves political parties and civic society. The chairperson of the forum should be a person of international standing, appointed by the two Governments and should be able to choose his or her own independent secretariat. The round-table forum should report its findings to the Northern Ireland Human Rights Commission, which in turn should report to the Secretary of State. The Human Rights Commission could also, at the request of the chairperson, contribute to the round-table discussions.

1013. Finally, the round-table forum should get under way without delay, and its establishment should not depend on restoration.

1014. As Arlene Foster said, that was agreed some time ago in the Good Friday Agreement and in the comprehensive agreement. Like the DUP, the SDLP has made numerous representations to Minister Hanson, and to Minister Spellar before him, to get round-table discussions up and running.

1015. The SDLP believes that the Human Rights Commission has made a vital contribution to rights in Northern Ireland. When it was first set up, the Human Rights Commission launched a consultation on a proposed bill of rights. It has a role to play, but that role should be an independent one, separate from the round-table forum. However, as I said previously, it could be called to appear before the forum.

1016. In a wider context, the SDLP would like not just a bill of rights for Northern Ireland, but an all-Ireland charter of rights. We want the devolved Administration to human-rights proof its policies in future. It is also important that the Administration engage with the Human Rights Commission and work with it to ensure that policies are human-rights proofed in all the Departments.

1017. I have outlined the SDLP's main issues. Alban will deal with the parades issue.

1018. **The Chairman (Mr Wells):** Parades will be dealt with separately. It will be a slightly more contentious issue.

1019. **Mr Nesbitt:** I welcome this opportunity for the main parties in the Assembly to have a lengthy discussion about rights and, in particular, a bill of rights. I will have more to say later on a bill of rights, but, Chairman, I will subscribe to your guidance that we should take only a few minutes for our introduction. I will deal only with definitions now, and I will give a further explanation of our position later.

1020. It is clear from the agreement that we are to have rights supplementary to those in the ECHR, and that those rights will reflect the particular circumstances of Northern Ireland.

One discrete sentence in the agreement outlines these additional rights, which are:

*“to reflect... the identity and ethos of both communities and parity of esteem”.*

1021. Naomi Long mentioned international norms, and I agree with that comment.

1022. I am very clear about the definition of identity. It is one's culture, language, education and religion. Article 5 of the Council of Europe's Framework Convention for the Protection of National Minorities describes it as such. I am also clear about what ethos means. It is defined as the attitudes, aspirations and feelings of a community. Culture is one's customs and social behaviour. Parity of esteem means that people are given equal respect. Thus, I am very clear what a bill of rights is, as stated in the agreement. I am clear that equality of treatment in identity and ethos is also covered. The agreement also refers to equality of opportunity, which is dealt with by the Equality Commission.

1023. It is clear what a bill of rights should be. I note that the Alliance Party, the SDLP and others have stated that they wish to support economic and social rights. I will deal with that matter in due course. I will give one quotation at this juncture. I will not give unionist quotations in the hope that I will not be seen as being biased. The Forum for Peace and Reconciliation, which the Irish Government established in 1994, asked for various papers to be commissioned. Nothing has changed since then, but Prof Boyle, Prof Campbell and Prof Hadden made a submission to the Forum for Peace and Reconciliation. Those of us who are old enough will remember that Prof Boyle is Kevin Boyle of the former civil rights movement.

*10.45 am*

1024. That submission made it clear that any bill of rights for Northern Ireland should include provisions to ensure that communal rights are guaranteed. They suggested incorporating the major provisions of the Framework Convention for the Protection of National Minorities into a bill of rights. I support that position, and I have written to that

effect on numerous occasions. A bill of rights for Northern Ireland should be based on what is contained in the ECHR and in the Framework Convention for the Protection of National Minorities.

1025. **The Chairman (Mr Wells):** Once again, I thank everyone for being so succinct. The presentations have been easy to chair. Five members have set scenes. I do not detect any great dissension — it is more the minutiae on which members are homing in. Several parties referred to their impatience with the delay in the establishment of a round-table forum to consider a bill of rights. Do we have a proposal to advance that?

1026. **Ms Lewsley:** I should have said that the SDLP proposes that. There is consensus that members want a bill of rights, and the best way in which to achieve that is to set up a round-table forum, made up of political parties and members of civic society. Therefore I propose that we do that.

1027. **Mr Ferguson:** I second that proposal.

1028. If we are to get any dynamic into this process, a round-table forum must be set up by the autumn. We should not delay any longer. Such a forum will offer an opportunity for members to get widespread grass-roots involvement in consultation on the need for a bill of rights, and on human rights in general. We must do that as expeditiously as possible.

1029. I welcome my UUP colleague's constant references to the ECHR. That should be taken as a minimum standard, but we must put the strongest bill of rights in place. We should not be prescriptive by implying that, if it is not in the ECHR, we should not accept it.

1030. **Ms Lewsley:** On a point of information, Mr Chairman. Are we not trying to agree on a proposal before we discuss the detail? Perhaps I am wrong.

1031. **Mr Ferguson:** I think you are wrong. It is usually useful to ask the member to give way.

1032. **Ms Lewsley:** I did ask.

1033. **Mr Ferguson:** I did not give way.

1034. **The Chairman (Mr Wells):** The Committee protocol is that members normally give way on a point of information, and that certainly was a point of information.

1035. **Mr Ferguson:** I was in full flow.

1036. **Mr Nesbitt:** Will Mr Ferguson take a question before we come to the proposal?

1037. **Mr Ferguson:** Yes.

1038. **Mr Nesbitt:** He said that if something is not included in the ECHR, that does not mean that we should not include it, or words to that effect. In other words, he is being wide ranging.

1039. On numerous occasions, Sinn Féin has referred to international law. Only recently, Bairbre de Brún referred to it. Mr Ferguson's party referred to the requirement for Israel to abide by international law; Dermot Ahern and Tony Blair talk about abiding by it; and Mrs Long talked about abiding by it this morning. Last week, I said that this debate we must have rigour and structure, so my question to Sinn Féin is simple: does it wish to abide by the rules of international law?

1040. **Mr Ferguson:** Sinn Féin supports the European Convention on Human Rights.

1041. **Mr Nesbitt:** I asked a simpler question than that.

1042. **Mr Ferguson:** I am sure that the member did, but let me finish. My issue with what he said is simple: we should not use the ECHR to prescribe or redevelop our bill of rights. The ECHR is the minimum standard. One advantage in setting up a round-table forum here is, I hope, that it will let the grass roots on this island, North and South, develop a bill of rights that is stronger than the rights that are enshrined in European law. The simple answer to your question is yes, but it should not prescribe what we do.

1043. **Mr Nesbitt:** Does Sinn Féin believe in subscribing to international law or not? It is quite a simple question to answer. I am prepared to subscribe to international law.

1044. **The Chairman (Mr Wells):** Let Mr Ferguson answer that. Mrs Long has been quite patient.

1045. **Mr Ferguson:** I thought that I did answer it. I said that, although we welcome the ECHR and accept its recommendations, it does not go far enough. It will not restrict either the debate that we, or the public, will have. We should not be constrained by a minimal framework.

1046. **Mrs Long:** There are a couple of issues. The Alliance Party agrees with Ms Lewsley's proposal that a round-table forum be set up. We may need to explore other issues if that is the starting point; for example, the structuring and chairing of the forum. It must be chaired by someone of international standing, although not necessarily by an outsider. It could be chaired by a local person of international standing. So the proposal needs to be qualified. However, the forum does require that kind of leadership.

1047. The relationship between the round-table forum and the Human Rights Commission should be looked at closely. It would be good to explore people's views on the roles of those two bodies. An independent secretariat is needed to service the round-table forum. There are other issues to be explored, but, in principle, my party agrees that a round-table forum should be set up.

1048. **Mrs Foster:** My party agrees that there should be a bill of rights for Northern Ireland, based on its rigid and particular circumstances. It is rich for members to talk about adopting a maximum approach. Although I am not an advocate of the Belfast Agreement, it is clear about what is to be included in a bill of rights. Sinn Féin is glad to move away from the Belfast Agreement when it suits it. The Belfast Agreement and the joint declaration mention Northern Ireland's particular circumstances. That is where we believe the debate should be.

1049. Although my party can join the consensus that there should be a Northern Ireland bill of rights, it cannot, at this stage, agree that a round-table discussion should be set up. That is because of the way in which discussion on human rights has taken place since 1998. My party believes that the bill of rights will be subject to a cross-community vote in the Assembly, and therefore a round-table forum is not the way in which to proceed at present.

1050. There is no point in a round-table discussion until the Assembly is restored and until we see where we are with it. That is the DUP position.

1051. **The Chairman (Mr Wells):** May I check that with you? In earlier comments, you indicated impatience that the forum had not been set up.

1052. **Mrs Foster:** No, I did not. I said that my party has had discussions with the Human Rights Consortium, on the round-table forum. I said we had met Minister Hanson but that we had difficulties with the chairing and composition of that forum. Check Hansard on that. My party's position is that the round-table forum should not be set up until the Assembly is restored.

1053. **The Chairman (Mr Wells):** I will. What is the Ulster Unionist position?

1054. **Mr Nesbitt:** I refer specifically to the round-table forum. My party leader and I met with David Hanson. We met also with the Human Rights Commission and discussed the matter. My party's position is clear. It is not opposed to a round-table forum, but it is mindful of the contribution that that could or could not make. We have severe reservations.

1055. My party does not cherry-pick the Belfast Agreement or international law. We subscribe to international law and to the tenets of the agreement. Every party around this table subscribes to the fundamentals of the agreement. It clearly states that there should be a bill of rights for Northern Ireland.

1056. To have a round-table forum would prolong the process. The Northern Ireland Human Rights Commission said in September 2001 that it had been working on a bill of rights since 1999. It then said it would be giving its advice to the Government in early 2002. Therefore, we have been working on a bill of rights for six years, yet we have merely scoped what should and should not be included in it.

1057. We received a letter from David Hanson on 28 December 2005. All the other parties received that letter. We should all be accountable, and it is good that this quotation from his letter will be recorded and will be

available on the Internet. David Hanson wrote to my party leader, and I presume that he wrote to the other party leaders. He said:

*"The Commission plans to prepare advice during the first part of 2006, share that advice with shareholders in June and then forward its final advice to the Secretary of State in September 2006."*

1058. When I put that statement from David Hanson — who is responsible for the bill of rights — in the context of where we are now in August 2006, it is no wonder that people are a little bit disillusioned.

1059. I even refer to the British-Irish Intergovernmental Conference report of 25 July 2006, in which a round-table forum for the bill of rights was considered in a rather nebulous comment:

*"Prospects ... on the establishment of a roundtable forum ... were reviewed."*

1060. In Civil Service parlance, "were reviewed" could mean anything under the sun.

1061. We have a difficulty here. Our party is clear. We know what should be included in a bill of rights — and we know what that means grammatically. We are not opposed to rights. I have not yet spoken on economic and social rights, but I will come to those.

1062. We are conscious that six or seven years after the agreement, the scope for a bill of rights has not been put to the Government. One reason for that is that the Human Rights Commission went way beyond its remit.

1063. Now we plan to have a round-table forum. When we met with the Minister in January, he was talking about the forum meeting in September. We asked him why he was waiting until September. Do not ask me why, because he is the only person who can say why, in January, he was waiting until September to have a round-table forum. It is no wonder that we are behind: the Human Rights Commission cannot stick to its remit, and we have to have a round-table forum, which will only elongate an unnecessary process. The process should have been much clearer and



simpler, and that could have and should have been done sooner.

1064. I hope that I am making myself clear. I do not oppose a round-table forum in principle, but I do not see the benefits of drawing the process out.

1065. **Ms Lewsley:** I am getting confused. Is Mr Nesbitt asking why we have to wait until September for a bill of rights, or does he mean a round-table forum?

1066. **Mr Nesbitt:** I mean waiting until September for a round-table forum.

1067. **Ms Lewsley:** He is saying why wait until September for a round-table forum, but he has just said that he does not agree with a round-table forum.

1068. **Mr Nesbitt:** I did not say that. I said that we are not advocating a round-table forum. We do not see merit in it because a bill of rights is simple. We are looking at scoping it. We have already taken more than seven years since early 1999, so why elongate a simple process that could be dealt with easily.

1069. In January, all we asked Minister Hanson was to tell us why, when he was suggesting a round-table forum, would he wait until September to form it?

1070. **Ms Lewsley:** Does the UUP support a round-table forum?

1071. **Mr Nesbitt:** If one is formed, the UUP shall participate, because it believes in advocating its case. It does not advocate a round-table forum, but it shall participate in one.

11.00 am

1072. **The Chairman (Mr Wells):** Mr Nesbitt, are you saying that if we seek consensus on this matter, the UUP would support a round-table forum?

1073. **Mr Nesbitt:** No. We do not see the need for a round-table forum, and we will not support one. However, if the Minister uses his authority to form such a forum, we will participate; we will not abstain. I hope that I have made that clear.

1074. **The Chairman (Mr Wells):** Do you wish to make any specific proposal on that matter?

1075. **Mr Nesbitt:** I have no specific proposal to make on a round-table forum.

1076. **Mrs Long:** On several occasions, it has been stated that the context for work on a bill of rights is the framework that is set out in the Good Friday Agreement. Now, the interpretation seems to be that to claim that one is a supporter of the Good Friday Agreement, one must agree with its every dot and comma. A similar debate took place at the PFG Committee dealing with the institutions. Both the Alliance Party and the DUP argued that, if one takes that view, there is no discussion to be had on, for example, institutional matters. Rather, we should discuss the potential for improvement within the confines of the principles established in the agreement.

1077. Any suggestion that there is no discussion to be had on a bill of rights and how it is framed, because it is framed in a particular way in the Good Friday Agreement, does not reflect the wording of the agreement, which states that the Human Rights Commission:

*“will be invited to consult and to advise on the scope for defining, in Westminster legislation, rights supplementary to those in the European Convention on Human Rights, to reflect the particular circumstances of Northern Ireland, drawing as appropriate on international instruments and experience.”*

1078. As part of that consultation and advisory process, the commission may decide that, for example, its terms of reference be reconsidered. After consultation, the commission may advise that issues concerning language and how those rights are structured be rethought.

1079. The definition of the commission’s job is quite clear. However, after consultation has taken place, advice that is given at that point is not open to interpretation simply by examining the terms of reference. Therefore, we must be very careful.

1080. Our view on human rights and our support for the round-table forum is clear. We believe that it is important that those matters be properly enshrined. However, we have concerns about the language that is used about the ethos and identity of “both communities”. We ask

how that sits with those who are not members of the two main communities. We ask also how that sits when considering international norms and the rights of persons who associate themselves with national minorities. There is a difference.

1081. We have stated also our position on the right of people not to associate themselves with national minorities. We must consider that matter very carefully, and I suspect that the issue is not as simple as some members are painting it to be. We must engage in much deep discussion, particularly in the context of the changing situation in a Northern Ireland, in which we have ethnic-minority groups, mixed marriages, and those who dissent and prefer to identify themselves in a more pluralistic way. It is their right to do that. We must look at the way in which the matter will be framed. It is not as simple as stating that there is no work to be done.

1082. **Mr Ferguson:** Thank you, Mr Chairman. In my opening remarks on 4 August, I said that we must not hold human rights or a bill of rights to ransom. Patricia Lewsley referred to that earlier. Progress on those issues should not be subject to the restoration of the institutions. Comments by Edwin Poots and his party colleagues imply that, because they are prepared to hold the country to ransom by not nominating to the institutions or supporting the restoration of those institutions, the human rights of, and a bill of rights for, the rest of the country, North and South, should be held to ransom as well. That is a matter of concern. My colleagues from the UUP have said that they will not openly support the round-table forum, but that they will not openly oppose it either. Therefore, both Governments and four parties have agreed to promote a round-table forum.

1083. If that is the case, we need to progress it. Anyone who does not support that will simply be holding the work on human rights and bill of rights to ransom in the same way that the DUP is holding the country to ransom over the institutions.

1084. **Ms Lewsley:** I would like clarification on some points. My understanding of what Arlene said is that, unlike the UUP, the DUP is

supportive of round-table discussions but has an issue about the timing.

1085. **Mrs Foster:** We do not believe that round-table discussions should be held in a vacuum. The institutions need to be up and running. There is no point in having a discussion on human rights when the matter has to come back to the Assembly and be subject to a cross-community vote. The other concern that we have, and we have communicated this to the Human Rights Consortium, is that it would be a round-table forum stacked heavily with human rights “experts” and that the majority of its members would not be those people — politicians — who make the decisions.

1086. **Ms Lewsley:** In principle, though, the DUP is supportive of a round-table-forum?

1087. **Mrs Foster:** I do not have the authority to answer that today. I have set out the problems that the DUP sees with it. The discussion should move on to the matter of cross-community support for a Northern Ireland bill of rights. In an attempt to get some kind of consensus, I can confirm that the DUP agrees that there should be a bill of rights. How we get to that stage is a matter that can be discussed later.

1088. **Ms Lewsley:** Dermot Nesbitt has made his party’s position clear on the issue of round-table discussions. He mentioned also the six years of debate about the bill of rights and the problem of trying to get consensus among the political parties. We were worried, for instance, that the British Government would introduce a watered-down version that would not do a lot for the people of Northern Ireland.

1089. At this stage, Chairman, I would like to change my original proposal and, perhaps, break it into two. As I said, it is great that all five parties are around this oblong table, talking about a bill of rights. I propose, first, that we support a bill of rights and, secondly, that we support a round-table forum.

1090. **Mr Nesbitt:** First of all, in reply to Ms Lewsley’s asking whether there is any difference between the DUP and the Ulster Unionists, I say with a smile, “Good try, Patricia”. There is no substantial difference in



unionism on that level. I am not speaking on behalf of the DUP, nor could I even begin to.

1091. **Mrs Foster:** Please do not.

1092. **Mr Nesbitt:** However, I make this point seriously: unionism sees the need for a bill of rights; unionism is not opposed to rights. I believe that people should have economic and social rights. Also, as a grandparent, I believe that children should be protected, but that does not mean that children's rights should be included in the bill of rights. Unionism's position does not mean that it is opposed to rights; it is not.

1093. I repeat my party's position that, for various reasons, it does not advocate a round-table forum. Such an approach would prolong the issue. Arlene cannot comment for her party now, but no doubt she will do at some point. I do not say that to be provocative, and I mean that. However, if there is a round-table forum, the UUP will participate. It does not absent itself from the issues.

1094. I shall address Naomi's comments. First, she mentioned every dot and comma of the agreement. This is not a dot-or-comma issue — it is a substantive matter about what should be contained in the terms of reference for a bill of rights. Indeed, because there has been political disagreement and people have tried to go beyond the scope of the agreement, six years down the line, there is still no bill of rights. As Patricia rightly said, we could not agree.

1095. Secondly, Naomi questioned whether there was any use in discussing institutional matters. The discussion on institutional matters came from the comprehensive agreement of December 2004, which came from the Belfast Agreement, which said that the operation of the institutions would be reviewed. The Belfast Agreement provided for a review of the operations of the institutions. Therefore, a review of the institutional matters, the operations of the agreement and accountability of Ministers has already been agreed. It is not correct to say that discussing institutional matters is beyond the terms of the Belfast Agreement because that agreement provided for a review of institutional matters.

1096. Naomi said also that it was incorrect to say that there is no work to be done. I am not saying that. All I said was that the issues that must be addressed are very clear. Let us address them, and move to other subjects.

1097. I shall comment on economic rights later.

1098. Michael Ferguson made the point that if the Committee does not make progress, it will hold up the process. I do not want to hold up the process; I have never wanted to do that. We have constantly advocated that the Government and the Human Rights Commission address this issue as it should have been addressed long ago. We are not holding up progress; it is those who wish to interpret the agreement in a different sense who are holding up progress.

1099. **Mr A Maginness:** I shall make some general comments. A specific proposal has been put forward. We should make a decision on that, rather than continuing a rather elongated, and probably very academic debate, about the content of a bill of rights. That does not serve any great purpose.

1100. There is clearly a difference of political opinion as to the contents of a bill of rights. The question of its content can be resolved in the future. The proposed round-table forum is a mechanism for doing that. When the forum takes place is, again, a matter for debate. However, we will not resolve whether political rights alone are covered in the bill or whether social and economic rights will be included. There is a clear difference of political opinion on that. That will not be resolved today and, even if we spent the next number of days on it, we would not resolve it.

1101. For the sake of progressing our business, therefore, we should make a decision on the proposal. There appears to be general support for it. Arlene has indicated that she will require a further understanding from her party on the proposal, which is fair enough. Nobody objects to that, but there is no point in prolonging the debate on issues that have clearly been established.

1102. **The Chairman (Mr Wells):** That is a very valid point, Mr Maginness. The next

members to speak are Mr Ferguson, Mr Poots, Mrs Long and Ms Lewsley. Given that nobody has opposed Ms Lewsley's proposal to accept the concept of a bill of rights in principle, if we could reach agreement on that, those members could address the problems that some parties have with the round-table forum, and we could try to reach consensus on that.

1103. Is everyone content with Ms Lewsley's proposal, supported by Mrs Foster, that the Committee supports the creation of a bill of rights for Northern Ireland? Is there any dissension?

*11.15 am*

1104. **Lord Morrow:** There was no dissension before we started. *[Laughter.]*

1105. **Mrs Long:** Perhaps we could create some dissension by talking about the issue a bit more.

1106. **Ms Lewsley:** I think that that is why we are trying to cut the debate short.

1107. **The Chairman (Mr Wells):** It was insisted that we air the subject.

1108. **Lord Morrow:** Perhaps you were hoping that dissension would arise.

1109. **The Chairman (Mr Wells):** I hope that dissension does not arise while I am in the Chair.

1110. Do members accept in principle that Northern Ireland should have a bill of rights?

*Members indicated assent.*

1111. **The Chairman (Mr Wells):** We will now move on to the second proposal, which is that the Committee supports the formation of a round-table forum to help to establish a bill of rights. The main issue seems to be the timing rather than the principle.

1112. **Mr Ferguson:** I want to pick up on something that Patricia said about the timing issue. I am at a loss as to know why Patricia wants to split hairs and reframe the proposal. The only outcome would be that, on paper, the five parties agreed to a round-table forum.

1113. **Ms Lewsley:** I did not split the proposal about the round-table forum. I put the bill-of-rights proposal and the round-table-forum proposal together.

1114. **Mr Ferguson:** I do not mind that we have on record that all five parties agreed to that. Like Alasdair —

1115. **Ms Lewsley:** Do you mean Alban?

1116. **Mr Ferguson:** Gabh mo leithscéal. Like Alban, I want to progress the proposal that we agree to the round-table forum meeting either this November or as expeditiously as possible.

1117. **The Chairman (Mr Wells):** That is a pretty specific proposal.

1118. **Mr Poots:** I want to respond to earlier comments made by Michael Ferguson about holding up the process. It is not my colleagues who are engaging in criminal activity and pumping acid from diesel laundering into our rivers and streams. It was not my colleagues who murdered Denis Donaldson, and it is certainly not my colleagues who are holding up the process. It is the criminal terrorists in the IRA who are holding up the process by not going away.

1119. **Mr Ferguson:** I ask my colleague to allow me to respond to that. It would be remiss of me to sit here and allow a member to suggest that I am in any way associated with any form of criminality. That is offensive, and I want that to be noted as a matter of record. I ask the member to desist from making such correlations in his contributions.

1120. **The Chairman (Mr Wells):** I am pretty certain that Mr Poots did not name any individual.

1121. **Mr Ferguson:** That may be so, but his remarks are offensive, unacceptable and disrespectful.

1122. **Mr Poots:** The fact that the IRA still exists is offensive. As I understand it, both Sinn Féin and the IRA are part of the republican movement. No one has denied that in the past. If Mr Ferguson were to consult his leader, perhaps he would explain the republican movement to him. The paramilitary wing of the republican movement must disappear if we are to make progress by November. We will not progress a bill of rights in a vacuum. A bill of rights for Northern Ireland needs the support of

both communities, and the only way to identify that support is through the parties and an active, working Assembly. However, the DUP is not holding up the process; the paramilitaries, who will not go away and leave the people of Northern Ireland alone, are doing that. One party in the Assembly, which aims to get into Government, is associated closely with that paramilitary organisation; they are the people who are holding up the process.

1123. **Mrs Long:** May I respond briefly to Dermot's interpretation of my comments? When I made my dot-and-comma comment, it was not to suggest that it was not a substantive point. It was simply to say that it was established in other meetings that we are not confined to discussing these issues only in the context of the Good Friday Agreement. For instance, we have discussed alternative institutional arrangements and the devolution of policing and justice in much more detail than the Good Friday Agreement ever did.

1124. We should not become prescriptive; we should allow parties to raise the issues that they wish to at these sessions. If consensus cannot be achieved, it will be on the record. However, the right to raise issues remains. It would be a backward step to remove that right from the Committee.

1125. **Mr Nesbitt:** Will you take a point of information?

1126. **Mrs Long:** I will.

1127. **Mr Nesbitt:** I am glad that you have clarified that your dot-and-comma comment referred to a substantive issue. The phrase "dot and comma" implies minutiae of detail, as distinct from substantive issues.

1128. You talk about the devolution of policing and justice. Of course, we can refer to the agreement; it is clear that that is open to discussion, as are the institutional arrangements. However, the agreement is grammatically specific as to what the bill of rights should contain.

1129. **Mrs Long:** What is specific are the issues on which the Human Rights Commission is to consult and advise. The extent to which its advice

and consultation may change the general context is not specified. That is a reality of consultation.

1130. **Mr Nesbitt:** It is not reality.

1131. **Mrs Long:** The other issue that you mentioned was the comprehensive agreement, which you outlined in the context of a review of the agreement. The comprehensive agreement went further on the arrangements for a review of the Belfast Agreement than those envisaged in the Belfast Agreement. Government recognised that even within the context of the comprehensive agreement — which was neither comprehensive nor agreed, incidentally —

1132. **Mr Nesbitt:** Will Mrs Long take another point of information?

1133. **Mrs Long:** No, I will not. I want to finish my own point before I take anyone else's points.

1134. Government recognised that there were issues that would have come under the review arrangements that were set out in the agreement but which were not dealt with in the comprehensive agreement. At a meeting of the PFG Committee dealing with institutional issues, it was remarked that the discussions in the PFG Committee dealing with rights and safeguards would not completely encompass all the matters that could fall into the review of the agreement. From that perspective, the suggestion emerged that a Committee might be set up to review the institutions. The idea that the two are completely coterminous is nonsense, and that has been established in our previous discussions.

1135. As regards the round-table forum, the Alliance Party believes that, at this point, work could be done to establish the relationship that it would have with the Human Rights Commission and the way in which it would be structured. None of that requires devolution to have been restored. A bill of rights for Northern Ireland should not be a hostage of the political context. It should be allowed to proceed. There is no guarantee of devolution in the autumn.

1136. The Alliance Party still believes that the introduction of a bill of rights is an important matter that must be addressed. We do not see waiting for devolution as a way to progress it. If

it must go via the Secretary of State and through Westminster legislation — as would be required anyway — we would be content for that to happen. Our distinct preference is that it should come through a devolved Assembly, but, in either case, we believe that the work must continue.

1137. We support the SDLP's proposal that the round-table forum be set up now as opposed to post-restoration.

1138. **The Chairman (Mr Wells):** There seem to be two proposals. One is that there should be a round-table forum, and the other is that it should meet in November, which is pretty specific.

1139. **Lord Morrow:** Is that 23 November or 24 November?

1140. **Mr Nesbitt:** Who is trying to spin it out now?

1141. **Ms Lewsley:** For the third time, I will say that I believe that even meetings such as today's are a big step. There are five political parties around a table, talking about the issue. We are trying to find consensus on the principle of a round-table forum. My proposal is that we get consensus that we will support a round-table forum.

1142. **The Chairman (Mr Wells):** It is important that the DUP come in on this, because it has a difficulty with the timing of the proposal.

1143. **Mrs Foster:** I am not saying that the DUP will not consent to the SDLP's proposal at a subsequent meeting, but I cannot give its consent today.

1144. Some members seem to think that just because four parties have signed up to something, we will go ahead with it. This is a scoping Committee that works by consensus, and I wish that some members would get with the game.

1145. Naomi has said that we need to start discussing human rights. The DUP will continue to discuss human rights with all relevant parties and to put forward its opinion that the bill of rights should not be the vehicle for all rights, a point that Dermot made too. There are other vehicles for introducing

economic and social rights, and the DUP wants to explore those options with some of the interested parties.

1146. Naomi said that the introduction of a bill of rights should not wait until the Assembly is up and running. My response is simply to ask how else could cross-community support for a bill of rights be tested. The best way to test support is in the Assembly. Given the non-engagement of the unionist community with the human rights agenda, a cross-community vote in the Assembly would be vital to testing its acceptability to the entire community, which is what we are striving for.

1147. **The Chairman (Mr Wells):** After Mr Nesbitt has spoken, we will vote on Ms Lewsley's proposal.

1148. **Mr Nesbitt:** If I may use the phrase in a different context, there is a clear, inextricable link between establishing a round-table forum and having more substantial rights than those contained in the Belfast Agreement.

1149. In June 2005, the Northern Ireland Human Rights Consortium brought us its proposed bill of rights for Northern Ireland, which said that:

*"Such rights were to reflect the particular circumstances of Northern Ireland and, taken together with the European Convention on Human Rights, would constitute a Bill of Rights for Northern Ireland."*

1150. Of course, a sentence describing the particular circumstances was cleverly omitted. I even looked to the words of Ann Hope for a definition. On 3 February 2003, when speaking on behalf of the Irish Congress of Trade Unions (ICTU), in answer to why there should be social and economic rights, she said that it was:

*"to reflect the particular circumstances of Northern Ireland, as it is charged to do".*

1151. Of course, it is charged to deal with the particular circumstances, but Ann Hope omits to define them also. I could go on and on. Amnesty International says exactly the same thing. I leave you with one further comment: the Committee for the Administration of Justice



(CAJ) said in the January 2006 issue of its ‘Just News’ publication that:

*“CAJ has long argued that any Bill of Rights for Northern Ireland must protect socio-economic rights on a par with civil and political rights”.*

1152. I agree that economic and social rights should be protected, but that is different from saying that it must be done through the bill of rights. I draw that distinction, but other parties have not, and some of their phraseology has been mischievous, as they have interpreted “particular circumstances” as meaning any particular circumstances.

1153. **Ms Lewsley:** May I ask that the vote on my proposal be deferred to a future meeting, not because some members are unwilling to take part, but because their circumstances require them to seek direction from their parties?

1154. **The Chairman (Mr Wells):** Will the DUP be in a position to give a view on Ms Lewsley’s proposal next week, Mrs Foster?

1155. **Mrs Foster:** I hope so, yes.

1156. **The Chairman (Mr Wells):** That is that sorted out. We have given the issues of human rights and a bill of rights a good airing.

1157. **Mr Nesbitt:** We have not, because I wish to talk about social and economic rights. Will we discuss that next week?

1158. The Ulster Unionist Party puts on record its support for economic and social rights as distinct from a bill of rights. I am quite happy not to talk about that now if I can speak on the principle of economic and social rights when we return to the matter next week.

11.30 am

1159. **The Chairman (Mr Wells):** We have caught the drift that you are in favour of that, because you have mentioned it at least three times.

1160. **Mr Nesbitt:** Each time I mentioned it, I said that I want to put on record the fact that the UUP is for economic and social rights. This is an important Committee; it is a Committee of record.

1161. **Ms Lewsley:** With the greatest respect, everyone has raised the issues of a bill of rights and socio-economic rights, but none of us has gone into the detail of what we mean by that. I do not know whether this is the place to open up that whole debate. The proposed forum or a consultation on a bill of rights would give us the opportunity to discuss what we mean by a bill of rights and what it should contain.

1162. **The Chairman (Mr Wells):** I will be in the Chair next Wednesday. Mr Nesbitt, you have my assurance that you can raise the issue then.

1163. **Mr Nesbitt:** Next Wednesday?

1164. **The Chairman (Mr Wells):** No, hang on —

1165. **Mr Nesbitt:** You will not be in the Chair next Friday.

1166. **The Chairman (Mr Wells):** No; you are right.

1167. **Mr Nesbitt:** Mr Molloy — dare I say — your partner, will be in the Chair next Friday.

1168. **The Chairman (Mr Wells):** The other Chairman will be in the Chair next Friday. We can contact him to make certain that the matter can be raised.

1169. **Mr Nesbitt:** I want to make this absolutely clear. The UUP has been pilloried at many forums because of claims that the party is not for various rights. Hansard is covering this Committee, and I wish to put on record the party’s position on economic and social rights.

1170. **Mr McFarland:** My understanding is that we were to first discuss the bill of rights — and we had a good discussion on that — and then move on to human rights. Presumably, it would be possible to raise a number of issues during the discussion on human rights.

1171. **The Chairman (Mr Wells):** I take the view of the parties to my left that there is no point —

1172. **Mr A Maginness:** There is no point.

1173. **The Chairman (Mr Wells):** There is no point because, until we hear the DUP’s view, there will be no consensus on establishing a

forum. Arlene is not opposing the proposal — she simply cannot tell us the party's position today. However, she will be able to do so at next week's meeting. The issues that Mr Nesbitt has raised would be better addressed by that forum, if it is to be set up. It is not the Committee's role to deal with those issues.

1174. **Ms Lewsley:** It is not our place to go into the detail.

1175. **The Chairman (Mr Wells):** Sorry, Mr Ferguson, I did not call you because I thought that if there was no chance of reaching agreement on the general proposal to establish a forum, there would be even less chance of reaching agreement on holding a forum meeting on 22 November. However, if you insist on putting forward your proposal, I will certainly allow you to do so.

1176. **Mr Ferguson:** I am happy enough for the record to show that I reiterated the importance of holding round-table forum talks. Dermot has been at pains to point out that we have dilly-dallied for over seven years. The Committee is now agreeing to put off the decision for another week, so that we can all agree next week that there should be a bill of rights, but that perhaps it should be introduced in 2010.

1177. **Mrs Foster:** We have already agreed that there should be a bill of rights.

1178. **Mr Ferguson:** The problem is that we must get the forum up and running if we are to make progress on the issue.

1179. **The Chairman (Mr Wells):** Do you want to put your proposal that a forum be set up by 22 November?

1180. **Mr Ferguson:** I am happy enough for the record to show that Sinn Féin has requested that.

1181. **Mr McFarland:** It is worth reminding ourselves that the parties raised issues of concern to them during the past two months' discussions. It was agreed that any issue about which a party had concerns could be put on the list for discussion. It was also agreed that if parties raised an issue belatedly, they could still add it to the list. No party was to be prevented

from raising an issue for discussion. Chairman, you were an advocate of that.

1182. **The Chairman (Mr Wells):** Absolutely.

1183. **Mr McFarland:** I know that other members do not wish to discuss what Mr Nesbitt wishes to discuss, but the Ulster Unionist Party Assembly Group (UUPAG) wishes to have a discussion —

1184. **Ms Lewsley:** It is not that we do not wish to discuss it; we do, but we just do not feel that this is the appropriate time.

1185. **Mr McFarland:** However, there have been occasions in the past two months when four of the parties have thought that the fifth was blethering about something about which they should not have been blethering, but we went along with it, because that was the essence of the Committee. *[Laughter.]*

1186. Ms Lewsley is absolutely right; it is the first time that the five parties have been in a room with the option of discussing any issue that any party wishes to discuss. It has never before been the case that parties have said that another party has no right to raise an issue because the time is not right to do so. I understand that members wish to bring it up. My point is that Mr Nesbitt has made it quite clear that he would like to say something about these issues.

1187. Although we have come around to the bill of rights discussion — and we are on the verge of parking it, which seems sensible to me — there seems to be nothing to stop Dermot — from discussing whatever he wishes under our next topic, which is human rights.

1188. **Ms Lewsley:** Exactly.

1189. **Mr Nesbitt:** And I shall.

1190. **The Chairman (Mr Wells):** Throughout the debate, we have moved back and forth from the bill of rights to human rights; therefore, I have taken this debate as being a debate on both subjects.

1191. If Mrs Foster attends the Committee next Friday and says that the DUP is content to have the round-table forum established, the Committee, if it has any sense, will decide that



social and economic rights should be discussed at that forum.

1192. **Mr McFarland:** That is in order, and we are happy with that. However, if Mr Nesbitt —

1193. **Mr Nesbitt:** I have told you to call me Dermot.

1194. **Mr McFarland:** If Dermot wishes to say something, and we have never before told a member that he or she cannot say something —

1195. **The Chairman (Mr Wells):** Mr Nesbitt is correct that I will not be in the Chair next Friday. We are out of sync because I chaired Wednesday's Committee. I will ask the other Chairman to assure Mr Nesbitt that social and economic rights will be raised next week, after Mrs Foster's update on the DUP's position.

1196. **Mr Nesbitt:** Alan correctly said that no one has been precluded from speaking before on this rubric. I have not always been here, but I will take his word for it.

1197. Body language is important. I am perturbed, as I noticed that when I said, "And I shall", Ms Lewsley gave a big sigh and looked at the clock, as if to say that she does not want to listen to a discussion on the bill of rights and human rights. I find that disturbing.

1198. **Ms Lewsley:** I am sorry.

1199. **Mr Nesbitt:** Those are important matters that we want to discuss.

1200. **The Chairman (Mr Wells):** The question is when.

1201. **Mrs Foster:** If Dermot feels so strongly, he should be allowed to make his points today, and if other parties wish to engage in the discussion, that is a matter for them.

1202. **Mrs Long:** I agree. My point was that this discussion should be as wide ranging as members wish. However, I caution people against reading too much into people's body language in these meetings. For example, Lord Morrow looks very relaxed, but I assume that it is not because he is disinterested in what is happening. Reading too much into people's body language would add a complicated layer to the Committee.

1203. **Lord Morrow:** I am relaxed because I simply cannot wait to hear what Dermot has to say.

1204. **The Chairman (Mr Wells):** It seems that we have consensus to allow Mr Nesbitt to comment on social and economic rights.

1205. **Ms Lewsley:** I am not trying to stifle debate in any way; I am merely trying to get as much work done as possible and get consensus around the table, so that the meeting will be productive.

1206. **Some Members:** Hear, hear.

1207. **Ms Lewsley:** It is not that the SDLP does not wish to participate in the debate on socio-economic rights; it is a question of the timing of that debate.

1208. **Mr Nesbitt:** I am pleased that Patricia said that she wishes the meeting to be productive, because that is why I want to mention economic and social rights under "Human rights". It is the first time that the five parties have sat around the table to discuss human rights, and it is good that we express our views. We should not be stymied on this all-important issue.

1209. Economic and social rights came to the fore through legislation, not through bills of rights, in the Factory Act 1833 and the Coal Mines Act 1842. The statutory reports on those gave credence to economic rights. Those economic rights were based in statute. We want rights, but it is a question of the vehicle by which we get those rights. That is why I encourage members to recognise that there are more vehicles by which we can get rights than simply a bill of rights. The welfare state today is all about economic and social rights. It is a rights-based welfare state, and it is based in law. I am sorry that Alban is not here, because he is the lawyer — in a sense.

1210. **Ms Lewsley:** It has nothing to do with his body language.

1211. **Mr Nesbitt:** I mean no disrespect by that. I am not talking about a charitable dimension to the welfare state, but about the welfare-to-work

programme, which is positive, whereby one tries to get work.

1212. We are talking about benefits for all. The European Social Charter, which the UK signed up to in 1999, is about economic and social rights.

1213. Yesterday, for example, I found the following website. On the website [www.adviceguide.org.uk](http://www.adviceguide.org.uk), I found some 18 pages of advice on economic and social rights. Those rights, which relate to work, holidays, holiday pay, sickness, health and safety, notice of dismissal, are enshrined in law. Should, for example, an employer tell his employee that he can have only two weeks' holiday a year, the law can overrule the employer. There is a legal right to a minimum of four weeks' holiday a year. Pay rights are dealt with on another page of the website. Workers are entitled to be paid if they cannot work because they are off sick, on holiday, on maternity leave, paternity leave or adoption leave. The website provides complete lists of pay rights and basic rights at work.

1214. There is a plethora of economic and social rights in law. Most people who advocate a bill of rights state that most of that will have to be manifest through law anyway, because rights provide the framework upon which the law is built. The law is already there. Therefore I cannot understand what economic and social rights are not already in place. The Institute of Directors' submission was clear about that.

1215. I leave members with a good comment that I forgot to mention on why rights should not be broadened out:

*"It is our view that any issue which falls outside the reconciling objectives and the specific terms of the Belfast Agreement should not be included in the Bill."*

1216. The reference is to reproductive rights, and it was written by the Catholic bishops of Northern Ireland in their submission to the Northern Ireland Human Rights Commission, in January 2002.

1217. The Ulster Unionist Party's position is clear. It is for economic and social rights, and for the rights of the child. We are not opposed to any of those rights. However, that is not what

the Belfast Agreement was about. That is not about a dot or a comma but about a substantive element of the agreement.

1218. **Mr Poots:** I assume that the Committee has completed its discussion on the bill of rights.

1219. **Mrs Foster:** That is the point that I was trying to make on the bill of rights. I hope that Mr Nesbitt will agree with me that it is not necessary that we put everything into a bill of rights. There are other legislative vehicles. Dermot, I have said it already —

1220. **Mr Nesbitt:** May I interject? As I tried to say earlier to Patricia Lewsley, she has had a good try at trying to split us, but she did not succeed.

1221. **Mrs Foster:** Absolutely. You and I will never be split up.

1222. **Ms Lewsley:** I am guilty of so much this day, I am telling you. *[Laughter.]*

1223. **Mr Nesbitt:** Arlene made a serious point, to which I gave a serious response. There is more unanimity in our discourse on this side of the table than may be perceived outside.

1224. **The Chairman (Mr Wells):** Far be it from me to break up the love-in between Dermot and Arlene. We are not finished, as some members have indicated that they want to make their views known on what Mr Nesbitt has said.

1225. **Mr Poots:** I thought that the Committee was moving on to discussing human rights.

1226. **Mrs Long:** This debate has been useful in that it has clarified the parties' positions. The Alliance Party referred to economic and social rights; however, it is not prescriptive as to how those rights are to be protected. Those protections are necessary, but they do not need to be included in a bill of rights. There is less distance between our positions than might have been assumed at the beginning of the discussion. The bill of rights should be directed towards protecting equality of opportunity, treatment and access; equality under the law; and minimum standards of labour conditions, healthcare, education and the environment for everyone in the community.

1227. A balance must be struck, however, so we do not offer unqualified support. Voters have the right to choose a Government, who will direct public spending in particular ways and prioritise different issues. That must be done in such a way that the Government retain the flexibility to prioritise certain aspects.

1228. Our stance is that necessary protections must be provided. However, the rights of Governments and Assemblies to direct public spending in particular ways must not be interfered with. We are not talking about the all-encompassing rights agenda that some people have suggested, as that would prescribe certain actions that the Government could take.

*11.45 am*

1229. **Mrs O’Rawe:** I have listened to members’ views on social and economic rights. Sinn Féin believes that those need to be ingrained firmly in a bill of rights. We would welcome the Human Rights Commission’s acknowledgement that social and economic rights constitute an area of work that it will be concentrating on over the next few weeks.

1230. **Ms Lewsley:** That detail can be ironed out when we debate the content of the bill of rights at the round-table forum. We will have our opportunities, as political parties in civic society, to decide what should be included and what should not. Mr Nesbitt frequently makes the point that rights are enshrined in legislation, so what is the problem with including them in a bill of rights?

1231. **Mr Nesbitt:** There is an expectation gap. People think that if they have a right to something, they are entitled to it. Money determines allocation. Just because we have a right to something, we do not necessarily manifest or receive the outworking of that right. I have a problem in attending seminars organised by the Human Rights Commission or others at which experts tell us that we need social and economic rights.

1232. I will give two examples: on 11 November 2005, the University of Ulster’s transitional justice institute hosted Prof Sandra Liebenberg from South Africa and Prof Csilla

Kollonay Lehouck from Poland, and each said how important it was to have economic and social rights. However, South Africa is the third most unequal country after Brazil and one other in the world, and people there did not have any social and economic rights. Poland is moving from a centralised communist society to a libertarian market economy, whereby it needs a lot of social and economic rights. In the UK, where we are residents — I choose the word “residents” instead of “citizens” — there are legal rights that places such as South Africa and Poland do not have.

1233. I do not need to be lectured to, in the best of senses, by scholarly professors from South Africa and Poland who say how important it is to have social and economic rights. I say to them, “You need them, but we do not need them here because we already have them.”

1234. **Mr Ferguson:** I want to reinforce the comments from this side of the table on the need for social and economic rights to be included in a bill of rights and, after that, to be enshrined in law. It would be remiss of the Committee to presume on the good will of any Government on social and economic justice given the history of the Six Counties since partition.

1235. We are sitting in this room because of the Good Friday Agreement. We had the agreement because of bad government and because of a history of discrimination and inequality. That is the very reason why we need to ensure through a bill of rights that that does not happen again.

1236. Those rights must also be enshrined in law so that we have protection before the law, whether that be for individuals or groups. It is important that we do not forget our history and why we are here sitting in this room today.

1237. **Mr Nesbitt:** Mr Ferguson said that discrimination was one rationale for the Belfast Agreement. That will be for another day. Next week, we will lead with equality, as I mentioned.

1238. **Mr Ferguson:** I look forward to that.

1239. **The Chairman (Mr Wells):** We have had a composite discussion on the bill of rights and

human rights. Is there any issue under “Human rights” that was not dealt with during that discussion?

1240. **Mr Poots:** There are, perhaps, several issues that have not been addressed. I would like to address the issue of the Human Rights Commission. That body was established by the Northern Ireland Act 1998, which stated:

*“The Commission shall promote understanding and awareness of the importance of human rights in Northern Ireland”.*

1241. Prof Brice Dickson said in 1999 that the commission’s role includes:

*“convincing people, especially those perhaps of a unionist disposition that human rights are for all, not just for one particular community”.*

1242. Looking at the history of the Human Rights Commission, it is clear to me that that has not been done. A particular problem with the Human Rights Commission is the balance of its make-up. At its outset, no one sat on the Human Rights Commission who represented my political views.

1243. I was very surprised that, of all the people in Northern Ireland who have similar views to mine and those of my party, no one was deemed capable of sitting on the Human Rights Commission. That was even more surprising when one looked at some of the people who did sit on the commission. I am well aware that a number of people who were very well qualified to sit on the Human Rights Commission were rejected in the most recent round of appointments. It has been hard to establish why that was. In fact, there is no means of finding out why that was. If we have a Human Rights Commission that is unbalanced in the first instance, how is it to bring on board people whom it wishes to persuade that the human-rights agenda is inclusive and for everyone?

1244. We must look at the current imbalance in the make-up of the Human Rights Commission. Our party recommended that a deputy commissioner be appointed to the Human Rights Commission to help to re-establish some balance. We continue to recommend that.

1245. As for human rights per se, much of what a bill of rights would deal with is a matter for Government bodies. In Northern Ireland, there are people who wish to do the job of Government bodies. For example, there are people who wish to engage in policing without conforming to any bill of rights. Instead, those people conform to the rights of the street and of the back alley. There is not much point in addressing a bill of rights to Government while ignoring what is going on in our backstreets, where paramilitary organisations are still evicting people from their homes, exiling people and brutally attacking individuals.

1246. We cannot address a bill of rights to the Government in isolation from the fact that paramilitary organisations still exist in Northern Ireland and are still dispensing rough justice to individuals. That must be dealt with.

1247. **The Chairman (Mr Wells):** Do you propose that the Human Rights Commission should appoint a deputy commissioner?

1248. **Mr Poots:** Yes.

1249. **The Chairman (Mr Wells):** Does any member wish to comment on that or raise other issues about human rights?

1250. **Mr Nesbitt:** I am conscious that it is almost noon, and if there is nothing more to be said on human rights, we shall discuss parading. We were supposed to be here until 4 pm to talk about human rights, which is a very substantive issue.

1251. **The Chairman (Mr Wells):** I suspect that the parading issue might take some time.

1252. **Mr Nesbitt:** Perhaps not. We have had a very quiet summer. Who knows?

1253. I view human rights as a more general matter than a bill of rights. I am talking about human rights that are additional to a bill of rights. We have talked about identity and ethos. This is why I asked Sinn Féin earlier whether it abides by international norms. I think that the answer was yes, and I hope that Hansard reflects that. However, that was not entirely clear.

1254. **Mr Poots:** It was a qualified yes.



1255. **Mr Nesbitt:** I note that UNISON, the public services union, made it very clear that all our citizens are entitled to protection by the highest international standards of human rights and civil liberties. We may not agree on whether we are British or Irish, but we can all agree that we are citizens of the European Union. I ask for the same rights — no more or no less — as other citizens of the EU. Those rights are enshrined in article 17 of the European Convention on Human Rights. Moreover, article 5(1) of the UN International Covenant on Civil and Political Rights states that no party should:

*“engage in any activity or perform any act aimed at the destruction of any of the rights or freedoms recognized herein”.*

1256. In its mission statement, the Human Rights Commission says that it uses international human rights standards as a yardstick. Some of the most sensitive issues are human-rights issues; for example, cross-border, or North/South, co-operation. As I said at the meeting on 4 August, democracy works on the basis of an understanding and an acceptance of human rights.

1257. We are in favour of cross-border co-operation on the basis of the agreement as ratified by referendum. Co-operation must be for the mutual benefit of both sides, and both sides must agree, which means unionism and nationalism. The comprehensive agreement of December 2004 did not seek to change the North/South-co-operation dimension. My difficulty is that my right is being denied by the Government’s proposals.

1258. On 6 April 2006, the Prime Minister said that North/South co-operation was for the express recognition of the identity of the two aspirations. That was not what was agreed in the referendums. He is going beyond the agreement of an international treaty and beyond international norms. He is siding with the Sinn Féin perspective, which is not what the people of Northern Ireland agreed by referendum. The written record will show that.

1259. Human-rights standards place great importance on the rights of the majority. That is clearly enshrined in article 20 of the Council of

Europe’s Framework Convention for the Protection of National Minorities, which states:

*“any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority”.*

1260. The majority clearly expressed a view on the form that North/South co-operation should take. The Prime Minister of the United Kingdom, in changing the terms of reference for North/South co-operation, is denying my right under article 20.

1261. Even worse, if there is no devolution after 24 November, the Prime Minister has said that a more rigid will shall be imposed from outside. The Taoiseach, Bertie Ahern, made it very clear that that would marginalise the entire political process. The Prime Minister will put everything in Northern Ireland, including its elected representatives, into cold storage if a form of government is not signed up to, yet he is predisposed to co-operation not being based on an international treaty — namely, the agreement between Belfast and Dublin.

1262. There is a general rule in international law that, where treaties affect minorities, which could include those living in Northern Ireland, those minorities participate in the agreement to guarantee their rights. We would be denied that right after 24 November 2006. The Prime Minister is not acting in line with international human rights, looking to the Office of the High Commissioner on National Minorities in the Organization for Security and Co-operation in Europe (OSCE).

1263. Remember what we are doing: we are talking about preparation for government. If we are to enjoy our human rights, full participation is clearly required, particularly on issues that affect us. The two Governments are proposing that we be totally marginalised from participation.

*12.00 noon*

1264. I am concerned about the Government’s position on wider human rights. The Government have ratified a convention, which they are obliged to implement, that they shall create — not that

they might, or that they think it right or wrong — effective participation in Northern Ireland, particularly on decisions that affect us.

1265. My final point is on the wider dimension of human rights in relation to the intrusive nature of the neighbouring Government. For the record, the Venice Commission has considered the relation of a kin state — in this case, Ireland — to its kin minority, the nationalist population in Northern Ireland, residing in a home state, namely the United Kingdom.

1266. The Venice Commission stated clearly that a kin state could only give preferential treatment to its kin minority in education and culture, save for exceptional cases. I am not sure where Sinn Féin's desire for speaking rights in the Dáil fits into that. Let me be very clear, in case members wonder why I mention that: Sinn Féin prefaces its wish for speaking rights in the Dáil by saying that it is a basic right and entitlement. Sorry, but that is not a right under international law. There is, however, a right to full and effective participation in the state in which one resides.

1267. I do not wish to be awkward; I simply repeat what I have said from the outset: I am — as we all are — a citizen of Europe. I ask for no more and no fewer rights than other citizens. However, those rights are not those articulated by Sinn Féin — they are quite the reverse. Sinn Féin has a jaundiced view of rights that goes back to the Europe of the 1930s.

1268. **Mrs Long:** I want to discuss the issues raised by Edwin Poots.

1269. In relation to paramilitary violence, the Alliance Party has pushed the Northern Ireland Human Rights Commission and other human rights groups to focus on non-state sectors, including paramilitaries. Traditionally, human rights have concentrated on the duties of the state. We define human rights much more broadly, as other organisations can impact on and, indeed, compromise, people's rights. That must be taken on board. We believe that that falls within the definition of the particular circumstances of Northern Ireland and is, therefore, within the Human Rights Commission's remit.

1270. In principle, we are not opposed to having a deputy chief commissioner in the Human Rights Commission. However, we want to explore Edwin's comment about balance and how he perceives a deputy chief commissioner would be appointed. The Chief Commissioner, and any deputy chief commissioner, of the Human Rights Commission should be appointed on merit and ability and not to create sectional interest or balance within the team.

1271. We have said several times, and say again, that anything that entrenches the two monolithic communities, and solely represents those communities at the expense of diversity within Northern Ireland, is unhelpful in addressing change in society. Change in our society should be undertaken from a more pluralist view, not from society in general, but a more flexible view of people's individual identities, particularly in the context of human rights. The right of people to define themselves is fundamental to that.

1272. We are very conscious that any attempt to entrench traditional divisions in our society runs contrary to the point of human rights. There would, therefore, be a conflict at the heart of the Human Rights Commission. In principle, we have no problem with the idea of a deputy chief commissioner, but we want to ensure that the person is appointed on merit.

1273. **The Chairman (Mr Wells):** Mr Poots, in order to help the discussion, can you clarify that point?

1274. **Mr Poots:** I am aware that several people with legal backgrounds, and who specialise in human rights law, applied to join the Human Rights Commission and were not accepted. In my view, the people who were accepted had less human rights expertise than some of those who were rejected. I am concerned about this issue, and perhaps the entire appointment process should be addressed. If we want to reach out to the wider community, there must be balance in the commission, which would include the positions of Chief Commissioner and deputy chief commissioner.

1275. **Mrs Long:** Can I clarify? Balance in an organisation is not necessarily achieved by



appointing people from the two traditions, or even by taking that issue into account. Balance can mean monitoring the composition of an organisation, encouraging under-represented people to apply, and so forth. Is that where the issue of balance is going, as opposed to so-called positive discrimination? I contend that there is no such thing as positive discrimination. If someone from a perceived unionist background is appointed as Chief Commissioner, must the deputy chief commissioner be a nationalist, and vice versa? I used the word “perceived”; people could be appointed to those positions who would not define themselves as “unionist” or “nationalist” but whom others may perceive to be unionist or a nationalist. If people define themselves as “neutral”, it would be difficult to achieve that balance.

1276. **Mr Poots:** The Human Rights Commission has a statutory duty to reflect the composition of the community. The point that was made about merit is valid, but appointments must comply with that statutory duty. That is the case with the Policing Board, where the chairman and the vice-chairman come from the two sections of the community. In the first instance, appointments to the commission should be made on merit, but perhaps the positions of Chief Commissioner and deputy chief commissioner could reflect community balance.

1277. **Mr Ferguson:** The remit, functions and composition of the North’s Human Rights Commission are set out in paragraph 5 of page 17 of the Good Friday Agreement. Paragraph 9 of page 17 and paragraph 10 of page 18 set out the comparable steps to be taken by the Irish Government to further strengthen and underpin the constitutional protection of human rights.

1278. As Edwin pointed out, the membership balance of the Human Rights Commission has been a contentious issue since its formation. It is out of step with the United Nations’ Paris Principles, which require membership to be pluralist and representative. The Human Rights Commission is not inclusive or representative. I support Edwin’s comments.

1279. The commission does not have sufficient powers of investigation to compel witnesses or

documents, to enter places of detention or to take its own cases. I want to make several recommendations. The Human Rights Commission must be given additional powers and resources to enable it to carry out its remit. It must be given powers to investigate, to compel documents and witnesses, to enter places of detention and to take cases of its own without necessarily having to send a victim elsewhere. It is important that the British Government publish their response to the review of the powers of the Human Rights Commission as expeditiously as possible. Additional funding is needed, which should be made available to the Human Rights Commission to ensure that it can carry out its remit fully.

1280. Membership of the Human Rights Commission should be reviewed and appropriate action taken to ensure that it fully represents all communities. We do not want colleagues sitting around this table to feel that the commission excludes them or their communities. That would be unacceptable by any terms. It is crucial that we secure the establishment of an independent mechanism to oversee appointments. That will ensure that we have a pluralist and representative commission.

1281. **The Chairman (Mr Wells):** Mr Ferguson, were those proposals, or was that a statement of your party’s position?

1282. **Mr Ferguson:** It was a re-statement of our position. It is obvious, for example, that Edmond — gabh mo leithscéal, Edwin — sees the membership of the commission to be as contentious as Sinn Féin does. It is important that we address that matter.

1283. **The Chairman (Mr Wells):** At the moment, the only proposal is that of Mr Poots for a deputy chief commissioner.

1284. **Mr McFarland:** I take it that Edwin’s proposal is that the Human Rights Commission should observe proper community balance, as stated in the agreement. I think that his suggestion was that, along the lines of the Policing Board structure, the leadership — the Chief Commissioner and the deputy chief commissioner — should also be balanced to reflect the community. That seems quite sensible.

1285. Patricia mentioned the joint human rights commissions, North and South. They were tasked with examining the possibility of establishing a charter for the island. They got ahead of themselves and produced a charter, although that was not their remit in the first place. Can anyone tell me how far the Irish Government have got with their “clear, comparable steps”? The agreement sets out what the Irish Government have to do by way of human rights, such as setting up a commission in line with that in Northern Ireland, etc. Does that fit into an institutional discussion — whether a human rights commission has been set up in the Republic, according to the agreement — or is it a human-rights issue? Can one of the experts perhaps explain where we have reached with the Republic of Ireland’s establishing an equivalent organisation and safeguards?

1286. **The Chairman (Mr Wells):** We could ask the researchers to check up on that.

1287. **Ms Lewsley:** The South has established the Irish Human Rights Commission.

1288. **Mr McFarland:** Does it have the same safeguards that apply here, as laid out in the agreement? They are very specific.

1289. **Ms Lewsley:** It is fully compliant.

1290. **Mr McFarland:** OK.

1291. **Ms Lewsley:** The SDLP does not see a need to appoint a deputy chief commissioner to the Human Rights Commission. The Chief Commissioner is appointed on merit and by process. The appointment of the other commissioners should be reflective of the community, and we believe that that is the case. However, we are supportive of enhanced powers and resources for the Human Rights Commission, and have voiced our opinion about that on a number of occasions.

1292. Perhaps we need to go further than that. Appointments to both the Human Rights Commission and the Equality Commission for Northern Ireland are currently made by the Secretary of State, and are excluded from the remit of the new Commissioner for Public Appointments. Those appointments should be

transferred to the new office, which at the minute plays only an advisory role.

1293. Dermot has talked about the connection between North and South; Alan has asked for clarification in regard to the Irish Human Rights Commission in the South. I hope that, in future, when the issue is raised, the UUP will support a charter of rights for the island of Ireland to ensure that all our rights are delivered.

1294. **Lord Morrow:** On a point of clarification, Patricia, did you say that you believe that the commission is reflective of the community?

1295. **Ms Lewsley:** Yes.

1296. **Lord Morrow:** Despite our telling you that it is not reflective of our community, do you still think that?

1297. **Ms Lewsley:** The commissioners have been selected.

1298. **Lord Morrow:** Thank you.

*12.15 pm*

1299. **Mr Nesbitt:** Naomi talked about merit versus balance and came down on the side of merit every time. However, I subscribe to Edwin Poots’s position: the statutory duty is to have balance, as far as is practical. I know that others support fifty-fifty recruitment to the police.

1300. **Mrs Long:** Do you take the point that the Alliance Party does not support that?

1301. **Mr Nesbitt:** It is accepted that fifty-fifty recruitment to policing is discriminatory. I do not question the individual merits of any one person on the Human Rights Commission or on the Equality Commission. I look at it in the round.

1302. I read the press statement in July 2005 on the appointment of new commissioners to the Human Rights Commission. The political affiliations of the new commissioners are: two from the Women’s Coalition, two from the SDLP, one from Alliance and one from the DUP — and, in case Naomi was about to ask, Geraldine Rice is the commissioner affiliated to the Alliance Party

1303. **Mrs Long:** I am well acquainted with Geraldine Rice.

1304. **Mr Nesbitt:** When judging whether the Human Rights Commission is balanced as a collective entity, it would be difficult to say that it is, given the political affiliations of its commissioners.

1305. Michael mentioned the Paris Principles, to which Sinn Féin also alluded last week. The Paris Principles refer only to national human rights bodies: the Human Rights Commission is a regional body. There is no direct link between the two.

1306. I want to clarify a North/South issue, after which I will conclude.

1307. **Mr Ferguson:** I referred to the Paris Principles primarily because they insist on pluralist and inclusive representation. Presumably, you wanted to lecture me, Dermot, but I want to point out that I made that reference simply because they recommend that approach.

1308. **Mr Nesbitt:** I do not want to lecture you. I could have picked up your point wrongly, but I understood that you were extending the reference to the Paris Principles in order to suggest additional powers, which you went on to list.

1309. **Mr Ferguson:** I did, yes. On a point of clarification: are you opposing my recommendation, for example, that the Human Rights Commission should have additional powers and resources?

1310. **Mr Nesbitt:** My party has made a clear and detailed submission on that. The UUP's position is that although it sees merit in powers per se, it would not support additional powers for one simple reason: the Human Rights Commission has not implemented the powers that it has already, most obviously, its power to consider the scope for a bill of rights. The Human Rights Commission has taken six years to do that.

1311. When a body, such as the Human Rights Commission, which has certain powers, asks for further powers, it makes me say wow. It has powers; it has expanded those powers; it has taken six years to consider a bill of rights; and now it wants new powers. The Human Rights Commission has received much additional

money to exercise its existing powers. At this juncture, therefore, the UUP, as clearly stated in its written submission, does not support its receiving additional powers. The Government have many reservations also on the granting of certain powers, such as the right of entry, etc. The UUP is in favour, not of additional powers, but of the implementation of existing powers.

1312. Patricia Lewsley referred to North/South matters. Let me be clear: I am not saying that borders can never change. The provision for holding a referendum to remove the border was enshrined in law long before the Belfast Agreement, which changed the period of time required between polls from 10 years to seven years. As the original law was passed by Parliament some time ago, it could change. For change of any nature to take place, there must be agreement. The UK Government and the Irish Government are doing that without the agreement of the majority.

1313. Turning to international law, I return to the remarks of Prof Boyle, Prof Campbell and Prof Hadden, three legal experts in human rights. In their submission to the Forum for Peace and Reconciliation, they said that unionists are entitled to retain their constitutional link with the United Kingdom, and they asked whether that means that a reciprocal right to equivalent constitutional or institutional links with the Republic of Ireland should be granted to nationalists. That is a proposition put by Sinn Féin. If unionists have their links, nationalists should have their links as a right. The professors concluded that the only support in international law and practice — not just law, but practice, too — is the right of members of a minority to develop and maintain cross-border linkages. Naomi mentioned individual rights and the right to opt out and not be part of a national minority, which, again, is enshrined in international law. Therefore, Sinn Féin is beyond the pale, if I can use that Dublin phrase, with respect to international law.

1314. **Mr Ferguson:** Dermot, the most respectable place on the island is beyond the pale, and you are a national minority.

1315. **Mr Nesbitt:** We could debate that, and we will.

1316. **Ms Lewsley:** Mr Chairman, I would like Lord Morrow to clarify one point.

1317. **The Chairman (Mr Wells):** The fact that we are going to eat lunch does not mean that we cannot return to the debate.

1318. **Ms Lewsley:** I would just like one small point clarified. I was asked about representation on the Human Rights Commission, and I said that I felt that it is balanced. Is Lord Morrow saying that the unionist commissioners are not representative of the DUP community, even though Jonathon Bell, a DUP councillor, is one of them?

1319. **Lord Morrow:** The membership does not adequately and equally reflect the unionist community.

1320. **Ms Lewsley:** As a whole?

1321. **Lord Morrow:** As a whole.

1322. **The Chairman (Mr Wells):** Are members in a position to take a vote on Mr Poots's proposal that a deputy chief commissioner be appointed to the Human Rights Commission?

1323. **Mr Ferguson:** No, I do not think that we are.

1324. **The Chairman (Mr Wells):** We are not in a position to take that vote now, so we will break for lunch

*The Committee was suspended at 12.22 pm*

*On resuming —*

*12.51 pm*

1325. **The Chairman (Mr Wells):** Ladies and gentlemen, I hope that you all enjoyed your lunch. It was up to the usual high standard. We have a quorum, but we must be careful to maintain it if people drift away to make telephone calls.

1326. **Mr McFarland:** Michael Copeland is deputising for Mr McNarry.

1327. **The Chairman (Mr Wells):** Is this the first time that you have attended the Committee, Michael?

1328. **Mr Copeland:** That is correct, and I must commend you on the quality of the lunch.

1329. **Mrs Foster:** It will not be his last.  
*[Laughter.]*

1330. **The Chairman (Mr Wells):** We normally ask members whether they have any interests to declare.

1331. **Mr Copeland:** I declare that I have an interest in parading, by virtue of my membership of the Loyal Orange Institution for more than 30 years.

1332. **Mr Ferguson:** I hope that that will not make you a bad person.

1333. **Mr Copeland:** Thank you very much indeed.

1334. **The Chairman (Mr Wells):** I assume that there are no other first-time members present who have not made a declaration of interest. It probably relates more to institutional issues and to policing and justice than to this part of the Preparation for Government Committee.

1335. I welcome Mr Copeland. He has become about the fifty-seventh MLA to sit on either the Committee or the subgroup: everyone is involved.

1336. We have not yet concluded on Mr Poots's proposal to appoint a deputy chief commissioner to the Human Rights Commission. However, I detected some opposition to that.

1337. **Lord Morrow:** I presume that you have given up on the idea of completing the agenda today.

1338. **The Chairman (Mr Wells):** If we get to the end of "Parades" today, we will be doing well. I saw that as the difficult issue, not human rights. Mrs Foster said that she wished to speak to Mr Poots's proposal.

1339. **Mrs Foster:** That is correct.

1340. **The Chairman (Mr Wells):** Does anyone else want to speak on that, or can we move to the vote after Mrs Foster has spoken?

1341. **Ms Lewsley:** I have had an opportunity to speak, so my name can be removed from the list.



1342. **Mr Ferguson:** I wish to speak on membership of the Human Rights Commission, but I will wait my turn.

1343. **The Chairman (Mr Wells):** Mrs Long also wishes to speak to the proposal. When those three members have spoken, we will seek consensus on it.

1344. **Mrs Foster:** The Human Rights Commission's statutory duty is contained in section 68(3) of the Northern Ireland Act 1998:

*"In making appointments under this section, the Secretary of State shall as far as practicable secure that the Commissioners, as a group, are representative of the community in Northern Ireland."*

1345. There has been some discussion about that matter, but my party does not accept that the current Northern Ireland Human Rights Commission complies with that statutory duty. Reference has already been made to the current commission and to the fact that some commissioners are — or have been — directly linked with political parties. We do not live in a vacuum, so that has an impact on how people view the commission. I do not say that those people have no right to be on the commission. Of course they have a right to be there, but their political links have an impact on how people in my community view the commission and its workings.

1346. Naomi asked whether my party supports direct positive discrimination. I want it put on record that we do not. We are against that. We oppose the positive discrimination that exists in the recruitment of PSNI officers. Therefore we will not oppose that for one institution and support it for another. If the Human Rights Commission is to fulfil its role and be representative of Northern Ireland society, we feel that a deputy chief commissioner must be appointed, based on the statutory duty and on merit.

1347. **Mr Ferguson:** Sinn Féin does not support the proposal for the appointment of a deputy chief commissioner. The Irish Human Rights Commission does not draw its membership from political parties. Edwin meant well when he highlighted the fact that all political parties

but one — Sinn Féin — are represented on the Human Rights Commission. We take the view that there should be no political representatives on the commission.

1348. **Mr McFarland:** The Ulster Unionist Party is not represented on the commission.

1349. **Mr Poots:** I did not mention any political party.

1350. **Mr Ferguson:** I was just being facetious. I take Mr McFarland's point. Sinn Féin is of the opinion that, like the Irish Human Rights Commission, the commission in the North should have no political representatives on it. It is worth pointing out that the Irish Human Rights Commission is seeking to amend the Human Rights Commission Act 2000 in the South, because it is concerned that the Government are not paying due regard to its recommendations. The scandal around the residential home issue bears witness to that. Sinn Féin supports the Irish Human Rights Commission's proposal to amend the 2000 Act to ensure that the Government pay due regard to its recommendations.

1351. **Mrs Long:** The Alliance Party accepts that the Human Rights Commission must be representative of the community in Northern Ireland. That is different, however, from saying that the membership should be proportionate to numbers of elected representatives. There is a distinction. The commission can be broadly reflective of the wider community and take account of ethnic minorities, without being rigid.

1352. **Mrs Foster:** The commission lacks ethnic-minority representation.

1353. **Mrs Long:** Yes; that is a concern. No one has an issue with the commission's need to be broadly reflective of the community. Mr Nesbitt was perturbed to find that I was unaware that Geraldine Rice sits on the commission. None of those who sit on the commission at the moment is a political nominee. Commissioners applied and were appointed. They had to declare political and other interests, as one does for public appointments. However, they are not political nominees. The Alliance Party opposes

any change that would permit the appointment of political nominees.

1354. Another question is how one defines “reflective”. There was much criticism of the original commission. It was panned by nationalists as being too unionist, because they counted the numbers of Protestants on it and assumed that they were all unionists, and claimed that unionists were over-represented.

*1.00pm*

1355. Similarly, the commission was panned by unionists as not being unionist enough, and, therefore, too nationalist. Unionists viewed the protestants who were on the commission as not really being unionists. Therefore there is an issue about how one uses “protestant” and “catholic” when it comes to political aspiration and whether people see the body as reflective of the community. It could not have been too unionist and too nationalist simultaneously. There is a conflict and a paradox in the way in which people view the commission.

1356. Edwin Poots’s proposal that there should be a deputy chief commissioner has been put in very narrow terms. The Alliance Party does not object to his proposal; however, we cannot support it on the basis of his suggestion that it will achieve balance. If the Chief Commissioner were from an ethnic minority, how would the balance have been redressed.

1357. **Mrs Foster:** The balance would certainly be improved if there were someone from an ethnic-minority community on the Human Rights Commission.

1358. **Mrs Long:** If the Chief Commissioner were a member of an ethnic-minority community, how would community balance be restored by appointing a deputy chief commissioner? That is the premise on which the proposal has been based, and that is the problem that I have with it. I do not have a problem with there being a deputy chief commissioner.

1359. **Lord Morrow:** I cannot understand why Naomi finds it difficult to support the concept of a deputy chief commissioner. It does not matter what others have said about having a deputy chief commissioner — we are talking

about the post. What difficulty does Naomi have with supporting the proposal for a deputy chief commissioner?

1360. **Mrs Long:** I am not opposed in principle to the creation of the post, but it must be looked at in the context of our discussions. We cannot divorce proposals from the context in which they are being discussed. A deputy chief commissioner was not proposed in order to relieve the burden of duties from the Chief Commissioner or to deputise for the Chief Commissioner when she is not available. The proposal was that the post is needed in order to reflect balance in the community. I cannot support the proposal on that premise.

1361. **The Chairman (Mr Wells):** Mr Poots, are you going to press the issue, or do members have an alternative proposal?

1362. **Mr Poots:** I felt that there was considerable support for the proposal during the earlier part of the discussion. Sinn Féin was first to break ranks. There was no apparent reason for parties breaking ranks and moving away from the proposal. I am not sure whether they have been pulled on this during the break, but there was no opposition earlier. There is no reason for the objections now.

1363. **Mrs Long:** My position has been consistent from the beginning of the discussion. My first action, when Mr Poots’s proposal was made, was to explore the premise on which it was based. He made it clear that he felt that it was necessary in order to reflect the community. At that point, I said that I would not be comfortable with the proposal. Hansard will reflect that.

1364. This is not about people changing their position. We are not opposed to the creation of the post, but we are opposed to the use of the post in the way in which Mr Poots has suggested.

1365. **Lord Morrow:** That is an argument for another day and another place.

*[Inaudible due to mobile phone interference.]*



1366. if that deputy chief commissioner were to be appointed in a particular way to do a balancing act.

1367. **Mrs Long:** I have not heard any other argument being put for having a deputy chief commissioner.

1368. **The Chairman (Mr Wells):** That is a good point.

1369. **Lord Morrow:** Mrs Long has an argument.

1370. **Mrs Long:** I did not. I have suggested that there is a range of options, but none of them has been proposed.

1371. **Ms Lewsley:** I said that I was against the proposal. I do not see the need for a deputy chief commissioner.

1372. **Lord Morrow:** Ms Lewsley said that she felt that the post was reflective of the community.

1373. **Ms Lewsley:** I said that it was reflective of Lord Morrow's community, which was the question that he asked me. It is not reflective of the ethnic-minority community.

1374. **Lord Morrow:** That is not what Ms Lewsley said.

1375. **Ms Lewsley:** Lord Morrow was asking me in the context of its reflecting —

1376. **Lord Morrow:** Therefore, does Ms Lewsley think that one unionist on the Human Rights Commission does reflect our community?

1377. **Ms Lewsley:** I think that there is more than one, but that depends on your definition of "unionist".

1378. **The Chairman (Mr Wells):** Mr Poots, do you wish to put your proposal to the Committee?

1379. **Mr Poots:** Yes. However, there is little point in pursuing it if three other parties oppose it at this point. I do have clarity from the Alliance Party on its concerns, which can be addressed. However, I do not have clarity from the other parties as to why they would object.

1380. **The Chairman (Mr Wells):** Therefore you will not pursue it.

1381. **Mr Poots:** Patricia thinks that the make-up of the Human Rights Commission is

balanced, and she is entitled to that opinion. The commission is far from balanced; that must be made clear. Sinn Féin has no clarity on the issue.

1382. **Ms Lewsley:** My argument is that, if Mr Poots believes that the make-up of the Human Rights Commission is not balanced, creating an extra post will not help. The structure of the appointments process must be changed.

1383. **The Chairman (Mr Wells):** I cannot see the restoration of devolution on 24 November hingeing on this one issue.

1384. **Mr Nesbitt:** My party sees merit in having a deputy chief commissioner for many reasons, one of which is to assist the commission's work. I agree with Arlene that this is not about positive discrimination. If we cannot support fifty-fifty recruitment in the PSNI, we cannot support it elsewhere.

1385. There is another way. Generally, in any appointments system, affirmative action is taken, by which I mean that particular people are encouraged to apply.

1386. **The Chairman (Mr Wells):** That is an adequate airing of views on the bill of rights and human rights. Mrs Long, do you wish to speak on an issue that the Committee has not heard before?

1387. **Mrs Long:** Yes. The Republic of Ireland has incorporated the European Convention on Human Rights into its domestic legislation. That commitment was set out in the Good Friday Agreement. Other countries have simply adopted the ECHR, but the Republic of Ireland has opted to enshrine similar protections in domestic legislation. Can we clarify the position in the Republic of Ireland — without making a value judgement on the approach — because a cross-border dimension is clearly involved?

1388. **Mr Nesbitt:** I understand the DUP's difficulty. At the time of the appointment of the most recent Chief Commissioner, I recall the DUP party leader made it clear that his party would have nothing to do the Human Rights Commission while there was only this Chief Commissioner. However, that has nothing to do with this matter.

1389. **The Chairman (Mr Wells):** I was about to say that I could not see the link.

1390. **Mr Nesbitt:** I was not making a point; I was simply reflecting on the DUP's difficulty.

1391. **Mr Ferguson:** Nice try.

1392. **The Chairman (Mr Wells):** You have placed it on the record, Mr Nesbitt.

1393. **Mr Nesbitt:** Thank you, Mr Chairman.

1394. **The Chairman (Mr Wells):** Mr Poots, do you wish to say something about Mrs Long's proposal?

1395. **Mr Poots:** I referred to the relationship between human rights organisations other than Government-sponsored organisations. We cannot ignore that issue in Northern Ireland. When we are ready to roll with devolution, Mr Irvine, Mr McGuinness, Mr Adams, and others currently associated with human-rights abusers, could be nominated.

1396. **The Chairman (Mr Wells):** I assume that you mean Martin McGuinness, not Alban Maginness.

1397. **Mr Poots:** Yes. This Committee must address that issue, because those people could be going into government while human-rights abuses may be ongoing within the organisations with which they are associated.

1398. **Mr Ferguson:** Edwin is making an art out of insulting people today. That comment is another example. Sinn Féin made the point that there should be no political representation on the Human Rights Commission, and that should allay Edwin's unfounded fears. If Edwin wants to make a proposal on which we can all agree, perhaps it should be that we review the appointments process.

1399. **The Chairman (Mr Wells):** That strikes me as an argument that should have been made earlier.

1400. **Mr Ferguson:** Yes, but do you see how easily I picked it up?

1401. **The Chairman (Mr Wells):** I hear what you are saying, Mr Poots. Do you want to make a proposal?

1402. **Mr Poots:** A separate discussion is required on people's associations with organisations that are engaged in human-rights abuses. I do not mean second-rate criminal organisations in Manchester or organisations that are part of the gang culture; I am talking about organised criminality and organised paramilitary groups.

1403. **Mr McFarland:** Lord Morrow will confirm that we have had two months of detailed discussions on that issue. My understanding was that the DUP would go nowhere near a Government with Sinn Féin until criminality had ceased. The issue would therefore arise only in that context. Whether Martin McGuinness is Deputy First Minister or not, the DUP will only enter Government when it is happy that criminality has ceased.

1404. **The Chairman (Mr Wells):** The PFG Committee dealing with law and other issues will also discuss that.

1405. **Mrs Foster:** Reference was made to human rights applying to states. We are raising the issue of human rights applying to other bodies, such as paramilitary organisations. Should the human-rights discussion concern people's rights vis-à-vis the state or should it include rights vis-à-vis paramilitary organisations? It is not solely about Government.

1406. **The Chairman (Mr Wells):** My point is that the issue of criminality and punishment beatings will be dealt with in meetings of this Committee in a separate format.

1407. **Mrs Foster:** That does not mean that it should be separated from a human-rights discussion in this format of the PFG Committee.

1408. **Lord Morrow:** The issue still relates to human rights.

1409. **The Chairman (Mr Wells):** If the issue can be adequately discussed in another format of the Committee, do we need to have a long discussion on it? I am asking a question; I am not stating an opinion.

1410. **Mr Poots:** We will deal with the past and its legacy later. Perhaps we can leave the issue until we discuss the disappeared and other

human-rights abuses as part of the wider issue of the past. Human-rights abuses have occurred in the past, but they do not need to happen in future. We have an opportunity to ensure that they do not happen in future.

1411. **Mr McFarland:** When negotiations begin in the autumn, the Democratic Unionist Party will have to decide whether to go into government with Sinn Féin. That decision will presumably take those issues into account. Irrespective of whether we need to debate this issue in more than one strand of this Committee, the question of whether criminality and paramilitarism have ceased will remain. If the DUP accepts that criminality and paramilitarism have ceased, and those are the criteria on which the DUP has said that it will enter Government, this issue does not arise.

1412. The issue will arise, however, if it is suggested that anyone who has ever been connected with a paramilitary organisation has a residual legacy of human-rights abuses and is therefore unacceptable to be in government. Sinn Féin uses the same argument when it says that anyone who has ever been a member of the RUC is unacceptable as a PSNI officer because, as far as Sinn Féin is concerned, RUC officers were human-rights abusers.

1413. Those are daft arguments. The DUP will presumably make a choice as to whether Sinn Féin is acceptable, at which point we will all move on.

1414. **Mrs Foster:** This point has been made at the PFG Committee dealing with institutional issues: even if the premise is accepted that the Provisional IRA is no longer in business, does Alan seriously suggest that there will no longer be residual terrorism from loyalists, dissident republicans or other groups in Northern Ireland?

1415. Safeguards must be put in place, so that the instability of the in-out, in-out situation that has existed since 1998 is not perpetuated. We are talking about human-rights safeguards as well as safeguards for the institutions, so that those safeguards are in place after devolution, should it occur.

1416. **Mr McFarland:** We have yet to discuss the stability of the institutions in the PFG Committee dealing with institutional issues.

1417. **The Chairman (Mr Wells):** It is the next topic to be discussed.

1418. **Mr McFarland:** Edwin Poots raised the point about whether Martin McGuinness was acceptable, in human-rights terms, as a Deputy First Minister to Rev Dr Ian Paisley. He seemed to suggest that human-rights safeguards should be in place to prevent Martin McGuinness from becoming Deputy First Minister. We will never get to the stage at which Martin McGuinness is Deputy First Minister until the DUP believes that Sinn Féin has stopped all criminality, paramilitarism, and so forth.

1419. There will be no deal and no Government until the DUP accepts that Sinn Féin is clean, so to speak. Therefore what point was Edwin making?

*1.15 pm*

1420. **Mr Poots:** The acceptability issue does not relate to Sinn Féin exclusively. For example, if the leader of the Ulster Unionist Party Assembly Group (UUPAG) decides to appoint one of its members, namely Mr Ervine, to a ministerial post, that would create real problems on the back of Mr Haddock's attempted murder, and on the back of the attack on and murder of a gentleman in Tobermore.

1421. **Mr McFarland:** As we discussed, the Assembly has safeguards related to the ministerial code, conduct of Members, etc. Those are clearly laid out.

1422. **Mrs Foster:** They did not work very well in the previous Assembly.

1423. **Mr Poots:** Mr McFarland has just made the case for discussing this matter.

1424. **Mr McFarland:** That is a different type of safeguard. That is not a human-rights issue; it is a matter for discussion in the PFG Committee dealing with institutions.

1425. **The Chairman (Mr Wells):** When Mr Nesbitt raised a matter that he felt was important to his party, we allowed him to have his say.

1426. **Mr McFarland:** Absolutely.

1427. **The Chairman (Mr Wells):** On the same principle, Mr Poots sees this as an important matter.

1428. **Mr Poots:** I am happy to leave the matter until we deal with the past and its legacy.

1429. **The Chairman (Mr Wells):** That would be helpful, because we must allow a significant amount of time for discussion of parades. Thank you for helping us, Mr Poots. We can now move on with the agenda.

1430. **Mrs Long:** What about the issue that I raised on the need for research on the position of the Republic of Ireland on European human-rights protections in its domestic law?

1431. **The Chairman (Mr Wells):** Do members agree that that research should be carried out?

*Members indicated assent.*

1432. **The Chairman (Mr Wells):** It is our protocol that we always agree to any member's request for research to be carried out.

1433. The next issue is parades. I suggest that we use the same format for our discussions as before. We will allow each party, in alphabetical order, to give a short presentation on its current position on the matter. We will then open up the discussion and try to reach some agreement on the way forward. I think that we all accept that this is a rather contentious issue.

1434. **Mrs Long:** I wish to preface my remarks by referring to the context in which we are discussing the parades issue. From the Alliance Party's perspective, parading is a cross-cutting issue. In addition to the human-rights context, "Parades" must also be considered in the context of "Good relations" and "Shared future". Parading also has ramifications on matters such as "Rule of law", which the PFG Committee dealing with law and order issues will discuss. It is a cross-cutting issue, and that must be reflected.

1435. In setting out our position today, the Alliance Party is looking at the issue from the human-rights perspective, because today's meeting was set aside for human rights. Parading was subsumed in that topic. That is the context in which I am prefacing our statements.

1436. The Alliance Party does not accept that there is an unqualified right to parade or to object to a parade. The claimed right to march, parade or walk is derived from freedom of expression and freedom of assembly. It is not an absolute right, and it must be balanced with the competing rights of others to freedom of expression, freedom of assembly and freedom of movement.

1437. The Alliance Party also believes that the alleged distinction between traditional and non-traditional parades — in a human-rights context — is largely meaningless. There is a clash in our society of competing rights, and parades have become a forum for a debate about much wider communal and cultural battles over territory and resources.

1438. We accept a predisposition to allow parades. That is the current reality, given that most go ahead and only a small number are disputed and contentious, and therefore come under additional scrutiny. There must be some form of independent body to mediate and, finally, to arbitrate on those competing claims and rights. Before the Parades Commission was set up, that arbiter was the police.

1439. Our concern about the police being the arbiter is that they tended to err on the side of considering the weight of the threat of public disorder.

1440. That could skew the decision-making process, rather than allow each case to be considered on its merits outwith the threat of violence from those who want to parade or those who do not want the parades to take place.

1441. The Alliance Party, therefore, believes that the Parades Commission, as a vehicle, is welcome in that — to some degree at least — it has been able to detach the issue of the merits of the individual parades from the threat of violence and public disorder, although we realise that that is not a complete distinction.

1442. We have concerns also about how the parades issue fits into the context of a shared future and good relations. For example, some people may wish to establish the right to have a parade but choose, on the basis of good



relations and a shared future, not to exercise that right. Similarly, others may wish to establish the right to oppose a parade, but choose not to exercise that right and permit parades to go ahead. That type of mutual-accommodation approach is more likely to be successful than a more legalistic and arbitrary approach, but an independent body is needed to arbitrate when local agreement cannot be reached. Such a body represents an important mechanism.

1443. I do not wish to go into the other aspects of the parades issue — good relations, rule of law and shared future — although they all have an effect. Examining the issue in the context of human rights, as I have done today, covers our position.

1444. **Lord Morrow:** I shall quote from article 11 of the European Convention on Human Rights:

*“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.*

*2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”*

1445. **Mr Nesbitt:** Was that quotation from article 11 of the ECHR, or are you reading its expanded interpretation?

1446. **Lord Morrow:** It was article 11.

1447. **Mr Nesbitt:** That was the full article about the forces of the law?

1448. **Lord Morrow:** Yes.

1449. Solving the problems that have been associated with parades is a fundamental

prerequisite to political progress and stability in Northern Ireland. Although there are no easy answers to dealing with those issues, it is clear that the Parades Commission has failed to bring about a solution to the problems. In fact, very often, its approach has exacerbated difficulties within the community and it has proved to be part of the problem, rather than part of the solution.

1450. The problems with the Parades Commission are not simply questions of the personalities involved or questions of detail, but matters of fundamental principle, which are not capable of being addressed within the present structures. In a number of crucial regards, the Parades Commission is structurally unable to meet the challenges with which it is faced.

1451. Although no structures can be a panacea to the difficulties that are faced in this area, it is possible to create arrangements that can play a valuable role in helping to solve the problem. Just as the difficulties that surround the question of parading cannot be divorced from wider political questions, it is also now true that wider political issues cannot be divorced from a solution to the parading question.

1452. There are clearly a number of problems with the current arrangements. Decisions are seen to be arbitrary, unfair and inconsistent. The Parades Commission lacks the confidence of the majority of the community. There is a lack of transparency in the process. Bad behaviour is rewarded, and there is no regulation of parade protests.

1453. The DUP's proposal outlines a long-term solution to the problem. The proposal includes splitting the mediation function from the determination function, and establishing two separate bodies: one to deal with mediation, the other to deal with determination, where necessary. That would allow the mediation body to concentrate on resolving issues affecting contested parades and agreeing arrangements without the need for a formal determination hearing. That would establish a process whereby contested parades could be identified and dealt with separately from the vast majority of uncontested parades, which will not require any determination.



1454. Where it is impossible to resolve a contested parade to the satisfaction of the affected parties, the determination body — that is, the parades tribunal — would operate as a tribunal in a quasi-judicial capacity, with decisions taken in accordance with established law and guidelines. The parades tribunal would regulate the contested parade and any contested parade protest.

1455. The formulation of guidelines would be critical, but would be predicated on a presumption in favour of a parade's proceeding. The traditionalism of a parade would weigh further in its favour, and each determination would be tilted towards providing incentives for good conduct. The guidelines would be established in statute and would have the force of law. In order to allow proper time for matters to be considered, 28 days' notice should be given before the planned event, with a determination at least 21 days in advance of the event. That would allow time for attempted resolution or appeals of the decision.

1456. To be allowed to continue, any protest against a contested parade would be subject to any and all conditions set by the parades tribunal. The tribunal would sit in public and, where possible, take evidence in public and publish the detailed reasons for its determinations. The mediation body or the parades mediators could be called to give evidence to the tribunal about their efforts to resolve the matter, as could the parties involved. The police could also give evidence, where necessary. The panel from which the parades tribunal would be drawn would be limited to between five and seven members. A former or current judge would chair the tribunal.

1457. The issue of disorder, either as a result of a previous parade's going ahead or not going ahead, would not be a factor that could be taken into account by the tribunal in favour of those who are responsible for the disorder. In the final analysis, however, police decisions would always be critical. More emphasis would be placed on the conduct of those parading and on those protesting against the parade. If a previously lawful parade were illegally

interfered with, that would count in favour of the next parade. However, where parade conditions have been breached, that would count against the next parade. The parades tribunal would weigh the value of any proposal made to rectify a previous breach. It is important that good behaviour — rather than bad — is rewarded.

1458. Notification of uncontested parades would be given to the police, but a determination would not be required. The parades tribunal would periodically review the list of contested and uncontested parades. Where it is proposed to change the classification of either a contested or uncontested parade, an opportunity shall be given for representations to be made.

1459. In conclusion, the Parades Commission is part of the problem, rather than the solution. The solution must, therefore, lie in creating new arrangements that seek to avoid, where possible, the requirement for a determination. However, where a determination is needed, the process must be seen to be open, transparent and fair. A first step is a process that can enjoy community confidence, operated by those who command respect. New arrangements cannot solve the problems associated with parading, but they offer the opportunity to get out of the present cul-de-sac and provide the potential for a better way forward.

1460. **Mr Ferguson:** Mr Chairman, members' previous contributions imply that this issue is simply about the right to march. It is more fundamental than that. For example, there are more than 2,000 loyal orders marches every year. Only a few of those are contentious.

*1.30 pm*

1461. When a parade is contentious, the loyal orders should demonstrate some common sense, and not insist that those marches are forced through communities where they are not welcome or wanted. That seems like good common sense to me.

1462. **Mrs Long:** You mentioned that good common sense would suggest that, when a parade is contentious, the loyal orders should not force the issue. Would it also be good

common sense if, on some occasions, communities that may not want a parade to go through their area were flexible and gave consent? It might be good common sense to do that on some occasions.

1463. **Mr Ferguson:** Nice semantics, Naomi. Perhaps you should put that to the residents' groups in the areas where people wish to march, rather than to me.

1464. **Mrs Foster:** He does not represent them.

1465. **Mrs Long:** I am asking you because you mentioned good common sense. I am seeking clarity.

1466. **Mr Ferguson:** I cannot speak for residents who do not want an unwelcome parade to go through their community.

1467. As I said, there are over 2,000 marches every year, only a small number of which are contentious. When a community does not want a march to go through its area, the loyal orders should respect that, should not march, and should not insist that any commission or other body create a situation where that march is forced through an area. When the loyal orders feel that they cannot be reasonable in that respect, they should have the courtesy to sit down with residents' groups in those communities. They should facilitate dialogue and pay residents the courtesy of asking.

1468. Members would have to admit that some of those parades go through communities only because there are Catholics living there. The loyal orders should at least pay residents the courtesy of asking first. That is not unreasonable. The assertions that parades are traditional and that there is a right to parade cannot simply be taken for granted.

1469. I have watched marchers in parades down the Ormeau Road, putting five fingers in the air in reference to what happened at the Ormeau Road bookmakers. That was insulting, offensive, and should never have happened. We have seen many such marches, and we have seen horrible things, such as the scenes on the Springfield Road last year. If that sent out any message, it was that the leadership of unionism is poor and weak. They should have encouraged

those people who wanted to march down the Springfield Road, or elsewhere, to sit down with those communities to ask them whether it was OK. Political unionism failed to provide that leadership.

1470. This year, however, we saw some changes. Michael Copeland is sitting across the table, and he and I spoke on the eve of one such march. We tried to use our influence to support common sense and peace.

1471. The points that I have made are fairly simple. If you want to walk through an area where you are not wanted, do not go. If you feel that you must walk through that area, sit down and talk to the residents first.

1472. **Mr A Maginness:** The SDLP's position on contentious parades and the Parades Commission is well known. We supported the formation of the Parades Commission because there was obviously a difficulty, not just in relation to contentious parades, but in the manner in which the police determined decisions at the time. It was clearly unacceptable for the PSNI to make determinations, and to police those same determinations. It made a lot of sense for an independent body to make determinations on contentious parades.

1473. We were, and continue to be, very supportive of that regulatory mechanism for parades. We feel that the Parades Commission has done a reasonable job in very difficult circumstances. That is not to say that we agree with everything that the Parades Commission does. We accept its decisions, because it is important that if a body is established to be impartial and act independently, people should accept its decisions whether they like them or not.

1474. We know the history of contentious parades. Loyal orders wish to assert what they regard as traditional marching or walking rights in areas that have undergone radical demographical changes over a number of years. The SDLP's view is that when communities do not accept that, the loyal orders should not exercise what they regard as their traditional right to march. Alternatively, they should talk

with the local communities affected by the proposed parades.

1475. If effective dialogue were taking place between the loyal orders and local communities, many contentious parades could be resolved very quickly. Failure by the loyal orders to engage in such dialogue is preventing resolutions to what are really local problems. There can be no blanket resolution of the parades issue. Although contentious parades are localised and affect a small number of areas, they are important because they affect the political temperature and atmosphere of our society when they either go ahead or are prevented. In those circumstances, we urge the loyal orders to pursue dialogue vigorously to reach a local accommodation.

1476. We have a divided society, and contentious parades are symptomatic of those divisions. Having a united society that was agreed on the way in which it should go forward would help to eliminate some of the contentious aspects of parading. There is no doubt that, in some areas, contentious parades are exacerbated by the negative overall political situation. Building a society here that is based on partnership, co-operation and power sharing should lead to an easing of the community tensions that give rise to contentious parades.

1477. Lord Morrow seems to be referring to a document. It would be interesting if our DUP colleagues would share that document with us, so that we can see the rationale behind its proposals. However, subdividing the functions of the Parades Commission by creating two separate bodies, a mediation body and a determination body, which would introduce a tribunals system, would be wrong and counter-productive because it would involve a quasi-judicial system of tribunals that would become more and more legalistic and hidebound by professional legal intervention.

1478. In such circumstances, greater problems are created. At the moment, the Parades Commission deals, on a very pragmatic level —  
*[Inaudible due to mobile phone interference.]*

1479. by legal complexities. People go to the Parades Commission, present their points of view plainly and clearly, and the commission makes a determination on that basis. To subdivide the functions would be wrong and unhelpful in the present situation and, I stress, would not be a substitution for intensive dialogue at a local level.

1480. The Parades Commission conducts a degree of mediation, which is to be welcomed and should be sustained, and, to that extent, it does a reasonably good job. Perhaps more resources could be made available to the commission so that that function could be enhanced.

1481. The criticisms that Lord Morrow levelled at the Parades Commission are unfair. The commission has acted as openly and transparently as it can in the circumstances, and, in the main, it has acted fairly. It is important to recognise its independence and its intent to serve the interests of the whole community, not just a section of it. It is important also that the commission, when making its determinations, takes into account not simply what could be regarded as traditional rights, but rather the impact that a parade could have on community relations, security and public order.

1482. Finally, article 11 of the ECHR is so qualified that there can be no sense of an absolute right to parade or to walk or to march — whichever one wants to call it. The very reasonable restrictions that have been put in place by the state through the Parades Commission, and through the policing of parades are consistent with the requirements, in a democratic society, for the preservation of public order. There is no solace for the loyal orders in article 11. I re-emphasise that it is up to the loyal orders to engage in local dialogue to resolve what are essentially local problems.

1483. The SDLP is opposed to any review of the Parades Commission at this time, or in the near future, and it is opposed to any dilution of the commission's powers.

1484. **Mr McFarland:** I will provide a little background, and my colleagues will expand on various issues during the discussion.

1485. Karl von Clausewitz once said that:

*“war is the continuation of politics by other means.”*

1486. In the past 10 years, parading has become the continuation of war by other means because it has become a political weapon that is being used to destabilise society.

1487. How do we know this? Well, Gerry Adams told us in Tullamore in 1994 — an RTE journalist listened to a briefing of Sinn Féin faithful and heard Mr Adams ask them whether they thought that the parading issue had just happened. He said that it had not, and that it had taken Sinn Féin three years to stir up community groups and to get them on to the streets.

1488. According to that report, there is no doubt that the parading issue was a political weapon to get people on to the streets. The result has been riots and the PSNI's having to remove people forcibly from the streets, with the accompanying television pictures that we have all seen. There is no doubt that it became an issue with which to beat the police and unionist culture generally.

*1.45 pm*

1489. A few years ago, good sense came into the situation when some very wise people in the loyal orders in Londonderry decided that there had to be a better way. They got together with businesses, and the result, interestingly enough — until this year when they ran into a funding problem — was a week-long Apprentice Boys' festival, with people coming from all over the country to examine unionist culture in a non-threatening way.

1490. That good sense has been followed by work from some equally wise heads in the North and West Belfast Parades Forum (NWBPF), and, for two years, we have had the makings of solutions to the parading issues — although there was a breakdown last year. Today, newspapers are reporting that it appears that a recent meeting with Ardoyne residents appears to have found agreement on a parade that will pass the Ardoyne shops. That is to be welcomed.

1491. The NWBPF comprises members of political parties, indeed both unionist parties, community groups — some of which have very close links with paramilitary organisations on both sides — churchmen and representatives of the loyal orders. That seems to be the logical way of dealing with the situation, with people discussing and resolving issues. As Sinn Féin starts to move towards Government, and as it is clearly starting to discuss policing issues seriously and to become responsible, it is interesting that the tension over parades has decreased, as I have just evidenced.

1492. Could it be that Sinn Féin's political weapon on policing has ceased to be as important regarding parades, and that the recent accommodation on parades is due to Sinn Féin's moving, perhaps by the autumn, to take up a responsible position on policing, meaning, therefore, that it no longer needs the parades issue with which to beat up unionists?

1493. Goodwill all round will solve the issue. My colleagues will set out other issues during the course of the discussion.

1494. **The Chairperson (Mr Wells):** Thank you, once again, for sticking to time. We have heard disparate views on parading — to put it mildly. The only proposal that I detected was from the DUP on splitting the mediation and determination functions in the Parades Commission. I will come back to the DUP to see whether it wishes to beef that up into a formal proposal. However, other members got their retaliation in by saying that if it were proposed, they would shoot that idea down in flames. That is politics.

1495. **Mrs Long:** There may have been another seed of a proposal. Alban said that the DUP proposals were quite detailed and that it that might be useful to have sight of them in order to study them in more depth. I would second that proposal, because it would be useful.

1496. I agree that with good will on all sides, local dialogue is probably the way in which this matter will be resolved. However, discussion does not always lead to agreement, as we have found in this Committee on more than one occasion. There has to be some method for



dealing with residual issues, which cannot be agreed locally.

1497. With regard to the DUP's proposal on separating the arbitration and mediation function in the Parades Commission, the Alliance Party has been quite clear about its support for the Parades Commission and the principle of having a body to deal with the parading issue. However, separating the arbitration and mediation function is something that should be explored further. It has merits, if the situation is considered dispassionately.

1498. Mediation is the first step in the process, but parties may be hampered, as they may be unprepared to make generous offers that could colour the outcome of arbitration at a later stage. If the same people arbitrate as mediate, people could become less flexible during the mediation process.

1499. The decision of those who arbitrate should not be influenced by the demeanour of parties during mediation. People may be overenthusiastic with their generosity during mediation, knowing that agreement will not be reached, but they may try to create a good impression in the hope that arbitration will go in their favour. That is not beyond the bounds of belief, and it could influence decisions. There is a corollary here. If a person is intimately involved in a mediation process immediately preceding arbitration, it may be difficult to remain impartial during the arbitration process, even though impartiality is critical. Therefore splitting arbitration and mediation merits further consideration.

1500. We may not all reach consensus on that, but it would be interesting to explore it further, because the processes in the Parades Commission have created difficulties in how it discharges its functions. The previous commission focused mainly on arbitration, because initial attempts at mediation were unsuccessful. We are cognisant of the fact that engaging in a lengthy mediation process could affect the Parades Commission's ability to arbitrate.

1501. Things are slightly different now, and, to some degree, Alan has outlined the context for

that change. There has been a change in dynamic, which has allowed the new Parades Commission to be more hands-on with mediation. However, it will be increasingly difficult if it then has to arbitrate in those situations. That warrants further discussion.

1502. I share Alban's concerns that one could end up with an unwieldy, legalistic process, which may counteract what people say around the table about goodwill being the solution, rather than an unwieldy process. However, the DUP's proposal merits exploration through discussions.

1503. **The Chairman (Mr Wells):** That is interesting, because I thought that the only issue on which the Committee had reached consensus on parading was the fact that we would discuss it on Fridays.

1504. The proposal is that the DUP provide more information on its proposal. If no one wishes to speak against that, we can reach consensus. Did you read from a prepared document, Mr Morrow?

1505. **Lord Morrow:** The DUP has a prepared document, and we are happy to distribute that, so that all the parties can read our proposals.

1506. **The Chairman (Mr Wells):** Is there more detail in that document, or is it simply as read out?

1507. **Lord Morrow:** Other parties had not seen the DUP's proposal, and that is why I read it out in full. It will all go on the record, so members will have an opportunity to read it in Hansard. However, if we can get photocopies of the proposal, we can pass those around.

1508. **The Chairman (Mr Wells):** Hansard would also appreciate a copy of your document. A member of the Committee staff will distribute copies to all the parties. That seems to be agreed. Alban has stated that he is unhappy with the DUP's proposal, and I suspect that Sinn Féin is also unhappy.

1509. **Mr Poots:** Alban seems to be confused about not having had an opportunity to read it, and I can understand that.



1510. The tribunal was something that would be set up after mediation. Alban was concerned about its quasi-judicial nature, but the first aspect would not have any quasi-judicial nature to it — it would be purely mediation.

1511. Perhaps the main issue that we have identified with the Parades Commission is that it has two roles — one is mediation and the other is quasi-judicial involvement in determining what happens in parades. The DUP feels that to separate those functions would assist and improve the current situation.

1512. **Lord Morrow:** Has there not been a request for mediation right around the table?

1513. **Mr A Maginness:** I accept that the Parades Commission involves itself in mediation; that is an established fact. That role is right and proper, and it should be pursued and enhanced. However, I reiterate that the DUP's proposal would create a complex legal process, which would go over and beyond a simple determination by the Parades Commission. It would involve a panel drawn from Parades Commission members in tribunals, which would be chaired by judges or ex-judges, and that would inevitably become complex. As we all know, tribunals, including industrial tribunals, were set up to be simple, straightforward means of resolving differences in the workplace. However, industrial tribunals are now among the most complex of legal processes. One enters that process at one's peril if one does not have a lawyer.

1514. **Lord Morrow:** Even if you have a lawyer.

1515. **Mr A Maginness:** It is certainly more expensive when you have one.

1516. **Mrs Long:** Is that an advertisement for legal services? *[Laughter.]*

1517. **Mr A Maginness:** I think that there is a danger inherent in that. As has happened on many occasions, once the Parades Commission makes a determination, judicial reviews are sought. Those matters are heard in the High Court. That is an already existing remedy for people who are dissatisfied with a Parades Commission determination. To go along those

lines would be to make determinations more and more complex and legalistic.

1518. **Mr Copeland:** At first glance, I find much merit in the document that Lord Morrow read out. I do, however, feel that such is the content that I would like time to read and consider the document. I am probably the least experienced person at the table in putting forward views in this format, and I therefore ask that members judge my comments with a degree of kindness.

1519. In New York in the late 1800s, an attempt was made to ban a procession — or a parade — celebrating the Twelfth of July. Varying degrees of influence were applied, and the parade was permitted, under protection of the law, to proceed. During the ensuing trouble, between 12 and 16 people lost their lives, some of them at prestigious addresses such as Central Park and Park Avenue. The following year, the Grand Lodge of America, having concluded that it had established the right to parade, took a decision to no longer exercise that right, and over the next decades it slipped into obscurity.

1520. We look at the issue of parading through the colour-tinted glasses of our respective communities. We are not specifically talking about orange parades, although the practicality is that we are; we are not specifically talking about loyal order parades, although in Northern Ireland we are.

1521. English is a very peculiar language. I came in here this afternoon and was offered boiled goats' cheese, and I had to determine whether it was the goat or the cheese that had been boiled. The way in which we use language can create difficulties. Mr Ferguson continually uses the words "marching" and "through". That terminology is a consequence of a decision that was taken at some time to make parading an issue. It may be legitimate politically and historically to have done so.

2.00 pm

1522. In a democracy — and we are enjoying a degree of what passes for democracy here — every time a citizen's foot falls on the road in protest or on parade, that very action defends

the rights all those who may or may not agree with that parade.

1523. The more that we reinforce the legalistic hullabaloo that has surrounded the Parades Commission, the less likely it is that responsibility will be accepted by those who can affect the issue. The same people who have made parading an issue can make it a non-issue.

1524. I have been an orangeman for 30 years. I cannot recall participating in anything that remotely resembled, or could be described as, a march. Indeed, the term “marching” has only recently come into parlance, even within the unionist and loyalist community. They were described as walks, parades or processions. I fully accept that people may have objections to parades taking place.

1525. My baseline is that, in a democracy, anyone who wishes to parade should be afforded the right to do so under law. Anyone who wishes to demonstrate against a parade should also have the right to do so under law. There is a massive misunderstanding in some quarters about the reasons, history and traditions that are associated with parades. I am sure that Mr Ferguson will recall inviting me, and some prominent elected members of the DUP, to join him at the head of a procession that went down the Falls Road. He may recall my answer on that occasion.

1526. **Mr Ferguson:** How quickly can we go?

1527. **Mr Copeland:** He was not able to provide a flute band or a banner, and I had another appointment.

1528. **Lord Morrow:** You said that you would provide them. *[Laughter.]*

1529. **Mr Copeland:** I had another appointment. He had no issues with my parading down the Falls Road. When a certain section of our society exercises a freedom as opposed to a right, surely it must be in the interests of all society that it be allowed to do so.

1530. Last year, a group of white-supremacist fascists — Nazis, for want of a better word — exercised a right, protected under the Constitution of the United States, to parade

through Toledo, Ohio. It would have been a non-event except for the fact that those opposed to the parade allowed the situation to descend into lawlessness.

1531. The current Parades Commission is immeasurably different from the previous one, which retreated into a bunker and took a legislative approach. The lack of knowledge and understanding that it displayed, which has been inherited by the current commission, is astounding on occasions.

1532. On one occasion the Parades Commission claimed that some pieces of music were contentious. When I asked the commission how its decision was arrived at, it told me that it was as a result of heavy and continual lobbying by nationalist groups.

1533. I have always held the view that music itself cannot be contentious — songs can be contentious, depending on their lyrics. It transpired that the Parades Commission had accepted that there was a level of contentiousness, purely on the basis that people claimed to be offended. An examination of some of the music concerned led the Parades Commission to re-examine their own attitudes and to accept that they were neither fit nor qualified to take the decision to apportion contentiousness to certain pieces of music.

1534. The pieces of music were, in particular, ‘The Sash’, ‘Derry’s Walls’, and ‘The Billy Boys’. It can be demonstrated that ‘The Sash’ contains an Irish air called ‘My Irish Molly’. The onomatopoeic structure of the music indicates that it was originally written to be sung in the Gaelic language. The music for ‘Derry’s Walls’ came from ‘God Bless the Prince of Wales’, and ‘The Billy Boys’ is a Glasgow Rangers razor-gang song from the 1940s or 1950s. It astounds me that people are invited from America by Sinn Féin to make judgements about the music that is played at parades. The tune of the ditty referred to as ‘The Billy Boys’ comes from ‘Marching Through Georgia’.

1535. I have seen documentation from people of some calibre from the United States, who, on hearing the tune of the Union Army’s most

famous marching song during the American civil war, called it a Belfast street-song.

1536. The parades issue will be resolved when we accept that there are two different opinions, and that one section of the community's attempt to prevent an outward expression of the cultural identity of the other damages us all. In other words, we may find a way forward when those who have made it an issue cease to do so.

1537. **Mrs Foster:** I thank Alan for mentioning where this issue originated. I am from the Protestant community in Fermanagh, which is very much the minority community. It is at the sharp end of intimidation and attacks on orange parades. Republicans use the parades issue as a weapon to do just that. Church parades consisting of 10 or 12 men with an accordion band, which have been held for years, are suddenly deemed offensive because republicans think that they can stop them with the threat of violence.

1538. The kernel of the DUP's paper is that good behaviour should be rewarded and bad behaviour should not. I think in particular of the Parades Commission's determinations on parades in Newtownbutler and Rosslea in County Fermanagh. The Protestant community in those areas has been decimated by ethnic cleansing, and through a range of other means of intimidation and attack by republicans. Republicans cannot abide Protestants

1539. demonstrating their culture on one Sunday in the year; they cannot show tolerance to that small lodge. Sinn Féin finds such demonstrations completely offensive, and that speaks volumes about its intent on a range of issues. I want that put that on record because some very colourful descriptions have been given of loyal orange parades. I have no experience of such parades in County Fermanagh.

1540. Alban said that the SDLP would not even consider a review of the Parades Commission, and that is very disappointing. The DUP is asking for a review, although, frankly, it wants the Parades Commission to be done away with. However, it is very prescriptive to take the view that a review should not even be allowed. It is also the first time that I have heard a colleague from the legal profession say that he does not want

any extension of the legal process in tribunals. The Parades Commission, as it stands, is part of an illegal framework. As Alban rightly said, people take judicial reviews to the High Court.

1541. I firmly agree with Naomi Long that it would be best practice to split the mediation and determination functions. It would be good practice, and it might create movement on the parading issue. That is what the DUP suggests in its paper. I do not accept that some of the Parades Commission's decisions have been necessary and proportionate, in accordance with article 11 of European Convention on Human Rights. They have been wildly disproportionate in some cases — again, I am thinking specifically of Fermanagh.

1542. At the very least, a review of the Parades Commission should be considered. The DUP's position is that it wants the Parades Commission to be scrapped, and we have made our reasons very clear.

1543. **Lord Morrow:** I want to respond to one or two of Alban's comments.

1544. **The Chairman (Mr Wells):** I will let Mr Ferguson speak, and then you can raise those points, Lord Morrow.

1545. **Mr Ferguson:** I want to pick up on comments that Alan McFarland and Michael Copeland made.

1546. To accept their comments would be to imagine that there had never been any difficulty with any orange parade for the past two centuries, when we know that that is not true. The attempt to say that Sinn Féin is responsible for the mayhem that emerges from loyal marches is completely unacceptable. It is worth repeating that several thousand loyal or orange marches are contentious. People are welcome to parade up and down — if the word "march" offends, Members can call it what they will. I will not fall out over a word.

1547. We cannot divorce orange marches from the history of this state. We cannot divorce them from the experiences of unionist misrule, discrimination, inequality, triumphalism, loyalist death squads, and all that goes along with that.

1548. If we have learnt any lesson in recent times, it is that commissions, arbitrations and tribunals have not been the way in which to resolve those issues. When local communities and the loyal orders have been willing to discuss parades, they have found a way forward. There are good examples of that.

1549. Naomi asked whether communities would be happy for parades to march through their areas. We have seen the answer to that on the Springfield Road, the Ormeau Road and elsewhere. When dialogue between the loyal orders and host communities takes place, common sense prevails and a way through is found. That must be the way forward.

1550. A million parades tribunals could be established, and the Parades Commission could be reviewed, but the way in which to resolve this issue is through dialogue. However, let us not for one minute try to divorce the problems behind these marches from the historical experience of being nationalist, republican and Catholic on this island, particularly since partition. A century ago, there were pogroms in Catholic villages after orange marches.

1551. Let us put it in context, folks, and understand why we are around this table discussing the issue. It is not a case of people being unreasonable about others wanting to march down their street. A blind eye cannot be turned to this issue: it will not go away, because it has an historical association with unionist misrule, discrimination and inequality, and the impact of loyalist death squads on Catholic and nationalist communities.

1552. **Mr Nesbitt:** I have five points to make. The first concerns the balancing of competing rights, which Naomi raised initially. I do not totally subscribe to the idea that we are balancing competing rights, although it gives a nice balance to the argument.

1553. A large number of the Parades Commission's determinations are laid out in a pro forma, with various rights attached and the judgement reached. The rights of the organisers, primarily the orange institutions — although in Kilkeel, it is the Ancient Order of Hibernians

(AOH) — are to be considered in the context of articles 9, 10 and 11 of the ECHR.

1554. Article 9 refers to freedom of thought, conscience and religion; article 10 to freedom of expression; and article 11 to freedom of peaceful assembly. As Alban and Lord Morrow highlighted, all those rights contain a caveat about ensuring a balance to preserve a democratic society and national security. Alban pointed to article 11 as the crucial element, although he said that it gave no solace to the loyal orders.

1555. On an interpretation of case law, those freedoms oblige states to ensure that conditions exist for public meetings and assembly to take place. States have a responsibility to ensure that. Determinations in such cases mostly err on the side of the threat, implying a skewed logic and, perhaps, an overall bias.

1556. It is right of assembly versus the threat of public disorder. That threat is not a competing right, therefore, there is an imbalance in allowing freedom of assembly, but not if it is likely to result in disorder. The Parades Commission often says that a decision on a parade is based on the fact that to allow it would damage community relations and would be likely to lead to public disorder — one could almost write the script. The matter is skewed, because the right of assembly is being balanced with the threat of public disorder. The Parades Commission must find a balance between competing rights.

*2.15 pm*

1557. Secondly, the rights that it says that it, as a commission, must uphold are contained in article 8 of the ECHR and article 1 of the ECHR's protocol. The commission must consider those who live, work, shop, trade and conduct business in the communities.

1558. Article 8 deals with respect for a person's private and family life, home and correspondence. The Parades Commission has used a rather bad interpretation of that article. In case law, the right to private and family life is more a matter of, for example, whether a stepfather who marries has the access rights to



his stepchildren. In other words, how is family life defined and what rights do people have as a family? That does not exactly fit in with the parading issue.

1559. Article 1 of the first protocol deals with entitlement to the peaceful enjoyment of possessions. I presume that individuals primarily enjoy their possessions within their own curtilage, because they are one's own possessions.

1560. I have a difficulty with the matter of balancing rights. The Parades Commission balances rights with the possibility of public disorder, and that skews its decisions.

1561. Thirdly, if I can paraphrase Alban correctly, he said that a better political environment might be conducive to resolving the parading issue. Why do we not have a better political environment? I will not rehash the issues, but if all parties were to subscribe to the principles and practice of governance that apply elsewhere in Europe, Northern Ireland would not be without governance.

1562. Fourthly, I agree with Arlene and Naomi: it seems that bad behaviour is rewarded instead of good behaviour. That also skews the issue.

1563. My fifth point concerns Mr Ferguson's comments on discrimination, inequality, unionist misrule and loyalist death squads. Regrettably, that mantra has been thrown at us for years. Unionists have not been in government in Northern Ireland since 1972. That was a long time ago, so I am not sure what misrule he refers to. That was another generation. I simply ask Sinn Féin to abandon its myopic perspective of Northern Ireland and to look instead to the world of the twenty-first century.

1564. All the statistical evidence that has been gathered since the fair employment law was established in 1989 — 17 years ago — shows that there is no discrimination against the Catholic community. We will examine that issue next week. There is no inequality, so please do not ask this generation, and this Committee, to have visited upon it Sinn Féin's perception of what happened to past generations.

1565. **Lord Morrow:** There is a perception that when unionists, orangemen or Protestants celebrate their culture, it is triumphalism. When nationalists do the same, they are just celebrating their culture. Whether it be a fleá cheoil, or whatever, they can take over a village and celebrate their culture.

1566. I was interested to hear some members say that there are only a few contentious parades — and that is true. We hear much about minority rights. Does a minority have the right to march or parade in a peaceful and lawful manner? Where is the threat when 10% of the community want to parade in a lawful and peaceful manner? That is something that they have been doing since they were the majority community, but because they have been ethnically cleansed, they have been pushed out.

1567. The inference is that they must ask the community that ethnically cleansed it for permission to walk down a road. It would have been a fine gesture if the majority community had approached the Parades Commission and said that although the other community was in the minority, it was prepared to demonstrate that it believes that the minority community's culture is legitimate and lawful, and that it is that culture's right to walk. It would be a fine gesture for the majority community to tell the minority community to go out and enjoy its parades in a lawful and orderly manner.

1568. If any members feel that the status quo is sufficient and that "no change" will be the way forward, they are saying that we are going nowhere. Dermot made a salient point. We hear about 50 years of misrule. Direct rule was imposed in 1970 or 1971, which was 36 years ago.

1569. **Mr Nesbitt:** You were able to count that; I could not.

1570. **Lord Morrow:** Since then, almost 3,500 people have been killed under the utopian system that we have had. Would someone like to tell me how many people were murdered in this country during the previous 36 years? I have no doubt that they would not come up with a figure of 3,500 — I suspect that it would be in the hundreds.



1571. I do not want to be beaten over the head all the time with talk of 50 years of misrule. I was but a child then.

1572. **Mrs Foster:** I had not even been born.

1573. **Lord Morrow:** We knew all about the 36 years of misrule when we were at the cutting edge of republican terrorism; our communities were ethnically cleansed from the border areas and our people were driven out; our orange halls were burned to the ground; and our parades were interfered with and stopped. I speak not as a member of the Orange Order. If any members think that the Parades Commission is the only solution, and that there should be no change, they are saying that there will be more of the same.

1574. Every attack and every demonstration against an orange parade leads inevitably to another orange hall being burned to the ground. That will continue until the nationalist community has someone with leadership qualities to say that enough is enough. The unionist community has a right to exist, to celebrate its culture and to parade in a peaceful and lawful manner. Until some nationalists have the courage to stand up and acknowledge that, we will see much more of the same trouble.

1575. **The Chairman (Mr Wells):** There appears to be a slight dichotomy between the two positions. The two sides do not seem to be moving closer. *[Laughter.]*

1576. **Mr Ferguson:** I got that impression too.

1577. **The Chairman (Mr Wells):** To give a fair reflection of the membership, we will hear three more contributions. After Mrs Long, Mr Ferguson and Mr Copeland have spoken, I suggest that the DUP proposal be put to the meeting. If it is unsuccessful, members may consider other proposals.

1578. **Mrs Long:** Given that the proposal is going to be put, I will state the Alliance Party's position on it.

1579. The Alliance Party cannot endorse the DUP paper today. We have given it only a cursory reading, and we have noticed some areas that need amendment. However, we have

seen some merit in the proposals also, so we want to explore the paper in more detail.

1580. Discussion has moved away from human rights to parades, but the interpretation of fundamental human rights has arisen again. Michael used the phrase "driven through a community". The people who live in a particular area or community have certain rights, such as the right to live free from threat and intimidation. However, they do not have the right to deny others access to and through that community. That brings us to territorial rights over particular areas. These apply not only to Orange Order parades through nationalist communities, but equally to republican parades that border onto unionist communities — or, indeed, to many other parades that occur despite the discomfort of the host community. Although we are focusing on loyal order parades, the issue is not exclusively for the loyal orders.

1581. There seems to be an assumption that community identity takes ownership of physical location. That is contrary to good practice on human rights. We must be very cautious about how we proceed. I accept that communities have the right to live free from fear of threat and intimidation, but that is very distinct from being able to ring-fence pieces of territory and deny access.

1582. That leads on to a wider discussion, which we need to have at some point but perhaps not today, about the conduct of parades and protests. Often a parade is deemed contentious simply because the host community is not comfortable with it. However, I see parades that appear contentious to me; I may not be a member of the host community, but I can still find a parade offensive.

1583. Therefore, the conduct of parades and the perceived threat that emanates from them is another issue. I will give two examples. If you take a loyal order parade, the parade in itself may not be particularly contentious, but the conduct, the attire and the demeanour of some of the individuals involved in the overall procession may cause people to feel intimidated or threatened by their behaviour. We must address that. Likewise, I have seen some

republican parades where the conduct, attire and demeanour of individuals could cause fear and intimidation in the community.

1584. We are caught on the hook of this territorial issue with parades. There is a wider issue about the impact of parades on good relations. I did not touch on it earlier because I was referring to human rights, not good relations. However, they are interlinked. An individual's right to live free of intimidation is at times affected by the conduct of particular parades and by protests against parades, which can be violent and disorderly. We must explore those links.

*2.30 pm*

1585. The Alliance Party contends that the idea to split the Parades Commission's functions of arbitration and mediation merits close scrutiny. That does not necessarily mean splitting the body, but it may mean splitting the functions and changing the way in which it does business.

1586. I reiterate that the Alliance Party is not in a position to endorse the DUP paper, but we would not want it to be set to one side. We should discuss the paper, as it raises some key principles. For instance, in recent times, rewarding bad behaviour has worked both ways. A move from that to the predication of decisions upon the reward of good behaviour would have a positive impact on the parades scenario.

1587. **The Chairman (Mr Wells):** Are you suggesting, in the event of Mr Poots's motion falling, a proposal to give the paper further consideration?

1588. **Mrs Long:** Yes.

1589. **The Chairman (Mr Wells):** Well, we will keep that proposal on the stocks perchance Mr Poots is not successful.

1590. **Mr Poots:** It is Lord Morrow's proposal.

1591. **Mr Ferguson:** With the greatest respect, sometimes Naomi presumes that the defence of individual rights will protect group rights. This is clearly one of the cases in which it does not.

1592. **Mrs Long:** Will you take a point of information?

1593. **Mr Ferguson:** Yes.

1594. **Mrs Long:** I have never argued in favour of the protection of group rights. My only interest is the protection of individual rights. The protection of group rights leaves gaps, because individuals are not protected. The protection of individual rights protects all people. If they wish to associate in groups, to claim and exercise those rights, that is a matter for the individual.

1595. **Mr Ferguson:** As I said, with the greatest respect, Naomi often confuses individual rights with group rights and somehow thinks that group rights undermine individual rights. I reiterate that because —

1596. **Mrs Long:** Reiteration will not make it fact, Michael.

1597. **Mr Ferguson:** No, but it makes me feel good, OK?

1598. **Mrs Long:** I do not deny you your right to feel good.

1599. **Mr Ferguson:** OK. However, we are not talking about the denial of an individual's right to walk down the Springfield, Garvaghy or Ormeau Roads. Individuals can walk down those roads at any given time. We are talking about parades through those areas, without the community's consent, and where it is offensive. Parades cannot be divorced from the way in which communities experience them. It is a mistake to suggest that stopping those parades would diminish individuals' rights.

1600. Dermot and Maurice are right: we have had direct rule since 1971. Due to the paraphernalia of discrimination and inequality that has been institutionalised since partition, we are sitting around a table talking about human rights and equality. We are dealing with institutionalised discrimination and a situation in which Catholics are twice as likely to be unemployed as Protestants —

1601. **Lord Morrow:** So, nothing ever changes?

1602. **Mr Ferguson:** Maurice, if we did not think that there was an issue, we would not be here discussing human rights and equality

agendas and trying to improve matters to ensure that everybody is treated equally. Unionists have a responsibility —

1603. **Mrs Foster:** That is right.

1604. **Mr Ferguson:** To be honest, my colleague across the table who interrupted me is all the more responsible because she is not prepared to go into Government and do what needs to be done —

1605. **Mrs Foster:** You are right.

1606. **Mr Ferguson:** While she is not prepared to do that, direct rule British Ministers are eroding the education and health systems.

1607. **Mrs Foster:** Martin McGuinness did a good enough job of ruining the education system while he was the Minister.

1608. **Mr Ferguson:** I think Martin did us a favour by eradicating academic selection; the majority of communities suffer from that.

1609. Setting that aside, we cannot airbrush history just because my colleagues across the table want to take a revisionist view of it, or want to ignore, for example, the fact that if you were a Catholic, you could not necessarily get a job or a house.

1610. **Mrs Foster:** Are we talking about parading, or are we talking about jobs?

1611. **Mr Ferguson:** The statistics reinforce that to this day.

1612. **Lord Morrow:** So, you never move on.

1613. **Mr Ferguson:** Quite the opposite, Maurice.

1614. Mr Copeland and I and other people who work in interface areas have demonstrated that we can move on.

1615. If individuals want to march down the Springfield Road, that is fine, but let us not have sectarian banners belonging to murder gangs, and let us not play offensive tunes with sectarian connotations. It is time for local residents to bring that to an end, agree accommodation and move forward. Let us put the institutions back in place so that we can get on with the bigger issues that will support stability.

1616. **The Chairman (Mr Wells):** I am conscious of the fact that Mr McCarthy has played a blinder today — he has not spoken once.

1617. **Mr McCarthy:** Do you want me to start?

1618. **Mrs Long:** He has been biting his tongue.

1619. **The Chairman (Mr Wells):** He has not had a chance to say anything.

1620. **Mr McCarthy:** I am happy to listen. Naomi is doing a good job, as is everyone else. I am looking at the clock in the hope that we will finish by 4.00 pm.

1621. **The Chairman (Mr Wells):** It has been a faultless performance, Mr McCarthy.

1622. **Mr Copeland:** Mr Ferguson and I represent two different constituencies that are, broadly speaking, similar. Each has a substantial population, with a diversity of people. They are similar in every way, except in their religious beliefs and, perhaps, political opinions. Surely, the time has come for tolerance, where we can appreciate the exercising of a freedom by someone with whom we disagree, as a reinforcement of our own freedoms in society.

1623. There may be misconceptions of my perceptions of what an orange parade is about. Mr Ferguson's views on those have been placed upon him by history, but we are where we are. The Orange Institution, the Apprentice Boys of Derry and the Royal Black Preceptory will not go away, nor will the organisations or cultural exhibitions or outworkings of the section of the community to which Mr Ferguson belongs.

1624. We must examine a way forward whereby the people who can solve those serious issues are not permitted to hide in the smoke of quangos and legislation. One can enforce views from the top down, but, unless there is broad acceptance and toleration, the police will be brought into conflict with more people.

1625. **The Chairman (Mr Wells):** Mr Nesbitt will be the final member to speak. This must be the last word on the matter.

1626. **Mr Nesbitt:** Is that it, at 2.40 pm?

1627. **The Chairman (Mr Wells):** We will then vote on the two proposals.

1628. **Mr Nesbitt:** Will it take an hour and twenty minutes to vote?

1629. **The Chairman (Mr Wells):** No, but I have not heard anything new for a while.

1630. **Mr Poots:** For about 30 years.

1631. **Mr Copeland:** For about 300 years.

1632. **Mr Nesbitt:** Thank you for your words of support and encouragement.

1633. Naomi is correct. She is not complicating the matter between individual rights and group rights. International human rights law does not recognise group rights, but individual rights. I shall give an analogy: if a person decides to play for a soccer team, that is an individual choice, but that team acts as a group and plays as a team.

1634. Therefore, individual rights do not preclude the accommodation of the rights of individuals who have chosen to act as a group. That is Naomi's point, and it is correct.

1635. I am sad that Mr Ferguson has forgotten nothing and learnt nothing. That may sound patronising, but it is not meant to be. I am serious. He said that Catholics are more likely to be unemployed than Protestants, and that the unemployment rate of Catholics to Protestants is 2:1, but that is statistically invalid. I will not go into that today, but I want Mr Ferguson to show me where it says that he, as a Catholic, is more likely to be unemployed. It is quite the reverse: unemployment is due to other factors.

1636. The chances of getting a job are determined by three factors: discrimination, educational attainment, and population change. Ian Shuttleworth's book entitled 'Fair Employment in Northern Ireland: A Generation On' stated that the larger the family, the less chance of its children receiving a grammar school education and gaining qualifications. There is a correlation between family size, population increase and one section of this community.

1637. Statistics show that, over many years, the Derry City Council area has seen one of the highest employment growth rates in the UK; yet, in the past, it also experienced one of the

highest unemployment rates because the number of people entering the workforce was disproportionate to the number of jobs being created. There is an imbalance in the proportion of Catholics and Protestants entering the workforce, which skews unemployment statistics. However, there is no evidence, from statistics produced since the establishment of fair employment law in 1989, that discrimination is the cause. Rather, structural and population factors are the cause.

1638. Nothing has been learnt and nothing has been forgotten. We will return to the issue next week — this is merely a warm-up.

1639. **Mr Chairman (Mr Wells):** First, I wish to take the DUP's proposal. Members have received a copy of the proposal. The proposal is to split the Parades Commission's functions to create a mediation body and a determination body.

1640. Do we have consensus?

1641. **Mr McFarland:** Mr Copeland and Mrs Long said that the proposal has merit, but, as parties have only received a copy of the proposal today, it would be sensible for parties to discuss the proposal and revisit it in the Committee. The parties have stated that we will not reach consensus. However, it would be unfortunate if the proposal were ditched now without an opportunity to examine it. The proposal could raise its head again later in the year, and it would be sensible to try to refine it. Therefore, if the proposal does raise its head again, there will be a greater level of consensus, as members will have had an opportunity to examine it.

1642. **Lord Morrow:** I agree.

1643. **The Chairman (Mr Wells):** We will not put the DUP proposal today. I will put Mrs Long's proposal, which is that we give the DUP's document further consideration.

1644. I encourage parties to bring documents on any issue to the table for consideration. Although I do not want to influence decisions, it would set a difficult precedent if we began to ditch documents without considering them in detail.

1645. Do members agree?



*Members indicated assent.*

1646. **The Chairman (Mr Wells):** We have reached consensus three times in a row — that is extraordinary.

1647. Are there other parades issues or do parties feel that they have aired their views?

1648. **Mr McFarland:** There are cross-cutting issues. Naomi mentioned the conduct of protests and parades and how that impinges on good relations. I have no doubt that this issue will raise its head again in discussions on equality, sectarianism and all the other issues that come under the banner of a “shared future”. Indeed, I suspect that, on several occasions over the next weeks, we will debate issues that wander all over the place.

*2.45 pm*

1649. **Mrs Long:** That is a valid point. One issue was the impact of the rule of law, and how that specifically impacts on parading. Clearly, removing the threat of violence from a situation changes the context for all discussions on parades. Related issues are bound to arise in other discussions.

1650. **The Chairman (Mr Wells):** It is now 2.45 pm. We have finished our discussion on rights and safeguards. We could move on to discuss equality and shared future issues.

1651. **Mr Nesbitt:** Mr Chairman, I said that it would take you an hour and 20 minutes to organise the vote, so congratulations to you on completing it in five minutes.

1652. **The Chairman (Mr Wells):** Do members wish to continue our discussions? I am available all afternoon, so there is no problem. I have already lost many brownie points at home.

1653. **Mrs Foster:** I suggest that we return next week to discuss equality and shared future issues.

1654. **Mrs Lewsley:** I second that.

1655. **Mr Poots:** Consensus has been achieved again, Mr Chairman.

1656. **The Chairman (Mr Wells):** Yes. That is four times in one meeting on parades and human rights.

1657. There are some housekeeping issues. Item 4 on the agenda is the revised Committee work programme. Again, this keeps changing, but the programme gives members an idea of when the Committee will meet, the likely subjects for discussion, and who will chair the meetings. It allows members to keep their diaries free and to plan ahead. There is not much for the Committee to decide — we are basically stuck with this programme for the next few weeks.

1658. **Mr McFarland:** The actual content of Committee meetings varies week by week because it is related directly to how well the Committee progresses. Apart from needing to know who will chair the meetings and the make-up of the party teams, we will just have to deal with the issues on a meeting-by-meeting basis. We may get two days’ work completed in a day — not that I think that we will — but the content of each meeting will have to be monitored.

1659. Discussions on parades could have lasted into next week, but they did not. As we have finished those discussions slightly early, we know that the Committee will discuss equality next week. I do not see a way around taking a day-by-day approach.

1660. **The Chairman (Mr Wells):** Next week, members will be prepared with their contributions on those issues. Up to now, proceedings have gone extremely well. Folk have kept to the point, and to time, and have obviously put a bit of effort into the meetings, which is appreciated.

1661. The next meeting to discuss institutional issues will be on 14 August 2006 at 10.00 am. Mr Molloy will be in the Chair. The next meeting on rights, safeguards and equality is on Friday 18 August 2006. Again, it will be an all-day meeting, which should last until 4.00 pm.

*Adjourned at 2.49 pm.*



## Friday 18 August 2006

### Members:

The Chairman, Mr Francie Molloy  
Mr Dominic Bradley  
Mr Francie Brolly  
Mr Gregory Campbell  
Mr Derek Hussey  
Mr Danny Kennedy  
Ms Patricia Lewsley  
Mrs Naomi Long  
Mr Kieran McCarthy  
Mr Dermot Nesbitt  
Mr John O'Dowd  
Mrs Patrica O'Rawe  
Mr Ian Paisley Jnr  
Mr Edwin Poots  
Observing: Mr Jim Wells

*The Committee met at 10.01 am.*

*(The Chairman (Mr Molloy) in the Chair.)*

1662. **The Chairman (Mr Molloy):** You are welcome to the meeting. I remind members to switch off their mobile phones, because dialogue has been lost from almost every meeting due to interference. It is possible that we may lose a contribution that a member wants to be recorded — or, perhaps, something that he or she does not want to be recorded — so it is important that mobile phones be switched off completely to ensure an accurate Hansard report.

1663. We will break for lunch at 12.20 pm, and I hope that the meeting will finish by 4.00 pm. If members want home earlier, talk quicker. Are there any apologies?

1664. **Mr O'Dowd:** Francie Brolly, Pat O'Rawe and I are replacing our usual team.

1665. **Ms Lewsley:** I am here on behalf of Mark Durkan.

1666. **Mr D Bradley:** I am here on behalf of Alasdair McDonnell.

1667. **Mr McCarthy:** I am here on behalf of David Ford.

1668. **Mr Kennedy:** I am here on behalf of Alan McFarland.

1669. **Mr Nesbitt:** I am here on behalf of one of the other two who normally attend.

1670. **Mr Campbell:** Edwin Poots, Ian Paisley Jnr and I are here in place of our normal team; that does not mean that we are abnormal or subnormal.

1671. **The Chairman (Mr Molloy):** Are members content with the draft minutes of the meeting that was held on 11 August?

*Members indicated assent.*

1672. **The Chairman (Mr Molloy):** The research paper on the European Convention on Human Rights (ECHR) and domestic legislation in the Republic of Ireland appears in the agenda under "Matters Arising".

1673. **Mr Nesbitt:** I would like some clarity on the agenda now that the minutes have been agreed. I do not wish to be awkward, but it is important that the procedure is clear. Last week, we agreed — on Naomi's recommendation — that a research paper on ECHR in the Republic of Ireland be commissioned, but we did not agree that it be taken as item 2 on today's agenda. I am not saying that it should not be discussed, but we did not agree that it be item 2 on the agenda.

1674. **The Chairman (Mr Molloy):** It is not item 2 but appears under "Matters Arising", which is item 2.

1675. **Mr Nesbitt:** That is correct, but it is down as an item on the agenda, and if the agenda is accepted, that could lead to our discussing it now.

1676. **The Chairman (Mr Molloy):** Or we could avoid a discussion on it.

1677. **Mr Nesbitt:** I repeat that I am not opposed to its being discussed, but last week we agreed that research be undertaken. In agreeing

that it be undertaken, I did not assume that it would appear as a quasi-substantive item in today's agenda ahead of item 4, which is "Discussion on Equality and Shared Future Issues" — if that is the implication of its being placed there.

1678. **The Chairman (Mr Molloy):** That is not the intention.

1679. **Mr Nesbitt:** The "Formation of a Round Table Forum on a Bill of Rights" is a matter arising, as is "Parades". Those two issues should come under "Matters Arising" and not be listed as separate items under "Rights and Safeguards". We must ensure that the procedure is clear. Item 4, "Discussion on Equality and Shared Future Issues", is the first substantive item on today's agenda.

1680. **Mrs Long:** My understanding was that any issues in the minutes on which further information would be forthcoming would come under "Matters Arising". That has been the procedure in all meetings of the Committee on the Preparation for Government (PFG) that I have attended to date. It is simply a courtesy to list the research in "Matters Arising" and inform members that it is included in our papers. That is the standard practice in all PFG Committee meetings, so I do not see a difficulty.

1681. I do not envisage a lengthy discussion on the research, because we have not had an opportunity to consider it in detail. In all PFG Committee agendas, "Matters Arising" includes additional reports and information requests.

1682. **Mr Nesbitt:** Although our meetings will not be too numerous, it might be better to list such items under "Matters Arising", and if members have matters that they wish to raise, they can raise them. For example, item 2 of the agreed minutes of the meeting of 11 August states that:

*"The Chairman agreed to seek a response from the Editor of Debates on this matter."*

1683. That could be a matter arising that I could follow up, but it is not specifically listed as such. A little clarity is needed. When my party advisers mentioned what was on today's agenda, the implication was that the discussion

on equality might be way down the agenda. Therefore I sought a little clarity. I stress that I did not do so to be awkward; it was to ensure that we know under which procedure we are operating.

1684. **The Chairman (Mr Molloy):** On that point, Dermot asked whether Hansard could report members' comings and goings. The Editor of Debates has said that it is not the role of the Official Report to record when members enter and leave the Committee Room; the role of the Office of the Official Report is to produce a report of the meeting. As much as possible, the minutes of Committee meetings record members' comings and goings. If someone wanted to know which members were present at a particular time, they could look at the minutes in tandem with the Official Report.

1685. The next issue for discussion comes under "Rights and Safeguards", and it is the establishment of a round-table forum on a bill of rights. As is mentioned in the minutes, the DUP sought time to confirm its position on the establishment of a round-table forum. Any proposals did not go to a vote last week because of that. The DUP may wish to respond.

1686. **Mr Poots:** After discussions with party officers, the DUP's position is to seek the establishment of a round-table forum under the Committee of the Centre, which is an all-party Committee, once an Assembly has been formed.

1687. **The Chairman (Mr Molloy):** May I take it that the DUP is happy with the proposal?

1688. **Mr Poots:** No. There are two proposals: one is to establish a round-table forum; the other is to establish it by a particular date. The Committee of the Centre in the Assembly should establish the round-table forum.

1689. **Ms Lewsley:** My proposal was to support the basic principle of a round-table forum. Mr Poots says that the DUP now supports that, but only when the Assembly is up and running. That places a timescale on the establishment of a round-table forum. If the DUP agrees in principle with a round-table forum, I cannot understand why it does not support my proposal.

1690. **Mr Campbell:** As Patricia has outlined, the issue is one of principle, so it should not pose a problem. It does not pose the DUP a problem. However, the Committee of the Centre was, and hopefully will be again, the conduit in the Assembly that would deal with such issues. We consider the Committee of the Centre to be the most appropriate forum in which any round-table discussions should be held. That is our reason for our position.

1691. **Ms Lewsley:** The original proposal encapsulated the principle of a round-table forum and a date by when it would be established. That proposal was divided in two, much like the proposal concerning the bill of rights and the round-table forum was divided into two proposals.

1692. Can we determine whether there is consensus to establish a round-table forum in the first instance? After that, proposals can be made on the timescale, whether they come from the DUP or Sinn Féin. A timescale for the forum is totally different to the principle of establishing it. I want to agree the first proposal on the round-table forum.

1693. **Mr O'Dowd:** If the SDLP wants to put that proposal, I am more than happy for it to be put before the Committee, and I will speak afterwards.

1694. **The Chairman (Mr Molloy):** The original proposal was that the Committee should support the formation of a round-table forum to help create a bill of rights for Northern Ireland. Is there consensus?

*Members indicated dissent.*

1695. **Mr Campbell:** There is not consensus on that wording.

1696. **The Chairman (Mr Molloy):** Is there an alternative wording?

1697. **Mr Nesbitt:** To reiterate the Ulster Unionist Party's position, we do not advocate a round-table forum. However, in the event of the Minister calling for a round-table forum to be established, we will participate in it. The primary reason for not supporting the round-table forum is that there has been a six-year

delay in creating a bill of rights. If anything, the round-table forum will elongate the process without any guarantee at all that it will contribute to a solution.

1698. **Mr O'Dowd:** I am disappointed that the Committee cannot even accept the principle of a round-table forum on a bill of rights. This Committee has deliberated over a wide range of equality issues, and the only way that we are going to get anything going is through the establishment of a bill of rights. The two Governments have caused unacceptable delay in that process.

1699. Neither will we accept a consensus on a round-table forum on a bill of rights being tied to the establishment of an Assembly, because we are not going to allow the DUP to have a veto on a bill of rights or on an Assembly.

1700. **Mr Nesbitt:** I am glad that Sinn Féin made that point, because I emphasised again last week that the Ulster Unionist Party supports a bill of rights. I wrote an article nine years ago advocating a bill of rights; that is on the record. There is no way that the UUP does not support a bill of rights. The problem for the UUP is the process by which a bill of rights is obtained. We believe that a round-table forum would elongate the process, making more distant the outcome that members here wish for. Back in January the Minister said that he would not have the round-table forum until September.

1701. **Ms Lewsley:** May I ask for clarity from the DUP? Which part of the proposal do you have a problem with?

1702. **Mr Campbell:** I would have thought that it was fairly clear. The Committee of the Centre is the forum in the Assembly that would deal with matters such as this. That was the case in the old Assembly. Because of the importance that we attach to these issues, we have recently proposed to this Committee that it ensure an even more fundamental role for the Committee of the Centre. It must be central to the development of issues around safeguard, equality and related matters. The round-table forum should be tied intrinsically to the establishment of the Assembly and the Committee of the Centre.

1703. There is an idea abroad that equality issues can be resolved through parties sitting down and discussing matters involving equality on its own, as a stand-alone topic. We believe that they are fundamental to the future of our community as well as the other community. But the Committee of the Centre is the body in the Assembly that establishes that issue. To have a forum in the absence of any Assembly, never mind a Committee of the Centre, would be a waste of time. It would not take the issue forward; it certainly would not solve the long-standing issues that we believe need solving. The Committee of the Centre would be a better conduit for the resolution of those issues.

1704. **Ms Lewsley:** The issue here is about supporting the proposal that was put forward, which is the basic principle of supporting a round-table forum.

1705. I take on board what Gregory Campbell has said, but I am attempting to get consensus — around this oblong table — for a round table on a bill of rights. If that consensus is achieved, it will be up to the parties to propose who will sit on it; how many members should sit on it; where it should sit; and how it should progress. That is where the confusion lies. I do not expect to decide on all those things today, although we could agree on a timescale and decide on who will be responsible for it and who will sit on it. I understand that the DUP is in favour of having a round-table forum on a bill of rights, and I would like that proposal in principle to be agreed today.

*10.15 am*

1706. **Mr Campbell:** Without an Executive or any method of delivery, what would be the point of a round-table forum? In the absence of an Assembly and a Committee of the Centre, a round-table forum would enable the parties around that table to give their views. I am sure that the Secretary of State would thank us very much, and he would be appreciative; but then he would go off and do whatever he wanted.

1707. To establish a round-table forum in the absence of any move would be to avoid the issue. I keep on hearing from other parties that we need to move in a direction that helps

resolve these matters. A round-table forum would not do that; it would allow parties to air their grievances on a subject, as we will today. If anybody can convince the DUP that a round-table forum would be a positive way to take the issue forward, we might be prepared to listen. However, we have not seen or heard anything that would convince us that that forum — in the absence of any practical proposals to take the issue forward — would do anything to achieve that.

1708. **Mrs Long:** Whether there is devolution or not, the bill of rights issue still needs to be progressed. The round-table forum will not produce the bill of rights; that is the responsibility of the Northern Ireland Human Rights Commission (NIHRC). The forum would be an opportunity for the ideas and proposals of all interested parties — not only those around this table — to be market tested. Therefore the round-table forum is key to getting a wide breadth of opinion fed into the process of producing a bill of rights.

1709. Whether there is devolution or not — and the Alliance Party prefers that this would happen in the context of devolution — the bill of rights needs to be developed. On that basis it would be beneficial to have the round-table forum established so that, as these talks progress, a wider cross section of the community could be consulted and informed about what is happening, and participate in the process. I suspect that Gregory Campbell is right: if direct rule continues, the Secretary of State will make the final decisions on a bill of rights. In that case, I would prefer that there was some type of forum in place to feed into that process, rather than none. If the Secretary of State chooses to ignore the forum's opinions, we can take that up with him. However, if he does not have the benefit of hearing the opinions first, we can hardly criticise him for not listening.

1710. **Ms Lewsley:** We do not know what the future holds, but we have agreed that we need a bill of rights. The best way to achieve that is through a round-table forum to include all the people that Naomi has mentioned. That will send the strong message to the wider com-



munity that we support a round-table forum and a bill of rights and, therefore, the opportunity for them to have a voice.

1711. **Mr Brolly:** The DUP's position on this contradicts their normal position on talking shops. Gregory Campbell has said that the bill of rights should not be discussed outside of a re-established Assembly, because — even though members will be talking about it — we will have no authority or power to take it anywhere, and a decision on it will be made by the direct rule governors. That is the position that Sinn Féin took about the talking shops that were previously held on other issues in the Assembly.

1712. **Mr Campbell:** I still have not heard any further declaration or improvement on this issue. I do not see how a round-table forum will be radically different to the present approach.

1713. This Committee is a forum of sorts, which thus far has not made as much progress as it would like. Would a round-table forum on a bill of rights be a replica of this, and would it make any more progress than we have made? Is anybody suggesting seriously that the Committee of the Centre would not deal with these important issues? There has been broad acceptance that that would be the case.

1714. It seems that there has been a role reversal. Some members appear to be saying that there is no prospect of the IRA's going out of business in the next five years, and, consequently, no prospect of the restoration of a functioning Assembly, which includes, obviously, the Committee of the Centre and the Executive. According to that logic, as the restoration of the Assembly will not be permitted, the issue will not be dealt with, and a round-table forum will have to be established to fill the vacuum. It appears that certain members of the PFG Committee are close to taking that approach. However, the DUP is not prepared to accept that defeatist attitude.

1715. We have to move forward in the expectation that people will move with us. People have been moving; let us keep them moving. We must work towards resolving these very important issues in the way in which they ought to be resolved. They will not be resolved

by establishing a forum that goes nowhere, and which sets no date and makes no progress towards establishing a proper forum that can really deliver, discuss the issues, make proposals and question Ministers. That would enable us to make progress on this issue, rather than simply having a discussion that does not go anywhere.

1716. Patricia Lewsley mentioned that the Secretary of State could take account of the views of a round-table forum. Yes, he could — just as he could have taken account of the views of the South Eastern Education and Library Board. Unfortunately, he did not: he chose instead to send in commissioners. Are members really going to choose to go down the route of asking for more consultation, more round tables and more hot air? Are they going to allow Ministers to thank them for their views, but do as they please? Or will members decide that they can nail this down, tell the Ministers what issues must be resolved, and how they should be resolved, which is through the proper mechanisms of the Committee of the Centre and the Assembly Executive?

1717. **Mr Kennedy:** It is clear that there is not going to be consensus. My party said earlier that it is also against the establishment of a round-table forum because it would serve no useful purpose. The discussion on this matter has been good and useful, but, given the absence of consensus, we should move on.

1718. **Ms Lewsley:** Danny is right; we are not going to reach consensus. It is sad because, last week, my understanding of the DUP's position was that it was, and still is, in favour of a round-table forum. However, the party has added the caveat that such a forum cannot be agreed unless it is given some structure. That sends a very clear message to the public.

1719. We had the opportunity to debate this matter last week, but the SDLP had hoped that some of the detail would have been ironed out at the round-table forum and in other forums that would give civic society the opportunity to voice its opinion. I am saddened that we could not reach consensus on the very basic principle of setting up a round-table forum.



1720. **Mr Paisley Jnr:** We should make it clear for the record that it is not a matter of finding consensus on the basic principle; it is a matter of finding consensus on the trigger mechanism for its establishment. That is where the problem lies. You may not see that, but everyone who reads Hansard will see clearly that the trigger mechanism is the problem, not the issue of whether, in principle, any future Assembly Committee decides or does not decide to implement such a process.

1721. **Ms Lewsley:** Sorry, but I think that you are wrong. If you look at the minutes, you will see that I said at the beginning that the proposal should be separated into two proposals. The first proposal was that consensus should be reached on the basic principle of establishing a round-table forum, and the second was that other parties would be entitled to make proposals on the trigger mechanism and the detail.

1722. **Mr Paisley Jnr:** Again, if you read the proposal that you put to the meeting, you will see that it would not allow that to happen.

1723. **Mrs Long:** I do not want to prolong the discussion. Regardless of whether other members agree on the principle, the Ulster Unionist Party has said that it does not agree. As one party will not consent to even the principle, we are just talking around the houses.

1724. Gregory said that the proposal for the establishment of round-table forum on a bill of rights was designed to fill a vacuum. That is not how I view the matter. Should devolution be restored, the Human Rights Commission would bring its firm proposals to the round-table forum, consult on them and then consult the Northern Ireland Executive, which would bring them to the Assembly.

1725. If that were not the case, they would advise the Secretary of State. I cannot accept that the proposal was designed simply to be taken forward in a vacuum. If devolution is restored, the value of civic society's continuing to be engaged in the process will remain valid.

1726. In addition, I am not sure that we can say that the PFG Committee does not operate as a round-table forum. It is "a" round-table forum.

The difference is that it is not "the" round-table forum that members envisage. For example, the Human Rights Commission has not attended the PFG Committee to consult members on detailed proposals, which is what members would expect of it at the round-table forum. We will not get consensus on the proposal, but it was valid. If we cannot establish consensus, even at that level, we will send out a disturbing message about the issues involved in the formulation of a bill of rights.

1727. **Mr Poots:** Consensus could be formed, but it has to be achieved on the basis of the first principle, which is that, whatever happens, the support of both communities can be commanded. The only available way to do that would be a cross-community vote in the Assembly. Establishing round-table forums to drive particular agendas and to which interest groups would come to give their points of view would not achieve that consensus. Ultimately, if we want a bill of rights that will work and will be supported by the community, we must establish cross-community support in the Assembly.

1728. If the SDLP is minded to establish a forum under the Committee of the Centre, consensus could be achieved on that. However, the proposal is fairly vague and could not achieve that.

1729. **Mr Nesbitt:** Naomi said that we might send out a disturbing message. I do not concur with that. My party advocates a bill of rights. However, after six years of an elongated process that is going nowhere, and after much consultation with the previous Human Rights Commission, along with the forums that we have had, a round-table forum would, if anything, slow down the process. Our position might not be disturbing; it might actually help to secure a bill of rights for Northern Ireland, which I advocate strongly.

1730. **The Chairman (Mr Molloy):** We are not going to make much progress on this matter. May I take it that there are no other proposals on this issue?

1731. **Mr Paisley Jnr:** Correct.

1732. **The Chairman (Mr Molloy):** We shall move on. I am not opening this up for discussion, but do members have any further comments to make on the Parades Commission? Do members have copies of the DUP paper?

1733. **The Committee Clerk:** Members have been given copies of the DUP paper, and more copies are being made.

1734. **The Chairman (Mr Molloy):** If there are no comments, we will move on to the main items for discussion.

1735. **Mr Kennedy:** May I place on record a few observations that my party has made on parades?

1736. The Ulster Unionist Party agrees that the creation of the parades “controversy” was and remains a strategy used by some in society to carry on the war by another means. We believe also that the Parades Commission should be abolished. It has not aided the resolution of the politically motivated controversy surrounding parades in Northern Ireland.

1737. Our submission to the Quigley Review is broadly in line with that which the DUP has suggested, and we believe that mediation and decisions should be separated. The current designation of a parade as contentious — and we use that word advisedly — must be re-examined, as single objections currently have the potential to create problems. We question also the assertion that:

*“any process must be open and transparent and should allow for public scrutiny”.*

1738. We need more detail on that.

1739. It is our clear view that, in all determinations, there should be a presumption to allow a parade, and a presumption to allow a counter-protest, as long as it is peaceful. The organisers of any parade should be responsible only for those on parade and should not be held responsible for those who are not under their control. The Ulster Unionist Party Assembly Group believes also that all main thoroughfares should be open to everyone, and that no group has the right to withhold permission from passing along a thoroughfare.

10.30 am

1740. In our view, no one should have to ask the permission of a residents’ group, or any other group, to walk along a road or pass through an area. That could lead to a serious situation, whereby self-appointed groups withhold permission from other groups and organisations, such as the police, the Post Office and other service providers.

1741. That would be a recipe for a serious situation. Therefore, we must overcome the obstacles that are preventing the correct circumstances for the formation of a Government, and any outstanding controversies around parades must be well on their way to being resolved before devolution is restored.

1742. **The Chairman (Mr Molloy):** The PFG Committee dealing with law and order issues, which meets on Wednesdays, agreed that this Committee, which is tasked with dealing with rights, equality issues, safeguards and victims, should discuss whether the Assembly might wish to have appointments to the Parades Commission devolved with justice and policing. An attached table from an NIO letter of 15 August on that subject will be circulated. Paragraph 10 of schedule 3 to the 1998 Act deals with public order, and reference is made to the Parades Commission in the “Issues remaining” column.

1743. **Mr O’Dowd:** Considering that members have just been presented with this, could discussions be deferred to allow us a chance to look at it and to discuss it with our colleagues?

1744. **Mr Paisley Jnr:** This has been available since February of this year in the Government’s discussion paper, so it should not come as a surprise to anyone.

1745. **Mr O’Dowd:** I did not say that it was a surprise, and I am not surprised by it. I asked whether it could be deferred to a future discussion, as it had just been presented to the Committee.

1746. **The Chairman (Mr Molloy):** Does anyone wish to comment on the table today, even though it is not a substantive issue on the agenda?

1747. **Mr Poots:** It is more fundamental than appointments to a flawed body; it is about the process under which the running of parades would be conducted. We have made clear proposals on the separation of the mediation role and the determination role. If that matter is not dealt with, regardless of who is appointed to that body, which has not operated or functioned properly in the past, he or she will not change it, because it is impossible to act both as an impartial mediator and as a determiner.

1748. **The Chairman (Mr Molloy):** Are there any other comments at this stage?

1749. **Mrs Long:** The context for the devolution of policing and justice is one in which a triple lock should be in place to ensure that it is done under the correct conditions. The proposed target date for the devolution of policing and justice was two years from the restoration of devolution — a period that covers two marching seasons. That would have given us the opportunity to test the stability of the Executive, and it would have given us the chance to see how matters moved during a two-year political cycle. Considering the sensitivity of many of the matters that would be devolved under policing and justice, I am not sure that appointments to the Parades Commission would rank among the most sensitive.

1750. I am not sure whether there are strong arguments for appointments to the Parades Commission being retained as a reserved matter, but we are not particularly concerned about that issue and would be flexible. Other more sensitive policing and justice matters would be transferred at the same time to the Northern Ireland Assembly.

1751. **Mr Kennedy:** This matter has been referred from the Preparation for Government Committee that deals with law and order issues in order that we might examine whether it is an issue of public order or law and order. My party's view is that the Parades Commission should be abolished, which rather deals with the issue of appointing anybody to it. There are other issues, such as who might be appointed to adjudicate at tribunals. "Parades" cannot be separated from "Good relations" and "Shared future", given

that main roads presumably constitute a shared space. There are interesting aspects that must be examined in some shape or form.

1752. **The Chairman (Mr Molloy):** We will not reach consensus on this issue today. One party has asked for some additional time to discuss the matter, so we should park it for now and return to it later. At Wednesday's meeting of the Committee, we sought opinions, but we but did not take any decisions. Can we agree to set this issue aside and move on to the next item?

*Members indicated assent.*

1753. **The Chairman (Mr Molloy):** We will now deal with issues under the sub-headings "Equality", "Good relations" and "Shared future". We should try to discuss each issue separately, although there will be overlaps. Can I ask members to keep their contributions as short as possible? The DUP has referred to its submission in relation to the "Equality" sub-heading, so perhaps the DUP could open the discussion.

1754. **Mr Kennedy:** Can you tell us the rules of the game, Mr Chairman? You have asked for short presentations, but we have a detailed presentation. If it is helpful, we will submit a paper in conjunction with that presentation. How long are you allowing for each presentation?

1755. **The Chairman (Mr Molloy):** We suggest a five-minute opening presentation, which will be followed by a general discussion. Do you wish to circulate your paper today?

1756. **Mr Kennedy:** We will consider that suggestion.

1757. **Mrs Long:** May I have some clarification? In previous meetings of the Committee, each party gave its presentation in alphabetical rather than a particular party that had expressed an interest go first. You have identified the DUP as having expressed an interest, but members may feel that they have to respond to the DUP's presentation rather than give their party presentation, followed by a discussion. Are we still simply giving our presentations, albeit in a different format and order?

1758. **The Chairman (Mr Molloy):** We have used both mechanisms. If we go around each party, sometimes parties feel compelled to make a submission. However, if we start with the party that raised the issue, we can short-circuit the process and proceed to a discussion.

1759. **Mr Nesbitt:** I agree with Naomi. This is my second week of attending the Committee, and there appears to be some volatility in relation to procedure. If there is a lack of clarity, and procedure is inconsistent, we do not know where we are. Each party should give a two- or three-minute introduction, followed by a substantive discussion. I have a fairly lengthy presentation that I wish to give. I agree with the way in which the other Chairman operated last week, when each party made an introductory presentation. You have said that the DUP will be the first party to make a presentation because it has expressed a particular interest in the issue. From a unionist perspective, having an interest in equality is not the sole preserve of the DUP. I support Naomi's view that we stick to procedure.

1760. **Mr Paisley Jnr:** If Dermot is itching to go, he can go first.

1761. **The Chairman (Mr Molloy):** I did not express a preference for any party.

1762. **Mr Nesbitt:** Chairman, there were certain implications in what you said.

1763. **The Chairman (Mr Molloy):** They were not intentional.

1764. **Mr Poots:** We are happy to go with the normal protocol. Mr Nesbitt said that he wanted to know where he was, and that this is his second week at the Committee — it is actually his third. I do not want to confuse him any further.

1765. **The Chairman (Mr Molloy):** We do not need to get into the nitty-gritty.

1766. **Mr Nesbitt:** This is the second week of considering issues that were agreed at the first meeting, at which I was not present for the full time. I am normally in control of what I say.

1767. **The Chairman (Mr Molloy):** Let us begin with the Alliance Party.

1768. **Mr McCarthy:** I am itching to start.

1769. **The Chairman (Mr Molloy):** Good. You have five minutes.

1770. **Mr McCarthy:** First, there are differences between equality matters, a shared future and good relations. Equality and shared future are fundamentally different concepts. Equality is about ensuring fair treatment, access and opportunity for all people, while community relations — or “Good relations” or “Shared future” — are about the quality and nature of the relationship between people, notably in a divided society. There is also, however, a clear relationship between the concepts. The Alliance Party argues that a cohesive and integrated society provides a better environment for promoting equality, and that equality is crucial to building good relations.

1771. In no sense should a lack of sufficient progress on either equality or a shared future be portrayed or regarded as a barrier to making progress on the other. It is possible to progress equality issues in the context of a divided society, through the provision of separate goods, facilities and services. To date, in many respects, that has been the practice in Northern Ireland. A critical mass of people have now realised that “separate but equal” is not sustainable. Equally, it is possible to promote integration in society, even in the absence of sufficient equality. Arguably, that is the case in the USA.

1772. On equality, the Alliance Party is committed to protecting the rights and ensuring the opportunities of every individual. Equality is essential in order to give everyone a stake in society. For the Alliance Party, that means equality of opportunity; equality of access; equality of treatment; equality under the law; and equal citizenship. It is not about forcing an equality of outcome, but if that can occur through recognition of the former, it is welcome.

1773. Those principles govern the Alliance Party's approach to equality, which is: the individual is the foundation stone of society; all individuals are of equal worth and should be treated as equal citizens; individuals are also members of religious, ethnic, cultural and regional communities; those identities are open and fluid — people can hold a range of identities and loyalties to different



structures and levels of Government; citizens have different needs, and equal treatment requires that full account be taken of those differences; and when equality ignores difference, uniformity of treatment leads to injustice and inequality.

1774. For society to be cohesive, as well as respectful of diversity, it must nurture diversity, while fostering a common sense of belonging and shared identity among its members. The Alliance Party does not believe that there should be a hierarchy in equality. Equality issues in Northern Ireland are overly associated with issues relating to religion and/or political identity. Discrimination or other inequalities on the grounds of gender, race, disability and sexual orientation should be of equal concern. Opportunity, a sense of belonging, and fair treatment do not exist evenly and consistently across society. Some individuals are more marginalised than others, due to historical inequalities, discrimination, geography or other obstacles to participation. As a result, it may not be sufficient to apply good public policy generally and hope that all sections of the community will benefit appropriately. The use of neutral policies does not necessarily produce neutral actions or outcomes.

*10.45 am*

1775. There is, therefore, a case for positive or affirmative action, but we remain opposed to positive discrimination or the use of quotas. We support the targeting of resources towards particular disadvantaged and under-represented sections of the community and certain localities. That is the essence of targeting social need. It is important that vacancies be filled and resources distributed on the basis of the merits of applications. Alliance opposes, however, the use of quotas to fill vacancies or allocate resources, as that inevitably leads to individual cases of greater merit being passed over in order to address the need of someone identified with a disadvantaged group.

1776. With respect to how equality is handled in relation to religion and identity, Alliance is concerned that the overemphasis on groups further institutionalises divisions. Alliance

believes in treating all persons as equal citizens but is opposed to institutionalising a false parity of esteem between groups. Furthermore, the assumption of a majority/minority problem is not only simplistic in that it ignores existing diversity, but in that it assumes that discrimination is unidirectional.

1777. The Alliance Party has been a long-standing advocate of fair employment legislation and monitoring in order to ensure equality of opportunities and non-discrimination in the workplace. Fair employment legislation has been very successful in removing discrimination from employment in Northern Ireland and in moving towards a workforce that is more representative of the entire community.

1778. That legislation has been generally successful in creating integrated workforces. The employment sphere is now one of the most integrated aspects of Northern Irish society. That stands in stark contrast to matters such as housing. However, workplace integration has been from the top down — something imposed through regulation rather than having developed organically.

1779. Alliance recognises and understands the need for monitoring of workforces. However, we have concerns about the methodology used to categorise people in pursuit of those objectives. Alliance looks forward to the creation of a single equality Act that would standardise and harmonise upwards the equality protection on all existing grounds.

1780. Finally, all outstanding equality issues can be addressed through public policy; therefore, the Committee has no need to address equality as a barrier to the restoration of devolution. That concludes our submission on equality. We have a further paper on a shared future.

1781. **Mr Campbell:** For us, this issue is central and goes to the core. It could decide whether progress is made over the next five or 10 years or regress sets in. In the DUP's view, part of the problem in Northern Ireland has been that equality is a concept that is quite often measured in terms of the past, and because of that we have opposed much of what the



Equality Commission has done. We will reserve our opinion until we see how the new Chief Commissioner, the new commissioners and the newly reinstated commissioners perform in practice.

1782. At the moment, the Equality Commission appears to analyse equality in terms of the Northern Ireland of 30 or 40 years ago.

Unfortunately, that concept appears to permeate much of society. Our view is that, in devising policies for a shared future, we must look to the twenty-first century and what is likely to happen over the next generation.

1783. A number of facets have to be addressed. One that goes to the core of the community that we represent is the blatantly discriminatory approach that the Equality Commission and the Government have taken to police recruitment. A discriminatory recruitment policy says to the community against whom it discriminates that it is less valued and less respected. It says that, because of denominational background, irrespective of qualifications, members of that community are not welcome to join our Police Service. That is what our society has done. The Equality Commission — a misnomer if ever there was one — should not endorse discrimination, yet that is what it has done. We must try to move away from that. That is why our view of the Equality Commission is as it is, on the basis not just of police recruitment but of much of its work.

1784. We support the concept of dealing with equality issues — whether they be gender, disability, age or religion — in a holistic way. That is a good way in which to make progress, not least from the perspective of reducing the amount of bureaucracy. It has to be said, whether people like it or not, that most of the other issues, such as age, disability and gender, tend to be more individualistic approaches, whereas the religious issue tends to attract a communal approach. The religious breakdown of the community presents the issue of “Shared future” with a huge problem.

1785. That is why we have made a major case consistently and repeatedly, year on year, to the Equality Commission and its predecessors, on,

for example, the public sector. The public sector is the largest employer in Northern Ireland. The under-representation of people from the Catholic community applying to the police is less than that for people from the Protestant community applying to the Housing Executive, yet there is a fifty-fifty recruitment requirement placed on one but not the other. Our view is that a fifty-fifty recruitment requirement should be placed on neither, nor on any other body. We agree with the Alliance Party in that respect. We do not believe that quotas are the answer. The merit principle should be applied. Whether it is a Housing Executive applicant or a police applicant, a Civil Service applicant or a private-sector applicant, everyone should be treated on merit. That is a huge issue that will increasingly be central to our concern.

1786. The other, wider issue in looking at a shared future is the criminal and paramilitary activity that prevents better relations evolving among the two main communities and other communities in Northern Ireland. If paramilitary groups control areas, and if political parties recommend to communities that they should not give information to the police when a young female is raped in their community, that is an appalling indictment of those passing for politicians who go down that route. That in itself creates further division and diminishes any hope of good relationships being built for the future.

1787. **Mrs O’Rawe:** Paragraph 3 on page 16 of the Good Friday Agreement sets out the nature of the statutory equality obligations on public authorities in the North:

*“to carry out all their functions with due regard to the need to promote equality of opportunity”*

1788. across nine grounds, and:

*“to draw up statutory schemes showing how they would implement this obligation.”*

1789. Paragraph 6 on page 17 refers to the establishment of:

*“a new statutory Equality Commission to ... advise on, validate and monitor the statutory*

*obligation and ... investigate complaints of default."*

1790. Paragraph 7 leaves the choice of whether to establish a dedicated Department of equality up to the Assembly.

1791. The statutory equality duty under section 75 of the Northern Ireland Act 1998 has not been embraced or used in a consistent way by most public bodies, resulting in failed opportunities to mainstream properly the duty to the degree to which it could have been used to advance equality of opportunity and outcome.

1792. It has, therefore, become a cosmetic, tick-box exercise that many public bodies consider a burden rather than a duty to adhere to a maximum sway. The Equality Commission has the power to investigate public bodies where a potential breach has occurred in equality schemes. However, that power has rarely been used.

1793. Likewise, the commission has supported few investigations brought by directly affected parties. On the rare occasion that the commission initiates an investigation and finds a public body to be in breach of its equality scheme, it has limited powers to compel the public body to comply. It can only refer the matter to the British Secretary of State.

1794. Sinn Féin believes that the Equality Commission must use its powers of investigation and enforcement to greater effect. Therefore, consideration must be given to amending the Northern Ireland Act 1998 in order to provide the commission with the power to compel public bodies to comply. That would give the commission more teeth.

1795. Sinn Féin wants to see further designations of public bodies such as the BBC, the DPP, the Treasury, the Ministry of Defence (MOD) and the British Secretary of State. The British Government must establish an independent recruitment and selection panel when making appointments to the Equality Commission. The commission should be representative and balanced in its composition.

1796. The commission must be resourced in order to provide legal assistance, where appropriate, in discrimination cases.

Alternatively, legal aid should be provided in such cases.

1797. I want to raise some points under the sub-headings "Good relations" and "Shared future" later in the meeting. Thank you, Chairman.

1798. **Ms Lewsley:** I want to raise three points about equality. The first is the issue of need. The agreement makes it clear that need must be targeted objectively. If real need is targeted, all communities — whether they are Catholic, Protestant, unionist, nationalist or from any other background — will be enhanced. Perceived need can also be dealt with. There is underachievement in educational attainment in Protestant communities. The SDLP believes that, by tackling need, that issue will be addressed. However, the proportion of Catholics who leave school with no qualifications is higher overall and is, of course, a fast track to unemployment. It is important that that problem is also tackled.

1799. Secondly, there can be no regression in equality laws; those laws are a given. The SDLP will consider the opportunities to enhance the laws. However, it will not support any dilution of them.

1800. An integrated equality agenda is needed. That should be brought about through a single equality Bill that harmonises our laws upwards as far as is practicable. During the lifetime of the previous Assembly, its two junior Ministers had hoped to take Northern Ireland into the lead with the single equality Bill. Unfortunately, because of EU regulations on age and sexual orientation, the Assembly decided to defer the Bill. I hope that it can be moved on.

1801. Equality of opportunity can be created through the realisation of the promise of section 75. In order to do that, the standard of equality impact assessments must be improved. Often, they lack statistics and rigour; they should focus more on key policies. A strategy for the implementation of section 75 would help.

1802. Thirdly, the commitment to eradicate unemployment differentials referred to in the agreement must be realised. The unemployment differential in 1971 was 2·5; it has now been

brought down to 1·8. I want any differential to be eradicated. Likewise, there are differentials in economic inactivity. There are many high-unemployment black spots. A process to deal with those problems must be introduced. The Government must also take responsibility centrally to ensure that differentials in housing allocation are dealt with.

1803. Progress has been made. However, there is more to do. Equality of opportunity is not only a right in principle but will help to build a more harmonious and cohesive community.

1804. **Mr Nesbitt:** As Danny mentioned, our paper will be circulated before any substantive discussions. I want to make a few introductory comments.

1805. I agree entirely with Kieran in the sense that equality is viewed primarily as a religious domain. It is much more pervasive than that. It also covers race, gender, and so on.

*11.00 am*

1806. Having said that, however, I want to make the point that a religious dimension has permeated relationships in Northern Ireland. One side of the community feels that it has been, and still is, unfairly treated — if not discriminated against — in the jobs market, as Michael Ferguson's comments evidenced last week. I have no doubt that Michael Ferguson holds his views sincerely, but they were a reflection of Sinn Féin comments that are often repeated. Sinn Féin wants that issue to be dealt with, and I will come to how it could be addressed in a moment.

1807. Equally, unionism has concerns, which Gregory has mentioned and with which I agree. Two key employment concerns must be addressed, and those tie in with 'A Shared Future: Policy and Strategic Framework for Good Relations in Northern Ireland'.

1808. Last week, I mentioned Darby and Knox, the authors of the consultation paper on 'A Shared Future'. Without resolving what is or is not the labour market's real position, it is difficult to move to a shared future and a society at ease with itself.

1809. Moreover, there has been a "grammar creep". Words such as "neutrality" have crept into the equality debate, although not in a legal sense. That said, the word has been absorbed into the lexicon — people talk about it. I am not the sort of loyalist who rams his loyalty down another person's throat. I am not one to wear flags or badges. I am a citizen of the United Kingdom. I do not have to flaunt my citizenship or be triumphalist. The reality is that we are in the United Kingdom; that is the legal position. It is not a neutral position. The United Kingdom is a legal entity, and respect should be given to that.

1810. Little words are important. I noted that Pat used the phrase "in the North". That may be a euphemism, but it has a political overtone. Whether people recognise that Northern Ireland is or is not a region of the United Kingdom, it is in law.

1811. Those aspects are relevant to notions of equality and parity of esteem. We must subscribe to section 75(1) of the Northern Ireland Act 1998. That is the law. We must:

*"have due regard to the need to promote equality of opportunity".*

1812. The law is important. The word "need" is included in subsection (1). It does not say that we "have to do it always and every time". The law says "need". Therefore, before we do something, we must establish the "need".

1813. Finally, more often than not, I find that commentary on equality is based more on emotion than on evidence. As adults in the political process, we must use evidence to judge positions on equality. We must determine, by correctly interpreting evidence, who is hard done by or disadvantaged. Emotion must be taken out and evidence used.

1814. Chairman, those are just a few opening comments to start the debate. I will return to the issue shortly.

1815. **The Chairman (Mr Molloy):** Are there any proposals or any issues that members want to question?

1816. **Ms Lewsley:** I would like to propose that we agree that need should be targeted objectively.

1817. **Mr Nesbitt:** I have no problem with those two words — “need” and “objectively”.

1818. **Mr Paisley Jnr:** What about “targeted”?

1819. **Mr Nesbitt:** And, of course, “targeted”.  
[Laughter.]

1820. **Mr Campbell:** I do not have a problem with that, but could we have it explained a little more? It is a nice cliché; it sounds OK, and I am sure that it will read fine in Hansard, but what does it actually mean?

1821. **Ms Lewsley:** For a long time in Northern Ireland we have addressed need on the basis that if one side gets something, the other side gets it too. I agree that there is an issue with the educational underachievement of young Protestants in working-class areas, but, on the other hand, educational underachievement is also an issue for young Catholic people, who are leaving school with fewer qualifications, or none at all. Those two areas of need must be addressed objectively. It should not simply be the case that because underachievement has been identified in a Protestant area, the Department of Education gives out money across the board. Need must be targeted objectively.

1822. **Mr Paisley Jnr:** If we agree to equality, does delivery not then become the issue? The concept of targeting need objectively then becomes, as Gregory says, more of a cliché than a mechanism. We should have delivery mechanisms to ensure that equality exists and is delivered.

1823. **Mrs O’Rawe:** If we are to have equality, we must have strong legislation and enforcement. I have three proposals, which I mentioned earlier. First, the Northern Ireland Act 1998 must be amended to provide the Equality Commission with the power to compel public bodies to comply with their statutory duties. Furthermore, the British Secretary of State and public bodies such as the BBC, the DPP, the Treasury and the Ministry of Defence should be designated under the 1998 Act and subject to those statutory duties. Thirdly, the British Government must establish an independent recruitment and selection panel for making appointments to the Equality

Commission, and the commission should be representative and balanced in its composition.

1824. **The Chairman (Mr Molloy):** Any comments on those three proposals?

1825. **Mr Paisley Jnr:** I think that Dermot mentioned offensive —

1826. **Mr Nesbitt:** Sorry, but could you speak up?

1827. **Mr Paisley Jnr:** It is not often I am asked to speak up, but I will.

1828. **Mr Kennedy:** It is not often that a Paisley is asked to speak up. [Laughter.]

1829. **Mr Poots:** He is not the man his father is.

1830. **Mr Nesbitt:** It was a genuine request.

1831. **Mr Kennedy:** Your father would be ashamed of you for talking quietly.

1832. **Mr Paisley Jnr:** He would be ashamed of you as well. At least I know who my da is.

1833. **Mr Campbell:** That was a joke.

1834. **Mr Paisley Jnr:** I am not going to talk about inflammatory language. To move to a point on which I would like some clarification: I assume that references to the DPP should really be references to the Public Prosecution Service, as the DPP no longer exists here.

1835. **Mr O’Dowd:** We accept the clarification.

1836. **Mr Nesbitt:** When a phrase is spoken quickly, one often hears words that one empathises with. However, on reading the same phrase in Hansard, one can find that it contains little words with which one does not totally agree. Ms Lewsley was very clear in asking for “need” and “objectivity”. That was all she was asking for. Before I can agree or disagree, I would like to hear precisely what I am being asked to agree to, and it would be good if I could have the written words in front of me as well. That is a serious question; I am not trying to be trite.

1837. **Mrs O’Rawe:** All public bodies should be designated to comply with section 75. They are spending public money, have a workforce, and are operating outside the framework, so they need to come within the guidelines. It is as simple as that.



1838. **Mr Nesbitt:** I have a slight difficulty with a blanket designation of “all public bodies”, because “public bodies” is very general, and perhaps some should not be designated. I also have a stronger underlying problem. Sinn Féin said that we need “strong legislation”. Section 75 states that we must:

*“have due regard to the need”.*

1839. When I hear someone say that something is needed, I say: “For what purpose?” Not a simple process — we must have something. What is the problem that has been identified that needs to be addressed? Has the problem been identified? Patricia Lewsley said “objectivity”, which means evidence. Where is the evidence of the need? If clear evidence of need is objectively established, we implement either primary legislation or statutory instruments. To a blanket “all public bodies” and “we need strong legislation”, I say: “Hold on. Let’s see first of all whether the need has been established.”

1840. **Mr O’Dowd:** If Dermot wishes to identify public bodies that he believes should not be included in equality legislation, perhaps that is where the debate should start. Any public body that is spending public money and implementing policies that affect the public should surely be affected by equality legislation. To me, that is a basic principle of equality. If any public body is allowed to opt out of equality legislation, surely that is a flaw in itself.

1841. If a body receives money, and that body is making decisions that affect people’s everyday lives, those decisions need to be made on an equitable basis. Equality is a double-edged sword. Equality legislation is there to protect the rights of the unionist community and the nationalist community, the rights of those from a different racial group or of a different sexual orientation, the rights of people with a disability, etc. All those sections of the community need to be protected, so if a public body is spending public money, I do not see any reason — and my party does not see any reason — why it should not be governed by equality legislation.

1842. **Mr Poots:** We had this discussion last week when we were talking about appointments

to the Human Rights Commission. Others shot down my suggestion that a deputy chief commissioner should be appointed. We have bodies that are supposed to be dealing with equality, and, from where we stand, we feel that our point of view is not expressed by any of the commissioners on the Equality Commission. Others could probably say the same.

1843. How can we have an Equality Commission that is not reflective of the views of the people of Northern Ireland? It simply cannot command the support of the people of Northern Ireland if its body of commissioners is not at all reflective of the community.

1844. **Mr O’Dowd:** Mr Poots makes a fair enough point, and there are concerns around that. Our third proposal of the morning is that the British Government need to establish an independent recruitment and selection panel when making appointments to the Equality Commission, and that the commission should be representative and balanced in its composition. I hope that that covers the concerns that have been raised.

1845. **Mr Campbell:** There are a number of related but slightly separate issues here. The composition of the Equality Commission and other public bodies sends out a signal. When it is the wrong signal, that creates the wrong context, and it is then difficult to return to some sort of parity. That needs to be rectified, and it has been an ongoing sore. Let us be clear about this, however: if we rectify that sore — if the composition of the Equality Commission is remedied in such a way that 98% of the community says that it is reasonably reflective of the wider community — but the Equality Commission still implements policies that go in the wrong direction, that is not the answer.

1846. Over the past 10 to 15 years, section 75 has not provided safeguards to a section of the community in Northern Ireland. In my opening remarks I referred to the public sector, where the situation has become worse rather than better, in spite of section 75. The intrinsic equality legislation should have made things better, but in some cases it has made the situation worse.



11.15 am

1847. I want to make a proposal that, I hope, can achieve some form of consensus: equality measures must be implemented in a manner that addresses current trends in order to avert future problems. We must try to distance ourselves from what happened 40, 50, 60 or 70 years ago. We must work on what is happening now so that the future will not be worse.

1848. I refer again to the fifty-fifty recruitment policy in the Police Service. If it is harder to recruit Protestants to the Housing Executive than it is to recruit Catholics to the Police Service, why is there a quota system for one organisation but not the other? The DUP argues that there should be no quota system for anyone, anywhere, but that is an intrinsic problem. The policing issue, set beside other sections of the public sector, has not been addressed by section 75. If we simply say that section 75 should be implemented more rigorously, the logical outcome for my delegation and for my party is that in five years' time, the situation will be even worse than it is now — and it is bad enough now. We must address the current problem to try to prevent the situation becoming even worse in the future.

1849. **Mr Brolly:** We are in danger of sectarianising equality. Equality is an objective concept that includes everybody. It is not about equality for Catholics but not for Protestants, or equality for unionists but not for nationalists. We want an equality mechanism, and we want people who understand, and are passionate about, equality to man that mechanism. We do not represent the Catholic community — we do not have a mandate from the Vatican to do that. We want to talk objectively about equality for everybody. I would be equally annoyed at members of the Protestant community being discriminated against as at members of the Catholic community being discriminated against.

1850. Unfortunately, we cannot ignore history in relation to the policing issue. Séamus Mallon described the membership of the RUC as being 92% Protestant and 100% unionist. I am not terribly happy about fifty-fifty recruitment or interfering with recruitment, but we must find

some way of creating, in the not too distant future, a police force that will command everybody's respect. I am not saying that Protestant members of the police force should not be respected, or are not respectable, but in relation to equality, it is the two major communities that are involved. Historically, it is about the disadvantages of Catholics as opposed to Protestants, and it would have been impossible for the situation to have been otherwise since this state was set up to be a Protestant state for a Protestant people.

1851. I agree with Mr Campbell that we are a long way down the line compared to 40 or 50 years ago, when Protestant businesses were entitled to put notices in their windows saying: "Help needed. Catholics need not apply". We have come a long way since those times. The wheel may be turning quite quickly in the other direction, and in the next 10, 15 or 20 years, we may have to deal with more cases of discrimination against the Protestant community than against the Catholic community. In our discussions, we should stick with the objective concept of equality.

1852. **Mrs Long:** Sometimes when members discuss equality issues, the language used can create a permanency to the divisions in society. For example, there have been several references to the "Catholic community" and the "Protestant community". I am not aware that those are two mutually exclusive communities. Certainly, the community to which I belong includes Protestants, Catholics, and people of many other religions and of none. The notion of a "Catholic community" and a "Protestant community" is bizarre.

1853. Such references are often used as shorthand for some kind of political aspiration that people may hold. The figures show that a significant number of people who are Protestant — around 27% — do not consider themselves to be unionist; a higher percentage of Catholics consider themselves not to be nationalist. People's identities are fluid, and that must be reflected in our discussions.

1854. Issues of discrimination, balance and trying to achieve a reflective workforce are also

more complicated than simply considering two identities, Protestant and Catholic, and trying to balance them. A significant number of people do not subscribe to either definition. Those people must also be treated equally when applying for jobs and must not suffer from discrimination, either deliberately or simply by being overlooked in the statistics.

1855. We must also look at what those definitions are taken as shorthand for. As I said, Protestant and Catholic will often be taken as shorthand for unionist and nationalist or loyalist and republican. Fifty-fifty recruitment, for example, has been successful in recruiting more Catholics to the Police Service, but I question how successful it has been in reflecting the balance across the entire community — from loyalism, through unionism, those who choose not be part of either bloc, and nationalism to republicanism. It has probably not achieved that at all. If we are going to have monitoring, it must be based on something substantive; not on identities imposed on individuals but on identities that people choose for themselves.

1856. There has also been an issue of group rights and protecting sections of the community. We had this discussion last week in relation to human rights and the right of an individual to not be treated as part of a minority group. That is an important right. Therefore, group rights are an anathema as far as the Alliance Party is concerned.

1857. Our view is that, as with human rights, equality is concerned with the treatment of the individual. A workforce can be monitored to ensure that it is representative, but there should not be this process, which unfortunately still exists, of pigeonholing people in order to fit what is really a binary system of monitoring equality.

1858. Mr Campbell said that, even if the Equality Commission were more reflective than he considers it to be at present, it would still not be acceptable if it took the wrong decisions. Who is the arbiter of what are the right and wrong decisions?

1859. **Mr Campbell:** I do not think that I mentioned decisions. I said that the policies of

the Equality Commission are wrong, as well as its composition. By policies, I mean, for example, the policy of fifty-fifty recruitment for the police. The under-representation of Catholic recruits to the police is “less worse” than that of Protestant recruits to the Housing Executive, yet the commission says nothing about the Housing Executive. We want to see the commission’s double standards on such policies changed, as well as its composition.

1860. **Mr D Bradley:** I want to comment on the fifty-fifty recruitment policy in the Police Service. The Patten Report recognised the under-representation of Catholics in the police, for which there were various reasons, not least the targeting by paramilitary groups of Catholics who were members of the police force.

1861. **Mr Campbell:** Killing them; not just targeting them.

1862. **Mr D Bradley:** And the murdering of them, yes. The ethos of the police at the time, to which many nationalists felt that they could not subscribe, was also an issue. Indeed, in itself the low representation of Catholics in the police discouraged other Catholics from joining. We all recognise that society needs a police force that has the support of all sections of the community and in which all sections of the community are represented in proportion.

1863. The Patten proposals attempted to address all the aspects of the policing service that were in need of reform, including the under-representation of Catholics in the service, so that all sections of the community could give their support to the police. The fifty-fifty recruitment policy was the key element of the proposals. It was aimed at creating a proportionate representation of all sections of the community. I believe that a key element for the future of any society is that all sections of the community are represented in the police in proportion, and that all sections give their support to the police. That goes to the very heart of the future stability of society, and justifies the fifty-fifty recruitment policy.

1864. The policy has been successful. The application rate for Catholics has been between 35% and 38%, and there have always been

enough suitably qualified Catholics to fill the quota. The percentage of Catholics joining has increased from 8.3% to over 20%, and by the year 2010 will have reached 30%. Fifty-fifty recruitment is only a temporary measure to alleviate a particular situation. It is operating successfully, and it will come to an end.

1865. **Mrs Long:** Only history will be able to judge — if even it can — whether it was fifty-fifty recruitment or the removal of threat that led to the increase in applications from the Catholic section of our population.

1866. Mr Bradley says that all sections are represented. Does he accept the point I made earlier: that republicans, for example, are still under-represented, if represented at all, in the Police Service? Ethnic minorities are collected in with “Protestant and other”, and therefore are discriminated against in the recruitment process.

1867. **Mr Paisley Jnr:** There is no such thing as “Protestant and other”.

1868. **Mrs Long:** They are grouped together, so the issue there is that ethnic minorities are not treated in the same way and are not promoted. The policy has addressed only one part of the imbalance in the police. The Alliance Party has been opposed to it from the outset. There remains a question as to whether it has addressed imbalance. Mr Bradley referred to “all” sections of the community; I am not sure that the policy has addressed that at all.

1869. **The Chairman (Mr Molloy):** I remind members that the Committee is dealing with policing and justice matters in another format. We do not want to get too deep in discussion about it.

1870. **Ms Lewsley:** I am a bit confused. You asked for proposals, and we have now discussed three or four separate proposals. I agree with Mr Campbell about addressing current trends. He referred to the problem with recruitment to the Housing Executive; I hope that he would agree that it is not just about under-representation in the workforce of the Housing Executive. It is a much wider question of the whole Civil Service, even the Equality Commission itself. The issue

is one of under-representation in the workforce across the board.

1871. As for the Alliance Party’s stance on group rights, I believe that to ignore groups is to ignore the patterns and trends about which Mr Campbell talked, and which can help address some of the inequalities and injustices.

*11.30 am*

1872. Looking at all of the issues that have been raised, I think that the overarching proposal that I put in the first place would address much of the need objectively. That is what the SDLP wants. Rather than have a divisive climate of lobbying and to seek support for particular communities, we want to develop common ground and an approach based on evidence of need and the implementation of policies across the board.

1873. If we could reach consensus on the basic principle of targeting need objectively, we could address many of the issues that we have talked about around this table.

1874. **The Chairman (Mr Molloy):** Perhaps members would address that issue. We have five proposals in front of us now.

1875. **Mr Nesbitt:** At this stage, I should table my proposal. I welcome Sinn Féin’s talk of speaking objectively about matters. It rightly talks about the danger of sectarianising issues. However, we do monitor the employment patterns of Protestants and Catholics. I also agree with Patricia that it goes much wider than the Housing Executive. We should have a common ground for evidence. I have genuinely tried to approach the issue in that way.

1876. I have a dilemma. Equality is a very important and emotive subject for all of us around this table. More often than not we have tried to address it by way of the megaphone; this is the first time that we have sat around a table discussing it, and that is good. My dilemma is that, in being objective, we cannot at the same time be brief, because we need evidence to consider.

1877. Language can create division, and I will give you an example. Mr Brolly used the phrase:

*“a Protestant state for a Protestant people.”*

1878. The Prime Minister actually said:

*“a Protestant Parliament and a Protestant people.”*

1879. Language is important. The context was that his counterpart in Dublin had referred to a Catholic Parliament and a Catholic people. It must all be put in context.

1880. I shall ask the officials to circulate a paper. I do not want members to grimace and grunt, because I am not going to speak to the paper at length. I will go through it quickly and highlight some points. My aim is to put the paper on the table for the parties to note. I am not asking for discussion or agreement. I would welcome a bilateral meeting with any party, subsequent to this meeting, to discuss the content of the paper.

1881. I wish to talk objectively — words that have been used by Sinn Féin. I wish to reach a common understanding of the problem on the basis of evidence, from which we can derive mechanisms to go forward. I will leave the paper with the parties and go through it quickly. I hope that, in noting the paper under the auspices of this meeting, parties will come back to me and seek a bilateral to discuss it.

1882. **The Chairman (Mr Molloy):** Are members content for the paper to be circulated?

*Members indicated assent.*

1883. **The Chairman (Mr Molloy):** Do you wish to talk to the paper now?

1884. **Mr Nesbitt:** Yes.

1885. **Mr Paisley Jnr:** I want to make some points.

1886. **The Chairman (Mr Molloy):** I shall bring in Mr Paisley now.

1887. **Mr Paisley Jnr:** First, for the purposes of Hansard, I want to say that my earlier comments were, of course, in jest. I am sure that people will understand that.

1888. People have talked today about institutionalising sectarianism. It is a fact that the current process, since the Belfast Agreement, has certainly institutionalised and copper-fastened sectarianism in a number of the issues on which we have already touched.

1889. We have an institution here that relies on sectarianism. For example, we have to have a First Minister and a Deputy First Minister who must be drawn from particular communities, which, of course, is short for saying that we must have a Protestant and a Catholic in office. Whether we like it or not, that is what the legislation allows for.

1890. The Assembly relies on cross-community votes — so many Catholics and so many Prods must vote for something in order for it to be agreed. Even the process of appointments in the Assembly relies on sectarianism. If we are really going to drill down into the issue of equality, some people may have some real soul-searching to do. Our form of Assembly, our form of government, and our institutions and the legislation governing them really should be changed if we are to move away from the institutionalisation of a sectarian regime.

1891. There has been some comment about public appointments. Gregory Campbell made a proposal about how we should deal with public appointments. It is important to put on record that the current process of many public appointments deliberately discriminates against the unionist community. Mr Poots mentioned the Equality Commission — we would be hard-pressed to identify anyone on that body who could truly be described as representing the community from which I come. The Human Rights Commission has a number of unionist members of various types, but, again, its overall balance could not be described as reflecting the unionist community.

1892. Take other public appointments such as the Police Ombudsman. I remember when that legislation was going through Westminster. The Hayes Report proposed that a senior or retired High Court judge with a significant level of experience could be regarded as neutral enough to be in charge of Police Ombudsman work.



The appointment went to someone who, irrespective of her ability, is the wife of a prominent member of a political party. That does not augur well for people's confidence in independent, impartial, equal and fair appointments. It has been said before, but I cannot imagine a situation in which there would not be a hue and cry if the Police Ombudsman happened to be the wife of a DUP member. I think that people would be going mad about that.

1893. We have the reverse of that situation when unionists are appointed to bodies. People from the republican community are inspired by Sinn Féin to oppose those appointments. If orangemen are appointed to bodies, they are opposed because they are orangemen. If, for example, a victim of an IRA atrocity is appointed to a body — think of the interim Commissioner for Victims and Survivors of the Troubles — Sinn Féin opposes that too. There has to be some balance in equality when it comes to public appointments.

1894. Quite a lot has been said about police appointments and the issue of equality. We should identify the fact that the discrimination clauses in the Police (Northern Ireland) Act 2000 — they are not fifty-fifty clauses, they are discrimination clauses; that is what they are called in the legislation — cause long-term damage to both sections of the community. For example, they cause significant upset to people who get into the merit pool, know that they are qualified and know that their scores put them higher up their section of the merit pool, but who do not get appointed because of their religion. I know of over 1,000 Protestants who have been turned down for employment in the Police Service of Northern Ireland (PSNI) only because they are Protestant, yet they were higher up the merit pool than others who were appointed. I know of 230 Roman Catholics who are in the same position.

1895. Therefore the discrimination clauses cause significant, deep-seated resentment in the community and in those people who want to be police officers. They do not want to be Catholic or Protestant police officers; they want to be

police officers, and it causes resentment and affects the morale of the Police Service.

1896. If a person gets into the PSNI as a result of fifty-fifty recruitment — I will use that misnomer for the example — there is a chance that his or her promotion could also be decided on that basis. There is now an expectation that an officer's promotion prospects in the Police Service should reflect the community's demographics, or be based on what church the officer attends on Sunday, rather than on his or her skill, ability or length of service. That would be disastrous, and we must pull back from a policy that is affecting morale and that has a long-term and deep-seated effect on police officers.

1897. Police officers in California were in a similar situation when equality legislation stipulated racial equality of appointments to the police force there. Both black officers and white officers will say that the long-term effect of any sort of discrimination is resented within the service; therefore we should move away from that.

1898. People may claim that fifty-fifty recruitment is a principle, but it is not. If it were, it would have to be applied to every appointment in the organisation. However, parties here that claim that it is a principle voted for the Police (Northern Ireland) Act 2000, which allowed for the recruitment of 1,000 part-time reservists on the merit principle alone. If fifty-fifty recruitment is not a principle for appointing part-time reservists, why is it a principle for appointing regular officers? That must be addressed, because under the current legislation all future part-time reservists could end up being drawn from one section of the community because its applicants were better qualified. Alternatively, recruits could end up being drawn from a mixed section of the community, which would more than likely be the case. However, they will be recruited on one basis — merit — and there will be no question about their appointment because of that.

1899. There is also a significant depletion of detective ranks in Northern Ireland, but the principle is not that all detectives should be recruited on the basis of their religion. They



will be recruited on merit. On that basis, all the parties on the Policing Board — even those that claim that fifty-fifty recruitment is a principle — voted to ensure that the lateral entry of detectives from England, Scotland and Wales into the PSNI should be on merit. They agreed that those appointments should not be influenced by religion or identity. Therefore the fifty-fifty recruitment principle appears to be flexible: one that must be observed for the big stage, but not for other important appointments. One should recognise that it is not a principle; rather it is something that is causing significant damage.

1900. Reference has been made to the past and the part played by the Royal Ulster Constabulary George Cross (RUC GC). Significant numbers of people from the Roman Catholic community have played a large part in the PSNI and in the Royal Ulster Constabulary. The father of the current leader of the SDLP — a Roman Catholic — played a significant role in the Police Service, and did not mind that it was the RUC. In the past, there has been a Roman Catholic Chief Constable of the RUC, and that is often brushed over. Many officers from different sections of the community have played a significant role in the RUC. The hurt around the RUC is a straw man that is used for political purposes, and it has done much to damage community relations in Northern Ireland.

1901. I remember watching the SDLP conference — I think that it was last year's — and an invited guest called for fifty-fifty recruitment to be scrapped. I doubt whether the SDLP would have given a person a platform to go against its policy.

1902. Nonetheless, I do not believe that the people who declared fifty-fifty recruitment to be the great totem think that the underlying principle is to protect a certain community; it exists for political reasons. The issue affects the mindset of Protestants, who feel that their noses are being rubbed in it. That should not be so. Nationalists should recognise that fact and start to disengage themselves from the notion that they need fifty-fifty recruitment.

*11.45 am*

1903. It is important to clarify that fifty-fifty recruitment does not mean 50% Protestant and 50% Roman Catholic appointments. In the Police (Northern Ireland) Act 2000, the sections that deal with discrimination allow, and guarantee, that 50% of regular officer appointments be given to Roman Catholics. The 2000 Act gives no such guarantee to any other section of the community; it simply states that the appointments are for others. Therefore, the Protestant community feels doubly outdone on that issue.

1904. Sinn Féin has stated today that it does not speak on behalf the Roman Catholic community and does not wish to discriminate. Its members wish to discuss equality. Certainly, when the IRA bombed factories, it did not discriminate against workers. IRA activity did not discriminate — it injured everyone in Northern Ireland. Sinn Féin's talk about equality is simply talk. It is important to put that on the record.

1905. **The Chairman (Mr Molloy):** We must move on because several members wish to speak — John O'Dowd, Naomi Long and Derek Hussey.

1906. **Mr Nesbitt:** I thought that I was about to start.

1907. **Mr Paisley Jnr:** I thought that Dermot was going to go next. I am just the warm-up act.

1908. **Mr O'Dowd:** I had indicated before the paper was distributed —

1909. **Mr Nesbitt:** I thought that I had said that I would make my presentation next, Mr Chairman. You said that Ian could make his presentation while the paper was being distributed. The paper has now been distributed.

1910. **The Chairman (Mr Molloy):** Go ahead.

1911. **Mr Nesbitt:** I am simply following procedure.

1912. Ian said that we should drill down into the issue of equality, which was a good introduction. I shall be very brief. I will leave the paper with members, because it will be easier to comment if they have the paper in front of them. I will

speak to the paper, and it would be helpful if members could follow the pages as I refer to them.

1913. **Mr Paisley Jnr:** Mr Nesbitt indicated earlier that he intended to make a proposal. Will he make the proposal before he speaks to the paper or afterwards?

1914. **Mr Nesbitt:** I am not asking for agreement on the paper, but I will make the proposal, which contains nothing sinister, later.

1915. Page 3 of the paper states that we must demonstrate the effectiveness of the equality policy. It is also stated that, no later than February 2006, the British-Irish Intergovernmental Conference was discussing the unemployment differential.

1916. On page 4, a table is reproduced from David J Smith and Gerald Chambers's 'Inequality in Northern Ireland (Oxford 1991)', which states that 27% of Catholics and 21% of Protestants viewed discrimination/rights as one of the causes of the troubles. That is a clear identification that it is perceived that discrimination/rights was one of the causes of the problems.

1917. On page 5 there are quotations from: a Standing Advisory Commission on Human Rights (SACHR) report, 'Religious and Political Discrimination and Equality of Opportunity in Northern Ireland: Report on Fair Employment (October 1987)'; a Government White Paper, published in March 1998; a Northern Ireland Affairs Committee Special Report, 'The Operation of the Fair Employment (Northern Ireland) Act 1989: Ten Years On'; and the 'Report of the Taskforce on Employability and Long-Term Unemployment', published in December 2002. All those quotations point up equality of opportunity and how that will improve community relations.

1918. I want to highlight a quotation on page 6, to which I referred last week. In John Darby and Colin Knox's 'A Shared Future (Consultation Responses)', it is stated:

*"there cannot be good relations until there is equality of opportunity".*

1919. "Good relations" deals with a shared future.

1920. I want to mention a few political quotations. On page 6, a quote from Cairíona Ruane states that discrimination is "rife" and that Catholics are twice as likely to be unemployed as Protestants. A quotation from Gregory Campbell states:

*"22,000 more Roman Catholics and 5,000 fewer Protestants in work ... discrimination against our people has to stop."*

1921. Those are genuine views held by both those people. The two sides of the community say that discrimination exists. We must examine the evidence.

1922. **Mr Campbell:** Will Mr Nesbitt take a point of information?

1923. **Mr Nesbitt:** Yes; no problem.

1924. **Mr Campbell:** That quotation is accurate, but the figures come from the Equality Commission rather than it being my view.

1925. **Mr Nesbitt:** I do not doubt that. My point is that we are taking data, whether those are unemployment differentials in Sinn Féin's case or employment trends in unionism's case, to point up discrimination claims on both sides. Something must be done. This is a problem that we need help with if we are to solve it.

1926. On page 7 of the paper, the 1987 SACHR report is again cited, recommending targets for the reduction of the unemployment differential. There is another SACHR reference on page 8. This time it is a quotation from a 1997 report:

*"Government should publicly adopt realistic targets for the reduction of ... unemployment differentials".*

1927. There are two quotations on page 8 that I thought would show up a dichotomy. On the one hand, UNISON, the public-sector-workers' organisation, said in 1997 that Government policy:

*"failed to remove ... unemployment differentials and discrimination".*

1928. Against that, as an antithesis, the Queen's Speech of 14 May 1997 said that the Government would:

*"combat discrimination in the workplace".*

1929. Inez McCormack of UNISON might not view the latter as an antithetical source, but they are different ends of the spectrum. Both quotations flag up the question of discrimination.

1930. What was the Government's response to the comments? On page 9 of my paper, the Government said in the introduction to their response to the 1997 SACHR report that they were going to introduce policies:

*"centring on jobs and employment".*

1931. They saw that as the problem and planned to:

*"put in place a new statutory framework requiring the public sector to promote equality of opportunity",*

1932. namely the law that Pat O'Rawe referred to earlier, which was section 75 of the Northern Ireland Act 1998.

1933. The Government also said that they were going to recruit directly from the unemployed. They were hoping that that would reduce the unemployment differential, and indeed, that they were going to have:

*"benchmark measures for the future reduction of the unemployment differential."*

1934. Let us look briefly at some evidence, and then I will leave the paper for members to reflect on. A problem has been identified by a wide range of sources with varied views, and the Government have implemented policies to try to alleviate the perceived problem.

1935. The Northern Ireland Affairs Committee heard evidence in 1999 on that important issue. It also concluded that benchmark measures should be in place. Indeed, its report said that its next review in five years' time would consider any deviation between the benchmarks established and the available data. However, the Committee has never looked at it again. The benchmark measures for the unemployment differential have never been established, despite a commitment to do just that.

1936. On page 11 of the paper, a Northern Ireland Statistics and Research Agency (NISRA) briefing note is quoted. NISRA raised much wider issues than discrimination, talking of:

*"personal characteristics such as age, marital status, number of children, family experience of unemployment, housing tenure and educational qualifications".*

1937. In other words, it identifies the background that can influence whether a person gets a job. The briefing note concluded that there were no specific actions that Government could take to address the unemployment differential, and that it was:

*"not actually a valid measure of ... discrimination in employment".*

1938. The Office of the First Minister and the Deputy First Minister (OFMDFM) had research conducted by Tony Dignan. On page 13 of his research he concurred with NISRA's view on the impact of Government policy on the unemployment differential measured as a ratio.

1939. On page 14 of the paper, I reference the 2004 book, 'Fair Employment in Northern Ireland: A Generation On'. It was sponsored by the Equality Commission and was written by a wide-ranging group of academics, which the Equality Commission described as a "distinguished panel". An important element of its remit was social mobility. That dimension led to what was described as:

*"perhaps one of the most significant conclusions for this book as a whole".*

1940. That is the authors of the book talking; it is not unionism or nationalism.

1941. Social mobility means how well one can move through the social classes. On page 14, under 'Social Mobility', there is a quotation from 'Fair Employment in Northern Ireland: A Generation On'. It reads:

*"Much of the claims of discrimination being voiced by the Northern Ireland Civil Rights Association could be seen as claims of adverse social mobility";*

1942. in other words, people cannot move up through the classes.

1943. **Mr O'Dowd:** Does the fact that one cannot move upward not prove discrimination?

1944. **Mr Nesbitt:** No. The book is saying —

1945. **Mr O'Dowd:** Dermot is saying that those who were being discriminated against were unable to move upward because they were socially dysfunctional, or whatever. What is he trying to say?

1946. **Mr Nesbitt:** All I am doing is establishing a measure of objectivity as to whether there is discrimination. The book was saying that if one cannot move up the social ladder, one is probably being discriminated against.

1947. **Mr O'Dowd:** That proves discrimination.

1948. **Mr Nesbitt:** No. If one cannot move up the social ladder, that proves discrimination.

1949. **Mr O'Dowd:** Then the question is why one cannot move up the ladder.

1950. **Mr Nesbitt:** We have to see whether or not one can move up socially. That is the point that I am making. I am establishing the measurement criterion.

1951. The answer is given in the diagram on page 15 of my paper. Without going into detail, present occupation is determined more by first job and educational qualifications than by anything else. A first job is determined by years of education, by qualifications and, to a much lesser extent, by age. Age has a value of 0.089 as opposed to 0.390 for years of education and 0.219 for educational qualifications.

1952. Religion can be tracked on the diagram by moving left from first job to years of education. The number of years of education available is determined by the father's occupation, which can depend on his education, which, in turn, depended on his religion. I am not saying that religion is not a factor.

1953. **Mr Poots:** Thank you for explaining that, Dermot.

1954. **Mr Paisley Jnr:** It is a two-generational thing as well?

1955. **Mr Nesbitt:** It is at least two-generational.

1956. The book concluded:

*"religion ceased in the 1990s to have a direct independent effect upon an individual's social position."*

1957. The significance of that conclusion was that it was based on data collected in 1996 and 1997, at a time when SACHR, the Government, the Queen in her speech and others, were committing themselves to combating discrimination. The evidence shows that social mobility, as a measure of the presence of discrimination, is not directly linked to religion. There is, perhaps, an indirect link, back down the generations, but whether a person gets a job and moves up the social ladder is not now affected by religion. The evidence shows that.

1958. I shall not look at the worked examples; they are there for members to examine in detail on pages 16 to 19. However, at the bottom of page 20, there is an important point, which highlights the problem between Gregory on my side of the House and Sinn Féin's side of the House.

1959. I am not going to look at pages 22-24 in detail. They simply show, from an evidential point of view, that if the proportion of Catholics who are unemployed is twice the proportion of Protestants who are unemployed, it does not mean that Catholics are twice as likely to be unemployed as Protestants. The absolute number of people who are unemployed does not have a bearing on likelihood of being unemployed. The likelihood of a person getting or not getting a job depends on the person who applies and whether he or she is appointed. It is probability analysis.

*12.00 noon*

1960. At the bottom of page 24 I have the heading "Poverty and Disadvantage". The latest Government report shows that poverty and disadvantage are manifested in large measure by being unemployed. Unemployment is one of the single most important measures of disadvantage; my party accepts that. We accept that there is more disadvantage where there is a greater proportion of unemployment. The question is whether it is discrimination and how to deal with it, which is a different matter.

1961. I am not saying that there is unfair discrimination. I am only pointing out what the data says. Look at pages 25 and 26. Do not go into the data, but if you read it you can follow



it. Go straight through to page 28 — there are only 30 pages.

1962. **Mr Campbell:** There are 31 pages in my copy.

1963. **Mr Nesbitt:** Yes, well, OK.

1964. **Mr O'Dowd:** That is not the only inaccuracy in it.

1965. **Mr Nesbitt:** The first page is just the title.

1966. I will leave you with the table on page 28. Logically, if 40% of applicants are from one denomination you would probably expect 40% of the appointments to be from that denomination — if there is equality of opportunity, and if they have equal education and equal experience, you would expect the grouping selected to be reflective of the grouping who apply. In the case of appointments to the public sector, in six of the last eight years the proportion of Catholics appointed has been statistically significant in comparison with the proportion who have applied. It is out of kilter. I am not saying that Protestants are being discriminated against. The evidence cannot point that up. All that the evidence can point to, on a basic statistical analysis, is that in six of the last eight years more Catholics have been appointed than the proportion of applicants would suggest should have been appointed. That is a question to be addressed. That is the minimum that we can say about it: the question needs to be addressed.

1967. Before I come to the conclusion, a little anecdote. As I say at the bottom of page 29, it was pointed out in the DTZ report that members of the Church of Ireland have a greater unemployment differential than Presbyterians. Also, look at the statistics for Monaghan, where there is an unemployment differential against Catholics of 3·1. In Cavan it is 2·7. Are we saying that Catholics are discriminated against in the South compared to Protestants? Dare I ask, as a member of the Church of Ireland: are Church of Ireland members being discriminated against as compared with Presbyterians? That is what the data might say. Never mind Free Presbyterians; we will leave them for the moment.

1968. **Mr Poots:** Presbyterians have a stronger work ethos than members of the Church of Ireland.

1969. **Mr Paisley Jnr:** To compare page 31 and page 14, are you actually saying that —

1970. **Mr Nesbitt:** Can I finish this, and then come to questions?

1971. **Mr Paisley Jnr:** I want you to address this in your conclusion.

1972. Are you saying that Government policies are better addressed if they target need and tackle disadvantage, rather than relying on general equality legislation to tackle disadvantage and need?

1973. **Mr Nesbitt:** I am saying that TSN and New TSN target need objectively — that is what they are meant to do. Need is where there is disadvantage and unemployment, and therefore the policy might be to recruit from among the unemployed. I am saying that that policy did not affect the unemployment differential as people thought it would. People are still seeing the unemployment differential. While someone said earlier that it was down to 1·8 from 2·4, it had actually been down to 1·6 earlier. It oscillates. It is there: it is a structural dimension that needs to be addressed. We should not confuse disadvantage with discrimination.

1974. Let me move to my conclusion. The process of accurate, clear and simple representation by Government is essential. There are issues around this table, and members will disagree with what I have said. You hold your views with clarity and I do not disrespect your views, but Government needs to make an assessment of this. We cannot do it.

1975. As the Government have the resources, the wherewithal and the data, the Committee should tell them to explain this matter in clear and simple terms so that the Ulsterman or Ulsterwoman in the street can understand it. For example, is the unemployment differential caused by discrimination or not? Does the unemployment differential show equality of opportunity or not? I have listed the questions.



Government should also initiate, as a matter of urgency, the appointments procedure.

1976. The Ulster Unionist Party strongly supports fairness for all. It is realised that equality is a sensitive issue and disadvantage must be addressed by Government and by others who have such responsibility. I do not deny that.

1977. The challenge to Government is to fully address the issues of equality that are of concern to the people in Northern Ireland. Until then, it will be difficult to turn away from past perceptions and look to a different future — a future beneficial to both Catholics and Protestants.

1978. I ask members to note that. I do not ask them to return to this issue next week unless they wish to do so, but I have no problems with answering any questions that may arise. However, I would prefer to have bilateral discussions with parties on this. Given that there have been disagreements, the Committee should ask the Government to tell us where we stand on equality issues — they have the responsibility, the authority and the knowledge to do so.

1979. **Mr O'Dowd:** Sinn Féin will take up Mr Nesbitt's offer to have a bilateral discussion on the Ulster Unionist Party's document. Certain parts of the document brought to mind the Flat Earth Society's very good website, which can convince a person that the earth is flat, if they wish to be so convinced. However, other evidence shows that the earth is not flat, and I am inclined to believe that. Mr Nesbitt can produce as many statistics and documents as he wishes, but if they ignore the reality of our lives, it is a pointless exercise.

1980. **Mr Nesbitt:** I would like it noted that I mentioned community differentials, which include healthcare and so forth, as distinct from the unemployment differential. I have never denied that there is disadvantage in this community. However, I do question whether that disadvantage arises from discrimination. There is a distinct difference between disadvantage that must be addressed by Government and unlawful discrimination, which section 75

prohibits. If Mr O'Dowd disagrees with me — flat-earthers versus round-earthers, in a sense — perhaps this is something for the Government.

1981. **Mr O'Dowd:** I will come to that point.

1982. **The Chairman (Mr Molloy):** Three members have yet to speak, and five proposals are to be put to the Committee. We need to move quickly if we are to get this matter half sewn-up by lunchtime.

1983. **Mr O'Dowd:** My comments will be very brief. We gave Mr Nesbitt a long time to go through his document. Discrimination causes disadvantage, and it has done so over the years.

1984. Mr Nesbitt suggested that this Committee should ask the Government; the parties around this table should be the Government. We should not be running, cap in hand, to ask a party that has no votes here, and that does not understand the thinking of this place, to solve our problems. We are all more than capable of solving our own problems, including discrimination and equality issues. We can do it on our own; we do not have to ask Peter Hain or whoever else is sent to this place next time around.

1985. Unionism has built a state on the belief that equality and civil rights are not needed, and that there is no discrimination. The communities that the unionist parties represent now believe that they are being discriminated against, but the mindset that they have been given is such that they believe that there is no mechanism to remedy that discrimination. On the other hand, all the other parties spent decades campaigning for such mechanisms to be put in place, and Sinn Féin still believes that those mechanisms should be strengthened.

1986. If there is discrimination in the Housing Executive — and I would like to see the figures to which the DUP refers — it is wrong. The DUP must ensure that mechanisms are put in place to protect the rights of the individual and of the community being discriminated against. If applicants for jobs in the Housing Executive have been discriminated against because they are Protestants, they should have access to the Equality Commission. That body should be properly funded so that cases can be progressed.

If discrimination is proven, the Equality Commission should have the power to ensure that it does not happen again. That is Sinn Féin's argument.

1987. **Mrs Long:** I want to address some of Mr O'Dowd's comments. I accept the truth of what he says, but it is a half-truth: discrimination can cause disadvantage, but not all disadvantage comes from discrimination. There is a difference there. If Mr O'Dowd believes that disadvantage in the Catholic community results solely from unionist discrimination, how does he explain disadvantage in the unionist community?

1988. **Mr O'Dowd:** I did not say that.

1989. **Mrs Long:** You said that discrimination caused disadvantage, but that is only part of the picture. There is a bigger picture.

1990. Last week, we discussed at length the issue of public appointments, specifically in relation to the Northern Ireland Human Rights Commission. We discussed how people viewed those appointments, whether they were broadly representative of the community, and what exactly that meant. We discussed the fact that unionists panned the previous Human Rights Commission as being too nationalist because its Protestant members were not perceived as being unionist enough. Nationalists also panned the commission because they felt that there were too many Protestant members, even though unionists did not accept that those members were unionists. There is a whole complexity there that we need to look at. We have talked about public appointments being broadly reflective of our communities, but we have not reached a consensus as to what that means.

1991. I want to reiterate the Alliance Party's position: appointments and offers of employment should be based on merit. Merit should be the primary driver. That leads on to Ms Lewsley's proposal. If we are going to appoint on merit, then unless the issues of disadvantage and need are addressed, there will be imbalance in the workforce because one section of the community will be better educated, better qualified and better prepared. If the issues of disadvantage and need are addressed, based on objective criteria, people

can approach the employment market — whether public appointments or direct employment — on a level playing field. It is at that point that appointments are made on merit.

1992. I also want to talk about differentials. The Ulster Unionist Party made a long presentation that was quite important because we all tend to lift figures that represent a window in time. For example, one could look at the figures from one round of recruitment in a particular organisation to see how many Protestants and Catholics have been offered jobs. If there are too many of one or the other, one might think that there must have been discrimination, but that is not true. There can be a differential at any point in time if people are appointed on merit without any discrimination. You may find that the majority of appointees will be Protestant in one case or Catholic in another. The question is whether there is a trend over a period to suggest that the organisation is skewing the figures deliberately in one direction or another. A differential does not prove discrimination. In order to prove discrimination, it has to be shown that an organisation is actively skewing the figures. We must be very careful. I am not arguing the case for differentials. I am simply saying that trends, not windows, must be examined. Otherwise, you get an unfair picture of what is happening.

1993. The Alliance Party is in favour of affirmative action. It is fine, based on need, to go out and take affirmative action in advance of the recruitment and selection process, but it has to be distinct from that process, not least because it is being done in the context of Catholic and Protestant, unionist and nationalist. Many other members of society need to enter the employment process knowing that their applications will be treated fairly, whether those people are disabled, are of a different gender or have a different sexual orientation. They need to know that their rights are protected, and the only way to do that is to encourage all to apply, to establish what needs to be done to raise people up to a certain standard and then to appoint on the basis of merit. That is how a healthy society ought to function.

1994. Ian Paisley Jnr mentioned fifty-fifty recruitment and the notion of positive discrimination. There is no such thing as positive discrimination — discrimination against one person in favour of somebody else is not a positive thing. It may appear positive to the individual who benefits — although I would question that — but it is certainly not positive to those who are being discriminated against. I am not even sure whether it is a good thing for the people whom the discrimination favours.

1995. I have argued against positive discrimination and quotas that favour women, because people should be appointed on merit, and I am confident that there are women of merit who can be appointed to posts without having to rely on quotas or positive discrimination. That same argument can be applied for any other section of society. The issue of need must be dealt with. Therefore the Alliance Party supports Patricia Lewsley's proposal because it would lead to there being fully merit-based appointments.

*12.15 pm*

1996. **Mr Hussey:** I am glad that Francie Brolly mentioned the potential for turnaround. People in my neck of the woods — and I am thinking of an east-west divide rather than a religious divide — must be made aware of that. The Committee has concentrated on labour-market issues and employment issues, and rightly so. It is something about which people feel strongly. However, I hope that, as the debate on equality issues opens up, we shall be discussing more than the labour market. For example, where I live, I have exactly the same access to public transport as my Catholic neighbour does. Therefore there are more issues around equality than simply those in the employment market.

1997. Naomi mentioned consideration of the individual. I hope that we are working towards establishing principles that can create a climate of equality, as opposed to our having to enforce legislation. Equality must be objective, and in order to achieve that, we must look at opportunity, access, needs and merit. We can find a way forward for our society if we adhere to those principles.

1998. **Mr Poots:** I note what Sinn Féin said about proper funding for the Fair Employment Commission and the Equality Commission. The Fair Employment Commission ceased to exist a number of years ago, so why one would put public money into a body that does not exist is beyond me.

1999. The composition of the RUC was mentioned earlier, yet the Equality Commission could be described as being two thirds Catholic and 100% non-unionist. Although the Equality Commission has acted on behalf of individuals, it has never acted for the entire unionist community in any case in which that community has identified a problem with equality.

2000. As an example of a high-profile case, pressure was put on Shorts to ensure that more Catholics were employed there. However, we have not seen the same pressure being applied to such groups as the Quinn Group. There is a huge chill factor against the unionist community at Queen's University, particularly in its school of law. It is worrying that that is from where our future barristers, solicitors and judges will come. The huge inequality that exists there will feed through to those who operate our judiciary. However, in spite of the fact that those issues have been brought to its attention time and again, the Equality Commission has refused to take any of them on board.

2001. Reference was made to the Housing Executive, for example. Last year, 32% of job applications to the Housing Executive came from the Protestant community; that figure should have been 52%.

2002. Why does such a chill factor exist in the Housing Executive? Why does the Equality Commission do nothing about it? The Equality Commission does nothing because it is not interested in tackling unionist concerns. Whenever unionist politicians raise such issues, they are not dealt with. The unionist community has no confidence whatsoever that the current Equality Commission will carry out its duties impartially.

2003. Another aspect of that lack of confidence is that the Equality Commission appears to deem the national flag as potentially creating a chill factor for the nationalist community. That

criterion does not appear to be applied to the Irish language. At least two councils in Northern Ireland erect exclusively Irish language signs in some areas — not dual language signs; exclusively Irish signs. The Equality Commission has made no attempt to move against those councils for doing that.

2004. All the evidence is that the Equality Commission is non-unionist, anti-unionist and will do nothing to address concerns raised by unionists. The unionist community has no confidence whatsoever in the Equality Commission. Unless those issues are addressed — and addressed at commissioner level — that will continue.

2005. **Ms Lewsley:** The SDLP does not claim that the differential proves ongoing discrimination. However, we are focused on reducing the differentials; the elimination of such differentials is already stated in the Good Friday Agreement.

2006. Differentials can be tackled by wider action on disadvantage, unemployment black spots, and even under-representation in the workforce, whatever that may be. There are also issues of addressing trends and, of course, investment west of the Bann or elsewhere. All the issues that have been raised are encompassed in my proposal about targeting need objectively.

2007. **Mr Campbell:** I will speak about Patricia's proposal at the end. I shall try to make a composite proposal, although it might be difficult. There are elements that are complementary rather than contradictory.

2008. Dermot kindly quoted me in his document. As I said in my intervention, that quote is from the Equality Commission. It took considerable time, a number of parliamentary questions, and several letters and phone calls to the Equality Commission to establish that figure. If the Equality Commission were performing its function adequately, it should have undertaken that research and published that figure in the public domain to demonstrate the type of problem that the commission currently faces, rather than creating the appearance that the Equality Commission

operates on the basis on which its predecessor was established. That is, to try to understand or rationalise why Catholics are more likely to be unemployed than Protestants.

2009. It is a ludicrous, but logical, conclusion that figures show that Protestants are, to some degree, under-represented in relation to the number of jobs that have been available on the job market in recent years. If Catholics got 100% of the jobs, they would still be more likely to be unemployed than Protestants. What is the next logical step for anyone who believes that the unemployment ratio must be fixed — as Dominic said, bringing the ratio down from 2.5 to 1?

2010. Anyone who accepts the premise that the unemployment differential must be eliminated, and that that is the holy grail, is up against the logic that even if, the Catholics get all the jobs available, they are still more likely to be unemployed. What do you do then? There is nowhere to go.

2011. Difficult as it may be, the unemployment differential must be set aside. Both Dermot and I have referred to the fact that Catholics are more likely to be unemployed in parts of the Republic.

2012. **Mr Nesbitt:** I do not want to get into an argument with Gregory, but the point is that unemployment differential says nothing about the likelihood of being unemployed. Unemployment data does not show that Catholics are more likely to be unemployed.

2013. **Mr Campbell:** I was speaking statistically. I am in danger of getting a sore head, and I want to avoid that.

2014. There is a perception — and I heard it from Sinn Féin today — that unionist representatives take a particular view now because of the evolution of problems facing the unionist community. The Fair Employment Agency was established in 1976 and released its first report in late 1977. I was on its doorstep within 24 hours of that report being issued, nearly 29 years ago. My party has not been raising those issues because of a latter evolution since the late 1990s or early 2000s; we have



been tackling them for over a quarter of a century. Unfortunately, the passage of time is proving that what we have been saying is true.

2015. I do not want to reiterate that; it is a matter of record. I want to move to what will hopefully be an amalgam of proposals. Equality measures must be targeted objectively and have to be implemented to address current trends in order that future problems can be averted.

2016. **Ms Lewsley:** Can that last bit be repeated? Equality measures must be targeted objectively and have to be —

2017. **Mr Murphy:** Implemented.

2018. **Mr Campbell:** They must be implemented to address current trends in order that future problems can be averted.

2019. **Mr Nesbitt:** I want to add something to try to get a real composite motion, if that is possible. I take John O'Dowd's point that it is for Members to be in Government and to take action.

2020. **Ms Lewsley:** You said John Dallat; do you not mean John O'Dowd?

2021. **Mr Nesbitt:** I did not; I said John O'Dowd.

2022. **Mr O'Dowd:** That is all right; I have been called many things.

2023. **The Chairman (Mr Molloy):** It is getting close to lunchtime.

2024. **Mr Nesbitt:** I may have inadvertently called you Carmel, Patricia. A few weeks ago, I forgot Arlene's name and did not call her anything and she chided me.

2025. **Ms Lewsley:** I am sorry.

2026. **Mr Kennedy:** It was in the papers, I think.

2027. **Mr Nesbitt:** Was it? *[Laughter.]*

2028. Although John O'Dowd said that it is for Members, not the Government, to take action, I still think that it will be at least three months before there is an Assembly here. The Government can help by notifying us of their position on this matter. Words to that effect should be added if we are seeking a composite

motion. There is nothing to preclude that happening in the next three months.

2029. Although we want equality to be objectively targeted, adverse trends to be addressed and objectively implemented, we also want to know what we are dealing with. Government should be able to bring that forward. I have not found the form of words yet, Chairman, but that should be reflected in the proposal.

2030. **Mr O'Dowd:** I have a question. The Housing Executive has been batted back and forth across the table today. Gregory made the point that the DUP has been using mechanisms — with which we may not agree — to resolve discrimination. Has the DUP, or anyone else, lodged a complaint with the Equality Commission about the Housing Executive's employment practices?

2031. **Mr Poots:** We have lodged a complaint about the Equality Commission itself, which has not been taken up.

2032. **Mr Campbell:** To be fair, I have been working with the Housing Executive on affirmative action measures, and I have met Paddy McIntyre on a number of occasions. The Housing Executive has adopted a number of measures, but they have not worked, which the Housing Executive freely admits. We have lodged numerous complaints.

2033. I do not want to single out the Housing Executive; it has been mentioned several times — indeed, I have done so. The Housing Executive is an example of the problem rather than the exclusive preserve of the problem.

2034. The public sector comprises much more than the Housing Executive. It includes the Child Support Agency (CSA) and the general service grades of the Civil Service. It employs 30,000 people, not just the 3,000 who work for the Housing Executive.

*12.30 pm*

2035. **The Chairman (Mr Molloy):** Can we try to tie down the wording of the proposal?

2036. **Ms Lewsley:** May I table an amendment to the proposal?



2037. **Mr Nesbitt:** It is 12.30 pm; we normally break for lunch at this time. The officials have heard our discussion, so it would be good if, after lunch, they could present members with a nicely phrased composite of all the views that have been heard rather than have members rush to draft something now.

2038. **The Chairman (Mr Molloy):** Good idea. How about 15 minutes for lunch?

2039. **Mr Nesbitt:** Note that I said that the officials should summarise our discussions to help us. I always believe that officials are here to help us.

2040. **Mr O'Dowd:** The officials are not getting any lunch.

2041. **The Chairman (Mr Molloy):** We will reconvene at 12.50 pm.

*The Committee was suspended at 12.31 pm.*

*On resuming —*

*12.54 pm*

2042. **The Chairman (Mr Molloy):** I will put the first proposal.

2043. **The Committee Clerk:** The proposal is that equality measures need to be implemented to address objective need and current trends to avert future problems; and all interested parties, including Government, should be fully committed to addressing this issue.

2044. **The Chairman (Mr Molloy):** Is there consensus on that?

2045. **Mr O'Dowd:** To clarify, that motion covers a number of areas that we have discussed, but it does not cover Sinn Féin proposals. Is that agreed?

2046. **The Chairman (Mr Molloy):** Yes.

2047. The proposal is mainly a mixture of Patricia's and Gregory's proposals.

2048. Is there consensus?

*Members indicated assent.*

2049. **The Chairman (Mr Molloy):** We move now to Pat O'Rawe's proposals.

2050. **The Committee Clerk:** The first proposal is that the Northern Ireland Act 1998 be amended to give the Equality Commission enforcement powers.

2051. **The Chairman (Mr Molloy):** Do we have consensus?

*Members indicated dissent.*

2052. **The Committee Clerk:** The second proposal is that all public bodies should be designated to comply with section 75.

2053. **The Chairman (Mr Molloy):** Do we have consensus?

*Members indicated dissent.*

2054. **The Committee Clerk:** The third proposal is that the British Government need to establish an independent recruitment and selection panel for the Equality Commission to ensure that the commission is representative and balanced in its composition.

2055. **The Chairman (Mr Molloy):** Do we have consensus?

*Members indicated dissent.*

2056. **Ms Lewsley:** I accept that we are discussing equality, but the issue involves more than the Equality Commission. The composition of the Human Rights Commission, and appointments to it, were mentioned at our previous meeting, as were other bodies.

2057. **The Chairman (Mr Molloy):** The proposal deals with the section on equality that we have been discussing.

2058. **Mr O'Dowd:** I wish to clarify a point, without re-opening the debate: Sinn Féin made those proposals, as it wants to ensure that a strong mechanism exists to enforce equality. That is why the party concentrated on those issues.

2059. **Mrs Long:** The Alliance Party does not see the need for a separate procedure for either the Equality Commission or the Human Rights Commission. We believe that there should be a standard procedure for public appointments.

2060. **The Chairman (Mr Molloy):** We do not have consensus on those proposals.

2061. The next issue is "Good relations". The Alliance Party will begin the debate.

2062. **Mr McCarthy:** The Alliance Party believes that addressing our deep communal divisions is critical to placing the restored institutions on a durable and sustainable basis. Until very recently, community-relations problems have not been addressed in any serious manner. Community relations was a marginal issue in the Good Friday Agreement. Furthermore, it was, at best, a marginal issue in all the various plans, declarations and agreements that have been devised in attempts to implement the Good Friday Agreement.

2063. Despite — or perhaps because of — the agreement, Northern Ireland remains a deeply divided society. Unfortunately, in many respects, divisions have become even more entrenched. Strong sectarian and racist attitudes remain prevalent, and there is a deeply ingrained pattern of segregation. Often, territory and public space are marked out through the use

of exclusive communal symbols. Although separation is generally not the formal policy of the state, there is substantial duplication in the provision of goods, facilities and services by both the public and private sectors.

2064. In the field of education, 95% of Northern Ireland's schoolchildren attend what is, in effect, a segregated school system. More peace walls, which are built to keep people apart, have been erected since the 1994 ceasefires than were ever erected before.

2065. However, there are also many positive trends. Significant elements of civil society are organised on a cross-community basis. The workplace is integrated, largely through top-down regulation. There is evidence of substantial public support for shared education, housing and leisure pursuits, but that aspiration for shared provision is often frustrated, sometimes because of the lack of facilities, but mainly because of fears over security — both physical and cultural.

2066. More and more people are casting off traditional identity labels and challenging the notion that Protestant equals British equals unionist or that Catholic equals Irish equals nationalist. A growing number of new immigrants is coming to Northern Ireland to live and work, and that is an encouraging sign of globalisation in the economy. Their welcome presence poses a challenge to the traditional conceptions of identity. Furthermore, it is increasingly recognised that the economic, financial and personal cost of managing a divided society is unsustainable.

2067. The them-versus-us competition for control over resources and territory is a continued source of communal tensions that sometimes flares into violence or, indeed, mass public disorder.

*1.00 pm*

2068. The Alliance Party warmly embraces the concept of a shared future. The term can refer to the commitment of a divided community to overcome barriers and work together for a better future. However, it more properly refers to a set of policy principles and specific policy

commitments. My party welcomes the framework document, 'A Shared Future', published in March 2005, and also the first of the triennial action plans that was published in April 2006. "Shared future" is not simply another label for repackaging community-relations policies of old. It is not primarily about looking at the funding of projects. Rather, it must be seen as a challenge to the range of policies and practices in Northern Ireland.

2069. The Alliance Party regrets that most of those developments have occurred under the watch of direct rule Ministers rather than devolved or local Ministers. It is notable that the Government have finally accepted that the division of Northern Ireland into two communities that, they assume, are impossible to reconcile, and, at best, trying to manage those divisions, is not a sustainable or acceptable strategy. Instead, the Government now accept that the only credible way forward lies in a shared and integrated society, in which people can live, learn, work and play together in safety. The 'A Shared Future' action plan puts forward a commitment to mainstream such thinking throughout public policy and in the delivery of goods, facilities and services.

2070. In conclusion, the Alliance Party believes that the details of building a shared future can be left to the normal public-policy mechanisms. However, a commitment to a shared future is essential to advance the political process. I propose that all parties endorse the framework document, 'A Shared Future', and the action plan; and that they regard their implementation as critical to political progress.

2071. **Mr Paisley Jnr:** When people talk about good relations, they say that it is a good idea and that they want some of it. They then try to build on that. It is difficult to nail down exactly what "Good relations" involves. How can good relations be implemented? Policies or strategies for building good community relations should not be based on an attack on the education structure, but that is a debate for another day. The pursuit of good community relations should not bring about a leap towards integrated education. Intolerant people can be found in

various schools, including schools in the integrated sector. It must be recognised that integrated education is not a panacea.

2072. We must try to put together the building blocks for good relations. Those building blocks have already been discussed with regard to equality. If people believe that they have equality in law, they will believe that they have a shared future. If people perceive that equality exists, good relations will develop and grow. If people believe in the services of the state — the legitimacy of law and order, in particular — suspicions will decrease and the opportunity to build a shared future will increase.

2073. There are examples of the private sector, as well as the public sector, trying to generate the notion that Ulster is everybody's. Linfield Football Club has recently upgraded and increased its activities to combat sectarianism with its commitment to the Irish Football Association's (IFA) 'Kick it Out' campaign. That follows the Football Association (FA) in England's campaign, 'Let's Kick Racism Out of Football'. That demonstrates a positive activity of people trying to show, on a practical, day-to-day basis, how we should try to share this piece of the world and live together in peace and harmony.

2074. Most people want to live together in peace and harmony. However, those who have wrecked the peace and harmony for the past 30 years — the paramilitary gangs, thugs, and gangsters on all sides — have brought us to this point at which we are discussing ways of overcoming that. Most people want to live together and share this piece of turf, but, unfortunately, the legacy of the past causes suspicions, and those suspicions must be addressed. People will find that they are addressed in different ways to their satisfaction.

2075. It is difficult to pin down specific ways in which to legislate for good relations; a lot of it needs to be done by example. What seem like good relations to one person may not be comfortable for someone else. We should not challenge what people ultimately believe. Some people have the notion that achieving good relations means that they set aside what they

believe in, and that strong views — religious, cultural or political — must have the rough edges taken off. However, that sours the notion of true relations, because a person should be able to respect another's beliefs, whatever those beliefs are.

2076. We have seen that people in Northern Ireland cannot respect those who are different. Every year, the orange community is reminded that it is not respected. Most people would be happy if nationalists said that they are not offended by it, because they are not interested in it. I am not offended when I go to England and see morris dancing, because I am not interested in it. If we could get to that point, we might start to see a practical and pragmatic good-relations strategy develop.

2077. **Mrs O'Rawe:** I will cover "Shared future" as well as "Good relations. Paragraph 13 on page 18, paragraph 13 of the Good Friday Agreement pledges:

*"The participants recognise and value the work being done ... to develop reconciliation ... understanding and respect between and within communities and traditions, in Northern Ireland and between North and South, and they see such work as having a vital role in consolidating peace and political agreement."*

2078. The British Government subsequently produced 'A Shared Future: A Consultation Paper on Improving Relations in Northern Ireland'. That document, like its predecessor, shied away from any analysis of the causes of division, inequality and structured discrimination and sectarianism that the British Government fostered and nurtured.

2079. 'A Shared Future' is fundamentally flawed in many ways, not least because it places the burden of blame for community conflict on people's lack of trust. It also shows the classic and insulting "two tribes" approach shown by British Ministers and policy-makers that provides a smokescreen for the divisive role they played in failing to honestly tackle the causes of community conflict.

2080. The document acknowledges that disadvantage and community conflict are

related, but the major flaw is that there is no recommendation to amend the Northern Ireland Act 1998 to allow the Equality Commission to assume the statutory responsibility for good relations that would provide the oversight for monitoring the mainstreaming of good relations across public bodies. Instead, a significantly enhanced role is to be undertaken by the existing Community Relations Council (CRC), with ministerial oversight.

2081. 'A Shared Future' fails to acknowledge the divisive role that the state played in contributing to deeply rooted mistrust and suspicion between communities, which extended into the core patterns and structures of relationships at all levels in the North. It fails to provide any clear definition of sectarianism or, in its section on fundamental principles, a commitment to measures to eradicate it.

2082. The Equality Commission — not the CRC — should be the clearly identified public authority responsible for promoting good relations. The Equality Commission is already responsible for promoting good race relations. In order that there be no dilution of existing equality laws, and that there be clarity on whether the CRC or the commission should be given the additional responsibilities to promote good relations between people of different religious beliefs and political opinions, the commission must have the leadership role.

2083. In England, the Commission for Equality and Human Rights (CEHR) is responsible for promoting good relations on six grounds: faith; age; disability; gender; race; and sexual orientation. The Equality Commission's position on the single equality Bill, which is stalled at present, is that it is seeking to have similar powers extended here.

2084. A commission on national reconciliation should be established under the aegis of the North/South Ministerial Council. The commission would report to the Executive and Dáil Éireann and would instigate participative consultation, research and inclusive discussion. It would also ensure that any good-relations strategy would be built primarily on mainstreaming of the equality agenda.



2085. **Ms Lewsley:** I would also like to cover “Shared future” and “Good relations”, because they overlap. We are supposed to be talking about good relations, yet we have had a proposal on a shared future.

2086. To create a shared future is the purpose of any peace process. It is about equal citizenship and human rights for all. All public goods, services and facilities should be open and accessible to everyone. A shared future should be about living, working and playing together. Policy-making in any new Executive must take account of a shared future, and give it its full support.

2087. As things stand, those who are intimidated, rather than the perpetrators, are moved on. It matters that people are frightened when going through our cities and town centres at night and that people are intimidated by flags, murals and, more recently, football regalia. Such attacks cannot be justified, and the failure to reach political agreement cannot be justified either.

2088. A shared future cannot be seen as a small side-policy — it must be a major structure of government. It means opposing all forms of sectarianism and taking a firm stand on all that is said and done in a sectarian nature, rather than explaining, minimising or making excuses for it. It means taking down all flags down public property.

2089. The Committee has heard talk about the building blocks of a shared future. I believe that there are many of them, and that good relations is one building block. Good relations must be the mainstay of central Government and their Departments, as must be our councils, or the new councils that the Review of Public Administration (RPA) will create. Good relations should be implemented as a key part of section 75 alongside the new power-sharing arrangements that will promote working partnerships when we see the RPA put in place.

2090. Good-relations committees have been set up in most councils — a few have still to be established. Some are working, many are not, and some are paying lip service. We need to reach a standard across the board. In particular, it is important that political parties on all

councils sign up to the concept of good relations and try to ensure the delivery of good relations in their councils and communities.

2091. As Ian Paisley Jnr said, good relations are often seen as good for one person but bad for another. In trying to reach a compromise, we need an understanding of respect and diversity. Good relations are a building block to help that.

2092. We have talked for a long time about a shared future, and it is time we made that talk a reality. I support the Alliance Party’s proposal.

*1.15 pm*

2093. **Mr Kennedy:** The Ulster Unionist Party believes that the overall aim of any community relations policy must be to work for a pluralist society in which views and opinions, consistent with democratic values, co-exist and are respected. Only in such a context can a truly modern and cosmopolitan society develop.

2094. While — realistically — the main relations at issue are between the Protestant and Roman Catholic communities, a community relations policy must be able to embrace and promote other communities, such as other faiths, ethnic groups, and those who are less able.

2095. The objective of having a shared society is important. However, it is essential that policy makers accept that due to the legacy of the conflict, the violence and the continued political uncertainty, many in our society, at this point, are unable to endorse such an aspiration. Those views must be respected; but equally, they must not constrain others who are able and willing to develop a more shared society.

2096. In essence, the policy objective must be to develop a society in which the main drivers are tolerance and mutual respect. Progress would be much quicker and easier if violence and paramilitarism would end; however, it is probably unrealistic to set that as a precondition. The development of a pluralist society is regarded as part of the process of hastening the end of those negative influences, but it will not be nearly enough on its own. Nonetheless, communities need to have confidence that the forces of law and order are serious about getting to grips with paramilitarism.



2097. The overall aim of any community relations policy in a modern society must be to develop tolerance and respect. The acceptance and promotion of diversity as an asset must be developed, as opposed to the current pervasive attitude, which suppresses expressions of difference and sees diversity in the workplace, school or society as a cause of conflict.

2098. A community relations policy must strive to develop respect so that different cultures and traditions can be celebrated in a way that adds to society, rather than being seen as a cause of offence. In many areas, cohesion has broken down and the community often feels isolated, embattled and belittled. A community relations policy must seek to develop structures in communities to raise confidence and community self-esteem. In many cases, there is a need to break the dominance of paramilitaries so that genuine leadership and community structures can emerge. Apathy and the general malaise towards building improved relationships must be removed. Throwing money at the problem has manifestly proven not to be the solution.

2099. New policies to develop community cohesion must recognise that the two main communities approach community relations in very different ways. Consequently, the same model will not fit — nor must it be made to fit — both communities. The outcome of such policies must be confidence in communities and societies so that individuals will have the freedom to choose where to work and live, unrestricted by fear.

2100. Furthermore, individuals and groups should be able to express and promote their views and beliefs in a climate of respect and tolerance. Under a community relations policy that promotes diversity and respect, it is essential that civic society and Government be pro-active in the promotion of cultural diversity. Tolerance and respect must replace the current policies of neutrality and avoidance.

2101. Finally, new community structures need to be developed to replace the paramilitaries. Those structures must show that problems within and between communities can be addressed through routes other than violence.

The relative calm of the summer sets a precedent, but it certainly should not be regarded as evidence that any underlying problems have been solved.

2102. Increasing neutrality has led to increased intolerance, as evidenced by the extension of the classification of offensive items, such as political emblems, to include sporting emblems etc. Such a lack of tolerance breeds intolerance.

2103. **The Chairman (Mr Molloy):** Does the Alliance Party or DUP want to add anything on shared future issues? All parties seem to have taken equality and shared issues together.

2104. **Mrs Long:** We took the two together, although we did not preface that in our remarks.

2105. **Mr Campbell:** I want the SDLP to elaborate on the view that Patricia expressed on the councils. I understand the ramifications of the RPA, because the SDLP, the DUP and others have spelt them out. Patricia's comments suggested that, however the RPA develops, the SDLP wants particular good relations issues to be resolved in advance of the RPA. Good relations could, therefore, be established on the back of the allocation of positions, power-sharing or whatever else being statutorily enshrined.

2106. **Ms Lewsley:** Yes, that is right.

2107. **Mr Campbell:** That is what I understood from your comments. Do you equally accept that that is one side of the coin, which I presume also applies to many in the nationalist community? The unionist community wants similar assurances to be statutorily enshrined in relation to any prospect of nationalist-controlled councils proceeding on a North/South basis, establishing North/South bodies or establishing matters in relation to a power-sharing Administration between Northern Ireland and the Republic.

2108. Do you accept that that should be similarly enshrined? In the same way that nationalists seek comfort and reassurance in the way that you have described, unionists seek reassurance on the other side of the coin on North/South issues.

2109. **Ms Lewsley:** I understand that. Both sides have a number of issues that must be resolved in any future Government here. I have no problem with that.

2110. **Mr Campbell:** Do you accept that the concerns of each side of the community are equally valid?

2111. **Ms Lewsley:** Yes.

2112. **The Chairman (Mr Molloy):** Gregory, do you have anything to add on shared future issues or did you take the equality and shared future issues together?

2113. **Mr Campbell:** We took them together.

2114. **Mr Nesbitt:** Pat O’Rawe said that the failure to tackle the causes of the conflict was part of the community relations problem. Some of those causes have been stated to such an extent that they are not soluble.

2115. I choose my words carefully: the paramilitary wing of the republican movement has strongly stated that one cause of the conflict is the British presence in Ireland. I accept that removing that cause has been taken forward in peaceful terms since July 2005, as distinct from removing it by other means. However, if a peaceable removal of the causes of the conflict remains an agent provocateur within the structures of government, that does not help community relations.

2116. A recently published work by Peter Shirlow states that the 35% increase in communal violence was partly due to constitutional and political uncertainty.

2117. I wish to see a stable, functioning Northern Ireland accepting the position as it is, and that we thus proceed. Therefore, when we talk about failing to tackle the causes of community conflict, I wonder whether some of those causes can be removed.

2118. **Mr Brolly:** We have an even split between those who describe themselves as British and those who do not. That does not necessarily have to be a cause of conflict; in many countries in the world people of different ethnic origins live together peacefully and get on with the practical business of living.

2119. People on the other side are not going to stop being British just because I ask them to stop, and I am not going to be British because someone asks me to be. I resent people insisting that I am British just because I live in Dungiven, County Derry, rather than somewhere in Munster.

2120. Rather than tackle something that, at this point, is insoluble, I prefer to discuss some of the positive things that we can do, such as accepting each other as we are — you British, me Irish.

2121. Let us return to the question of education as a platform for shared experience and shared territory. Integrated education, as is now described and espoused so enthusiastically by the Alliance Party, does not make a useful contribution at all. It adds a third tier of schooling that takes away the very people that should be using their influence in the main school population to take the rough edges off this idea of Protestant versus Catholic schoolchildren.

2122. I am a firm believer in integrated education, but I mean total integration — not some people being drawn off certain communities, usually middle-class. All youngsters, Protestant and Catholic, from whatever community, should be educated together. There should not be state schools, as our friends across the table prefer to call them — we call them Protestant schools and Catholic schools. There is a good practical reason for my preference, just as there is a good reason for not having integrated education as a third tier, and that is that there need only be one school instead of two, and one set of staff instead of two.

2123. Ideologically, the consequence is that children grow up together, get used to their difference, and do not mind if the lad sitting on one side calls himself British, or if the lad sitting on the other side calls himself Irish, plays Gaelic football or puts Irish language signs up on his desk. We should discuss seriously that area of education.

2124. Education is about more than a curriculum or what is read in text books; it is about making an impression on young people at

the right time. We should not wait until they are educated together at university. There are some very good secondary schools, such as Limavady Grammar School in my constituency, in which the population is very well mixed. However, we should start at the beginning, in prep schools and primary schools, with all the children together.

2125. **Mrs Long:** I want to go back to a couple of things. The issue of integrated education has been raised, and we referred to it in our document. I am not sure where Mr Brolly is coming from, because what he says seems to be at odds with itself.

2126. It has never been our view that integrated education should be a third option in a multiplicity of systems, and we have never promoted that. There are almost five systems running side by side, not three. However, the status quo that confronts parents is one in which schools are largely divided on religious grounds, some by choice and some by default.

2127. In reality, if parents want their children to have an integrated education, their only options have been either to transform the schools that their children attend or to remove their children from their current schools and start them afresh at schools that have an integrated ethos. You mentioned, for example, that there may be mixing within existing schools — we accept that. The difficulty is that if mixing extends only to the religious denomination of the pupil base, and does not extend to the management structures and ethos and the curriculum and extra-curricular activities, it is not a fully integrated system.

*1.30 pm*

2128. There is an argument. The economic arguments are clear as regards shared facilities, particularly given declining attendance rolls, and we accept that. However, there is the issue of parental choice also. The Alliance Party has not argued for a multiplicity of systems; the argument has come from parents who choose other forms of education and parents who choose integrated education. We must respect the parents who make those decisions for their children.

2129. This is not solely a middle-class issue. If that is the perception that members have, I suggest that many integrated schools would be happy to invite them along to speak to their pupils who largely come from working-class backgrounds.

2130. **Mr Brolly:** I would be the last person in the world to deny parents the right to have their children educated where they wish. I agree that the only way that parents can have integrated schools is through the third tier. I am suggesting that we get to a point where that tier is not needed and all children can be educated together.

2131. **Mrs Long:** You would have the Alliance Party's support on that.

2132. **Mr Brolly:** As well as integrated schools, as they are called, I would get rid of Catholic schools and the so-called state Protestant schools: my remarks are not discriminatory towards the integrated sector.

2133. **Mr Hussey:** Is Sinn Féin proposing controlled-integrated schools, as opposed to the current system, and that any parents who sought to go beyond that arrangement would have to finance the venture themselves?

2134. **Mr Brolly:** My point is that if parents wanted their children to attend Catholic schools, they should be private schools. If parents wanted their children to attend Protestant schools, or Church of Ireland schools, that would be up to them. Those parents would face the same circumstances as those who want integrated schools do now. I do not know whether the state would be expected to help religious-based schools. I would probably oppose that.

2135. **Mr Poots:** It is interesting that Sinn Féin is adopting a policy that was voted for by the first Government in Northern Ireland in 1921: a single state education sector, where all children were educated together. The local Catholic Church decided to opt out of the state school system. State schools have never been Protestant schools; they have always been schools that everyone was welcome to attend. The maintained sector contained schools with a Roman Catholic ethos, and that is a significant

difference. There are no Protestant schools; there are schools, which are attended predominately by members of the Protestant community, because Roman Catholics were discouraged from attending them.

2136. **Mrs Long:** Edwin, could you provide us with some information? If you are saying that there is no such thing as a Protestant or unionist school, could you explain the following situation? I accept your point that some of this situation happened by default, but it is established in law that members of the Protestant churches have the right to sit on the boards of governors of transferred schools. Also, children at state schools do not have the same access to culture. For example, the majority of state schools do not teach the Irish language or include Gaelic games in the sports curriculum. Therefore, state schools have an ethos problem, in that young Catholics or nationalists, when considering prospective schools, may feel that all their cultural issues would not be addressed by schools in the state sector.

2137. I accept your point about the evolution process. However, do you accept that there may be barriers, either real or perceived, to children's feeling comfortable attending predominately Protestant schools, albeit that that is not how they are classified?

2138. **Mr Poots:** I take a number of those points. Nominees from Protestant churches are in the minority on boards of governors. Their presence has a lot to do with history and the fact that the churches helped to establish those schools.

2139. **Mrs Long:** All of this is about history though.

2140. **Mr Poots:** Those churches funded schools late in the nineteenth century and early in the twentieth century.

2141. Roman Catholic attendance at many state schools has increased significantly in the past 10 years. Many parents have voted with their feet and sent their children to the schools that provide the best education in their area. Many Roman Catholics have decided that the state sector is the best sector for them, which means that integration has already taken place. I

understand that Methodist College has a mix of pupils; about 30% of whom are Roman Catholic and 70% of whom are Protestant. That is a fairly high level of integration. Quite a number of so-called integrated schools have not achieved that level of integration.

2142. **Mrs Long:** Who is the head of the school's Gaelic football team at the minute?

2143. **Mr Poots:** I have no idea who is the head of its rugby team, never mind its Gaelic team.

2144. **Mr D Bradley:** I would like to clarify a point with Francie Brolly. Are the views on education that he expressed today his personal views or are they simply party policy?

2145. **Mr Brolly:** My party is in favour of integrated education. I am simply taking it to its logical conclusion.

2146. **Mr D Bradley:** I was under the impression that Sinn Féin was in favour of choice in education and that, like the SDLP, it believed that parents should have the right to choose the type of school that they send their children to, be it controlled, maintained, integrated or Irish-medium. Perhaps I have misunderstood Sinn Féin's party policy.

2147. **Mr Brolly:** It depends on whether we are considering education in the short-, medium- or long-term. The ultimate objective would be for all children to be educated together and taught a curriculum that fulfils every need, whatever the religious divide. It may well be the case in future that immigrants here who are not Protestant, Catholic or Irish-speaking will be helped to establish their own schools so that they can maintain their own ethnic culture and language. All that is possible. However, the ultimate dream for education, and, beyond that, the ultimate dream for this part of Ireland, is that everybody will live together and that we will stop remembering whether people are Protestant, Catholic or Irish-speaking, or whether they play on a Gaelic football team or a rugby team. I imagine us heading in that direction.

2148. **The Chairman (Mr Molloy):** We must remember that this is not about education; it is about a shared future.



2149. **Mr Brolly:** That is a good example of a platform.

2150. **Mr Nesbitt:** Education is highly important as schools provide an informative environment for children and can impact on their views as they grow up. Like others sitting around this table, I found Sinn Féin's contribution interesting, given the historical context and where the party is today. For example, Mr Brolly talked about the possibility of Catholic schools becoming private and funding themselves, if they so wished. I am not sure how the Council for Catholic Maintained Schools would view that, but it is an interesting point.

2151. **Mr Kennedy:** Without even asking the council, I can confirm that it would certainly be horrified.

2152. **Mrs Long:** That is an understatement.

2153. **Mr Brolly:** Is it not a factor that the CCMS, as it currently stands, will no longer exist?

2154. **Mr Nesbitt:** I did not collude with my colleague who made that witty comment. Mine was a very serious comment.

2155. I wish to return to Mr Brolly's comments on so-called state schools and Catholic schools. Catholic schools were part of the controlled state system, which was set up for all. However, as Edwin said, the Catholic Church opted out of that system. Similarly, at the time of the formation of the state, a quota of 30% was set for Catholic provision in the RUC, but that did not happen. We are where we are.

2156. Naomi spoke about barriers, and she asked, jokingly, who the captain of the Gaelic team is in Methodist College. However, such barriers exist not only between the Irish and the British. George Best passed the 11-plus and went to the rugby-playing Grosvenor Grammar School. However, he wanted to play soccer so he transferred to Lisnasharragh High School; he was looking for a school that played soccer, not a school that played rugby. Therefore, to an extent, schools meet the clientele's expectations.

2157. Francie Brolly said that in many places throughout the world, people simply get on with

their lives. I wish that we could do that in Northern Ireland. At a previous meeting of the Committee, I referred to international legal principles for governing democratic societies, where a person's identity is established by his or her culture, language, education and religion. Unfortunately, in Northern Ireland, a political overtone is attached to that. I wish that people could feel very Irish, and speak Irish, but at the same time be British citizens. It should not be mutually exclusive to have an affinity with Irishness and Britishness. More Welsh is spoken in Wales than Irish is spoken in Ireland, yet people can feel strongly about their Welsh identity but also be British. Those positions are not mutually exclusive.

2158. Citizenship and cultural aspiration and identity are different, but they are not mutually exclusive. In a normal society, they should complement one another — as Francie rightly said — as they do elsewhere in the world. Russians live in Estonia, where they remain Russian but play a part in Estonian life; the same applies to Hungarians living in Transylvania. In many countries, culture is seen as being different from citizenship. Unfortunately, in Northern Ireland, culture and citizenship overlap, which has led to disharmonious community relations and a divided society. That has had a knock-on effect in schools and the wider environment.

2159. **Ms Lewsley:** Gregory asked me a question about power sharing and North/South issues. The SDLP wants power sharing to be a requirement and wants opportunities for North/South development based on mutual agreement and mutual benefits. The SDLP does not support prohibitions or restrictions being placed on councils that work on that basis. However, the party will address any concerns. Although power sharing, and checks and balances in the RPA, are important issues for the SDLP, it is not a problem for the party that the DUP has major concerns about North/South issues.

2160. **Mr Campbell:** I accept Patricia's clarification, although I am slightly confused because she spoke about the SDLP wanting power sharing to be a requirement — in other



words, power sharing is essential. Equally, unionists state that their support of any North/South developments is a requirement and essential. One community's requirements do not supersede the requirements of the other community.

2161. **Ms Lewsley:** I said that if North/South developments were a big issue for the DUP, that posed no problem for the SDLP.

2162. **Mr Campbell:** It is good that we have some measure of consensus.

2163. I want to respond to a comment that Naomi made about education. The DUP view is that we should work toward a single education sector. Since 1948, there has been an uneven playing field in relation to education. We must move on from that position.

2164. At the moment, my community, my family and my children have a straight option: I can send my children to a public sector, controlled state school — that does not mean a Protestant school; or I can pay for a private education, which creates many difficulties. There really is no option available. The Catholic community has a choice: it can send its children to a fully funded Catholic school or to a fully funded state school. I do not have that choice. That has been the situation for almost 60 years.

2165. That must be ironed out in a way that is acceptable to every community.

*1.45 pm*

2166. The first option is a level playing field with a single education sector for everyone. The second option is that the Protestant community is given what the Catholic community has now — an education sector funded by the taxpayer, with all the benefits that, as Naomi pointed out, currently apply to the Catholic sector. The latter option may not be everyone's cup of tea, and it would not represent progress towards trying to build good relations.

2167. Protestant children are not educated in Ulster-Scots history. They should be educated in that subject to the same extent that Catholic pupils are educated in Irish history. For the most part, Catholic children leave school fully

conversant with their Irish history and background, but Protestant children are not similarly conversant with their Ulster-Scots history and background. If Protestants want to be educated in those subjects, they must go to the Ulster-Scots Agency or other funded bodies.

2168. That, and so many other imbalances that flow from issues that do not come directly from the common curriculum, must be ironed out, one way or the other. Do we move towards a single education sector? If we do move in that direction, that is good, but the question is: how long will it take to get there? In the interim, how do we create a level playing field?

2169. **Mrs Long:** I want to come back on a couple of points.

2170. First, Francie Brolly referred to British and Irish ethnic identities. I do not accept the fact that they exist. The British and the Irish are not ethnically different. I have made that point previously when members complained that certain comments were racist. The differences between British and Irish people are of nationality, not ethnicity.

2171. **Mr Brolly:** If I may intervene, I would never have used the term "British" in an ethnic sense.

2172. **Mrs Long:** Hansard will reflect what he said.

2173. **Mr Brolly:** "British" is a political term.

2174. **Mrs Long:** It is, and "Irish" is also a political term and a nationality. The terms "British" and "Irish" may be used to refer to cultures, and so on, but largely when talking about national, not ethnic, identities.

2175. **Mr Brolly:** People talk about Irish games and the Irish language.

2176. **Mrs Long:** My second point concerns integrated education. Gregory referred to a single system of education. He spoke about the right, for example, of children from the unionist community to be educated in Ulster-Scots history in the same way in which children from the nationalist community are educated in Irish history. Perhaps it would be a real education for the entire community if all children were educated

in both histories. That might open up opportunities for pupils to leave school with a more comprehensive view of history and the society in which they live than is currently the case.

2177. I am not arguing against people being educated. My argument is against unionists having sole access to Ulster-Scots education. It would be useful for the entire community to be properly educated on all scores.

2178. **Mr Campbell:** I fully accept what Naomi says and have no difficulty with it. The only problem is that it is likely to take a considerable time, whether it be one or two generations, to reach that goal. I want to know what we do in the interim.

2179. **Mrs Long:** That was my next point, because Gregory talked about transformation. The Alliance Party has made clear its consistently held position — and it seems to be the position of other parties around the table — that the default arrangement should be that all children are educated together in a single system. In supporting the integrated-education movement, the Alliance Party has tried to focus on a transition to such a situation.

2180. We are not interested in creating an extra tier of education. We want to know how to transform the current divided and divisive system into something that moves us forward towards a level playing field with which all parties, to varying degrees, are comfortable — the default position, which is that all children be educated together. Therefore, the debate is on the transformation process, not its outcome.

2181. **Mr Paisley Jnr:** In that case, how do we get over the issue of choice?

2182. **Mrs Long:** The issue of choice is not about the right to an integrated education. It comes down to Francie's point about the right to have it funded by the state. As this process moves on, the debate will focus on that.

2183. In any other society in which there has been community division — and one need only look at the US to see the usefulness of integrating education — education can be a tool to unite or divide people. Where it is used to unite, it is an effective mechanism, although it

is not the only one. This should not be about putting all our eggs in one basket, but it is a mechanism.

2184. For that reason, for example, under the principle of a shared future, Alliance supports a raft of policies across Departments. From the point of parental choice, we want to move in that direction. It is a transformation process. Ultimately, however, the momentum must be created. Schools must be provided in line with demand, thereby creating a system in which integrated education is an option.

2185. Currently, the only people who are denied the right to attend a school that reflects their ethos are those for whom no integrated school is available. Surplus places are never used. If Catholic parents wish to send their child to a Catholic school, or Protestant parents wish to send their child to a state school, they are never referred to a Protestant school or a Catholic school down the road if surplus places are available. That does not happen.

2186. **Mr Paisley Jnr:** It does.

2187. **Mrs Long:** It does not.

2188. **Mr Paisley Jnr:** It has happened to my children.

2189. **Mrs Long:** It only happens where parents choose integrated education. If we are talking about a process to move towards a default situation in which children are educated together, something must kick-start it. The integrated education movement has been part of that.

2190. **Mr Hussey:** I was interested in Francie's comment about an education system in this part of Ireland. My understanding was that Sinn Féin's policy was an all-Ireland one.

2191. Surely to goodness the major issue in education is the quality of provision, not where it is delivered. In strongly nationalist constituencies, such as mine, controlled grammar schools have a large number of nationalist kids who have chosen to go to those schools. We should examine the matter of choice.

2192. Reference has been made to historical backgrounds. A major problem for unionism has been that many historical facts have been

airbrushed out of history by nationalism/republicanism — the 16th Irish Division has more or less been ignored by the nationalist community. Moreover, the unionist community has withdrawn from its part in the 1798 rebellion. Each side of the community has ignored that cultural background.

2193. I firmly believe that a different ethos exists in the Protestant community to that in the nationalist community. A parish structure exists in the nationalist community, whereas there is a more independent structure in the Protestant community. That, shall we say, community weakness has meant that unionists have been accused for a long time by nationalists/republicans of not having a culture. In fact, our culture is degraded at times.

2194. Where unionists are a minority in strongly nationalist areas, the community lacks the capacity to advance. Therefore, in any shared future, the capacity to advance must be built within the weaker community. A community can only move forward to a shared future from a base of self-esteem.

2195. **Mr D Bradley:** My impression from some of Gregory's remarks was that he believed that maintained schools have taught their own brand of Irish history from within their walls.

2196. A common history curriculum that is available to all schools is formulated by the Council for the Curriculum, Examinations and Assessment (CCEA), which welcomes consultation. At the moment, CCEA is reviewing the GCSE syllabuses, and anyone is welcome to express his or her ideas regarding the content of the curriculum. Generally speaking, the syllabus content for GCSEs is decided by a range of teachers, covering the various types of schools that there are in Northern Ireland, in conjunction with third-level experts from Queen's University and the University of Ulster.

2197. If it were felt that there is not enough emphasis on the Ulster-Scots contribution to Irish or Northern Irish history, CCEA would welcome views on that.

2198. **Mr Campbell:** I do not know whether I have spelled it out explicitly, but it is our view that part of the problem flows from the fact that young people in the Protestant community lack identity, a concept of who and what they are, and knowledge of their tradition, history, values, culture and ethos. The Catholic community, however, through its education system, raises those ideologies and issues daily from four to 17 years of age, and beyond if pupils decide to go on to higher education.

2199. Could CCEA encapsulate those values in a single education sector? That would be fine, and we would have no difficulty with that. However, we are not going to get to that point in the next five, 10 or probably 25 years. We may make progress in that direction, but we shall certainly not arrive at it.

2200. It comes back to the issue that I raised with Naomi — what do we do in the interim? At present, nobody whom I have met from the nationalist community identifies flaws in the Catholic education system regarding the type and quality of education. When Catholic young people leave the system, they know about their history and culture, know clearly who they are and where they are going, and know the nature of their identity, ethos and background.

2201. That cultural education is not shared to the same degree in the Protestant school-leaving population, and that is where, we believe, some of the problems are. Do we allow that to continue? That is the analogy that we make. The anomalies that exist between the two sectors must be ironed out.

2202. **Mr D Bradley:** I do not believe for one minute that those who are in charge of Catholic education aim to create a neat, individual package out of each pupil. Their aim is to develop well-rounded individuals who are able to think for themselves, and who, from the Catholic point of view, are well grounded in their faith, since their schools are faith schools.

2203. On the other hand, I do not accept that people coming from controlled schools are in some way confused about who they are and have no concept of their historical, cultural or sporting background. I do not believe that.

2204. **Mr Campbell:** I did not say that they do not have a concept. If we took a survey of 1,000 school leavers from the maintained sector, it is our view that there would be a higher degree of consciousness of their Irish history, tradition, background and culture than there would be in a similar survey of 1,000 school leavers from the controlled system of their history, tradition, background and culture. The reason for that is the different emphasis in the two school traditions, both of which are paid for out of the public purse. That anomaly has to be ironed out.

2205. **Mr D Bradley:** That is Gregory's perception of the current situation. Gregory's survey has not yet been carried out, so his views are based on his own perceptions, not on evidence. If such a survey could be designed, I would be interested to see its results. They might be surprising.

2206. **Mr Campbell:** The evidence is in some of the election results. Those are the views that we put before the people, and they endorse them.

2207. **Mr D Bradley:** Elections are not sociological, sensitive surveys.

2.00 pm

2208. **Mr Nesbitt:** I wish to return to a couple of Naomi's points. I empathise a lot with the distinction that she drew between the words "ethnic" and "national", as the UK Government would with ethnic minorities and national minorities. The term "ethnic minorities" would, for example, relate to south-east-Asian émigrés who come to live in the United Kingdom. Although they would be diverse geographically, they might not necessarily feel that they have to be south-east Asian, as regards citizenship. The term "national minorities" would, in the UK sense, be more akin to the Scottish, Welsh and Irish.

2209. Would Naomi take the logic to its conclusion and agree that there is a difference between nationality and citizenship? In Northern Ireland, the problem has not been that there are national minorities; rather, the problem has been one of secession. I stress that the word "minority" does not mean inferior: it means fewer in number, and it is most important that I repeat that on every occasion. Sections of the

people of Northern Ireland wish to secede from the state in which they live. It has been quite a violent form of secession, which is not acceptable in international legal terms. Therefore, people can have British citizenship and consider their nationality to be Irish.

2210. Naomi came across quite strongly about integrated education. The leader of the Alliance Party calls it the preferred choice rather than the third choice. Naomi was quite assertive about the denial of rights. In my community, there are three sectors: the controlled primary sector, the maintained primary sector and the integrated primary sector. We are back to the concept of rights, and to the discussion on the bill of rights that we had at the last meeting. The allocation of resources is finite. It is one thing to have a right; it is another thing to have the necessary economic rationing of resources to exercise that right.

2211. The community has gone down the road of maintained and controlled education sectors. However, the same dispensation has been given to the formation of integrated schools, as has been given to the formation of Irish-medium education: before a school can be opened, there does not have to be a minimum number of pupils. That is not the case for the controlled sector, which must be able to show a greater number of potential pupils before a school can be opened. Parents may wish to have educational rights, but those rights must be tempered by financial constraint.

2212. **Mrs Long:** Dermot raised two issues. First, a person can be a British citizen but consider himself or herself to be Irish. That is not a conflict. Others at the table may see that as a conflict, but I do not.

2213. When I referred to rights, it was not in the context that every child who wished to have a place in an integrated school should have that right funded by the state.

2214. **Mr Nesbitt:** Sorry, you said: "were denied the right".

2215. **Mrs Long:** Yes. Integrated education is underfunded, and, therefore, children do not always have the opportunity to exercise that



right. My point was how the other two sectors are treated when compared with the integrated sector. I was not saying that every child who wishes to should be able to have an integrated education, although the Alliance Party wants to see the time when that will be the case.

2216. I realise that the discussion has become very focused on education. The Alliance Party submitted a proposal under the “Shared future” sub-heading. The discussion has been very informative, because there has been some agreement about the outcome — albeit that members have not agreed on the mechanism needed to achieve that outcome. There seems to have been some agreement, however, among the parties on the aspiration for a single, shared education system.

2217. I propose that all parties endorse the aspiration of having a single, shared education system in Northern Ireland. We are not arguing about its mechanisms at this stage but about the aspiration.

2218. **Mr Poots:** We seem to have become bogged down in education, and it has had a reasonable airing here. I expect that most people agree with what Naomi said, but I am not sure about the SDLP. Is it still looking for an opt-out for faith schools? If there were an opt-out for faith schools, it would have to go beyond the Roman Catholic sector as it is now.

2219. Other issues must be addressed. Paramilitaries are viewed as an answer to problems in some local communities, but they are working to ensure that a shared future does not exist in many communities. They ensure that people from other faiths do not go into certain areas or are made to feel uncomfortable when there. If we are not prepared to address paramilitarism, and if paramilitary organisations are not prepared to disappear, it will be difficult — particularly in working-class areas — to deal with issues relating to a shared future.

2220. The Housing Executive is supposed to be signed up to a shared future, yet it is proposing to erect Irish-language signage in an area before anybody moves in. That indicates that the area is a nationalist or republican area, and not one in which unionists would feel comfortable. The

Housing Executive — a state body — is adopting policies that fly in the face of the so-called commitment to a shared future. Therefore there are matters other than education to address.

2221. **The Chairman (Mr Molloy):** To conclude on education, Naomi proposed that all parties endorse the aspiration of having a single, shared education system in Northern Ireland. Is there consensus on that?

*Members indicated dissent.*

2222. **Mr Kennedy:** The issue of education is complex and detailed, and we could not expect a recommendation to gain consensus after such a brief discussion. It did go on for a while, but in itself it is a brief discussion that we have had today. It would not be sensible or useful to make recommendations on such a weighty subject at this early stage.

2223. **Mrs Long:** It has never been my approach to this Committee to try to be unhelpful; I have always tried to be helpful. I simply noted that there appeared to be consensus around the aspiration of a single, shared education system. That does not, in any way, tie it down; it leaves it open. I would have thought that there would be very little valid reason, regardless of the complexities of the education system, to find fear hidden in that proposal. It was not my intention to back people into corners.

2224. **The Chairman (Mr Molloy):** We do not have consensus, so we will set it aside for the moment.

2225. **Mr Kennedy:** I have listened carefully to the debate, and I have identified in some of the statements the premise that the controlled sector and the maintained sector have somehow been fostering some degree of sectarianism and bigotry in their education systems. I strongly refute that, and I defend both systems from that. If the curriculum needs to be extended to educate better our children in Irish history, British history, Northern Ireland culture or anything else, the current systems can address that.

2226. I am a strong admirer of the Catholic form of education and the ethos that is attached to it. I do not subscribe to it, but I can easily



recognise its importance within the Roman Catholic community, not only in Northern Ireland, or in Ireland, but throughout the world. To raise expectations that we could somehow find an easy solution to a complex problem would create as many problems as it is likely to solve.

2227. **The Chairman (Mr Molloy):** We do not have consensus.

2228. **Mrs Long:** With regard to any implied criticism of the current school system, it is worth putting on record that, from my perspective, the current system is a product of the difficulties in our society. It is not the architect of those problems. It is not my party's position to infer that the schools are the problem. That is not the case. The separation of children at an early age contributes to the problem, notwithstanding that the schools themselves have done a significant amount of work to try to overcome that separation and to increase cross-community contact. It is not a reflection on the schools, because they did not create our problems. My comments, and my party's stance, should not be interpreted in a way that would suggest that that was our position.

2229. **Mr Paisley Jnr:** We are in real danger of talking in circles and navel-gazing here. If Mr Hain picks up Hansard from this meeting, he will rush forward to 24 November. This debate is going absolutely nowhere. We are now in an apologetic mood: "Hang on, we might have offended some school systems. We had better clarify our position for Hansard's sake, and protect ourselves in case schoolteachers say that they will not vote for us next time."

2230. **Mrs Long:** I hope that that is not an interpretation of my making my position clear.

2231. **Mr Paisley Jnr:** This qualifying, re-qualifying and protecting our backsides in case something has been said that should not have been said is a nonsense. Schools are not a product of the problem here. Schools have been here. We are all clear that the problem has been years of terrorism and abuse that has gone on in this society.

2232. We are trying to move away from that, and we should move away from talking in

circles. We have decided to spend the lion's share of today's meeting on this matter, so everyone who has spoken obviously thinks that it important enough. As I said earlier, to siphon off education as the one issue that will resolve good relations and our shared future is just wrong.

2233. For a start, we will not resolve the education problem here. Secondly, and more importantly, neither integrated education nor changing the education system will address the big problems that have led to a divided society and to the bad relations and mistrust that exist. Yes, there is a layer of it in there, but it is not the lion's share of the problem. Much of what we have been talking about is "mom and apple pie" stuff: it would be great if we could all just sit down and have a collective societal hug, and we will all get on better if it happens at school.

2234. We need to get back to basics on why there have been bad relations in this society and why we need a good-relations strategy. That returns us to the fact that we are trying to rebuild a society that has been at war. That war has had nothing whatsoever to do with the education system, and we should stop indirectly knocking the schools, which we have been doing, and start to address the issue that has led to the division, and that is terrorism. We have been dancing around that elephant in the room all day, and we should start facing up to that.

2235. **The Chairman (Mr Molloy):** Let us not return to the issue of education.

2236. **Mr Brolly:** I just want to apologise for starting all this. I wish to make some reference to culture. A Protestant does not have to have a Catholic licence to speak Irish or to enjoy the wide variety of cultures that are available on the whole island. Many Protestant unionists do love the island.

2237. I have a particular liking for what is now described as Ulster-Scots music. There is a terrific affinity between traditional Irish and Scots cultures. Everybody should accept that culture belongs to them and that there are no doors barred to people who get involved in cultural Irish activities. I can play any game that I like, whether it be cricket or Gaelic football.

2.15 pm

2238. **Mrs Long:** I distance myself from the view that the only problem in our society is terrorism. It is certainly a significant problem; however, the divisions that exist in our society, when terrorism is removed, must be dealt with in order for there to be good relations.

2239. The reason that we must keep qualifying our remarks is because other people wilfully misrepresent what we have said. At the outset, I said that education was only one layer of a multi-faceted problem, yet, because a full discussion on education has ensued, it is being talked about as though it were the only important issue. It certainly is not.

2240. For example, the promotion and maintenance of mixed housing, and how housing is managed within society, were raised. I would be quite happy to explore those issues. However, one must go with the flow of the discussion. At that point, the discussion was about education. If members want to proceed to issues such as the 'A Shared Future' action plan, or, indeed, other issues that they want to raise, that would be helpful. We have to recognise that terrorism has been, and still is, a huge problem for our community. However, good relations, and the interplay between people who are not terrorists, still needs to be addressed.

2241. **Mr Poots:** Terrorism is the big issue, and it affects the outworking of many issues relating to a shared future and good relations.

2242. Paramilitary organisations are the biggest problem that we have, because they still retain a grip over their communities. They are still recruiting, still engaging in criminal activity, and still involved in low-grade intimidation if not the more severe kind that took place over many years.

2243. Ultimately, people want the Assembly to be up and running. We are saying that particular paramilitary groups have political representation and that there is no mission whatsoever of an Assembly getting up and running while those paramilitary groups exist. We must get those groups off our backs before there can be progress on a shared future. Other

matters will fall into place when the paramilitaries are taken out of the system.

2244. **Mrs Long:** With regard to paramilitarism, people's understanding of the rule of law is being addressed in the PFG Committee dealing with law and order issues. The discussion that I believed we were to have today was on good community relations.

2245. If the DUP wants to frame the discussion around terrorism, and make proposals as to how it thinks it should be dealt with, I am sure that everyone would be keen to address them. As I have already said, there is more to community relations than paramilitarism, albeit that that is part and parcel of it. However, if the DUP simply wants to hijack the discussion on community relations, it seems that we will be simply replaying discussions on the rule of law, which are being addressed in a different strand of this Committee.

2246. **Mr Poots:** We have discussed education for an hour.

2247. **Mrs Long:** Education is not being discussed by the PFG Committee in any of its other formats.

2248. **Mr Poots:** I do not believe that by focusing on paramilitarism for five minutes, we are hijacking the discussion.

2249. **Ms Lewsley:** As Ian Paisley Jnr mentioned, we have gone around in circles for an hour and a half, and now we are going around in circles again. Members know that parties will differ on various issues within "Shared future". I hoped that the Committee could agree some basic principles. That was demonstrated in some of the proposals that were put forward earlier. I suggest that we proceed and consider some of the proposals that have been made.

2250. **Mr Kennedy:** I largely subscribe to that. We have given it a good flogging all afternoon. I suggest that the other parts of the agenda — the past and its legacy, culture and confidence building — should be referred to another session. They are deserving of proper concentration and a proper detailed response. We should wrap up "Shared future" and "Good

relations” and leave ourselves fresh for another sitting.

2251. **The Chairman (Mr Molloy):** I think that that was the intention. We can take on the entire agenda if people are happy. *[Laughter.]*

2252. Have we any proposals at this stage?

2253. **Mr McCarthy:** Alliance proposes that all parties endorse the ‘A Shared Future’ framework document of March 2005 and its first triennial action plan of April 2006, and regard their implementation as critical to political progress.

2254. **Mr Paisley Jnr:** There is not enough “mom and apple pie” in there; it is very specific.

2255. **The Chairman (Mr Molloy):** Do we have consensus on that proposal?

*Members indicated dissent.*

2256. **Mr Paisley Jnr:** It is far too specific.

2257. **Mrs Long:** That being the case, Alliance further proposes that all parties stress their commitment to building a shared future.

2258. **The Chairman (Mr Molloy):** Do we have consensus on that?

*Members indicated assent.*

2259. **The Chairman (Mr Molloy):** There is a proposal that the Equality Commission should be identified as the primary body responsible for promoting good relations. Have we consensus on that?

*Members indicated dissent.*

2260. **Mr Poots:** I proposed that all parties call for the immediate stand-down of all paramilitary organisations as the best contribution towards a shared future.

2261. **The Chairman (Mr Molloy):** Do we have consensus?

*Members indicated assent.*

2262. **The Chairman (Mr Molloy):** Do we have any other proposals?

2263. Is there any other business? Mr Nesbitt asked whether he could put his document from this morning on the website as part of this meeting. Is there agreement on that?

*Members indicated assent.*

2264. **The Chairman (Mr Molloy):** The date of the next meeting of the PFG Committee is 21 August; it will deal with the institutional issues.

2265. **Mr Kennedy:** Given the deadlines that have now been created, are the outstanding issues the only ones to be dealt with by the Committee? Are our officials confident that we are on course to complete our remaining deliberations?

2266. **The Committee Clerk:** Yes, according to the schedule, we are on track.

*Adjourned at 2.24 pm.*

## Friday 25 August 2006

### Members:

The Chairman, Mr Jim Wells  
Mr Alex Attwood  
Mr David Ford  
Mr Derek Hussey  
Ms Patricia Lewsley  
Mrs Naomi Long  
Mr Nelson McCausland  
Mr Philip McGuigan  
Mr Alan McFarland  
Mr Alban Maginness  
Lord Morrow  
Mr Dermot Nesbitt  
Mr John O'Dowd  
Mr Edwin Poots

*The Committee met at 10.04 am.*

*(The Chairman (Mr Wells) in the Chair.)*

2267. **The Chairman (Mr Wells):** I ask members to switch off their mobile phones. Mobile phone interference has again blotted out vital parts of members' discussions at the previous meeting. We might get this right eventually.

2268. We will go through the apologies and deputies, starting with the DUP.

2269. **Mr Poots:** Mr McCausland and I are here on behalf of Lord Morrow and Dr McCrea.

2270. **The Chairman (Mr Wells):** Will there be a third Member?

2271. **Mr Poots:** No.

2272. **Mr Nesbitt:** Chairman, I am quite clear about the position this morning. I am representing Mr McNarry. When Mr Hussey arrives, he will represent one of the other three UUP members, whose name I do not recall.

2273. **The Chairman (Mr Wells):** Mr McFarland?

2274. **Mr Nesbitt:** No.

2275. **The Chairman (Mr Wells):** Mr McGimpsey? *[Laughter.]*

2276. **Mr Nesbitt:** Mr McFarland will be arriving later; I am very clear that neither Mr Hussey nor I are representing him. I shall be leaving just after 11 o'clock this morning, so it will be your pleasure that I shall not be here.

2277. **The Chairman (Mr Wells):** On a serious note —

2278. **Mr Nesbitt:** I am being serious.

2279. **The Chairman (Mr Wells):** Is there a possibility that the UUP will not be represented at all?

2280. **Mr Nesbitt:** I think that Mr Hussey is coming. I had expected him to be here now, because two UUP members are supposed to be here. I think that Mr McFarland is scheduled to arrive before I leave. However, I was given the clear instruction that neither Mr Hussey nor I are representing Mr McFarland.

2281. **The Chairman (Mr Wells):** By a process of elimination, Mr Hussey must be Mr Kennedy.

2282. **Mr Nesbitt:** That is it; Mr Hussey is Mr Kennedy.

2283. **Mr Ford:** After that clear insight from the Ulster Unionist Party Assembly Group, I am delighted to confirm that Mrs Long and I are playing ourselves.

2284. **Ms Lewsley:** I am here on behalf of Mr Durkan. Mr Maginness is here on behalf of Dr Farren, and Mr Attwood is here on behalf of Dr McDonnell.

2285. **Mr O'Dowd:** Mr McGuigan and I are replacing Mr McGuinness and Mr Murphy, in whichever order.

2286. **The Chairman (Mr Wells):** Will there be a third Member?

2287. **Mr O'Dowd:** Not today.



2288. **The Chairman (Mr Wells):** Are members content with the minutes of the meeting of 18 August 2006?

*Members indicated assent.*

2289. **The Chairman (Mr Wells):** Mr Nesbitt requested that a copy of his paper, 'Equality (Labour Market Issues)', be placed on the Preparation for Government section of the Assembly website. That has been done, and the paper is now available for the public to read. That is entirely in order; the Subgroup on the Economic Challenges facing Northern Ireland yesterday agreed that various papers would be placed on the website. If other members wish to post papers on the website, they can do so.

2290. **Mr Nesbitt:** Chairman, I did not anticipate that you would mention that, as it was agreed last week. All the same, I thank you for mentioning it.

2291. I wish to record my disappointment on a couple of issues. The Committee has been discussing human rights and equality issues for the past two weeks. However, I am disappointed that there was no consensus to invite the Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI) to appear before the Committee to speak and answer questions.

2292. I am very conscious that all the Committee's meetings have finished approximately an hour and a half earlier than scheduled. Therefore, we could easily have made time to hear from both commissions. I strongly expressed my view that there is a difference between statutory bodies that deal with human rights and equality, such as the NIHRC and the ECNI, and non-statutory bodies, such as the Committee on the Administration of Justice (CAJ), the Northern Ireland Human Rights Consortium and Amnesty International.

2293. I wish to record my disquiet about the fact that the Committee did not, in its wisdom, invite the two bodies to appear before it.

2294. **Ms Lewsley:** Two weeks ago I proposed that we should not invite the NIHRC or the ECNI to appear before the Committee unless

there was a need to do so. My understanding is that, to date, no one has made a proposal to invite them to give evidence or to answer questions.

2295. **Mr Nesbitt:** At our first meeting on 4 August, when we were deciding on our *modus operandi* for these meetings, I expressed a preference to hear from those two bodies. I would be more than happy to hear from them. In fact, I mentioned the former SDLP member, Colin Harvey, who is professor of human rights law at Queen's University. I would be more than happy to hear his legal perspective on human rights.

2296. I was not in any way being party political. However, I read the minutes, which said that there was a view not to have anyone from those bodies — as Ms Lewsley rightly says. Nevertheless, the Committee felt sometimes that it had much to do, and I still feel that we should have had them here. That is just a reservation, which I am asking to be noted.

2297. **Ms Lewsley:** Is Mr Nesbitt proposing that the NIHRC and the EQNI appear before the Committee?

2298. **Mr Nesbitt:** We are now in our third meeting, and there is one meeting left. The time has now passed; therefore I am just recording my position, as I initially did on 4 August. I was not indicating a preference for any group or party; I was just saying that counter to my wish, no consensus was achieved. That is the only point I want to make.

2299. **The Chairman (Mr Wells):** Mr Nesbitt, you have clearly stated that for the record. If it arises in the plenary debate you can say that you articulated that concern. I am sure that members, from what I can hear, wish to maintain the stance they had.

2300. **Mr Nesbitt:** We have moved away from human rights and equality. We are now on different dimensions. But those were the two central elements and I still think that they should have been here.

2301. My second point is one of deep concern. Sinn Féin and the SDLP often engage in megaphone diplomacy with regard to my comments on equality. I note that Sinn Féin



issued a statement in advance of our meeting last week saying that I was sectarian. I noted also that Sinn Féin said I have a “flat earth” approach to equality. I am glad that there are a couple of lawyers opposite me in the SDLP.

2302. **Mr Ford:** But they charge by the hour. *[Laughter.]*

2303. **Mr Nesbitt:** They charge by the word, likely words as they have. *[Laughter.]*

2304. I remember a couple of years ago or so a letter in ‘The Irish News’ with the heading “Have you read ‘How to Lie with Statistics’?” That was quite a strong heading. The first sentence in that letter — I can always remember it — was:

*“I don’t know whether Dermot Nesbitt has read the best-selling book ‘How to Lie with Statistics’, but his recent publication that Catholics are not discriminated against is a sure rival.”*

2305. That was written by none other than John Dallat. Now of course, Declan O’Loan has challenged me on equality through the media.

2306. I challenged Mr Dallat with several letters. Needless to say I got no answer. At the very least, when I put forward a 30-page document of my arguments on the internet web page, they can be read and understood by anyone. Last week I openly invited all of the parties to come and discuss it with me, but none did. I wished for genuine engagement, but if parties are not going to come and talk to me then they should refrain from such hostile megaphone diplomacy. To imply that I am a liar is not exactly the best method of political exchange.

2307. **The Chairman (Mr Wells):** Mr O’Dowd, do you wish to come in on this?

2308. **Mr O’Dowd:** I was not one of the people who called Mr Nesbitt a liar, and in relation to the “flat earth” approach —

2309. **Mr Nesbitt:** I choose all my words carefully. As I say, two lawyers are present, so I had better choose them carefully.

2310. **Mr O’Dowd:** I am trying to bring humour into the debate.

2311. I spoke to you across the table last week about the Flat Earth Society. I also told you that my party would meet yours in a bilateral to discuss your document and that that meeting would take place in the near future.

*10.15 am*

2312. **Mr Nesbitt:** Well, I look forward to receiving a communication from you, because as yet there has been none.

2313. **Mr O’Dowd:** Our equality gurus are on holiday, but they will be with you.

2314. **Mr Nesbitt:** Ah, they are on holiday. I am glad that Sinn Féin has got “guros” for equality.

2315. **The Chairman (Mr Wells):** It is probably the Irish for “gurus”. *[Laughter.]*

2316. **Mr Nesbitt:** Whatever that is. *[Laughter.]*

2317. Chairman, I have made my point. I did not say anything about the DUP, because I presume that that party will empathise with my comments. However, I do not wish to go there.

2318. **Mr Attwood:** It is unfortunate that Mr Dallat is not present, as he is the person who is most qualified to defend himself. However, I do not believe that anybody would suggest that Mr Nesbitt is a liar. It would be inappropriate for Mr Nesbitt or anybody else to interpret literally the headline of that letter. I believe that Mr Dallat was illustrating a view of what you had said, rather than actually alleging that you are a liar. The tone of both the headline and the letter clearly conveys that, and any other interpretation is misguided. Mr Dallat, like other SDLP members, has fundamental problems with your analysis of human rights. I do not know whether that is a “flat earth” approach. However, it is a very narrow interpretation of what we believe is required, given the broad human rights requirements in the North.

2319. **Mr Nesbitt:** The SDLP has difficulties with my approach. I have stated my approach in print, in public, for all to see and for all to read. I have invited the SDLP to discuss it; it has neither acknowledged that nor considered it. That party has difficulties with me. The SDLP says that it wants to have dialogue. However, it

does not seem to want to discuss or exchange views, which is a little unhelpful.

2320. **The Chairman (Mr Wells):** Mr Nesbitt, because you feel that a member of the Committee has impugned your integrity, it is entirely in order that you clarify the issue and state your point of view. The matter has been well aired. We will leave it at that.

2321. Two procedural issues have arisen. First, according to my calculations, two Lord Morrows are attending the Committee today. I have heard that people double-vote. However, double-attendance is surprising.

2322. **Mr Poots:** I have drawn the short straw; I am Ian Paisley Jnr. *[Laughter.]*

2323. **The Chairman (Mr Wells):** Mr Poots is Ian Paisley Jnr, and Lord Morrow is himself.

2324. Secondly, I am aware that a member who is present at the Committee for the first time has not made a declaration of interest. Have you anything to declare, Mr McGuigan?

2325. **Mr McGuigan:** No.

2326. **The Chairman (Mr Wells):** It is important that we keep tabs on that. I did not notice. I believe, Mr Hussey, that you have been present before and have made your declaration.

2327. **Mr Hussey:** I was here last week, but I did not make a declaration.

2328. **The Chairman (Mr Wells):** For example, with regard to the parades issue, several members have declared that they are members of the Orange Order. If any similar issues come up, please declare relevant interests.

2329. We shall proceed to today's business. I am sure that members are aware of the usual arrangements; discussion will go on until 12.20 pm and there will be a break of 15 minutes for lunch. I encourage members to bring their food back to the table.

2330. The main items of discussion today are the disappeared, dealing with the past and its legacy, truth and reconciliation, and victims. Members are acquainted with the normal procedure, which is that each party will make a short presentation on each subject. That is done

in alphabetical order. Therefore, the Alliance Party will start. Afterwards, members may ask questions. During the presentations, please let either me or the Clerks know if you wish to ask a question.

2331. **Mrs Long:** The Alliance Party will cover all four areas of discussion on the past and its legacy in its opening statement, rather than deal separately with each area.

2332. **The Chairman (Mr Wells):** It would be helpful if each party made it clear whether they were doing this singly or as a group, and then we would know where we stand. Fire away.

2333. **Mrs Long:** This is clearly a complicated and multi-faceted issue. It is also probably one of the most sensitive that we will be dealing with as a Committee, as it requires us to deal with a conflict around which there is no shared understanding. It is also incredibly personal to each individual who has been directly affected, and yet it has an impact on the wider public and on politics in Northern Ireland.

2334. Some people may argue that focusing on the past is counterproductive and keeps wounds open, and that society should simply move on. Alliance disagrees strongly with that view. We believe that addressing the past and its legacy is fundamental to the process of reconciliation and to building a shared future. Failure to do this in a comprehensive and holistic manner is a barrier to political progress and future political stability.

2335. Issues of how to handle the past have been allowed to become a source of division within society, and have created further divisions as a result. Alliance believes that only through the creation of a comprehensive approach can this tendency be countered.

2336. It is the view of my party that efforts to deal with the past and its legacy have been handled on a very piecemeal basis to date. First of all, paramilitary prisoners were placed on a generous early release programme. That aspect of the agreement turned out to be the most controversial and the most painful one. There was no requirement upon the organisations involved to engage in any wider process of revealing the details of their past actions. While

the early release scheme approximated to a de facto amnesty for existing prisoners, the Police Service technically retained unsolved cases from the troubles as open case files. The special historical enquiries team has now been established for that purpose, but it faces an uphill struggle.

2337. Related to this is the need to ensure that all past instances have been properly recorded and, indeed, investigated. This has been highlighted through a number of recent cases investigated by the Police Ombudsman. Amnesties were granted to paramilitaries in relation also to decommissioning, in that any evidence arising out of the handover of weapons could not be used in future prosecutions. Also, amnesties were created in relation to evidence given by paramilitaries in order to help the authorities locate the remains of the disappeared — those people kidnapped, murdered and buried in unmarked graves.

2338. The British Government over-reached itself on the subject of the so-called “on the runs” (OTRs) as a key demand of republicans during the implementation phase. Initially, the British Government agreed to what was essentially an amnesty for the OTRs, as part of the July 2001 Weston Park proposals. That initiative was attacked for two principal reasons. The first was that there was no linkage sought between the fate of the OTRs and the exiles — people who had been either internally displaced within Northern Ireland or forced to leave under threat from paramilitaries. Some were suspected of being criminals; others had simply stood up to local paramilitary godfathers, but neither should have been subjected to this kind of intimidation. Several thousand exiles are still unable to return to their homes in safety.

2339. The second problem was the absence of any judicial process for the returnees that would require them and their organisations to face up to their actions and to face their victims. This problem was, on the surface, apparently rectified within the proposals in the joint declaration of April 2003. It set out a quasi-judicial process whereby those seeking to

benefit from the scheme would have had to be processed through a special tribunal. Those found guilty would have been placed on licence, like the early-release prisoners, but without serving any time in prison. However, a potentially fatal flaw was the absence of any requirement for the applicants to actually attend those hearings.

2340. There have been some limited efforts to find the truth behind some selective incidents that occurred during the troubles, but those entirely relate to actions that were conducted by the forces of the state. The Bloody Sunday Inquiry, for example, was established in early 1998, pre-dating the agreement, to explore what was, perhaps, the greatest abuse of state forces during the troubles. Amazingly, it will not report until 2007.

2341. There are now other demands for separate inquiries into a number of instances where the forces of the British and Irish Governments were alleged to be acting in collusion with republican and loyalist paramilitaries. A list of six of these was agreed by the British and Irish Governments at Weston Park. Those inquiries have not yet commenced, due to controversies relating to the British Government trying to limit their powers.

2342. We believe that it is right that the state should be held to the highest of standards. However, while these inquiries hold out the prospect of some degree of truth emerging for the families of some victims, they leave many with the feeling that their experience is less important and that they are in some way not valued by society in the same light. Many victims and their families are not benefiting from any kind of process. They have a diminishing prospect of formal prosecutions being taken, and there is no indication of any truth and reconciliation process being established in the near future.

2343. Victims are diverse and have a range of needs. Much formal public policy has focused on financial assistance and the provision of services for victims. Progress has been made, although there is room for improvement, as evidenced by the ongoing work of the Interim

Commissioner for Victims and Survivors. Much more can be done, and the much wider issue must be addressed. The Alliance Party wants to outline some suggestions. However, we realise that political parties should not be overly prescriptive when proposing measures that could encourage the perception that victims' issues have become a political football. I hope that no party would want that to be the case.

2344. Our first suggestion relates to memorialisation. Some kind of permanent memorial should be created — and there is room for considerable creativity in that regard. It may not have to be a traditional, physical memorial; there are other ways of recognising the loss of life and the cost of thirty years of violence. Consideration should also be given to holding a day of remembrance or reflection.

2345. The option of storytelling has been explored. That would allow victims, as they define themselves, to place their testimony, positive and negative, on record, leading to some kind of permanent archive.

2346. A wider truth recovery process would be a useful tool in resolving some issues. Although it might be appropriate to draw on international experience, the process must first and foremost be tailored to the evolving needs of Northern Ireland. To simply transplant a mechanism from elsewhere would be neither acceptable nor productive.

2347. There has been much discussion on many of those areas in the past, but, unfortunately, little progress. The Alliance Party would be happy to endorse proposals for the creation of a victims' forum, which would allow victims to tell their stories in their terms, and the creation of an archive. The party proposes that the Committee should support such a proposal.

2348. The Alliance Party wants to particularly mention the disappeared and their families. We reiterate our belief that primary responsibility for addressing this matter lies with those responsible for their disappearance. At the very least, those involved have a legal and moral obligation to allow families to bury their dead and to come to peace with the situation.

2349. The legacy of paramilitarism must also be addressed. The Alliance Party did not want this section to be labelled "The Past", because that ongoing legacy is one with which communities continue to live.

2350. The issue of exiles must be addressed. The practice of exiling is still going on in Northern Ireland, and externally. It is not simply enough to call for it to be stopped; the threats against people who have been exiled must be lifted so that they can return to their homes in safety, if they wish to do so.

2351. It is also important to note that paramilitary organisations still exert a stranglehold over certain communities. It is often associated with the prevalence of organised crime and it breeds such a culture of lawlessness that people do not appreciate the value of a society based on the rule of law. Instead, it appears to be the law of the jungle and survival of the fittest. This situation carries huge social and economic costs, and huge personal costs for people in those communities.

2352. In far too many ways, the state and its agencies contribute to the situation by accepting that the local strongmen are the legitimate voices of communities and by allowing them to broker what does or does not happen in certain areas. It often seems easier to cut deals and to accommodate this intimidation rather than tackle it head on. What may seem to be a short-term gain simply exacerbates the problem.

2353. Those issues must be dealt with comprehensively, and the Government must take a consistent line across the board in dealing with the legacy of the past, ongoing paramilitarism and intimidation within communities. I have kept our comments brief, but we certainly wish to explore these issues in more detail later today.

2354. **The Chairman (Mr Wells):** As Mrs Long dealt with all four subjects together, I allowed her to go well over the allocated five minutes. She was entitled to 20 minutes in total, comprising four five-minute slots. Her contribution lasted about 10 minutes, so that is fine. It is perfectly acceptable for parties to do that, and they will be allocated extra time.



10.30 am

2355. As some parties may run the four subjects into one presentation, I should remind members, just in case, that, under those headings, issues of sub judice could arise and, of course, the precedent and ruling are very clear. If the matter is before the courts in any fashion then members cannot be specific and cannot name individuals. I remind members, even though they have qualified privilege in this room, of the need to be careful. I will intervene if someone names individuals involved in cases that have been referred to the courts.

2356. **Mr Poots:** In dealing with the past and its legacy, our presentation will deal with all four issues together. First, we shall talk about victims and deal with the definition of “victims”.

2357. Our vision document states that there is a fundamental distinction between those who have suffered at the hands of terrorist gangs, and those terrorists and former terrorists who contributed to the terror campaign and wrought untold suffering throughout the troubles.

2358. The DUP simply demands a fair and sensible recognition of the victims of terror. Clouding the issue or applying a one-size-fits-all definition merely concedes to the principle of political expediency. It is unhelpful and fails to contribute to achieving reconciliation. To argue that everyone is a victim facilitates those who would minimise their own role in contributing to the terror and to the consequences of their actions. That is skewed thinking, and it establishes a false foundation for a new beginning.

2359. The rights of those who have suffered at the hands of the terror machine, and who continue to suffer, should not be pushed to the background in the false hope of achieving reconciliation. The pain and suffering that are a daily experience for many victims will not go away. Where there is no justice or reasonable recognition, there can be no healing. Many victims simply want to get on with life and leave behind what has happened to them. However, many others need the support and counsel of those who have come through similar circumstances.

2360. With regard to victims’ groups, many individuals often do not have a strong enough voice to raise the profile of their own case, or are not able to articulate their needs. It is vitally important that the support groups that have developed be supported and encouraged. Victims’ groups have developed through the work of people who give their time voluntarily, and have become an important way for victims to express their needs. Furthermore, they offer much-needed services such as counselling, training and support. The needs of victims and the priorities of those groups must be highlighted, and those needs must be recognised by Government and form the cornerstone of their strategies for victims.

2361. All too often in the past it has simply been what Government has assumed is important to victims, and not what really matters. Again, victim support groups can be key to this, as they represent their members’ wishes. It is vital that these groups receive the funding that is crucial to their survival. It is also imperative that future funds be guaranteed, so that the threat of funding removal does not hang over their heads when planning for their future.

2362. At present it is impossible — unless through private fund-raising — for these groups to improve their facilities. Victims’ groups, and particularly smaller groups, also require funding to advertise their services. It is still a problem that many of those who most require help either do not know that it is available, or are reluctant to come forward. Funding that allows those groups to reach out to more people will increase their usefulness among the people who need the services most.

2363. Compensation was not an issue when many of the killings took place in Northern Ireland, and many who have suffered have not received adequate recompense. Levels of compensation offered to those whose relatives were murdered were often minimal. In one particular case, a mother and daughter received £11,000 for watching their husband and father being gunned down. I compare that to the level of compensation received by a leading member of Sinn Féin/IRA when he was struck by an



RUC truncheon and received compensation of £9,000. In a case relating to the family of one of the Loughgall terrorists, £40,000 was awarded in compensation.

2364. Funding from Government must be directed so that it benefits directly those who are the victims of terrorism and is not spread across the “victims sector”, as it is currently defined by Government. Funding that is supposed to help victims should not be siphoned off to help rehabilitate terrorists. Organisations claiming to be victims’ organisations have been established and have, as members, many people who have engaged in the terrorist campaign. Those organisations are a complete contrivance, and cannot be accepted as bona fide victims’ groups.

2365. It is vital that those who are responsible for the fate of the disappeared come forward to help locate the bodies.

2366. The Rev Dr Ian Paisley stated recently:

*“I hope that these proposed measures will result in the remains of the ‘Disappeared’ being located, but the fact of the matter is that accurate information about the whereabouts of the bodies from those directly responsible for these horrific murders is the most likely way to bring about closure for the families.”*

2367. The republican movement, as encapsulated by the IRA as the paramilitary wing and Sinn Féin as the political wing:

*“must come forward with answers. They caused pain for the families in the first place by killing their loved ones. They have denied them a proper burial and have added insult to injury by sullyng the memories of their victims with scurrilous accusations. It is up to them to do what they have failed to do in the past and tell the truth about where their victims bodies lie. These people know where these bodies are. Why can’t they hand them back and give their victims families some peace?”*

2368. With regard to unsolved crimes, it is important that all victims of terrorism are not forgotten. There are more than 2,000 unsolved murders in Northern Ireland; many victims still feel the pain because no one has been brought to justice for the murder of their loved ones.

More resources should be given to the Historical Enquiries Team to help it to investigate many of those crimes.

2369. There have been some suggestions that a truth commission would be a step forward for Northern Ireland. Some people think that it would bring closure to what has happened. In somewhere as small as Northern Ireland, that proposal is unlikely to be successful. Although the state would have to be fully accountable and would be required to co-operate fully and disclose all its information to such a commission, the terrorist groups would have full control over whether to participate and at what level. It is our view that a truth commission would not only be unworkable in Northern Ireland but would serve to hold accountable only those who served in the Crown forces, while terrorists could hide behind a cloak of anonymity.

2370. We are glad that the proposed legislation for those on the runs did not proceed and that the Government backed off. We will continue to oppose the introduction of any legislation that would allow so-called on-the-run terrorists to walk freely the streets of Northern Ireland.

2371. **The Chairman (Mr Wells):** It would be helpful if Mrs Long and Mr Poots could give copies of their presentations to Hansard, simply to ensure that they are correctly reported. Perhaps they could see the Hansard staff at lunch time. The same goes for all the other parties.

2372. **Lord Morrow:** Will we all get copies of those presentations?

2373. **The Chairman (Mr Wells):** What do members feel about that suggestion?

2374. **Mr Poots:** They will be in Hansard, anyway.

2375. **Lord Morrow:** Are we not discussing them today?

2376. **The Chairman (Mr Wells):** Each party’s submission is handed around the table.

2377. **Mr Poots:** I am happy for our presentation to be circulated.

2378. **Mrs Long:** We have not prepared a formal submission. I simply have notes from which I was speaking, but they are not comprehensive.

2379. **The Chairman (Mr Wells):** Your contribution seemed to be remarkably articulate to be taken from notes.

2380. **Mrs Long:** Thank you for your flattery; nevertheless, they were only notes.

2381. **Lord Morrow:** Was there not a clear understanding that each party was to present a paper to the Committee?

2382. **Mrs Long:** No.

2383. **Lord Morrow:** That was my understanding.

2384. **The Chairman (Mr Wells):** Parties have certainly volunteered that material in the past.

2385. **Lord Morrow:** No, I do not think that that is right. In the past, parties were instructed or asked to prepare papers and bring them to the Committee.

2386. **Mrs Long:** This issue has been discussed on several occasions, and the option for members to submit papers was left open. However, no one was required to submit a paper.

2387. **The Chairman (Mr Wells):** It was voluntary, but is the DUP willing to make its paper available?

2388. **Lord Morrow:** That was the understanding at the commencement of these Committee meetings. Indeed, Mr Deputy Speaker, you were in the Chair.

2389. **The Chairman (Mr Wells):** I remember that point. The DUP volunteered to make its paper available.

2390. **Mr Nesbitt:** Let me try to end this minor internecine conflict in the DUP —

2391. **Lord Morrow:** I do not think that it is minor.

2392. **Mr Nesbitt:** At a previous meeting, the noble Lord read from a document that was reported in Hansard. Perhaps I am wrong, but did he make that available?

2393. **Lord Morrow:** Yes, I did.

2394. **Mr Nesbitt:** If he made that document available, the request seems laudable and easy to follow. I cannot understand what the discussion is about.

2395. **Lord Morrow:** No disrespect to Mr Nesbitt, but he misses the point, and not for the first time. When the Committee first met, parties were asked to submit a paper to the Committee. It may be that others do not need to do that — Mrs Long has not submitted a paper, which is fair enough. However, that was the understanding from day one.

2396. **Mrs Long:** It was certainly not our understanding that members had to submit papers. This issue has been discussed at almost every meeting of the Committee. Some members have offered to submit papers, and others have said that we should not submit papers. Last week, the DUP said that we should submit papers; the Ulster Unionist Party said that we should not. It was always open to us to submit papers, but we were not compelled to do so. We are happy to make a written submission to cover the points that I have raised, but we could not do it today.

2397. **Mr Nesbitt:** I am agreeing with Mrs Long more often than not, which is worrying. She said that there is a difference between presenting a paper and submitting one, and that that distinction was being made. Presenting a paper does not necessarily mean that a written document is submitted. It can be an oral presentation. Mrs Long presented a paper; she did not submit a written document. Her party may or may not wish to do that. The DUP read, presented and submitted a paper for the benefit of Hansard.

2398. Let us proceed, Mr Chairman. You have asked the DUP to submit its paper —

2399. **Ms Lewsley:** I propose that if anyone wants to submit papers today, they have the opportunity to do so. If a member wants to submit a paper at a later stage, they also have the opportunity.

2400. **Mr Nesbitt:** There is something important about submitting a paper at a later stage. Let us get this clear. I submitted a paper last week; I tabled the paper and it was published on the Assembly website. If a paper is submitted outside the curtilage of this Committee without it having been presented first, that would be a slightly different situation.

Mr Chairman, are you giving carte blanche to members to submit whatever they like?

2401. **The Chairman (Mr Wells):** The problem is that at some meetings we agreed that papers would be submitted, presented and distributed. This morning, we did not do that. I simply asked members to present a paper, and they have done that.

2402. **Ms Lewsley:** Many papers that parties submit will be much more detailed than our presentations. We have a detailed paper that we can submit, but our presentation will be much shorter. Like Mrs Long, I will read from notes. I do not have a prepared document. I can give what I have to Hansard, and I hope that they can make use of it.

2403. **The Chairman (Mr Wells):** We will not reach agreement on this issue, and —

2404. **Mr Nesbitt:** It is important that a submitted paper be placed on the table at some stage; in other words, it should not be submitted outside the ambit of this Committee.

2405. **Ms Lewsley:** With the greatest respect to Mr Nesbitt, I mean that if the Alliance Party wanted to submit a paper, they could do it next week, because they are not prepared for it today. That is all I said. I did not say that the paper should be submitted somewhere in the ether between now and next week.

2406. **The Chairman (Mr Wells):** Supplying Hansard staff with documentation is a totally different issue. That will assist Hansard to report accurately what has been said at the meeting. The documentation could be notes or a fully typed submission. Do not feel that the two are linked.

2407. Let us move on.

2408. **Mr McGuigan:** For clarification, I will be speaking partly from a prepared paper and partly from handwritten notes.

2409. **The Chairman (Mr Wells):** Will you cover all four subjects together or each issue separately?

2410. **Mr McGuigan:** I will deal with all four subjects together.

2411. Like Mr Nesbitt, I am going to agree with Mrs Long: these are sensitive issues that should not be used as political footballs. Sinn Féin remains committed to the agreement's requirement that it is essential to acknowledge and address the suffering of victims and survivors of violence as necessary elements of reconciliation.

2412. It is our view that the suffering of the victims and survivors has not been adequately acknowledged or addressed, and that international best practice is required to support the development of special community-based initiatives, including trauma and counselling services, with adequate resourcing and funding from both Governments to enable victims' groups to pursue their remits. That should be done in consultation with victims' groups. Too often in the past, Governments have imposed resources on victims' groups without consulting them.

*10.45 am*

2413. Sinn Féin also demands equality of treatment for all victims and survivors and an end to the practices that discriminate against victims of state violence and collusion. That discrimination was evident in the politically expedient way in which the DUP's nominee was appointed as Interim Commissioner for Victims and Survivors. It is also evident in political parties' attempts to create a hierarchy of victims of conflict by demeaning some victims, as we heard in the DUP's presentation.

2414. On the issue of truth and reconciliation and dealing with the past, Sinn Féin believes that there should be an end to political posturing, particularly by the British Government, as regards truth recovery. All relevant parties must engage in a genuine, focused debate on the timing and purpose of a comprehensive truth process to deal with the legacy of the past, underpinned by the following principles and values: that all processes should be victim centred; that victims and survivors have the right to acknowledgement and the right to contribute to a changing society; that full co-operation and disclosure is required; and that the British state should acknowledge its role as

a primary protagonist in the conflict and clarify its actions throughout.

2415. There should be no hierarchy of victims, and any panel or commission should be international and independent. There should be a desire to learn from the lessons of the past so that mistakes are not repeated. The process should not be restricted to combatant groups but should include the media, the judiciary, state institutions, civic society, and so forth.

2416. In the past, Sinn Féin has asked for full co-operation and disclosure with regard to the disappeared, and its party president has recently reiterated that call. It is in the public domain that more information, including information from primary sources, has been given to the body responsible for the matter. That body should be left to get on with its work in trying to bring about a resolution to the issue.

2417. **Ms Lewsley:** I will deal with the issues of victims, the disappeared and the past. My colleagues will also make short presentations.

2418. The SDLP believes that, on a moral basis, we must leave the past behind. There is a danger to our society if we do not face up to the past. Moreover, it is deeply unfair to victims to deny them the truth, if that is what they seek. It is important that the language used be more sensitive to the needs of victims and survivors.

2419. More can, and must, be done to address the needs of victims and survivors of conflict. As we try to rebuild our society, they struggle to rebuild their lives.

2420. The very least that they should expect from us is the acknowledgement of their terrible loss and a commitment to ensuring that they do not carry the burden of remembering on their own.

2421. The SDLP wants a greater platform for victims so that their needs can be articulated and their stories heard and acknowledged. It wants to ensure that any process for dealing with the past is victim centred, which is why the party supports the role of the Interim Commissioner for Victims and Survivors, although the manner in which that commissioner was appointed was unfortunate. The party also

supports the establishment of a victims' and survivors' forum.

2422. The SDLP believes that there should be no hierarchy of victims, and that victims of the state, or of republican or loyalist terror, should have the same rights. A devolved administration should make victims' needs a priority in the Programme for Government and address how services for victims can be improved and better compensation payments given to those who have received little or nothing.

2423. The issue of funding was mentioned this morning. The entire sector is in great need of more focused funding. Funding should be more flexible, as some victims are now elderly and their needs may have changed. No flexibility exists in current funding arrangements to address issues that affect elderly victims, such as mental-health problems and dementia. A strong monitoring role is needed to oversee how money is spent and to assess its impact. That should be reviewed regularly to ensure that the funding targets those most in need.

2424. Victims have told me that the restoration of the Assembly is important, as it would give victims the opportunity to talk more freely about the issues that concern them. Any future government should ensure that victims' needs are centred rather than policy driven, so that those needs are taken into consideration.

2425. Services must be monitored and matched to need. The Interim Commissioner for Victims and Survivors could carry out that monitoring role. The interim commissioner should be a one-stop shop at which any victim can get direction on any matter. Services must be equitable across the board and across all age ranges.

2426. I commend the interim commissioner on her latest report, 'A Forum for Victims and Survivors: Consultation Responses', which is a summary of the feedback from the consultation seminars on the role and purpose of a victims' and survivors' forum. That document represents the voice of victims and survivors, not that of the interim commissioner.

2427. The British Government recently responded to a series of recommendations that



the Independent Commission for the Location of Victims' Remains (ICLVR) made on the disappeared. Although that announcement is welcomed, it is long overdue. A forensic-science expert submitted a review last year, and the families of the disappeared had to wait a long time for the Governments' response. The SDLP had already expressed its concerns about that delay and is pleased to see commitments bring made at last. The challenge now is to translate those commitments into actions. Many families have been waiting for more than 30 years for the bodies of their loved ones, so bureaucracy must not make them wait any longer.

2428. There must be a renewed will to find the bodies. Some people mistakenly believe that everything that can be done has been done, but that is simply not true. For example, French police dug for Seamus Ruddy's body for only six hours, which is clearly not sufficient to relieve the Ruddy family's lifetime of suffering. Much more must be done, and families must be kept informed every step of the way. The commitment to appoint a family liaison officer for the families of the disappeared is therefore crucial and welcome.

2429. However, no amount of good work by the Governments will make up for the lack of co-operation shown by those in the IRA and the INLA who were involved in those terrible crimes in the first place. Members of the Provisional IRA and the INLA stole those people's lives and then stole their bodies. If they have any conscience at all, they must do everything that they can to ensure that they do not rob the families of any chance of a Christian burial.

2430. We support the Alliance Party's proposal to establish a victims' forum in order to increase the voice for victims and survivors. The SDLP has two proposals, the first of which is that victims should be prioritised in the Programme for Government. The second proposal is that the Committee should agree the principle that a liaison officer for the families of the disappeared be appointed immediately.

2431. **Mr A Maginness:** I will focus on the issues of truth and remembrance. The SDLP

believes that it is imperative to vindicate victims' rights to truth and remembrance. Victims keenly feel and bear the pain and suffering of loss, but, at present, that loss and suffering is neither publicly nor officially acknowledged, as it should be. The very least that society can do is to recognise that burden and to ensure that victims' suffering is not in vain.

2432. The SDLP believes that the full, independent, "Cory-compliant" public inquiries that were promised at Weston Park should be held. We welcome the opening of the inquiry into the death of Rosemary Nelson but urge that there be progress on all the other inquiries that Judge Cory recommended.

2433. However, my party is implacably opposed to the Inquiries Act 2005, which threatens to endanger the effectiveness and the independence of public inquiries into cases of alleged collusion between state forces and paramilitary groups. That legislation is on the statute books, but it should not be used. Fully independent inquiries should be held.

2434. The SDLP believes that the British Government will not have credibility on victims and survivors issues while the Prime Minister continues to renege on his clear commitment to the Finucane family about the inquiry into the murder of Pat Finucane. The Inquiries Act 2005 runs contrary to the provision of a full and independent inquiry into his murder.

2435. The SDLP also advocates an officially designated day of remembrance across Northern Ireland and Ireland. It would act as a lasting reminder of the distance that our society has travelled in the past three decades, and of the distance that still has to be travelled.

2436. The SDLP believes that, at present, there is no established body to deal directly with the process of truth recovery. The victims' and survivors' forum should consider the establishment of an independent international truth body to lead a truth process and to work on a North/South basis.

2437. Such a truth body could perform a variety of functions, and we suggest the following: the compilation of a register of victims, to which



any individual may submit their name for inclusion; and a truth-and-remembrance archive, which could be established and overseen by the truth body.

2438. The archive would have state-of-the-art technology and would allow victims, survivors and their families to record their personal accounts, including, if they wish to do so, details of whom, or what organisation, they believe to be responsible for the death of their loved ones. It would be for them to determine whether they wanted the archive to be made public. The archive would have a twofold effect, giving an individual's description of what happened to them and a collective acknowledgement of the sufferings of victims and survivors.

2439. The public part of the archive could be publicised, for example through an interactive video archive that could be displayed in town halls and other public buildings, listing the names of victims and giving an account of their truth on particular anniversaries. That would be a reasonably straightforward way to acknowledge the individual and collective suffering of victims.

2440. The SDLP also welcomes the cold-case review and is pleased that it includes paramilitary and state killings. We believe that the Historical Enquiries Team should be given adequate resources to complete what is a difficult, onerous and voluminous task. We also believe that the Police Ombudsman should be given proper resources to deal with that aspect of truth recovery.

2441. Victims must be put first, and truth recovery must be victims centred. To date, society has done too little for victims, and many feel that they carry a lonely burden. The SDLP offers proposals for a comprehensive strategy that puts the rights and needs of victims at the centre. Its proposals will allow society to acknowledge, and account for, the past in order to recognise the enduring pain and share the burden of remembrance.

2442. These are not exhaustive proposals, but we put them into the public domain for further discussion and adaptation.

*11.00 am*

2443. **Mr Hussey:** I shall make the Ulster Unionist Party's presentation. I have my notes, and, unlike Naomi, I will not use them but will read what I have prepared from them. I will present the text for Hansard's use, although there will be deviations as I go through the presentation. It is not a paper as such; it is a written version of what I intend to present to the Committee today.

2444. This issue is a central precursor to moving forward. Our society has suffered enormously in the past three and a half decades from terrorism and the sectarianism and division associated with the conflict.

2445. The community has had its basic foundations weakened and strained by indiscriminate murder and destruction to such an extent that we are left with a situation in which, some 37 years after the start of the so-called "troubles", we must decide when criminality is at a normal level. We do not yet live in a normal society; indeed, achieving such a society is one of the fundamental reasons for the establishment of the Committee on the Preparation for Government. However, a normal society may not emerge in our lifetime if we do not adequately deal with the past.

2446. Comments in this paper are predicated on three issues. First, the Ulster Unionist Party does not equate victims with perpetrators. Secondly, we believe that every victim's situation is personal and specific and that the process must reflect that; victims must not be subject to a loose and generic system. Thirdly, we agree that there is no hierarchy of victimhood; it has a spectrum.

2447. How one defines a policy on victims is dependent on certain agreed principles. We are focused primarily on the establishment of agreed principles in order to provide the necessary framework for victims' issues to be dealt with sensitively and fairly.

2448. Sir Kenneth Bloomfield was appointed by the late Mo Mowlam, then Secretary of State for Northern Ireland, to examine the issue of remembrance. His report is entitled 'We Will

Remember Them', a phrase taken from the fourth stanza of the poem 'For the Fallen'. Remembrance of those killed in war, or as a result of terrorist activity, is, sadly, something that we in Northern Ireland are well used to. It is not uncommon to hear references made on Remembrance Sunday to those servicemen and innocents who were murdered during the troubles. We support efforts to remember the sacrifice made in the troubles. Protestant, Catholic and Dissenter — all fell at the hands of terrorists, and we do not wish to see them forgotten.

2449. In remembrance, however, we are aware of the efforts of perpetrators of violence to sanitise their respective murder campaigns. The efforts of terrorists to legitimise themselves create the problem that we have been unable to get around — how to remember and to reconcile.

2450. We have conflicting views of the troubles: why they started, how both sides conducted the experience and who won or lost. The Ulster Unionist Party accepts that this is an enormously complex issue. We acknowledge that we do not have, and are highly unlikely ever to have, a single narrative of the troubles. That is why it may be unlikely that we will ever come up with a unanimous and mutually acceptable definition of who is, or is not, a victim.

2451. Nevertheless, we believe that only those who have suffered at the hands of terrorists — and not the terrorists themselves — are the true victims of the troubles. In our view, perpetrators of violence are plainly not victims.

2452. It is only right that account is taken of responsibility and criminal culpability in determining society's collective approach. Those people who operated outside the framework of civic society, who acted beyond law and order and acceptable civilised values, and who sought to remove from others the most fundamental of all rights — the right to life — cannot be classed as victims and survivors. Many people will ask whether to do so would be insensitive and gravely insulting to those who are blameless and innocent.

2453. Paramilitaries kill other paramilitaries in internecine feuds. The figures might show that more republican militants were murdered by

republican militants than by any other group. The Ulster Unionist Party is keen to stay inside the realms of responsible politics. Those include the condemnation of all illegal activity, all paramilitary crime and a completely different treatment of all illegal combatants of the troubles from that shown to genuine victims. Those who seek to justify and edify the victim maker add little to the process.

2454. The nationalist and republican community appears to expect two standards in a truth and reconciliation process: full disclosure and accountability from the forces of law and order and, from terrorist organisations, codes of honour that allow for secrecy.

2455. I do not expect more of the forces of the Crown than I do of criminals; however, to attempt a wholesale truth recovery process beyond the normal procedure for investigating alleged wrongdoing by police officers and soldiers would clearly be a one-sided farce. That situation will remain, unless and until the republican movement decides to be reasonable about its past crimes.

2456. The Ulster Unionist Party is clear that the South African truth and reconciliation model is not transferable, in whole or in part, to meet the needs of Northern Ireland. However, we believe that the permanent establishment of a victims' commissioner is the way forward.

2457. The state has a burden of responsibility to uphold law and order. When that, inevitably, fails, it has a further duty of care to the victims of crime. It must be made clear that that responsibility does not diminish if the crime is committed in pursuance of insurrection, insurgency or separatism. The Ulster Unionist Party believes that, in our situation, the state's burden is best carried by a commissioner for victims and survivors.

2458. In broad terms, we welcome the draft Victims and Survivors (Northern Ireland) Order 2006, which is currently out for consultation. Nonetheless, the Ulster Unionist Party cannot agree to the definition of "victim" as offered in article 3 of the Order.

2459. A victims' forum is suggested in the Order, and that is a positive step. Such a forum, adequately constituted, is the state's best method of moving our society away from its past. It would assist a victims' commissioner to co-ordinate financial, political and psychological help for victims of the troubles, and in the dispersal of information.

2460. Many projects, such as the Healing Through Remembering story-telling project, provide an excellent means of helping victims and survivors to heal old wounds and achieve a sense of closure. A victims' forum could, and should, be the central focal point for such projects and make them accessible to those who wish to avail of them. That is important. There is, however, a concern that a victims' forum could become a quasi-judicial kangaroo court.

2461. We can provide no other explanation for including a provision in the Order for absolute privilege for reports by the commissioner. This is most unusual, highly unnecessary and in all possibility dangerous.

2462. We are opposed to any attempt to include victims and perpetrators within the same forum. It is grossly inappropriate.

2463. The UUP has always advocated a value-added approach to the use of public funds. Any use of taxpayers' money must add to society. Perpetrators of violence must be dealt with in a manner conducive to normalising our society, but we must be very clear that this task is separate from helping victims to move on. The victims' forum must be for that purpose.

2464. There must be clear balance in the commissioner's actions towards separate groups of victims. Victims' groups require funding, and it should be co-ordinated by the commissioner subject to what the funds will be achieving. Groups such as 'SAVER/NAVER' in Mid-Ulster/County Armagh and 'West Tyrone Voice' in my own area provide excellent care and respite for their members. For groups such as these, funding needs to be firmed up and instituted in the long term to allow them to deal with the needs of their client base for the foreseeable future. However, there are individuals who are not part of a victims' group.

For example, many civilians are dealing with their own particular trauma, and it may be that they have not realised that they would have recourse to financial compensation and support.

2465. At the beginning of the troubles, expertise and mechanisms in that area did not exist. Therefore, those individuals must be high on the commissioner's agenda. They can very often be left behind. To a large extent it is to those individuals that the commissioner must make himself or herself most accessible. As a result, we firmly believe that the intention that the commissioner will open one office in central Belfast is not sufficient to deal with Northern Ireland as a whole.

2466. There are also victims who wish to be left alone to deal with the past in their own way. No one should infringe on their right to do so.

2467. The needs of ex-servicemen and their families are the responsibility of the Ministry of Defence and the Policing Board. The commissioner must, however, champion the cause of servicemen in cases when the respective authorities fail in their duty of care.

2468. The issue of a permanent memorial to victims must be left to the victims who suffered as a result of terrorist action. The Ulster Unionist Party does not seek to claim that it has all the answers, nor does it seek to hijack what is an important issue for political gain. A memorial must be dedicated to those who have suffered or died in our troubles.

2469. In conclusion, constructive debate is vital to support the whole project. This process must be based on principles of fairness, equity and understanding. The apologists of violence may seek to sanitise the horrors that were perpetrated on people here. That must not be allowed to influence policy-making. The process must have moral authority to be fully effective.

2470. Those who wish to move the debate forward constructively should not refrain from offering their views. We all know that this is a complex area, and I accept that some may disagree with my views. At this stage, if we are open-minded and constructive in our approach

and truly wish to see Northern Ireland move forward, progress can be made.

2471. **The Chairman (Mr Wells):** Mr Nesbitt, you indicated earlier that you had to leave at 11 o'clock. If you wish to get in early in the discussion, that is fine.

2472. **Mr Nesbitt:** I was just about to go, but I have one comment.

2473. Sinn Féin, in its introduction, talked about international best practice. I am always conscious that Sinn Féin refers to international best practice and international norms, yet when I asked Michael Ferguson, on an aspect of human rights, if he would subscribe to international norms, his answer — in simple English — was yes and no. It is cherry picking, and that is my only comment.

2474. **The Chairman (Mr Wells):** I thank the five parties. Some groups have obviously taken a lot of time and care with their presentations, and that is appreciated. I allowed some parties a degree of latitude because they had rolled up their views under the four headings into one presentation. I am conscious that some parties did not take full use of their time so I will allow groups to come back in if they wish to add points.

2475. As far as I can see there are three proposals: first, for a victims' forum, which I understand has the support of the Alliance Party, the SDLP and the UUPAG; secondly, there is a proposal from Patricia Lewsley that the issue of victims is identified as a priority in the Programme for Government; thirdly, Patricia proposed the appointment of a family liaison officer for victims.

*11.15 am*

2476. Those are the only proposals that came out of that discussion.

2477. **Mr Hussey:** The appointment of a family liaison officer was intended to be for the families of the "disappeared".

2478. **Ms Lewsley:** Yes.

2479. **The Chairman (Mr Wells):** The "disappeared" rather than victims.

2480. I just want to ask Alban whether his contribution with regard to Cory-compliant inquiries was a follow-up proposal, a suggestion or an aspiration?

2481. **Mr Maginness:** It is certainly a proposal from the SDLP. If it finds support around the table, we would welcome that.

2482. **The Chairman (Mr Wells):** So we have four proposals then. No one has as yet indicated that he or she wishes to speak on any of those proposals or any of the evidence that has been heard.

2483. **Mr McGuigan:** May I have clarification on the fourth proposal?

2484. **The Chairman (Mr Wells):** I will seek guidance from members. Do we want to work our way through these? One or two of them might be fairly straightforward, and then we will come to the Cory-compliance issue.

2485. **Mr Attwood:** May I ask a relevant question arising from the submissions?

2486. The Ulster Unionists said that, for various reasons, they did not feel that a truth and reconciliation commission model is necessary for the like of the North. The DUP said that the North is too small on the one hand and that, on the other, it would be members of state organisations that would be made to participate and not members of paramilitary organisations.

2487. Those are real concerns, but when Sinn Féin talked about the same issue in its submission, Mr McGuigan said that:

*"one of the principles that should inform the work of such a commission was full co-operation and disclosure".*

2488. Given the DUP's view that paramilitary groups would not live up to the requirement for full co-operation and disclosure to a truth process, is it the view of Sinn Féin now that any member of a paramilitary organisation would be required to co-operate fully and disclose to a truth process that which was within its gift? If that is the case, to some degree that narrows the difference around the table on a very important matter. It certainly creates a tension between what might now be the case and what certainly



was the case when Martin McGuinness appeared at the Bloody Sunday tribunal, where he chose not to co-operate fully or disclose what he knew.

2489. If there has been some shift of policy — and that is implied by Sinn Féin's acceptance of the principle of full co-operation and disclosure — that would be very helpful.

2490. **The Chairman (Mr Wells):** Do Sinn Féin want to answer that?

2491. **Mr McGuigan:** Mr Attwood quoted me correctly, but in the preface to some of the principles and values that I outlined, I said that we were calling for a genuine focused debate among all the relevant parties on how we could take the issue forward. We need that debate so that we can all work out together how a truth process can be taken forward.

2492. Members will be aware that Sinn Féin produced a document on this matter several years ago, which is available on our website. In that document, we stated that for a truth process to work, all combatant groups and relevant organisations needed to take part.

2493. **Mr Attwood:** Just to clarify, does that mean that all combatant groups — including illegal groups — and their members could co-operate fully and disclose to the process what they know? Is that the principle? That would be quite helpful to unionist concerns about a truth commission.

2494. **Mr McGuigan:** It is difficult to talk now about something that may well happen in the future. The principles are those I have outlined, namely that there should be a focused debate among all groups, and that for a truth process to work, all groups who were involved in the conflict need to play their part.

2495. **Mr Attwood:** Given that you advocate full disclosure and full co-operation in any truth process, does that extend to the role played by illegal groups? This is important because the main reason for the unionist parties' understandable concern about, and opposition to, a truth and reconciliation process — whatever form that might take — is that there would not be full co-operation and disclosure from

paramilitary groups. If Sinn Féin has shifted ground on that, it opens up new possibilities as far as we are concerned.

2496. **Mr McGuigan:** I do not think that my comments today represent a shift in ground. As I have already said, we produced a document a number of years ago that contained these very principles.

2497. **Mrs Long:** I just want to clarify an issue to do with the victims' forum. The shape that the victims' forum would take has been changing. It was initially envisaged as an opportunity for people to put their stories on record and create an historical archive. Now the term is used to relate more to an advocacy body with a support role, which we believe is also vital.

2498. The Alliance Party's proposal still stands, but we need some clarity about people's understanding of the role of the victims' forum. Such an advocacy and support role does not currently exist, but it is needed, and a forum would be a useful way of providing it. However, a forum is also needed to enable people to put their stories on record.

2499. Alliance wants to highlight its views on the story-telling and archive aspect. The party sees that as distinct from a truth and recovery process, in that putting experiences on record will not tell the truth of how those experiences came about. There is a difference between people putting experiences on record for an archive and getting the truth about what happened in the circumstances. There is a distinction between the two, so I would just like some clarity about the victims' forum.

2500. There is one other matter that we would like to formulate into a proposal if it were possible to get consensus on it: namely the idea of a day of remembrance and reflection. A number of parties have mentioned it and been supportive of it, and my party feels it is worth exploring further. I am not thinking about what that day would look like in detail; rather I am thinking about the principle that there ought to be a point where such reflection can take place.



2501. **The Chairman (Mr Wells):** Edwin is next, but I think that Patricia wants to clarify that proposal.

2502. **Ms Lewsley:** In her opening remarks Naomi talked about the format of the proposed victims' forum. I am worried that members around this table, rather than the victims themselves, might decide what it should look like. The victims' commissioner has told me that after the first piece of work that I mentioned, another piece of work is to be undertaken, and that is to look at different models. It is important that whatever model is chosen be led by victims and is for their benefit.

2503. **Mrs Long:** I completely agree with what Patricia has said. I was just highlighting the fact that people may have different perceptions of what that may be, but we agree in principle with it being led by victims.

2504. **Mr Poots:** Alex should not get too excited about Sinn Féin's having made a significant shift this morning.

2505. There is the usual convoluted "Yes" from Sinn Féin, but there are more caveats in that than Henry VIII had wives. In essence, Sinn Féin is suggesting not full disclosure but a series of proposals that ensure that such disclosure will not occur. Mr McGuigan blew his cover significantly this morning when he stated that further evidence had been supplied on the "disappeared". When the big searches were carried out, we were told that all the evidence had been supplied. However, why was the further evidence held back? Clearly, Sinn Féin held back evidence at that point, and that information is now being supplied.

2506. The same thing happened with decommissioning: we were told that all the weaponry had been handed in, yet weapons have been found since. The information that Sinn Féin has given in the past has certainly fallen short, and Mr McGuigan confirmed that this morning by saying that further information has since been provided.

2507. I would like to tease out the subject of the victims' forum a little further. If we do not have a definition of "victim", it will be difficult to

establish a victims' forum. Unless there is agreement on that definition, such a forum will probably be a non-runner. Some people perpetuate the nonsense of saying: "I was brought up in a certain area and ended up in a paramilitary organisation. I shot somebody in the back, so I am just as much a victim as the person who was shot." That is a load of nonsense. It comes from the same school of thought as someone who says: "If someone has two cars and I have none, I can steal one of his because I am a victim, so the person who had the car stolen is no more a victim than the person who committed the crime." The terrorist cannot be classified as a victim, and it would be a recipe for disaster to establish a forum in which people who claim to be victims but who are actually terrorists participate equally with victims. Unless we agree the definition of "victim", proceeding with a victims' forum will be very difficult.

2508. **Mr McGuigan:** Having listened to the presentations from both unionist parties, I am even more concerned about how we make progress with a victims' forum. Sinn Féin supports, in principle, the establishment of a victims' forum, but none of the political expediency that I mentioned earlier that was employed in the appointment of the victims' commissioner should be permitted. That is no slight against the individual who was appointed; rather, I am speaking against the process of that appointment.

2509. There can be no hierarchy of victims. The DUP and the UUP may have their own interpretations of history, but the only way in which we can move this forward is by accepting that the grief and victimhood of all the people who suffered as a result of this conflict can be considered equally.

2510. **Mr McFarland:** I apologise to the Committee for missing the first part of the meeting.

2511. Parties have been struggling with this very complex issue for years. That complexity has meant that we have tended to leave it to one side. As we have said in previous Committee

meetings, perhaps some headway should be made on the matter so that society here can be settled.

2512. The first question that we need to ask ourselves is: what are we trying to achieve? Different parties and groups are trying to achieve different things. The 1998 agreement was supposed to have been a watershed: we drew a line in the past and moved on. If we carried the past with us, society would be disturbed. Society in Northern Ireland has a choice: we can spend the next 50 years picking at our sores one by one — that is how long it will take — and nothing will ever heal if we keep dragging up the past, picking at it and keep this boiling.

2513. We have a number of areas that we need to deal with. First, we have to look after the victims. My colleague Derek Hussey mentioned the problem of agreeing on the definition of “victim”. Different parties disagree on that, and it is hard to know whether that is a soluble problem.

2514. Our focus must be victim centred. As anyone who has strayed into this area will know, victims come in all shapes and sizes. Some want to move on and have done so. Some families do not want an inquiry into the loss of their loved one, because they do not want to be reminded of it. They have dealt with it and put it in the past; their loved one is buried, and they have moved on, some for over 20 years. They do not want the case to be reopened.

*11.30 am*

2515. Other victims do want to know what happened. The Historical Enquiries Team (HET) was set up in January 2006 by the PSNI, and it has had interesting discussions with many families who are not interested in taking people to court and seeing them hanged. The HET may be able to solve the outstanding problem for them of what happened to their father, their son, or their wife. There are also people who want to have anybody who had anything to do with the killing of their loved one hung, drawn and quartered.

2516. A delegation from Northern Ireland went to Guatemala to examine its truth and

reconciliation process. They discovered that there are various stages to the process. To begin with, people just want to know what happened to their loved one. When they discover that, they then want to see the perpetrator appear in court and have the public see what he or she has done. Then the circumstances of the crime are dragged up and they are reminded of what happened. Then they want revenge; they want the perpetrators punished.

2517. The Ulster Unionists have several problems with this. Judicially, the Belfast Agreement drew a line under the past. Rightly or wrongly — and there were serious debates about it at the time — prisoners were freed as part of the process. That meant that while a person might spend a while in jail awaiting the court case, anyone who committed a crime before April 1998 would almost certainly be released under that legislation. Therefore — and unfortunately in many cases — nobody would spend any time behind bars or be hanged for terrorist crimes committed before 1998. That is an issue for those who are looking for retribution and revenge.

2518. Some of these issues cannot be solved in this context. However, people want to record for posterity details of what happened to them, how they were hurt and how they lost loved ones, and there must be some system in place for doing that.

2519. The danger of having inquiries on truth and reconciliation is that they may not arrive at full disclosure. It is clear from the Saville inquiry that the Provisional IRA has no intention of disclosing anything to anybody. In light of that, I suggest that we will have difficulty in persuading the Army or the police to give a full account of what they did.

2520. We will get no visibility on this — but if we did, could we cope with it? What would happen if someone discovered that the person who nominated her husband to be shot lives two doors down from her? There have been instances where family members have fallen out; cousins have fallen out because the word of one has led to someone's death. How will society cope with the disclosure of this information?

2521. We could pick at the past for the next 50 years. We should deal with the victims sensitively, listen to their stories and help them as far as we can to deal with what happened.

2522. We have a big problem at present. Those who have been involved with health issues will know about the mental stability of those who were actively involved in the fighting. The Army and the police are encountering increasing numbers of people who have severe psychological problems. A senior member of the Provisional IRA told me that his group is witnessing similar problems and that those who were directly involved in killings are now suffering. I do not doubt that the loyalist paramilitaries are experiencing the same. We have a residue of people who are mentally and psychologically damaged. These problems tend not to affect people when they are young and fireproof; the problems come with age, and, as such, they constitute an enormous problem.

2523. There will be ramifications all round if we keep digging up the past and do not allow human beings to deal normally with what happened. In the first world war, 1 million people were killed and 1 million families were damaged. In the second world war, hundreds of thousands of people were involved in combat that was as bad as, if not worse than, that which we have experienced here. People dealt with it. Society has traditionally dealt with conflict by moving on as best it can. Today, we have counsellors and others to help with post-traumatic stress disorder in a way in which did not exist previously. This is a dodgy area, so we must handle it sensitively.

2524. **Mr Ford:** Mr McFarland has made some interesting points. It is easier for society to move on when society has all been on the same side, as was the case after 1945. Our society is riven with differences over the history of the past 30-odd years. It is not easy for society to move on in those circumstances.

2525. Mr McFarland highlighted the different attitudes that victims take. There may be significant limits to what is possible. To give victims an opportunity to put their story on

record, and perhaps to hold a day of remembrance, may be as far as we can move.

2526. I want to tease out the issue of the hierarchy of victims, or “spectrum”, as Mr Hussey said. Mr Poots has made it clear that he considers only those who were on the innocent side to be victims. The definition in the draft Victims and Survivors (Northern Ireland) Order 2006 is that anyone who has been affected by the troubles is potentially a victim. Our unionist colleagues have not confronted the fact that there is a range of experiences.

2527. I can accept that people who see themselves as completely law-abiding find it difficult to regard terrorists — from whatever organisation they come, and on whatever side of the divide — as totally innocent victims. What about the mothers of those terrorists who were killed in action? We must accept that there is a range of experiences. In the legal definition in article 3(1)(c) of the draft Order, close relatives of terrorists are clearly seen as victims. By any logical definition, they are victims. Whether one approves of what their relations were up to does not alter the personal feelings that they are going through.

2528. Unless we as a society start to confront the fact that there is a huge range of different experiences, we shall not be able to move this process forward. By different experiences, I mean the relationship that people had with the person who was killed, the involvement of the person who was killed, the feelings that have been experienced, the length of time that has passed and individuals’ personal healing process. All manner of people were psychologically or physically affected by the troubles. We may have to leave it to others to provide the definitions, but, nevertheless, we must tease out our collective thoughts a little.

2529. **The Chairman (Mr Wells):** This is a very thought-provoking discussion.

2530. **Ms Lewsley:** If we decided to open up the definition of “victims”, we could be here for a fortnight. I do not want to stifle the debate, but there is a definition in the legislation. There is the opportunity for ongoing consultation on that definition, and it could be changed.

2531. I want some clarification on Edwin's proposal. I may have misunderstood him. Is he saying that he cannot support the proposal for a victims' forum because of the current definition of "victims"?

2532. **Mr Poots:** You are not confused.

2533. **Ms Lewsley:** Therefore there is no consensus on the principle of a victims' forum?

2534. **Mr Poots:** No.

2535. **Ms Lewsley:** That is sad for the victims, because they are calling for this forum.

2536. **Mr McCausland:** The exchange between Mr McGuigan and Mr Attwood was illuminating, to say the least. Mr McGuigan's fancy footwork over the issue of full co-operation and disclosure, and the shift in the ground over a couple of minutes, was remarkable. We had a statement, then it was retracted; it might have been standing or falling over. It was incredible. That has to be compared to Martin McGuinness refusing to reveal information about his time as a senior IRA figure in Londonderry, and the leader of the same party still denying that he was ever a member of the IRA.

2537. **Mr O'Dowd:** I want a ruling on this issue. A number of references have been made to the Saville Inquiry and interpretations given about Martin McGuinness's role at the inquiry. It is not up to this Committee to decide whether Martin McGuinness gave full disclosure to the Saville Inquiry.

2538. **Lord Morrow:** We are allowed to have an opinion.

2539. **The Chairman (Mr Wells):** There is no sub judice issue, since the inquiry is closed.

2540. **Mr O'Dowd:** The inquiry has not ruled.

2541. **The Chairman (Mr Wells):** Mr McGuinness is not being accused of any criminal offence. These are fair comments. You have put your objections on record, but there is nothing unusual here; compared to some of the comments that have been made in this Committee in the past two and a half months, this is relatively mild. I have no problem with what has been said.

2542. **Mr O'Dowd:** Can I ask the Clerks to clarify that point for the next meeting?

2543. **The Chairman (Mr Wells):** We will refer it to the Clerk of the Assembly for his views, but I do not see anything untoward in what has been said.

2544. **Mr McFarland:** On a point of information, I understood that Martin McGuinness had said to the inquiry that he was not able to —

2545. **Mr O'Dowd:** I have no difficulty with any of the statements that Martin McGuinness made to the Saville Inquiry. What I am saying is that it is not up to this Committee to decide whether he co-operated fully with the inquiry.

2546. **Mr McFarland:** My understanding is that Martin McGuinness, when questioned, said that he was not at liberty to say —

2547. **Mr O'Dowd:** As I said, I have no difficulty with any statements that Martin made, or with your quoting them, but it is not up to this Committee to decide whether he co-operated fully.

2548. **The Chairman (Mr Wells):** It is not up to the Committee to make that decision, but individual members can give their views. I will not stop anyone from making such a statement or from contradicting it.

2549. **Mr McCausland:** Mr O'Dowd's sensitivity knows no bounds. If Sinn Féin will not even face up to the truth about Martin McGuinness's refusal to disclose information, there is not much chance of it or the IRA co-operating with a truth commission. If there is an attempt to paper over the past on a simple fact such as that, what hope can there be for a truth commission? It is disappointing, but not altogether surprising, that the contribution from Sinn Féin this morning has reaffirmed the fact that a truth commission will not work in Northern Ireland.

2550. I also want to pick up on Sinn Féin's use of the term "hierarchy of victims". That is an attempt to dissolve real distinctions and real definitions. Ms Lewsley described it as leaving the past behind "on a moral basis". That is



getting to the heart of the matter. For me and for the vast majority of the unionist community, there are moral issues about what is right and what is wrong. The way in which the Protestant community views these issues means that they are clear in their own minds about distinctions between perpetrator and victim. The introduction of the term “hierarchy of victims” is an attempt to paper over that issue.

*11.45 am*

2551. Mr McFarland’s made a point about people discovering that a man down the street, or in the next street, was the person who targeted, or even shot, their relative. In many communities, people are already in that situation. They see people walking the streets whom they know — and the security forces know but cannot prove — to have committed a crime against their family.

2552. I cannot for the life of me believe that there is any correlation between a man walking into a fish shop on the Shankill Road who is killed by his own bomb and the men, women and children who were blown up by that terrorist bomb. There is no correlation, and it would be an insult and an offence against decency and humanity to attempt to draw one. Sinn Féin’s party president was willing to carry the coffin of that bomber.

2553. **Mr O’Dowd:** Who carried George Seawright’s coffin?

2554. **Mr Hussey:** We have already said that we concur with Mr McCausland’s point on the definition of “victims”. Mr Poots has said that the issue must be addressed. Everything else is predicated on that definition.

2555. I expected that the issue of victims’ confidence would have been raised in relation to full co-operation and disclosure in a truth and reconciliation commission. My community would have no confidence in the republican movement’s input to such a commission.

2556. I agree with Ms Lewsley that victims are looking for a forum and the issue, yet again, is how the participants are defined. Many of the groups that I deal with will not sit down with those whom they consider perpetrators. Victims

and perpetrators must be dealt with separately. Someone else may have suggestions about how to deal with perpetrators, but I feel strongly that we cannot mix the two.

2557. The issue today is victims, and I am taking that forward according to my definition of “victims”. Some groups are being refused funding because they will not go on courses with ex-prisoners’ groups or others who, from their point of view, represent the perpetrators. Some groups experience funding difficulties because they adhere to their principles and morals. Those principles and morals must be respected; from the UUP’s point of view, they must be paramount.

2558. **The Chairman (Mr Wells):** After Lord Morrow, Mr Maginness, Mr Attwood, Mr McGuigan and Mr O’Dowd have spoken, all members will have had their say on this issue, and we will have given it a fair degree of latitude. After Mr O’Dowd has spoken, I will go to the proposal. Unless I am missing something, we will not get agreement on a definition of “victims”.

2559. **Lord Morrow:** Mr McCausland has adequately covered some of the points that I intended to raise. Until there is a clear definition of “victims”, there will be no consensus on the issue. It is central and paramount.

2560. As Mr McFarland and Mr McCausland said, many of the victims know the perpetrators. That is what makes it even more evil and is why there was such resentment in the unionist community when Mr McFarland’s party signed up to the release of terrorists who came out of jail singing “Tiocfaidh ár lá” — “Our day has come”. There was no sign of any remorse from those coming out of jail, but rather a triumphalism that was sickening to the core. That set the whole process back many years.

2561. The SDLP berates my party and tells it to move on — I wish that the SDLP would practise what it preaches. I have listened to members of the SDLP on television and in various forums, and invariably they talk of the 50 years of misrule. They cannot get over it, yet they expect unionists to get over 35 years of trashing in a year or two.



2562. Mr Hussey said that the UUP would have absolutely no confidence in anything that Sinn Féin said. I am glad that he said that; it shows a significant shift in his party's thinking. The DUP also has no confidence in anything that Sinn Féin says, which is why the DUP will not go into government with Sinn Féin. We might have confidence in what Sinn Féin does, but we have absolutely no confidence in anything that it says. Mr Hussey's party had enough confidence in what Sinn Féin said to go into government with it three times, although it was warned against doing that. He had to put his hand in the fire to find out that it was going to burn him.

2563. The reason that my party says "no" to a victims' forum is that there is no clear definition of what a "victim" is. If someone watches a terrible incident on television and is traumatised by it, is he or she a victim? Those who went out to murder in Loughgall, and ended up dead themselves — are they victims? People who go out to plant bombs but are killed by their own bombs — are they victims? Unionists do not see such people as victims but as people with murderous intent in their hearts who ended up dead themselves because they were out to kill innocent people.

2564. **Mr A Maginness:** It is disappointing that the Committee cannot even find consensus for a definition of "victims". It harms the interests of victims when we start to argue over definitions. It is important that we get on with the work of addressing the interests of victims and survivors rather than nitpicking over definitions and creating political obstacles.

2565. My remarks are aimed primarily at the DUP, but it is equally disappointing that Sinn Féin has resiled from a position of full disclosure to one that is obscure and lends no credibility to its stance of trying to push ahead with a proper truth-recovery process.

2566. It is difficult for people to have confidence in the Sinn Féin position. Sinn Féin made a very bold statement of principle that there should be full disclosure but, when questioned about it, immediately resiled from that position. It is politically damaging for that

to have happened this morning. It does nothing to assist the process of truth recovery.

2567. In June 2006, the Interim Commissioner for Victims and Survivors published a summary of feedback from consultation seminars on the role and purpose of a victims' and survivors' forum. It concerns truth recovery, and I want to reflect on its findings. This is not the definitive view of the interim commissioner but the findings of the consultation process. The issue of truth recovery was raised in five of the 14 seminars. In the section "Truth Recovery", it states:

*"Initiatives for dealing with the past were generally accepted as being necessary, but there was no consensus on how or when that should be done. Also, it was felt that there is a tension between remembering at an individual level and moving on at a societal level."*

*A mechanism to provide a safe opportunity for truth recovery, story-telling and reconciliation to promote real change aimed at preventing future conflict is needed. Other issues closely related to this topic were conflict transformation and reconciliation. The main focus here was in relation to the differing stages of readiness to address these issues across different areas."*

*It was noted that this would require acceptance and understanding and to be nurtured at small levels, in the initial stages. It was felt that in this way trust and confidence can be built gradually and that trust is a necessary pre-requisite for truth recovery. It was also reported that some such work is already going on, and in order for it to work it needs to be kept out of the limelight."*

*What a forum could do:*

*Make people aware of which options are available such as Truth Recovery, Story Telling and Reconciliation. However, participation will be voluntary and there should be no pressure on individuals."*

*It was also proposed that a forum could research Truth Recovery models to ascertain the best model for the Northern Ireland situation."*

2568. That is predicated on there being a victims' and survivors' forum, and the views of those who were consulted are reflected in what I have read out. It seems to emphasise the fact that there is a broad acceptance of the need for a truth-recovery process, of whatever shape or form. I will leave a copy of the summary so that Hansard can refer to it.

2569. A process of truth recovery is necessary for us to be able to leave the past behind on a moral basis.

2570. **Mr Attwood:** It is important to echo what Mr Maginness has said, as a reply to Mr McFarland's earlier thoughtful remarks. To some degree he differed from that approach.

2571. Some years ago, I spoke to people from Srebrenica about their need for truth recovery, given that thousands of people were massacred there. They made an interesting observation that, although it was important that they knew the truth of what had happened, the older generation in Srebrenica wanted to know the truth of what had happened during the Second World War.

*12.00 noon*

2572. Tito's strategy after the war was to suppress the experience of the war, so the citizens of the then Yugoslavia did not speak about what they had done to one another and to those who had sided with the Germans against the indigenous people. The older generation in Srebrenica wanted to recover the truth of the Second World War. Mr McFarland, understandably, said that we could be chasing this issue for the next 50 years, but if it is not dealt with, it will come back to us in the next 50 years, just as in Srebrenica the Second World War still casts a shadow, despite the terrible experiences that they have had since then.

2573. That is also emphasised by experiences of the First World War. Sebastian Haffner, in his diary of the war, 'Defying Hitler: A Memoir', said that, although there was something pathological about the German people that led them to be attracted to Hitler, the experiences of the First World War — the experience of defeat and of how the conquering parties handled the

German people — made them vulnerable to Hitler. He argued that, although one can explain the actions of Hitler and how he should have been defied, it must also be understood that if people do not work through their experiences, the seeds of conflict can return. That is why we must all put our heads together and create a truth-recovery process, even though it will be imperfect. It will be deeply imperfect, but it must be done.

2574. If we do not deal with truth recovery, the power will be given to others. Last autumn we learned that if the power is given to the leadership of the republican movement and elements in the British Government, they will concoct a set of proposals in order to bury the truth about anybody who committed any scheduled offence, whether they were in an illegal organisation, the Army or the police. That is what the on-the-run/state killings proposals would have done; it would have been a mechanism for the self-serving needs of the leadership of the republican movement and elements within the British Government to take the spotlight away from what they had done.

2575. We have a choice: we can try to work through an imperfect model of truth recovery or we can live with the consequences of reheated proposals, which is what will happen. The British Government and the republican leadership will reheat their proposals for the on-the-run/state killings legislation. Minister of State David Hanson has told us that the proposals are coming back, although he says that he does not know when — and I believe him. Such issues are not dealt with at his level; they are dealt with at Downing Street level. However, the proposals are coming back; they will hit us very soon and be much the same as before. The legislation will probably be split so that the IRA will get its piece, and elements in the British Government will get their piece. When that happens, our power to work out an imperfect model will go, and their power to create the worst model will become reality.

2576. I want to echo what Alan McFarland said about the Historical Enquiries Team. There are issues about the funding, accountability and

independence of the Historical Enquiries Team, but it is the best mechanism that has so far been established for dealing with the past. It reflects comments made by Mr McCausland and others. I can bring people to the Historical Enquiries Team in west Belfast because they want an inquiry or an account of what happened, even though they know that Adair's 'C' Company killed their loved ones.

2577. They know who did it. They know the people in 'C' company who killed them, and they know that they live up the street, or that they are now living in England — but they just want some more information and explanation.

2578. Going into the past means that you might discover who did what, but most of the time people know who did what, just as these families in west Belfast know. The HET creates a mechanism for getting a handle on all of that.

2579. My own view is that the work of the HET can be presented in such a way that it is not just an individual accounting for what happened in the past — and perhaps some prosecutions — but also a record of what happened in the past; a public expression, an archive, some written documentation or perhaps a DVD. The HET has the potential to become much bigger than it is now.

2580. **The Chairman (Mr Wells):** Mr McGuigan and Mr O'Dowd are the last two speakers. The only way that anyone else will be able to get in now is by way of a point of information, because we have had 14 contributions on this issue.

2581. **Mr McGuigan:** I am conscious that there are two separate but important aspects to all that we are discussing today. There is the sensitive matter of victims, and how we resolve those issues. The way to do it is, as David Ford says, to abide by the definition in the 1998 Act. It is important that that definition is upheld, and not diluted in any way by this body. Nor should any political party or anyone else dilute it or continue to perpetrate a hierarchy.

2582. Victims are victims as defined in the Act. We may not like that; the unionist parties may not like it; but that is the way that it is, and that is the way that the issue should be dealt with as

regards resources, finance and support for victims' organisations, and contributions to victims' forums. I repeat that Sinn Féin supports the idea of a victims' forum in principle. We did not support the "on-the-runs" (OTR) legislation, but for those who sometimes have a selective memory, we support a victims' forum.

2583. Moving on to the issue of truth recovery, reconciliation and dealing with the past, some of the points that have been made —

2584. **Mr Maginness:** May I intervene on a point of information? Mr McGuigan says that Sinn Féin did not support the OTR legislation. I clearly remember — because I was there in London that very day — that Conor Murphy MP welcomed the legislation and did so publicly to the media. Later on, admittedly, the party resiled from that position, but for the life of me I cannot understand how Mr McGuigan can say that it did not support it. The party welcomed it in Westminster itself.

2585. **Mr McGuigan:** Conor Murphy is not here to answer that. Sinn Féin did not support the OTR legislation and that is a matter of public record. It does not need to be rehashed at this juncture.

2586. **Mr McFarland:** Let us be absolutely clear about this. Sinn Féin negotiated the OTR legislation with the Government at Weston Park. It supported it all the way through —

2587. **Mr O'Dowd:** With respect, Mr McFarland, the OTR legislation was not negotiated at Weston Park. There was no legislation on the table at Weston Park. It was the principle that the issue of OTRs had to be dealt with that was discussed at Weston Park.

2588. **Mr McFarland:** The OTR legislation was a Sinn Féin win, as far as the party was concerned, and it told everybody so — until the Government decided that they could not let the IRA off the hook and busily put policemen and soldiers in the dock. In their wisdom they decided to include policemen and soldiers in the OTR amnesty, at which point Sinn Féin backed off.

2589. Those are the facts of the matter. There is no point in Sinn Féin saying now that it never supported the OTR legislation. The party

negotiated; the legislation was its baby; and the party went against it only when the security forces were put into the mix.

2590. **Mrs Long:** May I ask for a point of information on that issue?

2591. **The Chairman (Mr Wells):** Mr McGuigan has to agree to it, not Mr McFarland.

2592. **Mr McGuigan:** I would like to continue my presentation uninterrupted, if allowed to.

2593. **The Chairman (Mr Wells):** There will be no more points of information allowed on Mr McGuigan's presentation. I am sorry, Naomi, but I have honestly given everybody a fair crack of the whip.

2594. **Mr McFarland:** Correct me if I am wrong, Mr Chairman, but we agreed at the beginning of the Committee's work that all of this would take as long as it would take.

2595. Mr Chairman, you led the charge by saying that nobody would be gagged and that anyone who wished to speak could do so. Thus, if Naomi wishes to raise a point of order —

2596. **The Chairman (Mr Wells):** No one can say that Naomi has been gagged at this Committee. Check the number of words that she has spoken — she must hold the record. Therefore, I do not think that I, or the other Chairman, can be accused of gagging her. Mr McFarland, it is a close-run competition between yourself, Mr Nesbitt and Mrs Long.

2597. **Mrs Long:** That is a reflection of my good attendance as opposed to my verbosity. *[Laughter.]*

2598. **The Chairman (Mr Wells):** Well said.

2599. I will let Mr McGuigan finish his comments uninterrupted. It is up to Mr O'Dowd to decide whether he takes a point of information from Mrs Long or anybody else.

2600. **Mr McGuigan:** To clarify my point on the on-the-runs issue; the British Government handled it in the same way as they handled the issue of truth recovery — by deflecting, lying and covering up. It is an important issue, and the two previous members who spoke outlined the reasons why it is so important.

2601. I listened with interest to Nelson McCausland's comments about morality in the unionist community. I also listened to unionist representatives suggest in their presentations that republicans or the IRA were the only combatants in this conflict, negating the fact that over 1,500 innocent nationalists were killed by state and unionist forces throughout this conflict and that the first eight or nine people killed in this conflict were killed by the RUC —

2602. **Mr Poots:** On a point of order, Mr Chairman. If the member wants to make statements, can they be somewhere close to being factually correct? His statement that 1,500 nationalists have been killed by state security forces has absolutely no basis in truth; it is a complete lie.

2603. **The Chairman (Mr Wells):** That is not a point of order; it is a point of information, but you have made it. Mr McGuigan, please continue.

2604. **Mr McGuigan:** — by state and unionist death squads; there is very little difference between the two in the eyes of our community and in the eyes of people who have published reports — such as the Stevens Report — that prove that there was collusion at the highest levels.

2605. We must also discuss conflict resolution. Alban and Alex have clearly pointed out that conflict resolution involves an examination of the past for the causes, nature and extent of the conflict; if we do not do that, years down the line we will find ourselves in similar Committees discussing the same issues. The issue must be dealt with.

2606. When is the right time to discuss this issue? If the unionist parties are as confident as they say are about what happened, they should have no problem sitting down with the rest of us and discussing the way forward. I do not expect this Committee to come up with answers today, but I do expect political representation to come together to discuss ways of resolving this matter so that we can have national reconciliation on this island, put the past behind us and move to a new future. However, that will involve leadership from everybody.



2607. The Historical Enquiries Team is not an answer to this problem. As has been the case in the past, it is simply state forces investigating state forces. That is not satisfactory.

Independent investigation is needed, and we must learn from international experiences.

2608. **The Chairman (Mr Wells):** Mr O'Dowd will speak next, after which I will put the proposal. Then we will have lunch, which might encourage people to stick to the timetable.

2609. **Mr O'Dowd:** Every time unionist politicians talk about victims, they talk about victims of republican violence. The remarks that I have heard today have served only to confirm that. When republicans talk about victims, we talk about all victims, including victims of republican, state and other violence.

2610. **Mr Hussey:** Chair, on a point of order —

2611. **Mr O'Dowd:** I am not taking any points of order or information, thank you very much.

2612. **The Chairman (Mr Wells):** I have to take points of order.

2613. **Mr Hussey:** That is a false statement.

2614. **The Chairman (Mr Wells):** That is not a point of order, it is a point of information.

2615. **Mr O'Dowd:** That is not a point of order.

2616. **Mr Hussey:** Deputy Speaker, on this side we refer to terrorist crimes —

2617. **Mr O'Dowd:** Mr Hussey, let me give you an example. A 13-year-old child goes to the shop to buy a carton of milk for her mother and is shot in the back of the head with a plastic bullet. Is she not a victim? Of course, she is. My relatives were killed by an individual who is now being portrayed as an innocent victim by a south Armagh group. That person went on to bomb Dublin and Monaghan and was later killed by the IRA. Is he a victim? Yes, he is. Are his family victims? Yes, they are. No one here can decide that one person is an innocent victim and another is not, and that one should be remembered and the other not. Everyone who died as a result of this conflict is a victim.

2618. **Lord Morrow:** Only those who died?

2619. **Mr O'Dowd:** Will you let me finish? Those who were combatants in the campaign are also victims of the circumstances that this society created.

2620. **Lord Morrow:** That includes the whole population.

2621. **Mr O'Dowd:** If they were involved as combatants, then yes they are. That includes the RUC, UDR and British soldiers. That includes Loyalist death squads. It is not for anyone at this table to decide who is an innocent victim. As to how we move on, Nelson referred to the Shankill bombing. If the DUP showed half the moral and political courage that Alan McBride, who lost his family in the Shankill bombing, has shown, this society would be much better.

2622. **The Chairman (Mr Wells):** We have had a full and frank exchange of views on this. There is now a slight difficulty. Much of the debate will flavour our views on all the proposals. Do you wish to pursue your proposal of a victims' forum, Ms Lewsley?

*12.15 pm*

2623. **Ms Lewsley:** That was actually an Alliance proposal.

2624. **The Chairman (Mr Wells):** Sorry. I am in trouble now, am I not? *[Laughter]*.

2625. **Mrs Long:** I am a very forgiving person.

2626. **The Chairman (Mr Wells):** The proposal was supported by Patricia as well. Do you wish to pursue it?

2627. **Mrs Long:** Yes. The proposal stands, though I do not expect that we will have consensus on it.

2628. **The Chairman (Mr Wells):** Do we have consensus on that?

2629. **Lord Morrow:** No.

2630. **The Chairman (Mr Wells):** No. There are several groups for it, but at least one against.

2631. **Mr Hussey:** To clarify, the difficulty is the definition. Forum, yes.

2632. **The Chairman (Mr Wells):** Do you want it recorded that you are opposed to it as well?



2633. **Lord Morrow:** We are opposed because there is no clear definition of a victim.

2634. **The Chairman (Mr Wells):** Is that what you are saying, Derek?

2635. **Mrs Long:** In my proposal there is no definition of a victim.

2636. **Lord Morrow:** That is the problem.

2637. **Mrs Long:** I am not defining a victim. The issue is whether or not victims should have a forum. If we later define what victims are, that does not preclude us from having a forum, so the thing is not mutually exclusive.

2638. **Ms Lewsley:** I want to reiterate what Mrs Long has said. This is just about agreeing in principle that there should be a forum. The definition of a victim, and the structure of that forum, are completely different matters.

2639. **Mr Poots:** That is putting the cart before the horse.

2640. **The Chairman (Mr Wells):** That is right. I take it that even with that clarification we are not going to get consensus on that. We must move on to Patricia's next proposal that victims be identified in the Programme for Government and made a priority. Do we have consensus on that? Perhaps more importantly, is there anything that has not been covered in the debate and needs to be raised after lunch? Do members want me to postpone a decision? I have the impression that we have looked at this from all angles.

2641. **Mr McFarland:** What is the out-working of that? Are we talking about special funds that OFMDFM have? Originally victims were the responsibility of that Department. We created special funds for different issues within that Department. Logically, although it will go on for some time, if the issue is addressed and those who feel they are victims dealt with properly, many of them may stop being victims, in terms of needing money and resources.

2642. We are talking about having a specific line in the Programme for Government, a specific budget. The question is: to do what and for how long? Before it is possible to agree that there should be provision, the downstream

implications of that need to be teased out for any future Executive. Where will the money for it come from? How much should it be? Is it open ended?

2643. **The Chairman (Mr Wells):** You have confirmed that there is a need for discussion on this. I think we will leave it to after lunch. This issue has not been sufficiently addressed in the previous discussion. So we will move to that in fifteen minutes.

*Meeting suspended at 12.19 pm*

*On resuming —*

*12.43 pm*

2644. **The Chairman (Mr Wells):** The issue of victims being a priority in the Programme for Government requires more discussion.

2645. I will outline some procedural matters. First, the Building will close today at 4.30 pm for the bank holiday, but arrangements can be made for us to get out of the Building if the meeting goes on beyond 4.30 pm. Secondly, the main members of the Subgroup on the Economic Challenges Facing Northern Ireland, and the full representatives on the Preparation for Government Committee, will receive their reports at approximately 4.00 pm today; copies will be delivered here.

2646. **Lord Morrow:** How do you spell the “full”?

2647. **The Chairman (Mr Wells):** I mean the main members: Lord Morrow, Alan and David, among others.

2648. The report is some 1,000 pages long and is a bulky document. Members are advised to get their copy to read over the weekend.

2649. I interrupted Patricia. I will take the names of those who wish to contribute to the debate on this issue.

*12.45 pm*

2650. **Ms Lewsley:** I want to point out that the proposal was made in order to give recognition to victims.

2651. **Lord Morrow:** Chairman, you are anxious about whether the Committee is quorate. The Committee is quorate unless it is brought to your attention that it is not.

2652. **Mr McFarland:** We agreed that the Committee is quorate as long as one member from each party is present when the meeting starts.

2653. **The Chairman (Mr Wells):** That is a requirement rather than a quorum.

2654. **Ms Lewsley:** I can wait until Alan brings his cup of coffee to the table. I just wanted to respond to the matter that he initially raised.

2655. **Mr McFarland:** For the first time in 30 years, the previous Assembly had to put its money where its mouth was and deliver on whatever had been extolled or complained about. Although it had the propensity to have good ideas that made sense on one level, they were not always deliverable. If we are to suggest ideas that we believe will benefit society or individuals, we must think about how they will be delivered, how much they will cost, and what purpose they will have.

2656. Together with the Preparation for Government Committee dealing with institutional issues, we should give thought as to how such ideas will work. For example, I believe that the SDLP proposed that there should be an equality Department. The Office of the First Minister and Deputy First Minister (OFMDFM) in the previous Assembly had responsibility for equality. Presumably, if there were a separate Department to deal with equality matters, the issue of victims would come under its remit. Without impinging on the Monday team’s discussions on institutions, I am not sure whether that proposal would mean that OFMDFM’s responsibilities would be expanded or that responsibilities would be taken from OFMDFM and given to a new Department. We must, therefore, consider how everything would operate.

2657. Victims must be looked after, so money must be put aside for that. However, should it be given to victims’ groups, as is currently the case? There are several groups from each tradition. Some are closely related to the security forces and some are closely related to paramilitaries. We must consider whether that system of funding victims’ groups is to continue or whether the money will be lumped into the centre and attached to a victims’ forum, which could then dole out the money to the various groups. I am curious to know how that would work in practice. I want to tease that out from Patricia.

2658. Suppose that the Executive are up and running in November. What effect would the proposal have? How much would it cost to implement? Some of the costs that relate to victims are health costs, because people have been physically and mentally hurt by bomb

blasts. Would money be taken from the Department of Health, Social Services and Public Safety and put into the suggested pool of money for victims? Would victims' groups come forward to record their stories, as they do at present?

2659. **The Chairman (Mr Wells):** I will let Patricia answer that, and then David, who has been waiting patiently, can speak.

2660. **Ms Lewsley:** I am a bit confused now, never mind you, Alan. If victims are to be a priority in the Programme for Government, the Government must first recognise them and, secondly, commit to dealing with the issue. Once victims are at the heart of government, it is for the Government to decide who is responsible for them. You are right: if the matter goes to the centre of government, the other Departments will, we hope, ensure that they fulfil their obligations to victims. Certain subjects were mentioned in the Programme for Government, and I was involved with two in particular — Diabetes UK and neonatal screening for the deaf. If something is mentioned in the Programme for Government, an opportunity for accountability is created. That means that if no progress has been made a year down the line, we can ask why, given that it was in the Programme for Government. The issue is bigger for victims: the Government must take the issue more seriously by putting it at the heart of its day-to-day operations and making all Departments accountable. That is preferable.

2661. **Mr McFarland:** Mr Chairman, does this issue fall under the overall heading of "Equality"? Traditionally, the issue of victims has lurked there somewhere, but it was suggested that the First Minister and Deputy First Minister should oversee it. My point is that somebody should oversee it; who will do that?

2662. **Ms Lewsley:** I understand that, but the Committee of the Centre, which will now be a Statutory Committee, dealt with victims. We do not need to decide where the issue should go and who should be responsible. All that that I am asking is that we get consensus on the principle that it should be a priority that is included in the Programme for Government.

2663. **Mr McFarland:** The logic is that if we feel strongly about it, we recommend that it becomes a priority. As such it will attract money, and if it does that —

2664. **Ms Lewsley:** With the greatest respect, Alan, money is already allocated to deal with victims. That does not mean that more cannot be spent, but we are not setting up a new entity for which we expect a new budget. People who work with victims and survivors say that there is a need to consider how the money that they receive is best spent. It is not simply about getting more money but about whether the existing money is being spent in the best way. However, it is often about ensuring that a service that is being delivered by, for example, health or education agencies includes victims. In some cases, extra money might not be a factor.

2665. **Mr McFarland:** We are back to our original problem. At the moment, if people class themselves as victims, whether they are active or former paramilitaries or innocent victims who were blown up when walking along the street, they can get money from the Government. If we are never going to agree what a victim is, we will not get parties to agree how to continue funding. The Northern Ireland Assembly has been suspended since October 2002, and currently the Government fund many victims' groups, and this issue has become a big problem. If all goes well with the DUP and Sinn Féin, we will end up back in a government through which we will have to reclaim ownership of the victims issue, put it somewhere and dole out the money.

2666. If we cannot agree on what a victim is and whether a republican organisation that deals with victims is as valid as the South Armagh Victims Encouraging Recognition/North Armagh Victims Encouraging Recognition (SAVER/NAVER) or any other group, this will become a big problem. It is not a problem at the moment because the fact that we are not responsible for the victims issue means that we can talk about it. However, if we became responsible, it will become a major issue if the starting point of defining who is and who is not

a victim and, therefore, who does or does not attract money is not solved.

2667. **Ms Lewsley:** With the greatest respect, the issue of victims was at the core of the Committee of the Centre. Why should the focus change simply because the Government aspire to make it a priority? Victims and issues about definition and funding, and so forth, already existed.

2668. **Mr McFarland:** The Government did not treat the issue of victims as seriously as they do now. There is an interim commissioner, and a great deal of funding has come on-stream. Over the past four years, many groups have been formed that did not exist when the Committee of the Centre examined the matter. In the previous Assembly, there were complaints about the attention paid to this issue by the Office of the First Minister and Deputy First Minister.

2669. Life has moved on and become much more complicated; we are starting to seriously examine how we deal with the past; in practical terms, victims are being taken much more seriously than they were four or five years ago. In emotional terms, they have always been taken seriously, but practical things are now being done for them. We have come quite a long way in the past four years.

2670. If a government is set up that takes ownership of this issue from the Government, which have doled out money all over the place — sometimes to organisations that we and others might disagree about — we may disagree about how this issue is to be dealt with by Government.

2671. **Ms Lewsley:** I understand that, but everything can be ironed out if the issue of victims is made a priority for the Government. Sooner rather than later, it will be put on the long finger for another four or five years. Alan has touched on the matter, and before the first proposal on the victims' forum was taken, you, Mr Chairman, said that everything depended on the definition of a victim. Until we get that definition right, nothing will be agreed. We will not reach consensus with the DUP and others.

2672. **The Chairman (Mr Wells):** I am glad that we first thrashed out the issue of defining a

victim, because it would have been rather silly to have done it the other way round. This morning's debate will affect the decisions we make on all the other proposals. Mr Ford has been waiting rather a long time to get in. He will be followed by Mr McGuigan and Lord Morrow.

2673. **Mr Ford:** It is my understanding that the contents of the draft Victims and Survivors (Northern Ireland) Order 2006 were in an OFMDFM paper when the Ulster Unionist Party held the office of First Minister, so the party's views on the possible change in definition may be interesting.

2674. Alan's approach to the victims issue is in danger of leading this Committee on rights, safeguards, equality issues and victims into discussions on institutional matters. Patricia and Naomi's proposal concerned a principle; there has not been a coherent or comprehensive approach to the needs of victims.

2675. The approaches have been piecemeal, and if we are to treat the needs of victims seriously, they should be a priority in the Programme for Government. That becomes an issue for the victims' commissioner, the Executive and various bodies; however, counting beans is not an issue for this Committee. We are in danger if we start to go into nitty-gritty details. We can say that, as a matter of principle, we have not dealt with the needs of victims comprehensively up until now and that we should make them a priority in the Programme for Government, otherwise we get sucked into a discussion on Departments' counting beans and the funding of the National Health Service, which is not the function of this Committee.

2676. **The Chairman (Mr Wells):** Perhaps Mr McGuigan and Lord Morrow will be able to put their parties' views in their contributions on this important issue.

2677. **Mr McGuigan:** I do not want to prolong the discussion or delve into details. I want to agree broadly with what has been said. In my discussions with victims' groups, I have heard complaints about the stability of funding; there should be more stability. Much of the funding comes from the centre, but funding also comes



from other bodies and, over time, that runs out. Victims' groups do good work on highlighting the issue, campaigning and helping victims. They need stability of funding so that they can continue to do that, and if we accept the broad principle that victims should have increased priority, all the other issues can be taken care of.

2678. **Lord Morrow:** I cannot understand why we are having this discussion. I agree with David Ford: we either agree that we want the issue of victims to be a priority for the Government, or we do not. Who deals with it after that is not for this Committee to decide; it is for somebody else to decide. I suggest that we move on and either agree that it is a priority for Government, or it is not. That is our function.

2679. **The Chairman (Mr Wells):** Do I detect consensus on this issue? Is there general agreement that, regardless of the mechanics, we believe that the issue of victims is a priority? Is that agreed?

*Members indicated assent.*

1.00 pm

2680. **The Chairman (Mr Wells):** That is good news.

2681. The next proposal concerns the disappeared. I will not preclude members from coming back on a different proposal on victims, because we took all four items together. The proposal regarding the disappeared was that there should be a family liaison officer.

2682. **Ms Lewsley:** The report from the Independent Commission for the Location of Victims' Remains (ICLVR) recommends the establishment of a family liaison officer. In recent media coverage, the British Government said that they would do that.

2683. We agree in principle that that should happen sooner rather than later, because the commission's report was published over a year ago. However, the British Government can make all kinds of commitments and express aspirations but never follow them through.

2684. **The Chairman (Mr Wells):** Do members understand what is involved and what a family liaison officer would do? It is fairly self-

explanatory. Do members have any views on that suggestion?

2685. **Mr Ford:** I agree entirely with Patricia.

2686. **Lord Morrow:** To what report did Patricia refer?

2687. **Ms Lewsley:** The report was prepared by the ICLVR. I do not know the exact title. It was published over a year ago, and it recommended the establishment of a family liaison officer. This is one of the issues. Families receive no communication from anyone and are left not knowing what has been happening for six months or a year.

2688. **Lord Morrow:** Is this post in addition to the victims' commissioner? Would the post holder work with the victims' commissioner?

2689. **Ms Lewsley:** Very much so, yes.

2690. **Lord Morrow:** Where would that person be located?

2691. **Ms Lewsley:** That would be up to whoever employs the person. The proposal specifically concerns the disappeared.

2692. **The Chairman (Mr Wells):** Should this happen immediately or after devolution?

2693. **Ms Lewsley:** It should happen immediately.

2694. **Mr McGuigan:** I am looking for a point of information. Mr Chairman, you said that the family liaison officer post was self-explanatory. Will the officer liaise between the commissioner and the families?

2695. **Ms Lewsley:** The person would liaise between the families and anyone else working on the issue of the disappeared, such as the Historical Enquiries Team. He or she might even liaise between the families and the Government.

2696. **Mr McFarland:** One of the problems with the disappeared is that most are thought to be buried in the Republic of Ireland. Given that they are buried outside the United Kingdom, who will fund all this? Will somebody in Northern Ireland deal with the families, or is it a cross-border venture that will deal with people in the Republic? Does a mechanism not already



exist to deal with this? I thought that we had systems to deal with the disappeared.

2697. **Ms Lewsley:** There are systems, but they are failing because of a lack of communication. This person would specifically deal directly with the families and raise their issues of concern.

2698. When Gareth O'Connor went missing for all those months, his wife could not deal with her mortgage because she did not have a death certificate. Small issues such as that are big problems for families. There was no clear line of communication, and she had to go round the houses to find out whom she should talk to. The family liaison officer would be a single point of contact who would deal with the issues and liaise with others involved.

2699. **Mr McFarland:** This is not what might be termed a "fast" issue. There has been a report. Over recent months — Philip might confirm this — the republican movement has given further information, but the pace is slow.

2700. Digging for bodies will not start until as much information as possible is available. Previously, diggers were brought in, but people were so busy poking stuff out of the ground that key clues were missed. Buried bodies can disintegrate, depending on the soil type, and layers have to be skimmed; if you watch 'Time Team', you will know what I am talking about.

2701. The plan is to hold off until they are sure of the site, then do a proper forensic examination, bring in the dogs they used before and use other new techniques that have been developed. I am not sure that a liaison officer will be needed for the actual mechanics; it will happen when it happens. However, there is an issue about how the humanitarian side of it is to be dealt with. Normally, the relatives get in touch with their MP, MLA or councillor, who liaises with the police or social services.

2702. **Ms Lewsley:** Sometimes; and sometimes there is a lack of communication.

2703. **Mr McFarland:** Yes, but that is the inefficiency of the present system. A new system may be needed specifically for this. There may have been problems in some cases. However, if a family liaison officer is needed,

the post must be funded. Would the liaison officer be busy all the time, or would it be a part-time job? The practicalities must be looked at. I am not saying that it should not happen, but things need to be tightened up.

2704. **Ms Lewsley:** May I just say two things? It has already been recommended in the report, and the British Government have made a commitment. All I am asking is that they do it sooner rather than later.

2705. **The Chairman (Mr Wells):** We are watching a dialogue here. Naomi Long, David Ford and Nelson McCausland have been waiting patiently.

2706. **Mrs Long:** With reference to Alan McFarland's comments, I do not see that this is a jurisdictional issue. The families require this liaison function — the Government agreed to provide it, but have not done so. This is not a jurisdictional issue; it is about somebody liaising with the families. Alan may not be convinced that a liaison function is necessary, but the families and the commissioner who led the investigation are convinced that it is necessary.

2707. This is about politicians wanting to place their stamp on what is and what is not required for the families going through this. Politicians should accept the views of the families who say that something is needed, and when it has been properly assessed and weighted. Why must the people around this table be convinced of its necessity when that work has already been done?

2708. The issues that Alan raised about the mechanics of recovering the bodies of the disappeared bear no relation to Patricia's proposal, which is about a liaison function so that families are kept informed. Ongoing investigations are often dealt with by small teams whose resources are fully engaged in trying to make progress. Liaison with the families involved can be difficult. This proposal would help prevent suffering families from having to trek around the system to find answers. Instead, they would place their questions with a responsible person, who would take them forward on their behalf. It is about alleviating the suffering of the families. This is not a matter of the practicalities, which will be

dealt with in the proper way; it is about saying to people whose lives are already in chaos, and who have already suffered, and continue to suffer with the uncertainty of the situation, that they have an individual, to whom they can put a face, as their point of contact. It is not a jurisdictional or a mechanistic issue. It is about giving families what they feel they need in what are horrific circumstances. The families argued their point with the commissioner, and the commissioner accepted their argument.

2709. **Mr Ford:** I do not need to add to what Patricia and Naomi have said.

2710. **Mr McCausland:** It is not the role of this Committee to draw up a job description.

2711. **Ms Long:** No.

2712. **Mr McCausland:** That is for other people. It is about the broad principle.

2713. **Ms Lewsley:** Naomi and others have said the same. This is the broad principle of supporting the families of the “disappeared” and asking for a liaison officer to be put in place sooner rather than later.

2714. **The Chairman (Mr Wells):** The Committee has given the matter a reasonable airing. Alan, are you satisfied that your questions have been answered?

2715. **Mr McFarland:** Yes.

*Members indicated assent.*

2716. **The Chairman (Mr Wells):** The next issue is more complicated. It is raised by Mr Maginness. It is that full, independent, “Cory-compliant” – that is a new phrase for me – inquiries should take place as promised at Weston Park. Perhaps you could set the scene, Mr Maginness, since it has been a couple of hours since this was mentioned.

2717. **Mr Maginness:** Most members are aware that a number of inquiries were proposed by the Honourable Justice Peter Cory into cases including Wright, Nelson, Hamill and Finucane. Judge Cory proposed that certain allegations, particularly of collusion, needed to be properly aired and investigated by full, independent inquiries.

2718. The British Government agreed, at Weston Park, to establish an investigation into whether these inquiries should take place. Subsequently, Judge Cory reported and recommended that there should be inquiries into these matters. The British Government accepted that in principle. However, the British Government then changed the basis upon which inquiries would take place. They introduced the Inquiries Act 2005, which, as the SDLP see it, has circumscribed the independence of chairs of inquiries. We believe that that damages the process of investigation; damages the independence of the inquiry; limits the scope of the inquiry; and hinders the recovery of truth in relation to these matters.

2719. My party is opposed to the new Inquiries Act 2005. We believe it to be injurious not just to these inquiries, but also to inquiries in general. People do not realise how damaging this could be in the future —

2720. **The Chairman (Mr Wells):** It might be difficult to pick up your voice on the microphone. I do not want to miss any of this.

2721. **Mr Maginness:** Sorry. The Act could be damaging for all inquiries, not just those that we are talking about here today. We use the terms full, independent and Cory-compliant public inquiries. When Judge Cory became acquainted with the particulars of the new legislation, he was critical of it and said:

*“I cannot contemplate any self-respecting Canadian judge accepting an appointment to an inquiry constituted under the new proposed Act”.*

2722. He did not believe that an inquiry held under the 2005 Act could get at the truth. The SDLP says let us proceed with the inquiries, but let us have them fully “Cory-compliant” and separate from the new Inquiries Act.

2723. **Mr Ford:** Let us be clear. Collusion is not just an issue of concern for nationalists. Two of the Cory inquiries concern alleged collusion between gardaí and republican paramilitaries. For the Alliance Party, collusion is an issue of the rule of law, ensuring the highest standards of integrity for everyone in this society.

2724. That said, my party has concerns about the impact of these six particular inquiries with

regard to the HET in general. There seems to be some sort of selective justice. Many other victims have the same needs, feelings, and concerns as the victims in those six cases. Nonetheless, the Governments promised at Weston Park that those six cases would be subject to full inquiries.

2725. Based on that promise, those inquiries should take place subject to the law that existed at that time. The law should not have been changed to obstruct the potential working of the inquiries. However, it is also a singular lesson to the Governments about the dangers of selectivity and their failure to take account of the needs of many hundreds of other families of victims. To single out those six cases was not a good thing to do.

2726. **The Chairman (Mr Wells):** I will take each party's view on the proposal.

2727. **Mr McFarland:** The Government introduced that legislation because they believe that they have a duty of care to ensure that individuals are not killed as a result of information that may be given. Perish the thought, but if one of the inquiries proved beyond all shadow of a doubt that Martin McGuinness, former chief of staff of the IRA, had been a British agent for 20 or 30 years, could that threaten his life? He has denied that he was an agent in discussions in Committee, and I am sure that it is not the case that he was. There have, however, been recent cases in which Mr Donaldson and others have been done away with after it was discovered that they had been agents.

2728. Therefore the Government have a duty of care, and, through the legislation, they say that they must have the right to decide whether information that is to be used in an inquiry might lead to someone getting killed. Members of the Committee will be aware that, under section 29 of the Police (Northern Ireland) Act 2003, the Chief Constable has the same duty of care not to release into the public domain information that might result in someone being killed. That is my understanding of the legislation, and the legislation seems sensible. Others may disagree, but are they prepared to

take the risk that people may lose their life as a result of information that is released to an inquiry?

2729. **Lord Morrow:** There has been much discussion around this table about the hierarchy of victims. It seems that we are moving into territory in which there are two types of victims. Alban Maginness talked in some detail about the inquiries, and he said that any inquiry must be "Cory-compliant". What significance does that hold? Does that mean that an inquiry that has been designated by Cory is different from any other inquiry that might be established? Does it have different criteria or a greater likelihood of a sound outcome? Why must it be "Cory-compliant"? Did Cory include in his report new criteria that had not formed part of any previous inquiry? I suspect that "Cory-compliant" will be the buzzword that we will hear for a while in inquiry-related interviews on television, and so forth.

2730. **Mr A Maginness:** I will respond to the interesting point that Lord Morrow has raised. He is correct when he says that the six inquiries are specific. It was agreed at Weston Park — in principle anyway — that they would be conducted under the old legislation, which is the Tribunals of Inquiry (Evidence) Act 1921, and that any new legislation should not apply to them. The SDLP believes that that makes those inquiries "Cory-compliant", because they conform to the traditional standards of independence that apply to a proper public inquiry.

2731. **Mr O'Dowd:** We would support the proposal as put forward. Those inquiries came about after lengthy discussions. Indeed, including the Stevens inquiry, there were three in total into the Pat Finucane case that were never published. They caused great concern about the level of collusion between the British state and loyalist death squads.

2732. Indeed, if the reason for this legislation is not, as Alan has suggested, the protection of informants, it is Sinn Féin's view that it has been introduced to protect people right up to Cabinet level. Papers have been disclosed and statements have been made by senior members of the Force Research Unit (FRU) that would suggest that the policy of taking out opponents

of the state, whether they be armed opponents or opponents who would work in the legislatures, was sanctioned at Cabinet level.

2733. The reason for these inquiries is very important. It goes to the heart of the British Government's role in the conflict over the past 30 years. Certainly there are many families who have never had a proper inquiry into the deaths of their loved ones, and we have already discussed victims this morning. Some families want to be left alone with their memories and others want to seek the truth.

2734. Several of the inquiries, as outlined by Cory, go to the heart of the conflict on this island. They were agreed between the two Governments, and should be carried out in the fashion independently set out by Judge Cory. There should be no changes to the legislation under which those hearings are to be established.

2735. The Rosemary Nelson inquiry, for instance, is being held under the Police (Northern Ireland) Act 1998 rather than the Inquiries Act 2005. That can also infringe on how witnesses are called or dealt with. Cory did not envisage that for any of these inquiries. If an inquiry is "Cory-compliant" it will have the support of Sinn Féin.

2736. **Mr Attwood:** I have two or three comments to make. First, I would suggest to John O'Dowd that there is an inconsistency in the position adopted by Sinn Féin this morning and the position it has taken this afternoon. This afternoon, Sinn Féin is arguing that inquiries have to be "Cory-compliant". That requires full co-operation and disclosure right up to Cabinet level. Nobody is off-limits and everything must be revealed. That is what "Cory-compliant" means.

2737. Yet this morning Sinn Féin would not sign up to looking into the past generally in a situation in which nobody was off limits and everything had to be revealed. Sinn Féin have been inconsistent between this morning and this afternoon and they might want to reflect on that.

2738. Secondly, in answer to a point raised by Alan McFarland, there will be matters in these inquiries, even if they are "Cory-compliant", that would be of such a nature that special

provision would have to be made. That is going to be the nature of delving into the past. Nobody disputes that. There might be a dispute around how far to go in making special provisions. That was fought out in particular around the Bloody Sunday inquiry, in which the SDLP felt that the courts leant far too much in favour of the state.

2739. The problem with the new legislation is not that some things might have to be handled in a specific way; it is the fact that the power to decide those matters does not fall to the tribunal, but to the Minister. We have a so-called independent review of serious allegations, and critical judgements about the conduct of that tribunal will be made, not by the tribunal members, or the courts, or an independent body of law — but by a Minister.

2740. In other words, a so-called independent tribunal's critical moments are going to be decided by a political person. A tribunal looking into the past has to be independent, and cannot be subject to political interference, never mind political calls; but that is what the new legislation puts in place.

2741. It was done for two reasons; first, because there are elements of the British system that do not want the truth of Finucane to come out. How high it goes is a matter of debate, but it goes far and high. The British political system thinks that there cannot be a situation in which people who have had political roles in the past have also been complicit in the activities of the Force Research Unit.

2742. The second, and more fundamental, issue for the British people is that the new tribunals legislation was an attempt to prevent a repeat of what happened after the Iraq war. There was an inquiry, and whatever about the inquiries into the death of that gentleman who committed suicide —

2743. **Mr Poots:** Dr Kelly.

2744. **Mr Attwood:** Dr Kelly — that while that was a very flawed tribunal, stuff came out that was embarrassing to the British Government. The Government used the Finucane situation to force through legislation that stops proper



independent inquiries into matters that concern the British people, never mind matters that concern the people of Ireland. That was its purpose.

2745. Therefore Alban is right: we should be signing up to Cory-compliant inquiries because the British Government have used Finucane in such a way to subvert independent inquiry into many matters.

2746. **Mr McFarland:** Does Alex accept that perhaps part of the fear comes from the experience with the Bloody Sunday inquiry? Details, such as the names and addresses of those who had been on the side of the security forces, that were released to the tribunal ended up being given to the media and the defence teams. People had been assured that they would not be put under threat by such an event, but information was released to everybody. Therefore the experience with our one big inquiry is that an inquiry cannot be trusted to keep sensitive information secret. It is perhaps not surprising that the Government have taken that step to have some control over information that may be released in circumstances in which people's lives are under threat.

2747. **Mr Attwood:** The power to do that should be left to the courts. If there is a concern about a particular person or matter, an independent arbiter — such as a judge — should decide what happens with information. However, there is no independence in allowing a Government Minister to say yea or nay to information about a person's details becoming known. That is not due process; it offends against independence and impartiality. Mr McFarland is right; people should be concerned when information gets leaked, but giving control to politicians who will either leak or suppress it is not the answer.

2748. **Mr McCausland:** For me, selectivity, which David Ford mentioned, is the fundamental issue. We are discussing a number of inquiries, whatever about their accountability and whether they were agreed at Weston Park or wherever else, but we must ask to where this whole thing leads. I noticed the other day in the daily newspapers that there is a cause seeking justice

or truth about Captain Kelly, and that there will now be an inquiry into the activities and role of Captain Kelly and the Dublin Government around the time that the Provisional IRA was formed. It is fine to perhaps look at the activities of a garda here and a garda somewhere else, but if there are issues that go right to the top, as Alex Attwood believes is the case with the British Government, are there also not issues that go right to the top in the Government party in the Irish Republic?

2749. **Mr McGuigan:** I apologise for continually having to put Alex straight, but it is an important issue that needs to be put straight continually. This morning, I, on behalf of Sinn Féin, put forward a proposal that highlights our principles about full co-operation and disclosure. As I said earlier, a Sinn Féin document of a number of years ago stated that all combatants should play their part. Alex needs to be aware that Sinn Féin has a very progressive position on truth recovery. For example, there was an NI Affairs Committee on this issue, and as far as I am aware — I can be corrected if I am wrong — Sinn Féin was the only party from the North who made a submission. Indeed, the SDLP had a representative on that Committee, which sat on eight or nine occasions, and — again I can be corrected — that representative failed to turn up on those occasions.

*1.30 pm*

2750. That issue must be clarified once and for all. There is no difference in our opinion either this morning or this afternoon. Sinn Féin is very clear on this: it is there and it is in public.

2751. The Cory-compliant issue is one that the British Government have used, as they have used others throughout the history of this struggle, to run away from the truth. Collusion is a serious issue. It goes to the heart of the British Government. It is a policy that followed on from the likes of “shoot to kill” and other policies designed to tackle the nationalist and republican peoples' demands throughout the conflict.

2752. The Inquiries Act 2005 is another tactic used by the British Government when it looked like the truth was coming out. It is along the lines of lost files and tampering with evidence,



as shown at the Bloody Sunday Tribunal to have been perpetrated by the British Government.

2753. **Mr Hussey:** Are we looking at the cases as highlighted by Judge Cory? Or are we looking at the principle of how cases are dealt with? The issue of agents within organisations being given a free hand is not an issue for the republican community alone. It is an issue within the Protestant community. There are areas where that question is in people's minds: were our friends or relatives allowed to die to protect an agent? It is not a one-sided thing.

2754. **Mr O'Dowd:** I acknowledge that fact; especially over the last few years where a significant number of the Protestant community have been killed by suspected state agents.

2755. **The Chairman (Mr Wells):** Everyone seems to have had a say on this. In the absence of any new contribution, I will seek consensus on this proposal. What is the view of Members?

*Members indicated dissent.*

2756. **The Chairman (Mr Wells):** At least two groups have said that they are not happy with that, so that proposal falls. The next proposal is Mrs Long's, that there ought to be a day of remembrance and reflection. I am conscious that it has been about two hours since you spoke to this, and that I have been accused of gagging you already, so therefore I will let you speak on this issue.

2757. **Mr Ford:** For two hours? *[Laughter]*.

2758. **Mrs Long:** Which is something of a record. In the original submissions a number of parties made reference to the need for a day of reflection or remembrance. There seemed to be some kind of consensus around the principle. It is perhaps something on which we might achieve consensus. An opportunity for people to reflect is one way of trying to address concerns that the issue of victims – both those who survived and those who did not – has, somehow in the political process, been lost. It does not tie people down to definitions, and it does not put people in difficult positions as to the shape or form of the day. It simply agrees the principle that it is appropriate that a day should be set

aside for remembrance. That is the context of my proposal.

2759. **The Chairman (Mr Wells):** It is important that we go around the groups on this. Mr McFarland has indicated that he wishes to speak. Dr Birnie will follow.

2760. **Mr McFarland:** Remembrance Sunday has evolved, and now embraces not only world wars, but all conflicts. That day of reflection seems adequate. I always worry about — someone's telephone is ringing.

2761. **A Member:** Your speech is lost.

2762. **Mr McFarland:** All right. I worry when I hear talk of days of reflection and reconciliation et cetera. It takes me back to Hillsborough, and the plan suggested in about 2000, when the Government was seriously proposing a day of reconciliation at which a British army soldier and a volunteer from the IRA would stand at Hillsborough, reversing arms and everyone would say mea culpa, and that they were sorry.

2763. That was a serious proposal. The moment that I hear the words "day of reflection" or "day of reconciliation", I run for my headache tablets. No one is against hoping and praying, and remembering what has gone on in Northern Ireland during the past 30 years. However, we must be careful. It ties in with the issue of who else should be recognised. There is still deep hurt in the nationalist community about loyalist murders; and there is deep hurt in the unionist community about republican murders. I have no doubt that republicans are still concerned about killings by the security forces. It is too early to expect everyone to stand together.

2764. **Mr Poots:** I do not have a problem with the notion or ideals behind the proposal. There will, however, be a problem with its outcome. How would it be possible to prevent the day being hijacked for political purposes? That has happened in the past. Ultimately, what appears to be a good idea would probably unravel and cause further hurt and contention.

2765. There has been discussion on how to define a "victim". Republicans believe that Thomas Begley is as much a victim as the people whom he murdered. I have no doubt that

they would want that to be reflected on such a day, which would cause huge consternation to those families who lost loved ones in the Shankill Road bombing and other such incidents.

2766. The idea behind the proposal is good. However, its outworking could prove to be disastrous.

2767. **Mr McCausland:** I accept that there is idealism behind the proposal, which I would expect from the person who made it.

2768. **Mrs Long:** Thank you.

2769. **Mr McCausland:** However, it assumes that a level of integrity exists across our society. I do not believe that it does.

2770. I want to return to a point that was raised by Edwin about Thomas Begley. Two of the relatives of the victims of the Shankill Road bomb were taken to meet Peter Hain by a delegation of which I was a member. Discussion was about Sean Kelly. The relatives looked Peter Hain in the eye and asked him, clearly and specifically, what made someone a victim. He could not look them in the eye. They asked him whether Thomas Begley was a victim. He replied, "No". He was also asked whether the IRA men who were killed at Loughgall were victims. Again, he replied, "No".

2771. I have no doubt that if that line were followed, it might be possible to have a day of remembrance. Regrettably, however, I am afraid that it would be hijacked. For example, Sean Kelly could be there to remember Thomas Begley. Relatives of those who were killed in the Shankill Road bomb, and its survivors, would have to stand side by side with him. They would not want that.

2772. **Mr McGuigan:** In principle, Sinn Féin has no objection to a remembrance day. My party believes that it could be a good way to move forward. However, it is not a stand-alone issue. There are other issues that must be addressed alongside it.

2773. The idea for it probably came from a report from the Healing Through Remembering project, produced by a group with a broad range of different opinions. The group has produced

many reports, in which that suggestion, among others, has been made. However, we believe that it is part of a bigger process that includes truth recovery and other victim-centred initiatives.

2774. I agree with Edwin that it should not be hijacked by politicians. I am afraid that, since the idea was suggested, that has begun.

2775. **Ms Lewsley:** I want to return to the reasons that Naomi made the proposal.

2776. The proposal is about agreeing the general principle of holding a day of remembrance for people in Northern Ireland. The detail and the timescale can be worked out later. Such a day may never be held because of arguments over such preconditions as the definition of "victims". However, do we believe in the principle that there should be a day of remembrance?

2777. **Mr Hussey:** I, like other members, do not have the slightest difficulty with the idea of a day of remembrance. The devil will be in the detail. As Alan said, we already have Remembrance Sunday, although I know that some people have difficulty with that.

2778. It is not unusual for republicans and loyalists to be remembered side by side. For example, on 1 July, the 16th (Irish) Division, a republican-based division, is remembered side by side with the 36th (Ulster) Division. Again, the time factor comes into the equation.

2779. I am also mindful that in Sinn Féin-controlled council areas, there was an attempt to plant trees of remembrance as part of a cross-community day of coming together and remembrance. As Sinn Féin will be well aware, that failed in many areas because the Protestant/loyalist/unionist community did not want to be associated with it. As someone said, it was perhaps hijacked, not just by political parties, but by churches and others. Thus, some viewed it as a political exercise, and it did not work. It certainly did not work in my district council area, and I understand that it did not work in Omagh and other council areas. The devil is in the detail.

2780. **Mr McGuigan:** On a point of information, Mr Chairman. Sinn Féin held those remembrance ceremonies in an attempt to show political

leadership; had that leadership been facilitated by the unionist community and others, those ceremonies might have been more successful. However, they were a success in the areas in which they were held.

2781. **Mr A Maginness:** I hate to be a pedant, but the 16th (Irish) Division was certainly not republican in any sense of the word. It may have been nationalist in aspiration, but it certainly was not republican.

2782. The DUP's argument — and, to some extent, the Ulster Unionist Party's argument — is, as I understand it, that it is too early to talk about a day of remembrance because there is too much hurt in the community. It argues that we must first come to terms with that hurt and develop sufficient political maturity to deal with it. Our community has not reached that stage; that is self-evidently true.

2783. However, to argue that is to assume that a day of remembrance is an end in itself. It is not. I understand Naomi's point; it is a means to an end. In other words, a day of remembrance should be held so that people — imperfectly, with their different viewpoints — can come together to remember the obscene horror of what we have unnecessarily gone through over 35 years. Such a day of reflection would be one of the many mechanisms that could be employed to help people to come to terms with the suffering, division and conflict.

2784. By holding a series of different events over the coming years, we could work through the issue and, eventually, achieve a form of political reconciliation. However, if we were all reconciled and had the necessary political maturity to deal with this matter, there would be absolutely no need for a day of remembrance. It is simply a vehicle to help us towards reconciliation; if we were reconciled, we would not need it. Naomi's arguments are important because she believes that we should use this day to try to achieve reconciliation. At least, that is my understanding.

*1.45 pm*

2785. **The Chairman (Mr Wells):** Naomi, I detect that the Committee is not going to get consensus on this issue. Do you want to sum up?

2786. **Mrs Long:** We have had a debate about proposals that I never made. The idea of people from the Army and the IRA exchanging weapons was not my proposal. It was not my suggestion that that would be an appropriate form of remembrance, and I can categorically say that I would not suggest that.

2787. We have been told that it is early days; I was not prescriptive about timescale. We have been told that the devil would be in the detail and the practicalities; I accept that. However, I was not prescriptive about the form that that day would take. In their presentations this morning, a number of other parties, including the unionist parties at some point, made reference to remembrance and a day of remembrance. I find it difficult to marry that reference with the resistance to a proposal that accepts it in principle.

2788. I was not prescriptive about how it would proceed. I accept the fact that people reflect on Remembrance Day. However, Remembrance Day tends to be focused on those who died in the Second World War, and the First World War tends to be commemorated on 1 July. Holocaust Memorial Day sets aside a specific time and place when people can think about that aspect of war. However, in the Northern Ireland context, where there has been serious loss of life and a serious impact on the community, the aspiration to set aside a special time for our community to reflect on what it has been through would be a way for people to start to address some of the questions that the Committee has touched on today but failed to address. That is what I suggest, and that is why I made the proposal.

2789. I did not think that the proposal would be easy or simple. However, in the earlier proposals and statements from other parties, there seemed to be a kernel of consensus that setting aside time for reflection as a community would be worthwhile and beneficial in principle, albeit difficult to formulate in practice, which I accept. However, that is not something that I would want the Committee to be prescriptive about.

2790. **Mr McFarland:** If the Committee ever gets past first base, and the Rev Ian Paisley and

Martin McGuinness stand outside the front gates of Stormont as First Minister and Deputy First Minister, it will be because the DUP has accepted Sinn Féin. The entire climate of our society will change whenever that happens. As that change settles in and is manifest in the parties that are seen and televised debating in the Chamber and working in the Committees, we may get to a stage where people are comfortable with a joint wreath-laying ceremony at the Cenotaph in Belfast with the Rev Paisley and Mr McGuinness participating.

2791. **Lord Morrow:** Pigs will fly.

2792. **Mr McFarland:** That is how it would be if we were looking for people to stand side by side and have a common remembrance. It is hard for me to envisage how we would get to the stage where people would be comfortable remembering the past in that way. It is an aspiration and a good idea, but the time is not yet right.

2793. **Mrs Long:** If Alan McFarland is content that the aspiration is a good idea, I see no reason that his party should veto the proposals, because it is simply an aspirational principle. References to situations that require individuals, specified or unspecified, to exchange weapons or jointly lay wreaths was never part of what I envisaged. I repeat that because it seems to have fallen on deaf ears.

2794. This is not about political settlement. Whether or not there is an Assembly in November, there are always victims. Whether or not we can get our act together around this table and make Government work for the people of Northern Ireland, there are always victims. All I seek is agreement that, for one afternoon, we can put the needs of those people first. Regardless of whether the political situation is resolved, the issues of the past and its legacy remain here to be dealt with. Aside from the political aspect, we, as a community, will be able to make progress only if we start to address those issues. The principle, therefore, is not that individuals should have to share in their remembrance with anyone else, nor that the remembrance should take a particular format, civic or otherwise. None of that was part of my

proposal. It was simply that a day should be set aside for that remembrance.

2795. **The Chairman (Mr Wells):** Mr Poots has a point of information. It will be the last one.

2796. **Mr Poots:** The second proposal is open-ended and vague. In essence, there is nothing wrong with the proposals. There is nothing bad about them either, but their outcomes are uncontrollable. That puts the DUP in an awkward position in that it is sympathetic to what is being proposed but it is so open-ended that there would be no control over the outcome. Therefore, the DUP cannot lend its support to such proposals.

2797. **The Chairman (Mr Wells):** May I formally put it to the meeting? Do we have consensus?

*Members indicated dissent.*

2798. **The Chairman (Mr Wells):** Before members rush away, we must deal with some issues. There is another proposal but members will understand why I have not put it to the meeting. The proposal is that the victims' and survivors' forum should consider setting up a truth body. As we cannot agree about a forum being set up, I did not think that there was much to be gained by having a long debate on a truth body. That is why the proposal is not being put.

2799. It is nearly 2.00 pm. Before I go any further, I want to say that I found the quality of today's presentations and discussions to be of a very high level. I want to thank all of those who took the time to prepare.

2800. **Lord Morrow:** Is that your judgement?

2801. **The Chairman (Mr Wells):** That is my judgement. If anyone wants to challenge the Chairman's ruling, they can do so. However, it is quite clear that people took the time to sit down in advance of this meeting and prepare their contributions.

2802. **Lord Morrow:** Are you measuring today's performance against other days?

2803. **The Chairman (Mr Wells):** Yes, pretty much so.



2804. **Mr Hussey:** May we all add the commendation to our CVs?

2805. **The Chairman (Mr Wells):** That attention to detail is appreciated, especially from the Chair. It is now 2.00 pm; we are not scheduled to finish until 4.00 pm and the doors will be locked at 4.30 pm. We have the option of proceeding to a discussion of “Culture and confidence building measures”.

2806. **Lord Morrow:** We are not prepared for that discussion.

2807. **Ms Lewsley:** May I make a proposal? As it is bank holiday weekend, it would be nice to finish early.

2808. **Mr O’Dowd:** Mr Chairman, you indicated earlier that the report from the Subgroup on the Economic Challenges Facing Northern Ireland would be available at 4.00 pm. Is there any chance of getting that earlier?

2809. **The Chairman (Mr Wells):** It is being printed, and I hope that it is on its way to us, if members are able to wait. Only full members of the subgroup and full members of the Preparation for Government Committee will receive a copy.

2810. **The Committee Clerk:** The Preparation for Government Committee that deals with institutional issues will discuss the report next Tuesday. Copies will be posted out, but if members want to wait a wee while, they can have their copies.

2811. **Mr O’Dowd:** Mr Chairman, are we going to be so restrictive that members here cannot take a copy of the report back to their parties?

2812. **The Chairman (Mr Wells):** Several members were present yesterday, and it was agreed to print 60 copies. Therefore, we are not in a position to give every member a copy until the report has been agreed by the Preparation for Government Committee, at which time a copy will be made available to all 108 MLAs.

2813. **Mrs Long:** Mr Chairman, you suggested that the report would be dealt with at next Tuesday’s meeting. Reference has already been made, albeit light-heartedly, to the bank holiday weekend. In fairness, if parties are in receipt of the report at 4.00 pm and want to take it to their

party staff for further discussion or to give it more consideration, the opportunity to do that is limited when we will not be in a position to do that until Tuesday morning. If the report is posted out, it will not arrive until Tuesday morning. There is a logistical issue about being able to discuss papers in depth on Tuesday morning. However, there may be a point later in the day when members will be in a position to do so.

2814. **The Chairman (Mr Wells):** The report will not be posted out; it will be couriered to members. The advantage of getting the report today is that members can start to read it tonight.

2815. **Mr McFarland:** Each party nominated a member of the Preparation for Government Committee to the subgroup. Each of us has spent two days a week for the past few weeks with that nominee, running the party’s business on the subgroup. Presumably, that nominee will attend next Tuesday’s meeting; Mr McNarry will attend that meeting. It would be surprising if subgroup members had not been keeping their parties informed. If party members on the Preparation for Government Committee had disagreed with what their people on the subgroup —

2816. **Mrs Long:** I suspect that Alan and I speak a different language because of his interpretation of what I said. I simply stated that it may be difficult for members to have a thorough review of the report in advance of Tuesday’s meeting, not that they do not know the substance of it.

2817. **The Chairman (Mr Wells):** I chaired yesterday’s subgroup meeting that signed off the report. There was unanimity, and there is no great constitutional issue. There is a wish list for the economy of Northern Ireland, and you will not find any great surprises in it.

2818. **Mr McFarland:** Presumably, it just needs a nod next Tuesday?

2819. **The Chairman (Mr Wells):** It would be difficult not to, given the fact that most members of the Preparation for Government Committee have sat on the subgroup at some stage, so there is some overlap. Members should not expect any great surprises. It is a



huge document — it is 1,000 pages long — and is being printed in four volumes.

2820. **Mrs Long:** Members will need the weekend to read it.

2821. **The Chairman (Mr Wells):** It is a bit of light reading for the bank holiday weekend.

2822. **Mr McFarland:** All those who have been following Hansard for the past three weeks will have nothing to read.

2823. **The Chairman (Mr Wells):** Those people could write the report themselves.

2824. **Mrs Long:** They could bind it and put it on the shelf.

2825. **Lord Morrow:** I am glad that we have Monday off.

2826. **The Chairman (Mr Wells):** Is there any other business that members wish to raise as a result of today's meeting? No? The next meeting of the Preparation for Government Committee will be on Tuesday 29 August at 10.00 am, at which the major item will be the report of the Subgroup on the Economic Challenges Facing Northern Ireland. The next meeting of the Preparation for Government Committee that deals with rights, safeguards, equality issues and victims will be on Friday 1 September; it will be an all-day meeting, with lunch provided, in Room 144.

2827. **Mr Ford:** In the context of the confidence-building discussions, it would be useful if those who raised points that are on the agenda for next week took two or three minutes now to brief the rest of us on what they see as the highlights so that we can prepare.

2828. **The Chairman (Mr Wells):** Given Lord Morrow's comments earlier, do members wish to submit papers in advance for that meeting, so that others can study and comment on them, rather than take the issues as they arise on the day?

2829. **Mr Poots:** All papers would have to be submitted by Wednesday.

2830. **Mr McFarland:** We have had an unwritten agreement, and we are doing well. The purpose of a Committee is to discuss issues. If parties want to read papers, they can

prepare and submit them. All members are busy, and some of us sit on three Preparation for Government Committees. Everyone would have to prepare papers on every topic. At present, each party makes a presentation, and we have a thorough discussion that might take six hours. We have all sat here for hours and hours discussing issues. However, it takes a long time to prepare submissions and to read other parties' submissions. It negates the need for a meeting. If there are submissions, there is no need for a meeting because members will have read the views of all the parties.

2831. **The Chairman (Mr Wells):** At next Friday's meeting, members can speak to a paper and they can decide whether to hand it out. Are members content?

*Members indicated dissent.*

2832. **Mr Ford:** Some of us who were seeking clarification are still lacking it.

2833. **Mr O'Dowd:** You are applying logic to the argument.

2834. **Mrs Long:** All that is required is a framework for the discussion. This issue was raised when we were pulling together the agenda. It was not clear what substantive issues came under "Confidence building". Confidence building could range from institutional issues to policing to community-based issues, which is why we need some guidance about the scope of the heading.

*2.00 pm*

2835. **Mr McFarland:** Initially, under "Culture", the DUP and my party raised the issue of unionist confidence and the fact that, for a number of reasons, there is a lack of confidence in the unionist community. The sub-entries then evolved to include ethnic minorities, after someone made the point that we should be discussing the influx of people into Northern Ireland from eastern Europe, our indigenous Chinese population and the rise in hate crime. It was then said that if we were to cover unionist culture and ethnic-minority culture, we had better include nationalist culture as well.

2836. Therefore we have two sub-headings. First, we have “Confidence building”, which was originally about the parading issue and the perception that nationalist areas have received a whole pile of money, which has created a vibrant, confident community, while unionists have not had money spent on them, which has resulted in a lack of confidence in that community.

2837. Secondly, the three cultures were to be discussed. Whether those will take an entire day to discuss, it is difficult to tell at present, but that is roughly how we arrived at having three sub-entries to debate.

2838. **The Chairman (Mr Wells):** Folks therefore know what to expect.

2839. Members who take a copy of the subgroup’s report are not to keep it to themselves if they are expected to hand it over to someone else.

2840. **Lord Morrow:** Are we to give it to our neighbour?

2841. **The Chairman (Mr Wells):** No, members are to take the report on the basis that they are to pass it on quickly to the person for whom it is intended.

2842. **Ms Lewsley:** It should take them a weekend to work that out.

2843. **Lord Morrow:** Nelson says to put it on eBay.

*Adjourned at 2.02 pm.*

## Friday 1 September 2006

### Members:

The Chairman, Mr Jim Wells  
Mr Alex Attwood  
Dr Esmond Birnie  
Mr Michael Ferguson  
Ms Patricia Lewsley  
Mrs Naomi Long  
Mr Kieran McCarthy  
Mr Nelson McCausland  
Mr Alan McFarland  
Mr Michael McGimpsey  
Mr Philip McGuigan  
Mr Alban Maginness  
Lord Morrow  
Mr Dermot Nesbitt  
Mr Edwin Poots

*The Committee met at 10.03 am.*

*(The Chairman (Mr Wells) in the Chair.)*

2844. **The Chairman (Mr Wells):** Welcome to the twenty-seventh meeting of the Committee. All parties are represented, so I will announce the arrangements. As usual, there will be a break at 12.20 pm. Lunch will be brought in and we will break for 15 minutes. I encourage members to bring their lunch back to the table as we continue the meeting. Feeling a wee bit like a voice in the wilderness, I ask everyone to switch off their mobile phones — I am confident that somebody will fail to do it.

2845. We will go through the various delegations.

2846. **Mr Poots:** This morning, Mr McCausland will have to be Ian Paisley Jnr. I am not doing that two weeks in a row; I will be Dr McCrea.

2847. **The Chairman (Mr Wells):** Is there a third DUP representative?

2848. **Mr Poots:** Lord Morrow will be here in due course.

2849. **Mr McFarland:** Mr Nesbitt is Mr Kennedy for today, Mr McGimpsey is Mr McNarry, and I am myself.

2850. **The Chairman (Mr Wells):** Mrs Long?

2851. **Mrs Long:** Mr McCarthy will be here for Mr Ford.

2852. **Ms Lewsley:** I am here for Mr Durkan; Mr Attwood is here on behalf of Dr Farren; and Mr Maginness will be here at about 11.00 am for Dr McDonnell.

2853. **Mr Ferguson:** Mr McGuigan and I are representing Mr Murphy and Ms Gildernew. We have not worked out who is who.

2854. **The Chairman (Mr Wells):** Will there be a third representative?

2855. **Mr Ferguson:** No, not today.

2856. **The Chairman (Mr Wells):** I remind members that the quorum is seven. Please do the maths before you leave the table.

2857. Does anyone have any comments on the minutes of the meeting of 25 August? I spotted one mistake, and I am sure you all did as well: “Corey” should be spelt “Cory”. The spelling in the minutes was taken from a website that spelt it wrong.

2858. **Ms Lewsley:** I note in the minutes that the proposer is identified if the proposal does not find consensus, but when a proposal is agreed, there is no mention of either the proposer or the seconder.

2859. **The Chairman (Mr Wells):** It is a pity that we are raising this issue at the twenty-seventh meeting of the Committee.

2860. **Ms Lewsley:** I had not noticed it before.

2861. **The Chairman (Mr Wells):** It is an interesting point. That is the way it has always been done. What do members think about that system? I do not think that we can go back now and amend 27 sets of minutes. Hansard will

record who suggested the proposal, which is not always the proposer, but at least you get a hint as to who brought it up.

2862. **Ms Lewsley:** I just wondered why there is a difference.

2863. **The Chairman (Mr Wells):** We could change it from now on. What do members think? Can we have our first consensus of the morning?

2864. **Mr Poots:** It has obviously been proposed.

2865. **The Chairman (Mr Wells):** It has been proposed by Ms Lewsley.

2866. **Mr McFarland:** Chairman, can you just refresh us?

2867. **Ms Lewsley:** In the minutes, where there has been agreement on a proposal, the proposer is not mentioned. However, if a proposal falls, the person who proposed it is mentioned. On the last page of the minutes, Alban and Naomi are mentioned because they made proposals on which there was no consensus, but for previous proposals on which there was agreement, the proposer is not mentioned.

2868. **Mr McFarland:** In previous minutes the proposer was mentioned, regardless of whether the proposal stood or fell. Were these the only two proposals on the day? Did we have others that were proposed and agreed? In previous minutes, a pattern was followed.

2869. **Mr Poots:** When I proposed that all paramilitaries disband, the minutes did not say who the proposer was.

2870. **Ms Lewsley:** That was agreed.

2871. **The Chairman (Mr Wells):** The minutes simply say, "It was agreed". In the interests of consistency, from now on we can agree that the names of the proposers of agreed proposals be recorded in future minutes.

*Members indicated assent.*

2872. **The Chairman (Mr Wells):** Let us hope that we trigger that consensus on many occasions. Is everyone happy with the minutes?

*Members indicated assent.*

2873. **The Chairman (Mr Wells):** We move on to the discussion on culture and confidence-building measures. The protocol is that we ask each party to speak for up to five minutes. There may be some overlap here to combine the issues. There is a sufficient distinction between confidence building and culture to allow them to be discussed as separate items. There is some overlap but not enough to take them as a single item. I hope that members have come prepared on that basis. As usual, we start with the Alliance Party, followed by the DUP, and so forth.

2874. **Mrs Long:** As we said last week, the Alliance Party is unclear as to why confidence building and culture are being raised under the subject of preparation for Government. We do not see where community confidence fits in, other than with the political structures. However, we have given it some consideration and, in this specific context, the major confidence issues in the community are: first, the threat of violence and intimidation; and secondly, the willingness of politicians to work together under the structures that have been outlined and agreed to make politics in Northern Ireland successful. We want to focus our presentation on those two issues.

2875. The ending of all paramilitary activity is the most significant contribution that could be made to raising public confidence. Last week's discussions and consensus indicated that that would be agreed as an important step forward. The community must be confident that there will be no threats, violence or intimidation. Individuals, as well as communities, must have that confidence. That is a key measure that the Committee needs to be clear about in order to move this process forward.

2876. After our discussions last week, the DUP representatives on the Committee stated that they would not go into Government with "them" — Sinn Féin. That statement raised significant concerns in the Alliance Party about the seriousness of this entire process and the seriousness of the DUP. I understand that the term used on previous occasions was that "the conditions were not right", but last week, I believe, the DUP categorically stated that it will

not go into Government with Sinn Féin. If the community is to have confidence that the Committee's work is of any value, if it is to believe that we are trying to move forward, and if elected representatives are to support communities by trying to make progress at the micro-level, it is important that people are prepared to commit to the process of building confidence openly and honestly.

2877. To make progress on those two issues in preparation for Government would be the most significant contribution to building community confidence.

2878. **Mr McCausland:** First, the DUP sees confidence building and cultural issues as scoping exercises. The function of the Committee is to scope and map out what needs to be done on those matters. Secondly, the DUP also believes that many of those issues are central to the long-term future of Northern Ireland because they have a key role to play in building community cohesion. Thirdly, those issues are complex, and it would not be possible to deal with them in detail over two sessions in one day; all that we can do is scope them out.

2879. While accepting those points and reiterating what has already been said about the vagueness of the term "confidence building", nevertheless, for several reasons, confidence-building measures must be included in any political settlement. Unionists believe that the confidence that has been worn down by the operation of the Belfast Agreement needs to be rebuilt. There is also a need to ensure that the unionist community feels that it is treated as equally and equitably by Government and the political process as nationalist communities have been. If we are to see two stable communities dealing with each other as equals, co-existing and working together, the process of confidence building is necessary.

2880. Many of the issues that relate to confidence in the unionist community have been dealt with during other sittings of the Committee. Issues that are connected to criminality, paramilitarism, and so on, have already been dealt with, and I do not wish to go over those again today.

2881. However, we can discuss mechanisms that are needed to provide equality in areas in which the nationalist community has seen better treatment. We can also discuss areas that can help in the process of ensuring equal treatment. For example, some isolated unionist communities along the border have suffered greatly not only throughout the troubles but, in some cases, they have been subjected to ethnic cleansing. Those communities now require support to rebuild and develop their infrastructure. We believe that special consideration and funding streams should be brought forward into those areas in the same way that they were brought into nationalist areas in the past. Those unionist communities face particular problems at this time.

*10.15 am*

2882. Work is needed in the education sector to eliminate the chill factor for students from a unionist background so that they feel comfortable and confident at Northern Ireland's universities.

2883. British passports should be available to those born in the Republic of Ireland after 1941. Currently, they are available only to those who apply for British citizenship, whereas Irish passports are available automatically, at no extra cost, to those in Northern Ireland who view themselves as Irish.

2884. The voluntary sector will have a significant role in community planning and other issues in the future. There is a need for a major Government review of that sector. The figures, which I shall table, show a huge imbalance in the workforces in all the main voluntary sector organisations in Northern Ireland — for example, the Northern Ireland Council for Voluntary Action (NICVA), the Community Foundation for Northern Ireland, the Educational Guidance Service for Adults (EGSA), the Rural Community Network and Co-operation Ireland. The remits of those organisations cover all of Northern Ireland, and they should reflect the wider community that they serve. That is not the case.

2885. What have those organisations done about that? Has the issue been identified? I do not



believe that it is a case of discrimination in their employment practices. Perhaps it is simply a measure of the fact that there is a greater infrastructure in the community sector in nationalist areas, and this is a simple and effective — if crude — way of demonstrating clearly and irrefutably that imbalance. That matter must be addressed, and the DUP has submitted papers on the issue to the Government. I am happy to table that paper today.

2886. Young people deserve special support. In several areas of Northern Ireland, there is a weakness in the resources allocated to unionist communities for youth provision. I can table figures to demonstrate that and to show that there is a need. It is not simply a matter of resources; it concerns the extent, nature and quality of work, as well as training for youth workers. Quite often, in the unionist community, that training is not viewed in the same way as it is in the nationalist community. There are two sectors of youth work, one statutory and the other voluntary, and the differences between them result in a lower level of provision in unionist areas.

2887. The issue of parading has, to some extent, been dealt with already. It goes to the very heart of the unionist community, where the Orange Order is a core element, whether people welcome it or not. Unionist rights in that regard are particularly important.

2888. Those are some of the areas that the DUP wants to examine today. My five minutes are up, so I will draw to a close.

2889. **The Chairman (Mr Wells):** Thank you, Mr McCausland. I am glad to say that the five-minute issue has never been a problem in this Committee. You suggested that you had papers to distribute. Are members content that that be organised this morning?

2890. I see no opposition to that. We encourage parties to make their documents available. Perhaps staff could distribute the documents, and members will have a chance to ask questions later.

2891. **Mr Ferguson:** Go raibh maith agat, a Chathaoirleach. Thank you, Mr Chairman. Ar dtús, ba mhaith liom cúpla focal a rá i mo theanga féin.

2892. **The Chairman (Mr Wells):** I am sorry, Mr Ferguson, we have a problem. We have no facility for translation.

2893. **Mr Ferguson:** Ná bac leis. I will do that anyway.

2894. **The Chairman (Mr Wells):** I am sorry to be difficult. Is the Committee happy enough that Mr Ferguson translates what he is saying into English?

2895. **Mr McGimpsey:** We all speak English. Irish, for Mr Ferguson — as for most people — is a second language. We are here to do business, and I should have thought that in the interests of efficiency, he should be able to speak to us in English.

2896. **Mr Nesbitt:** I support that, Chairman. The European Charter for Regional or Minority Languages refers to the question of “need”; there is no need to speak Irish here this morning, since we all speak English.

2897. **Mr McCausland:** Language is about communication, and in this case communication is much more suited to English.

2898. **Mr McCarthy:** As long as it is a short introductory piece rather than a long gospel, we can thole it.

2899. **The Chairman (Mr Wells):** Mr Ferguson, is this to be an introductory paragraph in Irish or an entire presentation in Irish followed by an entire translation?

2900. **Mr Ferguson:** It is an introductory paragraph, but it is introductory comments off the top of my head. I could do the whole presentation in Irish and then in English if I chose. However, the objection to the Irish language goes to the core of the issue.

2901. Chairman, you said that the five-minute maximum has never been an issue in the Committee. I do not intend to go over the five minutes in either English or Irish.

2902. **Mrs Long:** The quickest way forward will be to proceed.

2903. **The Chairman (Mr Wells):** In plenary sittings, the Speaker would normally rule that it be a short introductory paragraph, subsequently

translated. Hansard can deal with that, but the Committee does not have simultaneous translation facilities for members.

2904. **Mr Ferguson:** Go raibh maith agat, a Chathaoirligh. Thank you, Mr Chairman. Mar a bhí mé ag rá, ba mhaith liom a bheith ábalta labhairt i mo theanga féin, mar sílim go bhfuil sin riachtanach ó thaobh cultúir agus teanga de. Le linn na mblianta, fuair daoine bás, bualadh iad agus cuireadh i bpríosún iad ar son na teanga, agus dar le Sinn Féin go bhfuil sé riachtanach go bhfuil an ceart ag daoine Gaeilge a labhairt agus go bhfuil sin riachtanach do theanga agus do chultúr an oileáin seo agus do rialtas sa tír seo. Tá áthas an domhain orm labhairt i nGaeilge anois agus labhairt i mBéarla ar ball.

2905. I have merely made a couple of opening remarks in Irish. Irish is a living language across this island. It is not a minority language; it is the living language of the people of the island. Throughout the years, people have been killed, imprisoned and attacked because of the language. If we want to recognise identity and culture, it is important that the status of the Irish language be recognised as being central to our identity. We do not want to impose it on anyone, but we would like an acknowledgement of its importance.

2906. As for the broader issues, Sinn Féin believes that there has been useful discussion and debate —

2907. **Mr McFarland:** Chairman, the tradition in the Assembly has been that there is a right to speak in Irish, but that immediately afterwards, the member should repeat the same speech in English so that we can all understand. Can Mr Ferguson confirm that that is what is now happening?

2908. **Mr Ferguson:** Yes. I said that I would do that.

2909. **Mr McFarland:** Thank you. I was just confirming that you had translated verbatim from Irish into English.

2910. **Mr Ferguson:** You are welcome, Alan.

2911. Sinn Féin believes that there has been useful discussion and debate among the parties

in these meetings on rights, equality and safeguards within the terms of the Good Friday Agreement. In addressing the sections on confidence building and culture, the discussions over the past few weeks should emphasise to all of us the need for a fresh start. Political grandstanding continues to damage the pace of progress that could be achieved and to which people of every community are entitled if their rights are to be upheld. The single most compelling contribution to confidence building challenges us all: to ensure that the political institutions are restored without any further delay. That is the surest guarantee we have of being able to tackle the many issues that affect daily life regardless of our community or religious affiliation.

2912. There is a need to adhere to the principles of full respect for, and equality of, civil, political, social and cultural rights. There must be freedom from discrimination and parity of esteem for all citizens. We come from a past in which Irish Catholics were not second-class citizens, but non-citizens. That status meant that any public display of culture — a Gaelic Athletic Association top, a religious medal, even an Irish name — risked a violent response. In our new, rights-based society, cultural diversity must be respected and difference celebrated. The challenge for us all will be to ensure that traditionally marginalised groups, such as Travellers, and new citizens, whether refugees or immigrants, are included in that endeavour.

2913. Irish is a living language across the island, and speakers must have the same rights as those available to speakers of Welsh and Scots Gaelic. To underpin these cultural rights, we require an Irish language Act, with language rights incorporated into a bill of rights and overseen by an Irish language commissioner.

2914. Sinn Féin wants the British Government to ratify the additional clauses of the European Charter for Regional or Minority Languages that are related to the promotion of language in public life, as well as a requirement for British Government Departments to communicate through the medium of Irish when requested,

including the availability of Government publications in Irish. The British Government could implement such basic rights and entitlements now, because they are rights and entitlements, as is an end to discrimination. That needs to be done within the terms of the Good Friday Agreement.

2915. A Chathaoirligh, tá mé críochnaithe anois. Sin a bhfuil agamsa le rá ag an nóiméad seo.

2916. Those are my opening remarks in relation to both matters.

2917. **Mr McCausland:** On a point of order, Mr Chairman. I thought that we were dealing confidence building first, followed by culture. Our discussion on cultural matters is still to come.

2918. **Mr Ferguson:** I am happy to listen. In my opening remarks, I said that I would cover the generalities of both topics.

2919. **The Chairman (Mr Wells):** We have previously conducted business in this way. Do you want to come back on the cultural issue?

2920. **Mr Ferguson:** No, I am happy enough. I am sure that you will let me pick up on the discussion if I need to.

2921. **The Chairman (Mr Wells):** We did agree to discuss the two issues separately, but there is will be some drifting in and out of the territory.

2922. Ms Lewsley, will your contribution be in Irish or English?

2923. **Ms Lewsley:** My contribution will be in English, and I forgive you, Mr Chairman, for not going around the table in alphabetical order.

2924. **Mr McFarland:** Sinn Féin has always come before the SDLP.

2925. **Ms Lewsley:** Alphabetically, “SDLP” comes before “SF”.

2926. **Mr McFarland:** But “Sinn” comes before “Social”.

2927. **Mr Poots:** In the phone book, initialisms usually come first.

2928. **A Member:** It may be different in Irish. *[Laughter.]*

2929. **Mr McFarland:** Or the Ulster Democratic Unionist Party. *[Laughter.]*

2930. **Ms Lewsley:** I want to ask the parties how they define “confidence building”. Eight years on from the Good Friday Agreement, we are not where we should be. In the past, we have seen how some parties have been involved in side deals and sweeteners, which undermines confidence. We have seen how one party has been given a side deal or a sweetener, and subsequently, another party has had to be given one. A precedent was set, and now the whole process of side deals has got out of control.

2931. At the time of the comprehensive agreement, on 9 December 2004, Peter Robinson announced that the agreement was supplemented by over 100 letters and understandings from the British Government. These were never published, and when the SDLP asked for details of the 100 letters and understandings under the Freedom of Information Act 2000, the British Government said they could not give us any information on them because it would damage relations with the Irish Government. Despite all that, on 24 December 2004, Gerry Adams welcomed the comprehensive agreement and said that it was a remarkable achievement. Like many other parties, we want to know what the 100 deals and secret understandings were, and whether Sinn Féin knows what they were, considering that it welcomed the document.

2932. With regard to the wider political process and confidence building among parties, it must be asked how parties can go into negotiation with other parties that have cut side deals for themselves with the British Government somewhere else.

2933. The best way to build confidence is to get the institutions up and working. People at community level are fed up because we are not doing all the work that we were elected to do. That in itself creates a lack of confidence with the public about the political process.

2934. I agree about the need to build community confidence. Naomi spoke about the need for communities to be free from paramilitary violence and intimidation. I agree

with Nelson that there are gaps in support and funding for communities across Northern Ireland, which is why we have discussed equality on the objective basis of need. We want to ensure that those who need help, whether in education or at a community level, receive it equitably.

2935. I propose that there be full restoration of the Assembly and the institutions; that Sinn Féin sign up to policing and the rule of law; and that the DUP work the institutions and the agreement without delay.

*10.30 am*

2936. **The Chairman (Mr Wells):** That is a strong proposal, to put it mildly, in the middle of a discussion on confidence building. Is that a formal proposal?

2937. **Ms Lewsley:** Yes.

2938. **The Chairman (Mr Wells):** There might be some comment on that.

2939. **Mr McGimpsey:** From the unionist perspective, the building of confidence in the political process is a key issue. There have been three attempts at devolution, and each attempt has failed because republicans refused to do what it was clearly understood that they would do in accordance with the terms and principles of the Belfast Agreement. Unionists must be confident that the local political process will deal with the issues.

2940. Unionists have the safety net of direct rule by British Ministers, which, from a unionist point of view, is not the worst-case scenario, a case of a bird in the hand being worth two in the bush. Will unionists take another chance, given that direct rule — with some notable exceptions — is reasonably benign? Will they risk further upheaval and uncertainty, given that they do not know what will emerge from the process, or will they stick with what they have now? If devolution is restored and the Assembly and Executive are reinstated, unionists will need to be convinced that the institutions have legs and will last for a reasonable, if not indefinite, time.

2941. In working-class unionist areas — commonly described as loyalist areas — poverty

is a major issue. The Belfast Agreement has not done much for those areas. In some parts of inner-city Belfast, and in areas outside the city, loyalist, unionist working-class areas have had no appreciable gains from the process, apart from the fact that the killings have ended. Those areas see the economic benefits flowing to other parts of Northern Ireland and little flowing their way. That is a key issue.

2942. The perception in those areas is that the people living there experience institutionalised discrimination. If we have to, we can cite examples where people believe that they have been deliberately short-changed. Poverty in those unionist working-class areas, some of it extreme, must be addressed as part of any confidence-building measures.

2943. Naomi spoke about the threat of violence and intimidation, which brings me to the issue of policing. At the time of the comprehensive agreement, Sinn Féin, the DUP and the two Governments agreed that certain steps would be taken on policing. We now need to know where all the parties stand on this issue. For example, the agreement referred to Sinn Féin membership of the new Policing Board, the establishment of a shadow Assembly Committee to consider the modalities for the devolution of policing and justice — and, within a month, to reach agreement on those modalities — and consequent legislation being enacted at Westminster.

2944. I know that this has been dealt with in other areas, but the refusal of republicans to fully support the police and policing is another matter that appears to affect the judgement of the unionist community. That community feels that if Sinn Féin is not prepared to support the police, we are not much further on than we were three or four years ago when devolution fell. The unionist community also feels that once again, we are basing a process on Sinn Féin's good intentions. There is no consensus within the unionist community to base anything on the good intentions of Sinn Féin: something more substantial is required.

2945. **The Chairman (Mr Wells):** A series of proposals have been tentatively made. Mr McCausland made some that fall entirely within



the confidence-building discussion, and Mr Ferguson made proposals that are more to do with culture. Ms Lewsley made the mother of all proposals, which does not fit neatly into either confidence building or culture, but which I am told is in order. Some members may wish to comment on that one, so we will leave it to the end.

2946. Mr McCausland, I would like to tease out some of your suggestions. You mentioned the small minority communities in the border areas and your perception of the imbalance in the employment patterns in certain organisations. Are those proposals, or are they your views on the issues?

2947. **Mr McCausland:** The DUP proposes that a fund be created for the isolated unionist communities along the border that have suffered as a result of ethnic cleansing over the years. The DUP also proposes that British passports be available for those who were born in the Republic of Ireland after 1941. A further proposal is that work be done with the universities to eliminate the chill factor that exists for young people from a unionist background. That is something for the relevant Department and the universities themselves to deal with.

2948. I confess that I skipped the last page of my presentation, so I will make one other minor point: there should be a non-lottery fund for those who refuse lottery money on moral grounds. It discriminates against what may be termed “the evangelical Protestant community”, which refuses to take lottery money. That is a particular problem in rural areas.

2949. The disparities in the voluntary sector and in youth-service provision were things the DUP was merely highlighting.

2950. **The Chairman (Mr Wells):** Naomi Long wishes to speak. If members wish to make any other proposals on confidence building, I ask them to do so at this stage. We will debate them and put them to the meeting, and then move on to cultural issues.

2951. **Mr Nesbitt:** I know that you have previously taken composite discussion rather than strict segregation. I have some comments

to make on what Michael Ferguson said, but you said that that falls under culture more than confidence.

2952. **The Chairman (Mr Wells):** I was referring to his proposals, rather than his contribution.

2953. **Mr Nesbitt:** So long as moving on does not preclude me from commenting.

2954. **The Chairman (Mr Wells):** We will come back for a full series of presentations on the cultural issue.

2955. **Mr Nesbitt:** I want to comment on remarks that other people have made — we have followed that procedure before.

2956. **The Chairman (Mr Wells):** That is entirely in order. Do you wish to say something after Naomi Long has spoken?

2957. **Mr Nesbitt:** I do not mind.

2958. **Mrs Long:** I want clarification on some points. I have a specific point to make on Nelson McCausland’s proposal of a fund for isolated unionist communities along the border. The Committee agreed by consensus last week that funding should be addressed on the basis of need alone. If the Committee agreed Mr McCausland’s proposal, it would be contrary to what was agreed previously; we would be considering funding on the basis that those were isolated unionist communities.

2959. The individuals concerned may get funding on the basis of need, and I would not quibble about that. However, why would the Committee suggest a proposal that specifies the political aspirations of individuals when it has already agreed that it should target resourcing on the basis of need alone? I have other comments to make on the presentation, but my question is specifically on that proposal.

2960. **The Chairman (Mr Wells):** It would be helpful if Mr McCausland would comment at this stage.

2961. **Mr McCausland:** The border fund would be for the border communities that have suffered as a result of ethnic cleansing, and it so happens that all of those are unionist communities.



2962. **The Chairman (Mr Wells):** Mr Nesbitt, do you wish to comment?

2963. **Mr Nesbitt:** Michael Ferguson's point reflects the mantra that Sinn Féin repeats at each and every turn. Sinn Féin is the only party in Northern Ireland that keeps on about rights, equality, policing and justice for the people of the "North of Ireland", as it euphemistically calls it. Michael Ferguson said that it looks for equality of civil, social, cultural and political rights and that those rights are to be upheld.

2964. At the outset of this series of meetings I pointed out that in these discussions about preparation for Government and confidence building, governance and governing refer to an understanding and an observance of human rights. Those are the underlying bases of liberal democracies. I have asked Michael Ferguson before whether he accepts the international standards of human rights. Hansard will show that he said, "Yes, but not to be prescribed by it", which really means "yes and no". In other words, he gave a non-answer.

2965. All I am saying to Sinn Féin is that I do not wish to deny any person equality of civil, social, cultural and political rights. However, it must be clearly understood that those rights are to be delivered in the context of Northern Ireland's being legally a region of the United Kingdom, which is the country in which we sit at this moment. I do not ram that down anyone's throat. Its full title is the United Kingdom of Great Britain and Northern Ireland, and it is commonly called the UK or Britain or what have you.

2966. Giving just one example, Sinn Féin and Gerry Adams often refer to the basic right of Northern people who have been elected to represent their electorate in the Dáil. No aspect of international law justifies such a right. It is not a basic right of people who are resident in Northern Ireland; it is not even an accepted norm. If we want to be confident about our future, we need to understand what rights we are talking about.

2967. Sinn Féin says that, as unionists, we have to get our head round our stance. I retort that Sinn Féin has to get its head round the rights

and standards that are expected in a normal, liberal democracy in twenty-first century Europe. Sinn Féin does not constantly peddle those rights, but it peddles others. Peddling those other rights undermines everyone's confidence. It undermines the confidence not only of unionism, but of republicanism — republicans feel that they should have something to which unionists feel they are not entitled. Whenever demands are being made that are in excess of what is the normal standard, the feeling that a community has when it is trying to be at ease with itself is undermined.

2968. I conclude on that comment, but I repeat that, as a unionist, I support equality of civil, social, cultural and political rights, the very words which Michael Ferguson used. However, we must understand those rights and, when we understand them, we must observe them.

2969. **Mr McGuigan:** It is important that any future Government should prioritise the issue of poverty on the objective basis of need. The DUP, and to a lesser extent the UUP, propose that poverty should be tackled through special treatment. They argue for a two-tier sectarian approach to social and economic deprivation. That should not be the way in which any future government in the North tackles poverty.

*10.45 am*

2970. **Mr Ferguson:** I want to comment on Nelson's contribution. Unionists — and especially the DUP — peddle the flawed notion that community structures mean that there is no deprivation or poverty. The issue was debated on Lisburn City Council, and the DUP complained vociferously about the use of the Robson indices. DUP councillors argued that areas identified by the Robson indices as suffering worst from deprivation and poverty were nationalist areas.

2971. New evaluations were conducted, and the Noble index was introduced, which reinforced the findings of the Robson index. The DUP then started to talk about the ideological construct of "weak community infrastructure" — if nationalists had a community infrastructure, it somehow suggested that nationalists were affluent. That is nonsense. I have had a quick

look through the two documents here, and it is clear that there are huge disparities. The document deals with 180 jobs and a specific area of employment; it does not cover the wider area of the Six Counties. Statistics from the Department for Social Development and the Northern Ireland Statistics and Research Agency clearly show that 80% of all neighbourhood renewal areas — that is, the most deprived areas — are nationalist areas; there is no getting away from that.

2972. This debate, and the way in which this problem has been presented by my unionist colleagues, sectarianises poverty. Naomi's point about border areas and attempts to put selective political tags on deprivation is fair enough. Sinn Féin continues to maintain that the best way to address poverty and deprivation is on the objective basis of need; the issue should not be sectarianised, as is being done here.

2973. If Nelson, Dermot and others really want to address differentials and objective need, they must support the proposal to restore the institutions without delay. Under direct rule, there are holes in the education system, the health system, and so on. The fault lies with the DUP. That party has a chance to address objective need; it refuses to do so and gives one excuse after another.

2974. For that reason alone, Patricia's proposal for the immediate restoration of the institutions is useful. Although her political grandstanding may impress the press, it will not impress me. I am happy enough to support that part of the proposal. Sinn Féin has always been happy enough to support tackling poverty on the objective basis of need.

2975. This morning, I spoke about the importance of rights for minority languages and extra clauses being inserted into the European Charter for Regional or Minority Languages, and about all that being implemented by the British Government. Rights should not threaten anybody. The issue of universities being cold houses has been raised, and we need to elaborate on that. The Irish language has been challenged in universities here. Why is the Irish language such

a threat? Why was the Irish language a major issue when this debate opened this morning?

2976. With regard to developing rights and best practice here and across this island, we should do it. We should not be held back because Europe has not done it. Concerning the right to speak in the Oireachtas, the Good Friday Agreement is an all-Ireland, international, binding agreement. I am an Irish citizen. I see no reason why I, or Mr Nesbitt for that matter, should not be able to address issues in the Oireachtas or anywhere else. It is my right as an Irish citizen. It is the right of people on this island, of whatever political perspective, to do so.

2977. As to dealing with global issues, such as waste management or energy, we should maximise the value of an all-Ireland economy and work together on an all-Ireland basis in whatever forum is available to us, whether here or in the Oireachtas. The sooner we do that, the better.

2978. **The Chairman (Mr Wells):** One of the joys of chairing this Committee is that there are never any pregnant pauses. [*Laughter*].

2979. This debate has provoked a lot of interest.

2980. **Mr McCausland:** If he is concerned about poverty, Mr McGuigan might want to encourage the IRA to hand back the Northern Bank money. So much money was involved that a lot of poverty could be eradicated. However, that is not anticipated.

2981. My main point concerns a serious and central issue. As soon as unionists dare to raise an issue about inequality, differentials, discrimination or disadvantage that affects their community, Sinn Féin gets up on its high horse and suddenly it is a sectarian issue. The figures that I quoted this morning are taken from reports of the Equality Commission. Is the Equality Commission a sectarian body? Some people might say so.

2982. These are standard figures. The facts are there. The Robson report, 'Relative Deprivation in Northern Ireland', was flawed, because Robson did not deal with all the aspects of disadvantage. That is why Robson was eventually ditched, and why the Noble report, 'Measures of Deprivation in Northern Ireland',

is now Noble with amendments. Not all of the issues carried the same weight in calculating the Noble index of multiple deprivation. There were many aspects of disadvantage that should have been included and were not. One of the key issues for the unionist community is educational disadvantage.

2983. Important issues have to be brought forward. In particular, let us nail this lie from Sinn Féin — and it is a lie — that it is a sectarian matter as soon as a unionist mentions something about disadvantage. My community and I have the same right to equality as anyone else. If it is good enough for someone else it is good enough for the community that I represent; I will not allow it to be discriminated against simply because members of Sinn Féin get on their high horse about it.

2984. I also wanted to pick up on the university issue. There is a need to elaborate on that. It is clear from the universities' own figures — not some sectarian figures dreamed up by someone for propaganda reasons — that there is an issue regarding the ethos of those universities. Last year the students' union at Queen's University disobeyed guidance given to it. It breached the equality policy of its own university and, in that case, it is an affiliated part of the university.

2985. There are all sorts of issues that I would be more than happy to elaborate on. As regards spending on youth work, my own district electoral area of Oldpark in Belfast spent £267,000 on full-time and part-time youth workers; that £267,000 went in its entirety to youth clubs in nationalist areas, despite the fact that one third of the children in that area are from the Protestant community. That sort of disadvantage is unacceptable, and to highlight that is not sectarian. The sectarianism is in the fact that it happened in the first place.

2986. I am more than happy to debate those key issues. Why is the Irish language seen as a threat? Perhaps we will return to that under the heading of "Culture", but not now.

2987. **Mrs Long:** From the presentations and follow-up comments, there are many issues that we need to examine in greater detail.

2988. First, Michael Ferguson stated that the Irish language caused a furore when it was raised as an issue, and that it was perceived as a threat. That is not fair. The problem is caused by the politicisation of the Irish language, not the language itself. For example, there is a lack of historical recognition of the Presbyterian Church's role in keeping the Irish language alive when it would otherwise have died out. The Irish language has been politicised and made into an exclusive cultural captive. That does not reflect the language's history. That is what irritates people, not the language itself.

2989. Another issue has run through some of our discussions. Nelson asked whether we want two stable communities, peacefully coexisting side by side. Well, I do not want that, and I make that quite clear. I want a single, properly integrated, community living together, but not because of some benign apartheid. That is what Nelson was basically suggesting: two segregated communities.

2990. Much of our discussion flows from the fact that people cannot see beyond those divisions. Unless we tackle those divisions, and the assumption that our problems will be solved simply by having two separate but equal communities, we will never get to the core of Northern Ireland's difficulties.

2991. Michael Ferguson accused Nelson and his colleagues of being sectarian because they spoke of unionist deprivation. Nelson said that Sinn Féin reacts badly when unionists raise the issue of deprivation. What makes the discussion sectarian is Sinn Féin's focus almost entirely on deprivation in nationalist areas, and the DUP's focus almost entirely on deprivation in unionist areas. It is not sectarian to care about deprivation and to want to tackle it, not according to the political affiliation of the individuals affected, but according to need. Unfortunately, we are not having that conversation, because deprivation in different communities — which is real, tangible and measurable — is being used as a weapon in a political argument. Using deprivation in a political argument neither advances the cause of people suffering deprivation nor, indeed, is

particularly edifying for the parties engaged in the argument.

2992. I do not believe that anyone can challenge the accuracy of the equality figures that Nelson circulated. Last week, during our discussion on equality figures and recommendations, when members were accusing other members of discrimination, I said that simply showing a disparity in percentages in the workforce and the background population does not prove that discrimination exists; it only proves that there is a disparity.

2993. That has been taken further to suggest that some form of discrimination exists. That is a dangerous path to tread, particularly when the figures relate to workforces of approximately 30 people and, in all cases, fewer than 100. In those situations, a single individual joining or leaving an organisation can significantly change the workforce balance by between 1% and 5%, depending on the size of the workforce. To assume that that is evidence of discrimination is wrong.

2994. We must examine whether those trends are there for a reason and, as I said last week, tackle the issues. Nelson has rightly highlighted difficulties in the broad unionist community with regard to funding. However, it is difficult to get those groups to apply for funding. It has been our experience that the funding is not discriminatory, but applications have not been forthcoming. Last week I argued that, in all issues of equality, we should tackle the reasons and not make assumptions.

*11.00 am*

2995. That lack of confidence is a problem. A discussion of these issues in relation to people being fundamentally discriminated against and disadvantaged will not help to build their confidence. We ought to encourage people to believe that if they apply for positions in any of those organisations, they are as likely as the next person to be appointed.

2996. We must engender real confidence in communities, and work with them, so that people feel equipped and able. That must be done on the basis of need, not on some notion of sectional division.

2997. In the university sector, there has been a tug of war. From my own time at university, I remember just how repulsive university politics were. It would be unfair to imply that universities are creating a chill factor structurally. Student-union politics, and the machinations in the union, are repugnant to many students. Having witnessed some of the nonsense that went on in student politics in my days at university, it shocks me that I ever got involved in politics.

2998. However, to suggest that that means that people cannot attend a course and participate in university life adds to the chill factor. Leaders of the unionist community send out messages that Protestant students are not welcome in Northern Irish universities. That is very dangerous. We must highlight and tackle the problems, but to suggest that the chill factor is more widespread than it is, and to plant that seed in the minds of people who would otherwise not perceive it in that way, can add to the problem rather than address it.

2999. We must be very careful. This issue is not exclusive to the unionist community; today we are talking about what unionist people perceive to be the problem, but I have heard similar language, attitudes and arguments from those who represent the nationalist community.

3000. Nelson spoke about nationalist youth clubs in his area. The only solution is to have youth clubs that everyone can attend. We need to move forward on the agenda of a shared future rather than simply dividing the pot so that everyone gets less and is constantly looking across the divide, disregarding need because “we” do not want “them” to get more. If we continue down that old path, we will continue to have an unsettled society. If, on the other hand, we move forward and explore the sharing of facilities and provision on the basis of need, those issues will not exist. Fundamentally —

3001. **Mr Poots:** May I make an intervention?

3002. **Mrs Long:** I am finishing.

3003. Fundamentally, we have to address that issue.

3004. **Mr Poots:** I want to ask a question.



3005. **The Chairman (Mr Wells):** Is it a point of information, Mr Poots?

3006. **Mrs Long:** I have finished.

3007. **The Chairman (Mr Wells):** There are quite a few products of Queen's Students' Union here this morning. I am going to move on to one of them: Mr Attwood. Does that bring back happy memories, Alex? Unfortunately, it was 30 years ago.

3008. **Mr Attwood:** Let us not go there, Chairman.

3009. **Mr Poots:** Let us not run down Queen's any more.

3010. **Mr Attwood:** I want to bring some sense of cohesion to the debate. There are good reasons to sustain border communities and establish a balance in those that are no longer as balanced as they were. I have a proposal that the DUP and Sinn Féin may be able to sign up to: that consideration should be given to aiming resources at border communities and enhancing cross-border initiatives in those areas.

3011. There are many cross-border initiatives in various parts of the North. That is not proposed to reassure the DUP for political reasons per se, but to recognise that there is a local unit of economic, social and agricultural activity in those areas, in which communities on both sides of the border work together for mutual development.

3012. That happens in many councils, including those in Newry and Dundalk, and in various other places such as Fermanagh. There might be consensus for a proposal that would demonstrate that border communities are a valuable part of life on the island of Ireland, and that it is useful to sustain rural life on the border.

3013. The South of Ireland is beginning to recognise the dangers of the flight from the west of Ireland and the consequences that the denuding of the population in the west is having on the overall development of communities in that part of the world. There are good reasons to sustain the communities in border areas. They have economic, social, educational and cultural needs, and they also add to the life of people in

the North. There is evidence to back up the assertion that, in some parts of the North, people from one community or the other were particularly targeted, and they left their land and their area.

3014. A proposal on the consideration of resources to target and sustain border communities would be welcome for many reasons, including some of those highlighted by the DUP. The enhancement of cross-border initiatives in areas where they already exist — and where they could exist — would be a way to recognise that there were sectarian intentions behind the paramilitary violence that went on 30 to 40 years ago. That was presented as another effort to force Britain out of Ireland, but there was a sectarian dimension that was particularly acute in those areas. The proposal should be much broader and based on other criteria, rather than that outlined by the DUP, although there is a degree of validity in what it proposes.

3015. Students from certain backgrounds were not going to universities in the North long before any sense of a chill factor. If there was a time when the chill factor began, it was around the time when the Chairman and I were at Queen's University.

3016. **The Chairman (Mr Wells):** Was that before the Boer War?

3017. **Mr Attwood:** You and I might have contributed to that chill factor — if there was one.

3018. In the 1970s, students from a particular background were leaving the North. There were linkages with universities in Britain, and students wanted to go there. Those students' parents felt that this was not a good place for third-level education because of the politics and community tensions at the time. Also, some parents became able to afford to send their children to Britain. That pattern was already happening — it was inevitable.

3019. I do not think that student politics should be criticised in the way that Naomi did. For example, in the early 1980s, I would have been worried about the nature of students if they had



not expressed a view on the issue of the hunger strikes.

3020. **Mrs Long:** I want to clarify that I was not at university in the early 1980s; I was at school. *[Laughter.]*

3021. **Mr Attwood:** Naomi defined student-union politics in a rather abrasive way. I am trying to explain that if she were a student in the 1980s and did not express her views, or if Jim Wells did not have a view on the issue of the hunger strikes, or if I did not have a view, we were failing in our leadership function in the student movement at Queen's University at that time. It can be argued that student politics were fragmented and became divisive, but people should not be beaten up for taking a stand based on principles and values when people were calling out for a stand to be taken.

3022. Student politics became uneven and unbalanced thereafter, but that situation has been corrected in the last few years. Those who manage the universities in the North have taken initiatives to encourage students to stay, so the SDLP will not support the proposal on the chill factor. Students can get better quality education here. Universities have also taken initiatives to build up shared learning institutions, in much the same way that we should be trying to build up shared political institutions and shared arrangements in every other aspect of life in the North. The proposal on the chill factor would demean the initiatives that universities have taken to build inclusive and broad-based student populations.

3023. I understand what the DUP's proposal is aimed at achieving. However, trust and confidence — which is what we are talking about — would be built if the DUP would say here and now that it will live with the consequences of all the equality figures that reflect all aspects of life in the North. We live with the consequences of any of the figures that reflect Protestant disadvantage or unmet need. If we are to move this debate on, it would be helpful if the DUP were to declare that it accepts and will live with the consequences of any of the equality figures when it comes to any

aspect of public policy or life in the North. In that way, we will probably make some advance.

3024. Sinn Féin does not have clean hands in this matter. I remember talking about unmet Protestant need with a prominent community worker in nationalist west Belfast. That person said that, although it was accepted that unmet Protestant need existed, unmet Catholic need had to be addressed first. It does not. Unmet Catholic or Protestant need must be addressed proportionally and on a priority basis. However, that does not mean that one community should have its needs addressed before the next community has theirs addressed.

3025. However, to provide some reassurance that this matter is not simply about staking out some narrow ground around a handful of organisations, it would be helpful if the DUP would accept that whether unmet need is Protestant or Catholic, rural or urban, it will live with the consequences of that as far as public policy in the North is concerned.

3026. **The Chairman (Mr Wells):** There are five more members who wish to speak, and I propose that we call it a day after that point because we have 11 proposals to consider. However, not all of those who are listed to speak are proposers. Those members are: Mr McGimpsey, Mr Nesbitt, Mr Poots, Mr Ferguson, and Mr McCausland. We have given this matter a fair airing, and I will call it a day after Mr McCausland has spoken.

3027. **Mr McGimpsey:** I thought that this morning we were trying to identify obstacles to the reinstatement of the Executive and the Assembly. I attempted to do that as a unionist representative. The loose headings that I identified were: the political process; policing; and poverty. Those are not exclusive to unionism, but I was highlighting the difficulties that the unionist population has with the ability of the political process to deal with our problems and whether to take, once again, the step to reinstate Stormont.

3028. Poverty-related problems and the fact that there has been no appreciable change in the quality of life and well-being for unionist communities over the past eight or 10 years are

real issues. There has been peace and prosperity in Northern Ireland; the economy has never done better, and in middle-class areas, for example, the value of the houses has doubled and trebled. However, in other areas nothing has changed — everything is exactly the same.

*11.15 am*

3029. That is what I was highlighting as being an obstacle from a unionist perspective. Another obstacle is policing. I want to talk about the comprehensive agreement, violence and about the need to see an end to paramilitary activity.

3030. All Michael Ferguson wanted to talk about was the Irish language. That seems to be, from Sinn Féin's perspective, the obstacle to the reinstatement of the institutions. Mr Ferguson talked about the Irish language and its status; he spoke in the Irish language. Of course language is an area that must be addressed, and as a sector, it was treated comparatively generously under devolution. However, there is much more to this than language and anecdotal history.

3031. Nelson made the point about the Robson index and the Noble indicators. Robson did not work. Areas of serious deprivation in south Belfast — areas such as Taughmonagh, Annadale flats, and so on — were counted in with the Malone Road. The Robson index gave the wrong answer; it did not address the issue. Need is the ultimate principle, so you start by looking at what the need is, and then you look at how to address it. Those are the issues within unionism.

3032. Education is another important area. The way out of poverty is through work, and the way to work is through training and education. There are a number of themes flowing through that. Those are the hurdles. When we come to talk about culture, there will be other hurdles as well. I am not quite clear where this discussion is heading. Do we want to identify the hurdles that we see as obstacles to the reinstatement of the Executive and the Assembly?

3033. **The Chairman (Mr Wells):** Our report will have three basic strands: those issues that we have agreed on, those issues that we do not agree on but do not see as major impediments to

devolution, and those issues that parties have highlighted as being crucial. I suspect that much of this will fall into the middle category.

3034. We have 11 proposals that various groups feel will take forward the issue of confidence building, which is more than is usual by a long shot. Perhaps members would consider whether their proposals identify major impediments or simply raise issues that they want highlighted.

3035. **Mr Nesbitt:** I have two points, one is to do with need — and I hope that Alex is not going away, as I want to address some of his comments — and the second is about language. It was Michael Ferguson who first referred to addressing need. I have always advocated addressing issues on the basis of need. From a confidence point of view, my party and I have always advocated addressing disadvantage. There is no problem with the principle; the problem is how to actually address the need.

3036. Alex asked if the DUP could live with the consequences of the equality figures. When he went down that line, my first thought was that I could not agree with that statement — never mind the DUP; it can speak for itself — because I do not live with the consequences. We need to address the consequences, which was the point that Alex went on to make.

3037. Alex argued that need should be addressed on a proportionate basis; again, I subscribe to that. If 60% of the unemployed are from a certain community, they should get 60% of the jobs available. The problem is that nationalists, republicans, the Government, UNISON, the Equality Commission and all and sundry assume this great mantra. Two weeks ago, Michael Ferguson referred to the unemployment differential, with Catholics being twice as likely to be unemployed. The Government had a concept that that could be addressed on a proportional basis with new TSN, which is arithmetically and statistically impossible. If twice as many Catholics as Protestants are unemployed, and you recruit from the unemployed twice the number that you do from the Protestant community, you will still have the same unemployment differential. That is a statistical fact.

3038. At a previous meeting, Alex said that I had a narrow perspective on equality. My perspective is to try to address the issue of equality as it should be addressed from an analysis of the statistics. It is on that basis that that need should be addressed proportionately. However, in doing so, the unemployment differential is not addressed, and nationalists and republicans have never got their heads around that.

3039. Naomi said that disparity and discrimination are different issues. Although I agree with her, I also say that I am agreeing with her because she is now agreeing with me. I am not saying that she did not agree with me before, but let us get this right. Last week, I said that in six out of the past eight years, the public sector recruited more people from the Catholic community than would have been expected, given the proportion of applicants. I did not say that that was discrimination; I said that it pointed up a difference that must be addressed. The data do not state that there is discrimination; the data state that there is a disparity or a difference.

3040. I welcome Naomi's saying that we have to examine those trends. I wish that the Alliance Party — and I say this genuinely — would say so publicly. It is the Ulster Unionist Party that has called for those trends to be established. I was with the Minister this week, and I might as well have been talking to the wall. Not only does the Minister not listen but his officials advise him wrongly. They do not put these arguments to him. I asked an official a question at a ministerial meeting, and he went into typical civil servant mode: if you do not want to answer the question you have been asked, answer a different one. He did not even answer the question I asked; he answered a different one.

3041. **Mr McFarland:** May I just seek clarification from Dermot? My understanding is that at some stage in the past we ended up, for whatever reason, with a disparity between the number of Catholics and the number of Protestants in employment. So there is a gap. We then put in anti-discrimination measures

that prevent any discrimination against any community in employment.

3042. As I understand it — and this is my question — unless we introduce some form of positive discrimination or some system to bring Catholic employment up to the level of Protestant employment, that gap will always remain because the fact that there is a disparity will not be addressed. This myth about employment is that there is a gap that will remain unless some action is taken to redress that gap, which is a legacy of the past. Is that a correct understanding of the problem? Is that a correct analysis of the difficulty?

3043. **Mr Nesbitt:** It is a difficult question to answer succinctly, and I do not mean that in a patronising way. There are two points. There is a disparity in the employment and unemployment data that was brought about statistically by the fact that the proportion of Catholics actively seeking work is greater than the proportion of Catholics actually in work. Forty per cent of the Catholic population are seeking work and yet they have only 38% of the jobs, and that creates a differential. This differential was at its lowest in the early 1970s, so it has increased since then. I see that Sinn Féin members are shaking their heads, but they will see those figures in the 1971 census. However, because the myth was peddled — and it was a myth — that discrimination in the 1990s caused the differential, the Government assumed that they would introduce anti-discrimination laws to remove that differential. The problem is that, although they brought in the most robust anti-discrimination laws anywhere in Europe, the differential still exists. At the February 2006 British-Irish Intergovernmental Conference (BIIC), the Government reported that the differential was still about 2:1. Therefore, the wrong analysis and the wrong suggested approach will not provide the solution.

3044. **Mr Attwood:** Will the member accept one point of information? His entire analysis is based upon only one sector of the potential employment workforce, namely, long-term male Protestant and Catholic unemployed.

3045. **Mr Nesbitt:** No. It is —

3046. **Mr Attwood:** You have said repeatedly that since the early 1970s, the differential between long-term male Catholic unemployment and long-term male Protestant unemployment has been around 2·1, and that that figure has not changed very much. However, equality legislation and policies have brought about an adjustment in the figures, given that there has been a lot of movement into the workforce. For example, more Catholic women have entered the workforce, and overall Catholic participation rates, with the exception of those who are in long-term unemployment, have increased. The differential is still far from perfect, especially in middle and senior-management positions, but the core problem of the long-term employment differential has not been addressed, and much more needs to be done.

3047. However, issues that are connected to every other potential employee or workforce sector have been addressed over the past 30 or 40 years. Do not, therefore, draw conclusions from one particular argument about the overall equality approach.

3048. **Mr Nesbitt:** To a certain extent Alex does not disagree with me; he is talking about a trend in long-term unemployment. The statistics refer to unemployment, not to long-term unemployment, which is a subset of the unemployed. The member is correct in saying that the situation has changed over time. Unlike my colleague from the DUP, I do not refer to a unionist phraseology; I refer to Bob Osborne and Ian Shuttleworth's 'Fair Employment: A Generation On', which concluded that most of the change that the member talks about was due to educational reform, economic change in the structure of industry and certainly not discrimination, as Government said was the case in the 1990s. That was not the cause of change, and the sooner we get our heads round that, the better.

3049. **Mr Attwood:** When Queen's University was exposed for its failures in employment practice, and when a report by Beverley Jones and Fiona Cassidy revealed the policies and

practices that had been put in place, Queen's began to turn the corner.

3050. **Mr Nesbitt:** I ask the member, Chairman, to not refer to Queen's. I could give examples of my own life and work there, and I resolutely refuse to do so.

3051. **Mr Poots:** I endorse the point about Queen's, but please do not refer to it.

3052. **Mr Nesbitt:** Sorry.

3053. **Mr Poots:** I am endorsing your request.

3054. **Mr Nesbitt:** When I look over the transcripts, I see that Mr Poots often jibes and snipes from the side. That seems to be his trait.

3055. **Mr Poots:** I thought that it was funny.

3056. **Mr Nesbitt:** All I am saying is that the member should not go there, because I can make the comments. That is my first point.

3057. However, I genuinely wish that the Alliance Party would come out publicly and support the fact that the trends in disparity are addressed —

3058. **Mrs Long:** Will the member take a point of information? I have not suddenly reached a road to Damascus conversion in this Committee on the matter; I have been discussing it for some considerable time. We said it publicly and privately, and it is a matter of record on Hansard that I said it last week and the previous week. There is no need to appeal to me to say it publicly — I have already done so.

3059. **Mr Nesbitt:** I am glad, but I do not want to see you getting upset by my comments.

3060. **Mrs Long:** I am certainly not upset by anything that you have said, Mr Nesbitt.

3061. **Ms Lewsley:** It must be his body language. *[Laughter.]*

3062. **Mr Nesbitt:** Yes, it is back to that, Patricia. Unfortunately, Hansard does not record the ambience of the contribution, merely the words.

3063. **The Chairman (Mr Wells):** Thank goodness.

*11.30 am*

3064. **Mr Nesbitt:** Moving to the second point, Mr Ferguson says that rights should not threaten



anyone. That is true. Why is the Irish language a threat? It should not be a threat. Rhodri Morgan, the First Minister of the National Assembly for Wales, answers questions fully in Welsh. Sinn Féin stated that it wishes to have the same rights for Irish speakers in Northern Ireland that Welsh speakers have. The difference is that far more Welsh is spoken in Wales than Irish is spoken anywhere in Ireland, and one can be very Gaelic-orientated and still be a British citizen. Rhodri Morgan is a member of the Welsh Labour Party. He respects the national law and constitution. Sinn Féin may not know that it is meant to do the same; however, it does not do so. Therefore, unfortunately, Sinn Féin has used the language as a political battering ram. I see that the member is shaking his head, but that is the case. If language were put in its proper cultural context — and we will come to culture later — the schism on the language that exists in the community would not exist.

3065. Mrs Long refers to wanting a single, integrated community. I cannot support that. There can be one community with great diversity, and I presume that that is what she means.

3066. **Mrs Long:** I ask the Member for clarification. Mr Nesbitt said that he could not support me in calling for a single, united and integrated community, yet he says that we can have a single community with much diversity, which is what he assumes I mean. Is he opposed to a single, diverse community?

3067. **Mr Nesbitt:** Of course not.

3068. **Mrs Long:** Then why does he not agree with what I said, if that is his presumption about what I meant?

3069. **Mr Nesbitt:** I was just getting clarity from Mrs Long as to what she meant. When she talks about a single community, she seems to say, or imply, that there should not be diversity. The point about a community is that it is comprised of many sub-communities, and there should be diversity. We are not looking for assimilation; people can be integrated yet totally different.

3070. **Mrs Long:** That is why I said a single, integrated community. That accepts that people

could be different. Any interpretation of my comments comes merely from you, Mr Nesbitt, and was not put there by anything that I said.

3071. **Mr Nesbitt:** I do not want to prolong this. I asked the question. She has given the clarity, and I welcome it. It is good that we have that on the record.

3072. **The Chairman (Mr Wells):** We will return to cultural issues later, so there will be an opportunity to raise some of those points.

3073. **Mr Poots:** I want to deal with the unemployment differential, which was the previous topic. There are significantly more people from outside Northern Ireland currently employed in the Province than there are people on the unemployment register. Jobs are available for people who want them. I suspect that if people were given three months to get a job or face withdrawal of benefits, the unemployment differential would disappear quickly and many of those who are currently unemployed would be happy to take up that employment.

3074. I am disappointed at the SDLP's attitude. The SDLP is good at highlighting whether nationalists are underrepresented in a particular area. It was quick to jump on the police recruitment bandwagon. When Ken Maginnis suggested that fifty-fifty recruitment might be a means of resolving that issue, the SDLP was happy to support that idea and is now its greatest proponent. However, whenever unionists identify issues of concern to their community — Mr McCausland mentioned ethnic cleansing in border areas — it wishes to dilute that and to demean the proposal on it through its counterproposal.

3075. I do not know whether Mr Attwood has spent much time around the border recently, but some people are doing very well in those areas. I am sure that when they got their revised rates bills, they were very large — commensurate with their dwellings. I suspect that those people do not need a lot of help; they are getting a huge income, a lot of which is illegitimate.

3076. As for the universities, there is a chill factor, and it has not been adequately addressed. There is a significant problem in the school of



law in Queen's University, in particular, which will filter through in the future to the Northern Ireland judiciary. It has already permeated to the extent that there are not enough solicitors and barristers from a Protestant/unionist background.

3077. The problem started at Queen's University school of law and has been developing, not for years but for decades. That must be addressed. Are young Protestants leaving school with substantially fewer qualifications to the extent that over 80% of those attending the school of law do not come from that community? That is not the case. Fifty per cent of school-leavers are Protestants, and I suspect that their qualifications are fairly similar. It is very clear that young Protestants do not want to go to Queen's or to the University of Ulster, and there are specific reasons for that.

3078. Those reasons are not being addressed, and the students' union has strongly resisted addressing those issues. In Queen's University in particular, the students' union has demonstrated that it is not a welcoming environment for people from a unionist background. The SDLP wishes to portray itself as a non-sectarian party, but in essence, when we seek to address substantial disparities and discrimination against Protestants and unionists, the SDLP pooh-poohs that and claims that the only substantial degree of disaffection has happened in the nationalist community.

3079. **Ms Lewsley:** Will you take a point of information?

3080. **Mr Poots:** Yes.

3081. **Ms Lewsley:** In my opening remarks, I agreed with Mr McCausland that there are gaps in the unionist community that need to be addressed. We all agreed around this table some weeks ago that equality was based on looking at need objectively. That is all the SDLP is asking for.

3082. When Gregory Campbell talked about unemployment differentials in various sectors, I agreed that there is an issue, but we need to establish a structure that guarantees fair play for everyone. You are being unfair about the SDLP's approach to the issue of equality and looking at need objectively.

3083. **Mr Poots:** I accept that that is what you said. However, when we put it into practice, that is not what the SDLP is doing when need has been identified and brought to attention. For example, we made proposals about the Parades Commission —

3084. **Mr Nesbitt:** Will Mr Poots take a brief point of information?

3085. **Mr Poots:** I will when I have made this point.

3086. **Mr Nesbitt:** It is on this point.

3087. **Mr Poots:** We made specific proposals about the Parades Commission, because it has a huge chill factor in the unionist community. The SDLP said that it found the commission acceptable and that it was fine.

3088. **Mr Nesbitt:** Does Mr Poots agree that, while you may address things on a basis of looking at need objectively, if you do not understand the dynamics of the problem to start with you have no chance of finding a solution?

3089. **Mr Poots:** Yes.

3090. **Mr Nesbitt:** The difference between unionism and nationalism may be in how both perceive the problem.

3091. **Mr Poots:** I do not see that there should be a difficulty in understanding the problem. Unionists have been capable of accepting that, in many instances, people in the nationalist community have suffered over the years and have greater requirements for fair play in some aspects than in others. However, in the last 10-15 years, things have reversed significantly, and there is more significant deprivation in some unionist communities than in some nationalist ones. It has been more difficult to get educational resources pumped into unionist communities than into nationalist areas. Brain drain from the unionist community is more significant than that from the nationalist community. Those are issues of concern; they must be addressed and, in the long term, it will not be to the benefit of either community — or of the wider community — if that situation continues.

3092. I want to respond to comments made by Naomi Long. Nelson McCausland produced

figures that were taken from the Equality Commission's reports. Mrs Long did not question the figures, but gave the impression that they did not show that there was a problem. Mr McCausland did not mention discrimination or disparity. Why is there disparity against the Protestant community? Are people in the Protestant community not capable of doing those jobs? I suspect that they are capable, so why are they not doing those jobs? They may not have applied for them, and we must ask ourselves why.

3093. Why, for example, are Protestants not applying for jobs in the Equality Commission? Welcoming statements are issued, but the Equality Commission says that it does not get the numbers applying for the positions. It appears that Protestants are not applying for jobs in that industry in a significant way, so the figures produced are not balanced. However, many people have the educational qualifications for those positions.

3094. A disparity exists right across the community sector, and that filters through to funding. The Protestant unionist communities are not getting a fair crack of the whip at the jobs that are available in the community sector. Why are they not in those jobs, and is the unionist community suffering as a result? The unionist community is suffering as a result of not having representatives in those jobs, and what is the Department for Social Development doing about it? Mr McCausland was right to highlight the problem: it should not be set aside and ignored, and we cannot pretend that it does not exist, because it does.

3095. Naomi Long also referred to shared space. I wish that things were as Mrs Long wants to see them and that young people were able to go to the same youth clubs, and so forth. Again, my colleague Nelson McCausland did not refer to unionist youth clubs and nationalist youth clubs; he referred to youth clubs in unionist and nationalist areas, and there is a substantial difference.

3096. I do not know whether Mrs Long could deliver it in her area, but could a youth club be established in the Short Strand/Albertbridge

Road area for all the young people in that area to go to together? It would be very nice if it happened. In reality, that is not likely in the near future.

3097. We must deal with realities, as opposed to what we might wish for. Mr McCausland said that in his area £267,000 was spent on one community and nothing was spent on the other community. I wish that that were not the case and that all youth clubs were together, but that is not how it is. Instead, hundreds of thousands of pounds are being spent on one community and zero on the other community. That is not right, and it does not stack up.

3098. **The Chairman (Mr Wells):** This has had a good airing. We are coming to the main motions, and there are a couple of other issues. Proposals were made on the British passport issue and the lottery fund. It may be that everyone agrees with them, as they were not addressed in any of the comments. However, it may be time for Mr McCausland to beef those proposals up.

3099. Mr Ferguson, I will take your proposal in the second round, as it falls into culture rather than confidence building.

3100. **Mr Ferguson:** I appreciate that. However, I want to pick up on comments that have been made.

3101. **The Chairman (Mr Wells):** You will be allowed to join in. I am just letting you know that your proposal is going into the next section.

3102. The proposers must indicate whether their proposals are major impediments to devolution, or whether they are expressing a view on an issue that should be dealt with.

*11.45 am*

3103. **Mr McCausland:** I want to clarify, for Mrs Long's benefit, communities in peaceful co-existence, or benign apartheid as it is sometimes described. Sadly, the fact is that in some areas that would constitute progress. I would not wish you to think that that is my long-term aspiration — it is not. We want to see a community that is interdependent. However, as has been pointed out, the term "community"

is used in various ways: perhaps “sub-communities” may be more appropriate. The aspiration of a shared future is the one that I was referring to, and I have no difficulty with that.

3104. I raised the issue about non-lottery funding for people who refuse lottery money on moral grounds. That affects a significant number of institutions within the unionist community. A number of Protestant denominations will not take lottery money on principle. It might also have an impact in parts of Scotland, where there are similar denominations. It impacts particularly on rural areas, where there is a much higher level of church attendance and where church influence is much greater. The impact spreads across all areas of lottery funding. For instance, the Heritage Lottery Fund for buildings is a closed door to many groups. It is a non-contentious issue, and there should be some mechanism whereby such institutions could be accommodated. That is my proposal. The proposal about passports stands as well.

3105. I was very careful to say with regard to the Equality Commission’s figures for the voluntary sector — and I hope that I have not been misrepresented or misunderstood — that it is not about discrimination; it is about differential. If a differential in employment patterns is seen over a series of years — and I only have the figures for three years, but there is a similar pattern over all the organisations — then that clearly indicates a trend. It is not about one person here or one person there, or about one organisation or another over one or two years. It is about looking over a number of years at a trend that is quite clear across the board.

3106. The implication is that if there is a differential, either the organisations are discriminating — and as I say, I do not think that is the case — or they are seeking to recruit from communities in which there is a differential in capacity. This is, therefore, a way in which you can, in a very rough form, measure the differential in community capacity and community development within the nationalist and unionist communities. A complex issue has been identified, and there is no single solution. It is around such things as how community

development training is delivered, where it is delivered, and who delivers it. It is about training and a whole series of other issues.

3107. We are saying that this has to be taken up by the Government at a central level and recognised and addressed as a complex issue. In the meantime, when organisations are undertaking their work, they should be recognising that there is a problem and that they have a role to play in addressing it, particularly when they seek to take on a representative role.

3108. With regard to sticking by every figure that emanates from the Equality Commission — while it may collate information, its own figures for 2004 show that 59·8% of its staff who identified with a community said they were from the Roman Catholic community and 40·2% were from the Protestant community. That is a situation that has deteriorated year on year. The number of non-determined staff in that case is comparatively small.

3109. I am never going to sign up *carte blanche* to everything that emanates from the Equality Commission. I will say emphatically that the principle of equality is absolutely fundamental. That is why there is a problem with the Equality Commission in areas such as youth provision, which it has not looked at, or the voluntary sector, which is in its figures but which it has not picked up on. This is about the commission’s failures and its almost selectivity about what it picks up and does not pick up. This differential has been happening within the commission’s own staff, and it has not been picked up. The commission should have been up front in saying that there is a significant problem, which it needs to address.

3110. We have dealt with the passport and lottery funding issues. There are issues regarding provision for young people, and I am grateful to my colleague for clarifying this point. I did not say “nationalist youth clubs”; I was talking about youth clubs in nationalist areas or youth clubs in unionist areas. If somebody lives in Ballysillan, they are not going to feel comfortable using the two youth clubs in Ardoyne. That is a fact at the moment. We long for the day when we have a shared

future and it is not like that any more, but now it is, and the result is that substantial numbers of young people in that area are denied access to youth provision.

3111. The youth sector is like the schools sector: there are two systems. We have a statutory system provided by the boards and a voluntary sector that is almost entirely provided by the Catholic Church. Segregation is already built in, and there is a piece of work that needs to be done by the Department of Education, which is responsible for youth, and the Youth Council, and I am glad to say that the Youth Council is now leading the way with a mapping exercise that is dealing with how resources are allocated. That is something that was never done before.

3112. We were told — and not everyone may be aware of this — that in a number of cases in Belfast all that happens is that there is a 3% increase on last year because the budget has gone up. If you were in last year, you are still in; but if you were not in last year, you get nothing. That is an untenable situation, and we need to address that aspect of youth provision as well as the voluntary sector.

3113. The voluntary sector and the community sector play a significant role in our society. They purport to speak on behalf of large numbers of people and should, therefore, be reflective of the communities they serve.

3114. **Mr Ferguson:** I want to pick up on some of Naomi's earlier comments following references I made to Nelson's submission. I was very specific in that I challenged the selective use of figures and artificial ideological constructs like "weak community infrastructure". I was very specific in doing that. It is unfortunate that Naomi chose to polarise Nelson's comments as well as my own. She did that deliberately because she wishes to present the Alliance Party as the voice of reason at all times. Sadly, particularly in this case, that collapses all too often into the rhetoric of community relations without any substance of equality. By doing so in this specific way today — by polarising the debate — the Alliance Party has deliberately

and unfortunately sectarianised comments made by the DUP and us.

3115. **Mrs Long:** Perhaps Mr Ferguson will explain how my comments have been sectarian. I have studiously avoided references to particular communities and have looked at and addressed the issue of need. Can he also explain how I misinterpreted his comments when he referred to Catholics being second-class citizens? What did he say that I misinterpreted?

3116. **Mr Ferguson:** I would like to continue. Mrs Long and the Alliance Party have consistently and deliberately ignored comments that Sinn Féin and I have made, not only at the meeting today but at previous meetings when we were reinforcing the need constantly to ensure that if we address need, we address it objectively and do not sectarianise poverty. That was deliberately ignored.

3117. There were references to the Irish language and Presbyterianism. As an Irish republican, I am very well aware of the role played by Presbyterians in the struggle for separation from England — and of the consequences for many of those Irish-speakers. Many of them, such as Henry Joy McCracken, were executed. I am well aware of that. Mrs Long and Mr Nesbitt ignore the fact — *[Interruption.]*

3118. I thought that that would bring you round, Dermot. *[Laughter.]*

3119. **Mr Nesbitt:** I have been saying to my colleagues that, since I live in Crossgar, I am well aware of the battles of Saintfield and Ballynahinch, and of the 1798 rebellion and the Presbyterian involvement in it. However, that is local history.

3120. **Mr Ferguson:** Indeed it is. However, both members have ignored the history of refusal and discrimination concerning funding for Irish schools. I remember protests by Irish-speaking children outside the Department of Education because of such refusals. I remember Sinn Féin's party leader, Gerry Adams, having to take delegation after delegation to meet the British Government because of refusals to fund the Irish language. Let us not leave that out. Mr



Nesbitt's comments would suggest that discrimination never took place. One wonders why we have an Equality Commission and a Human Rights Commission and why we are having this discussion today.

3121. **Mr Nesbitt:** I did not say that.

3122. **Mr Ferguson:** Moving on, Mr McGimpsey made a fair point about focusing on confidence-building measures. He thought that I had spoken only of the Irish language. That is both an equality issue and a human rights issue. I highlighted the need for the greatest demonstration of confidence, namely restoration of the institutions. If we achieve restoration of the institutions we can deal with all of the issues. We can deal with the issue Mr Attwood raised about the border — and I welcome his comments on development of the border areas and cross-border co-operation. Partition cut us off from our natural hinterland and wasted areas such as Newry. He would agree with me that we need to deal with structural disadvantage west of the Bann.

3123. Mr McGimpsey is right. However, the biggest confidence-building measure we could take is to put the institutions back in place. If Mr McCausland is keen to address objective need, as I am, why then do we not have the institutions, and why do we not have accountable Ministers?

3124. Mr McGimpsey made reference to violence. The IRA has given a good lead. Ulster Resistance and the rest of those organisations need to follow suit. That is the way forward. Who does not want policing? We need democratic institutions, functioning institutions, and restoration of the institutions to deliver the policing that the communities need. Restore the institutions. That will be the biggest confidence-building measure.

3125. We do not have to trust each other. I know of no political party in the world that trusts its political opponents. It is not about trust. We have a legal framework within the terms of the Good Friday Agreement that gives us the opportunities not necessarily to trust each other, but to deliver institutions that build confidence — and only functioning institutions

can build confidence and deliver it to communities. Telling people that they are the worst off, or the poorest, is not going to do that. Functioning institutions will make the difference.

3126. **Mr McFarland:** With respect to a shared future and the way ahead, I was much taken, last week, by Mr Brolly's full support for the integrated school system. He seemed to recommend that anyone who wished to educate children at a faith school should have to pay for it. That was the gist of what he said. I wonder whether Mr Ferguson would agree with that.

3127. **Mr Ferguson:** The member is aware of Sinn Féin's support for integrated education. Former Education Minister Martin McGuinness was at pains to support integrated education. I had representatives of Hilden Integrated Primary School with me recently. Mr Poots will know them because they also came to Lisburn City Council. That school is likely to be closed. My party's stance is that integrated education is the way forward. The DUP is right, in a sense. Mr McCausland pointed out that we live in a society that is divided and diverse. We have a range of educational sectors that would be celebrated anywhere else.

3128. Some people use the British Government's approach to funding as an excuse to say, "There should not be so many sectors. The Irish-language sector and all the others should be removed. There should be only one sector." In an ideal world, we would support pluralist education; however, conflict resolution is an issue. Since we have different education sectors, let us support them. Let us give people the opportunity to have the education of their choice and let us do so through institutions that work and function. That is the way forward. That is our corporate position.

*12.00 noon*

3129. **The Chairman (Mr Wells):** We shall proceed to the proposals. I want to start with those that seem to be non-contentious. In saying that, no one has addressed them.

3130. **Mr McFarland:** I want to make a general comment. The Committee has been meeting for



three months, although I was absent for a short while. I have noticed that the three or four meetings that I have attended since my return have half evolved from the introduction of proposals that stand a good chance of getting consensus into a competition. My party has, so far, avoided that competition. If it continues, however, we must get involved. Meetings are centred on who makes proposals, and who from the other team will not support them.

Afterwards, parties go straight into press releases. What used to be a good Committee system, in which people genuinely made proposals because they stood a good chance of gaining consensus, is moving towards competition. Proposals are not being made to advance the Committee's work: they are being made in order to score points. I am worried that the Committee has got to that stage.

3131. Chairman, you have pointed out that there are 11 proposals this morning —

3132. **The Chairman (Mr Wells):** I have just counted them. There are only seven.

3133. **Mr McFarland:** That is still much more than what we would normally expect on a particular issue. I wonder whether members have lost the plot slightly as to whether they want to make progress or score points. We can all score points. If we want to have a system of point scoring, we might as well get on with that. However, it will not achieve much.

3134. **The Chairman (Mr Wells):** Perhaps you pre-empt the decisions on the proposals. Some may get consensus; some may not. When members make proposals on issues that are of concern to them, it gives a structure to the debate.

3135. **Mr McFarland:** I am concerned, Chairman, about whether those who have introduced the seven proposals will have an opportunity during the debate to review them, and whether everyone who made a proposal in the middle of a speech somewhere — *[Laughter.]*

3136. I will rephrase that: whether everyone who dreamed up a proposal in the middle of a speech, which was subsequently recorded as such, merely wanted to say something off the cuff rather than genuinely want to make a proposal.

3137. **The Chairman (Mr Wells):** We shall review the proposals. I want to start with those that seem to be less contentious and move up the ladder, as it were.

3138. A proposal has been made with regard to National Lottery funding: to set up an alternative fund for religious groups that object to the use of money that has been raised from betting. Such groups could apply to the fund for money for church restoration, and so forth.

3139. Nelson made a proposal about the difference between those who were born in the Irish Republic who wish to apply for a British passport vis-à-vis those who were born in Northern Ireland who wish to apply for an Irish passport. No one has commented on that being a burning issue.

3140. Nelson also proposed the introduction of a "border fund" for isolated Protestant communities, to which Alex introduced an amendment. The proposal and amendment will be moved simultaneously.

3141. There is a proposal on the perceived chill factor in universities. A proposal on youth provision has been suggested, although I am not certain whether Nelson wants to make a proposal or simply wants to indicate that he is unhappy with the current situation.

3142. Ms Lewsley made a somewhat unusual proposal. If it were to gain consensus, we could finish business today. I expect that there will be debate on it.

3143. **Ms Lewsley:** I want to comment on what Alan McFarland said. My proposal may seem contentious; however, it is, at least, encompassing.

3144. My worry is that some of Nelson's proposals, whether good or otherwise, deal with individual issues. Every member around this table could produce a wish list and name some of those issues. I have some serious concerns about that, as, I think, does Alan.

3145. **The Chairman (Mr Wells):** Sinn Féin will also have proposals when we move on to cultural issues.

3146. Parties have made proposals in the past, and other parties have refrained from doing so. All the issues that have been raised are relevant to the subjects under discussion — there is no question about that. As Chairman, I cannot tell a member that they should not make a proposal simply because I believe that they are trying to score points. Heaven forbid that a member of this Committee would try to score points off anybody else.

3147. **Ms Lewsley:** I am not saying that this is a matter of point scoring. Nelson's issues are specific to different sectors. We talked about unemployment figures at previous meetings, and we could all talk again about the gaps on both sides. I could make a proposal that money should be given to x, y and z, or that a special fund should be set up. I am simply worried about the route that the Committee is taking.

3148. **Mr McCausland:** We would be deceiving ourselves and doing a disservice to the unionist community if we did not make absolutely clear the deep sense of alienation and inequality that exists. That issue must be put on the table. Politicians have not concocted this problem: there is a deep-seated sense of disadvantage in that community. Until that major obstacle is addressed, we cannot move forward.

3149. I raised some issues this morning to bring a sense of reality and substance to the discussion; I could have raised 25 issues. We can talk in general about how wonderful equality is and how we must sign up to it, but at some stage we must tackle the issues. The equality issues that I raised have been ignored. Dermot Nesbitt and other members were right to point out that they have been talked about for years. However, they are just the tip of the iceberg; the bulk of the problems are underwater. Thus, it is important that we highlight them today.

3150. We must also take cognisance of the fact that a series of communities have suffered from ethnic cleansing in border areas, which is a particularly sensitive issue.

3151. **The Chairman (Mr Wells):** I am not going to reopen the debate. I will take comments only about Alan's procedural point.

3152. **Mrs Long:** There is a difficulty with a number of the proposals. Nelson used the word "perception". I agree that perception of discrimination is different from the actual existence of discrimination; evidence certainly shows that a disparity exists.

3153. The problem is that we are proposing ways to tackle this issue without having properly examined the evidence. These proposals attempt to find a cure for problems without first identifying the causes. Members may have opinions on what the causes are, but those opinions may not necessarily be based on evidence.

3154. I am slightly concerned about some of the detailed proposals, not because I object to their detail or general thrust, but because they are not evidence based. That is a concern, and I do not know how that can be dealt with procedurally.

3155. If this were a matter of studying the issues and producing evidence, consensus could be reached. However, it is a different matter to put forward a proposal to tackle a problem when the underlying causes have not been identified. I am not sure that consensus would be reached in that case.

3156. I do not wish to denigrate any of the important issues that have been raised; my concern is about how the proposals are being tackled.

3157. **The Chairman (Mr Wells):** A member is perfectly entitled to make a proposal. Other members have expressed concerns about the procedural approach, but it is entirely in order, and I have to put those proposals to the Committee.

3158. **Mr McCausland:** Let me make a suggestion. This morning we identified areas of concern to the unionist community. Perhaps there could be a general proposal about unionist alienation, citing areas of particular concern such as disadvantage, youth issues, the community sector and the significant work needed to address them. The issues are now on record, and that is important, but a general proposal might draw them together.

3159. **Mr McFarland:** We agreed that we should bring issues to the table and alert our parties and our communities to those that might prove difficult in firing up the Assembly again. The difficulties that Nelson has set out today are genuine. There is a perception, rightly or wrongly, that some effort needs to be made to recognise and address the issues. Perhaps Nelson could produce a composite proposal setting that out. Other parties should not have a problem with recognising that unionism has a difficulty with some issues. It is not unreasonable to call for those issues to be examined and for detailed evidence to be identified so that we can find a solution.

3160. **The Chairman (Mr Wells):** Would it be possible, Nelson, to produce such a proposal over lunch and bring it back to the Committee at 12.45 pm?

3161. **Mr McCausland:** OK.

3162. **Ms Lewsley:** At one of our earlier sessions on equality issues, there was some toing and froing over a proposal. The parties worked together over lunch and came up with a form of words on which they could all reach consensus. Would it be possible to do that in this case?

3163. **Mr McFarland:** Perhaps some of the team, having heard our discussions, might rustle something up that all the parties could come in behind.

3164. **Mr Nesbitt:** We did that two weeks ago.

3165. **Ms Lewsley:** It took five or 10 minutes.

3166. **Mr Nesbitt:** The officials did it. It would be good to revisit the proposal that we agreed two weeks ago and to which all parties subscribed. It was a composite proposal that was drawn up by officials over lunch —

3167. **Ms Lewsley:** I am sorry, but it was drawn up by the political parties and given to officials.

3168. **Mr Nesbitt:** What I asked was that the officials work on it and present something on which the parties can agree. I do not know who wrote it up.

3169. **Ms Lewsley:** The political parties wrote it up and gave it to the officials.

3170. **Mr McCausland:** I will undertake to produce something over lunch.

3171. **Mr Nesbitt:** It is the parties who must draw up a proposal.

3172. **Mr McCausland:** I said that I would draw something up and pass it round for consideration.

3173. **Mr Nesbitt:** It might help if a composite proposal were to come from the Committee.

3174. **Mr McCausland:** That is the aspiration.

3175. **Mr McGuigan:** We recognise that it is important that the Preparation for Government Committee deal with poverty and social and economic disadvantage so that the Assembly can tackle those issues when it is set up. Any proposal should be general and should call on the Assembly and the Executive to tackle poverty and social and economic disadvantage — wherever they may exist.

3176. **The Chairman (Mr Wells):** I think that the DUP proposal will be a bit more specific than that.

3177. **Mr Ferguson:** That is my concern. There is a perception of alienation, deprivation and poverty, real or imagined, in the unionist community. That perception has been fostered by the absence of functioning institutions. The DUP failed to support the institutions when they were up and running, and I fear that this is more prevarication to avoid doing what needs to be done. What needs to be done was set out in the Programme for Government under the previous Administration, and it was, as Philip pointed out, about addressing disadvantage and need.

3178. We should agree on a general proposal that does not politically tag or sectarianise poverty, alienation and need — they are common afflictions. The way forward, if the DUP will agree, is to formulate a general proposal centred on the Programme for Government under the last Assembly.

*12.15 pm*

3179. **Mr Attwood:** I want to give Nelson some guidance on the SDLP's perspective. For any proposal to be agreed by us, it must be broadly based. I could have come to the Committee this

morning and talked about the figures relating to the allocation of Invest Northern Ireland money across the North. I could have put forward a proposal referring to the remarkable disparity between the money allocated to north and west Belfast and that allocated to south and east Belfast — and I include all parts of north Belfast, not only the nationalist areas. Exactly the same applies to the difference in allocation of Invest NI resources east and west of the Bann. That creates a lack of opportunity for the communities in those underfunded areas and a sense of alienation, because people feel hard done by, currently and historically.

3180. Therefore, any proposal touching on Nelson's community's sense of being disadvantaged or discriminated against — as well as cases of real disadvantage — must be balanced to recognise the nationalist community's sense of being disadvantaged in relation to many other public policy issues. The SDLP suggests, therefore, that the proposal should address the causes or perceptions of nationalist or unionist alienation — or common alienation — in relation to the allocation of resources and the development of policies. The implementation of the proposal can be informed by some of Nelson's comments as well as comments made by other parties on particular matters.

3181. **Mr McCausland:** I did not mention poverty, because that is a subject for another day. This is about disparity and differential and, in some cases, discrimination — although, having said that, I will be referring to matters this afternoon in which discrimination is to the fore.

3182. I have a stronger sense of what the unionist community is thinking than Michael Ferguson does. The issues and their causes are very much in the minds of —

3183. **Mr Ferguson:** Nelson, if you tell people that they are hard done by, they will think that they are.

3184. **The Chairman (Mr Wells):** Dermot's contribution will end the discussion, because I have given every party an opportunity to speak.

3185. **Mr Nesbitt:** Nelson said that he did not mention "poverty". However, whether the

words used are "disparity", "disadvantage", "discrimination" or whatever, it is also about poverty, of which unemployment is one of the stronger measures. Just because the word poverty was not mentioned does not mean that it does not exist.

3186. Chairman, I have a suggestion on procedure. Any proposal should be from the entire Committee, as distinct from a proposal submitted by one party and endorsed by this Committee: there is a big difference.

3187. **The Chairman (Mr Wells):** Naomi, have you any views on that?

3188. **Mrs Long:** No. The Alliance Party can discuss its views with Nelson over lunch as he formulates the wording of a proposal. For the Alliance Party to be comfortable with supporting the proposal, it must be sufficiently broadly based to deal with the points relating to discrimination and people's perceptions of discrimination that have been raised by all parties round the table.

3189. The proposal must also take into account the changing nature of our community and those who have come from other cultures and other countries and may feel alienated from politics, society in general and the workforce. For the wording to be right, that must be reflected, and the Alliance Party wishes it to be included in the proposal.

3190. **The Chairman (Mr Wells):** As it is now 12.19 pm and lunch is at 12.20 pm, we will adjourn to enable the proposal to be drafted. We will consider the proposal at 12.45 pm and then move straight on to discussing cultural issues.

*The Committee was suspended at 12.19 pm.*



*On resuming —*

12.49 pm

3191. **The Chairman (Mr Wells):** Dr Birnie is replacing Mr Nesbitt. Dr Birnie, I understand that this is not your first time with us.

3192. **Dr Birnie:** It is.

3193. **The Chairman (Mr Wells):** On the PFG Committee?

3194. **Dr Birnie:** Yes.

3195. **The Chairman (Mr Wells):** In that case, we must ask whether you have any interests to declare.

3196. **Mr A Maginness:** Except your genius.

3197. **Dr Birnie:** No.

3198. **The Chairman (Mr Wells):** I welcome Alban Maginness to the meeting. He dropped in just before we adjourned. We have a good turnout. I alert members that I have a slight problem in that I hope to leave around 3.30 pm.

3199. **Some Members:** Hear, hear.

3200. **The Chairman (Mr Wells):** Constituency work is always a bit of a pain, but it must be done.

3201. We adjourned in order to allow Nelson McCausland to come up with a composite proposal aimed at reaching consensus on the matter at hand. Are we in a position to do that?

3202. **Mr McCausland:** There will not be agreement among the parties, so I will submit our proposal. Perhaps there will be some degree of support for that.

3203. **The Chairman (Mr Wells):** The proposal is that the PFG Committee recognise that community disadvantage and alienation are obstacles to political progress, and that that is particularly evident within the unionist community. Is there consensus on that?

*Members indicated dissent.*

3204. **Mrs Long:** May we propose an amendment?

3205. **The Chairman (Mr Wells):** Yes.

3206. **Mrs Long:** Alienation, deprivation, disadvantage and lack of confidence exist, and

are barriers to progress. The final sentence uses the words “particularly evident within the unionist community.” Instead, we could say that where those conditions exist, or are perceived to exist, action should be taken to tackle them objectively based on need.

3207. **Lord Morrow:** It is not a perception, Mr Chairman.

3208. **The Chairman (Mr Wells):** Is that an acceptable amendment?

*Members indicated dissent.*

3209. **The Chairman (Mr Wells):** That amendment is not accepted.

3210. **Mr McGimpsey:** Mr McCausland said that no one mentioned poverty. I mentioned poverty earlier. As a unionist addressing the obstacles to the reinstatement of the institutions, it seems to me that this is a key issue. My suggested wording is:

3211. “Disadvantage within communities seriously undermines confidence in the political process within those communities.” I suggest adding: “Currently, this is particularly apparent within the unionist community.”

3212. **The Chairman (Mr Wells):** Before I call Mr McGuigan, I wish to check if we have a basis for debate. I see that the SDLP is still unhappy with the wording.

3213. **Mr McFarland:** Mr Chairman, we must look back. This topic is on the agenda because unionists identified a lack of confidence within unionist communities. That was lodged as a matter of concern back in May and June. We are discussing this matter because of that lack of confidence within unionist communities. The issue has evolved, and we shall discuss other matters later, but that is the genesis of our discussing this. The proposal that Mr McGimpsey outlined is eminently sensible, given that this is the topic that we are supposed to be addressing.

3214. **Ms Lewsley:** For clarity, we asked at the end of last week’s meeting whether we could gain some understanding of what our discussions this week were to be about, so that we could all prepare. I was under no impression

that this issue was simply about the unionist community; I thought that it was about a lack of confidence within all communities.

3215. **Mr McFarland:** This topic got on the agenda because the DUP and UUP identified it as a problem that has been recognised by the Government. This matter has featured in discussions since March. There was perceived to be a lack of confidence within the unionist community. Mr McGimpsey has covered the reasons for that, particularly relating to the outworking of the agreement and a number of other issues. There is an apparent imbalance between the money and attention paid to unionists and that paid to nationalists. That is why this matter was originally put on the agenda. These proposals are in keeping with attempts to deal with the original problem.

3216. **The Chairman (Mr Wells):** Only two parties highlighted that; it was not mentioned by anybody from a nationalist party or from the Alliance Party.

3217. **Lord Morrow:** Is the inference that other communities do not have a problem with a lack of confidence, since they do not —

3218. **Mrs Long:** We do.

3219. **Lord Morrow:** Hold on. I hear what you are saying now, but I have never heard it before. Unionists were concerned about this, not nationalists.

3220. **The Chairman (Mr Wells):** Naomi, Mr McGuigan, and Alex will speak next, after which the proposal, as amended, will be put. We will not get into this issue too deeply. I suspect that we will not reach consensus, but we must get the issue out of the way.

3221. **Mr Poots:** Can we go back to the original proposals? We were asked to suggest a composite proposal, and there were original proposals. Given the problem of gambling, and the desperate situations in which people find themselves as a result, why is there no support for a non-lottery fund for those who have serious gambling problems?

3222. **The Chairman (Mr Wells):** If the composite proposal is agreed, the other

proposals fall. If the composite proposal fails, I will ask the proposers of the original proposals whether they still wish their proposals to go to a vote. The original proposals have not gone away.

3223. **Mrs Long:** The clarification that our party sought last week specifically concerned the headings and how they related to preparation for Government. That was the context in which we addressed the matter. We did not say last week that it was simply about unionist areas. I certainly contend that many members of society feel alienated from politics and from the society in which they live and have a lack of confidence in the political process. That goes much wider than the unionist community.

3224. I want us to recognise that alienation, deprivation, disadvantage and lack of confidence exist in our community. It is important to do so. When I referred to both real and perceived situations, it was in no way to diminish the reality. Rather, it was to state that perception of disadvantage, deprivation and alienation can be just as strong a barrier to progress as the reality. I used the word “perception” in addition to “reality” to illustrate that, even where it is only a perception, the situation still needs to be addressed.

3225. I would have liked us to recognise that such situations exist, and to agree that we could address those needs, perceptions and realities through evidence-based approaches to deal with need. I cannot see how that disadvantages any individual. However, I can see how focusing on a particular community will disadvantage other individuals. My proposal was not designed to diminish the reality and perception within the unionist community, but to ensure that anyone who feels alienated, deprived, disadvantaged or has a lack of confidence in our society is assured that those issues will be dealt with on the basis of evidence and need.

3226. **The Chairman (Mr Wells):** Mr McGuigan.

3227. **Mr McGuigan:** First, Mr Chairman, I allow you to call me Philip, if you so wish.

3228. Secondly, we were not involved in the consultation during lunch. I am confused as to

which proposal I am speaking to, so I will address Mr McCausland's proposal. Sinn Féin does not believe that lack of confidence, if it exists, is an obstacle to progress. Conversely, the lack of progress has resulted in a lack of confidence. It is for that reason, and because it suggests specific measures for one community over another, that we will not be supporting Mr McCausland's proposal.

3229. **Mr Attwood:** To respond to Alan's point, the agenda item is headed "Confidence building", and the unionist parties will bring flavour to that. However, building confidence is a global agenda item and is not dedicated or relevant to the unionist community alone. As I said towards the end of the morning session, we could all have done what the DUP did today, but we chose not to in order to try to progress the work of this Committee and to reach some conclusions.

3230. There is a view around the table that some DUP proposals are so specific that they go beyond what is balanced and reasonable for the development of today's discussion.

3231. Although there are areas of real unionist need and perceived unionist need, it is not fair for Alan to say that we have to be prescriptive and sign up to the particular proposal suggested. At least four of the parties should work towards some sort of agreed proposal because there might be an agreed proposal that is different from—

*1.00 pm*

3232. **Lord Morrow:** We have heard that a lot over the past few years.

3233. **Mr Attwood:** It is to highlight the fact that there has been a sense of sectional interest rather than a broader interest around the table this morning. It is a pity that at least four of the parties cannot unite around a proposal with a broader interest that identifies unionist unmet need rather than on a proposal that appears to the SDLP and others to be sectional and deals only with perceived areas of unionist unmet need.

3234. **The Chairman (Mr Wells):** We will move on to the proposals and amendments. Mr McGimpsey's proposal is the first to be

considered. Do you wish to make your proposal formally?

3235. **Mr McGimpsey:** I do.

3236. **The Chairman (Mr Wells):** The proposal is that disadvantage within communities seriously undermines confidence in the political process within those communities and that this is particularly apparent in the unionist community. Do we have consensus?

*Members indicated dissent.*

3237. **Mr A Maginness:** Will Mr McGimpsey leave out the last part of his proposal?

3238. **The Chairman (Mr Wells):** Is that a suggestion to drop the reference to the unionist community?

3239. **Mr A Maginness:** Yes.

3240. **Mr McFarland:** I am sorry that people cannot refresh their memories by reading Hansard. We had a month and a half of discussions at which parties raised issues that troubled them and which they believed needed to be sorted out. Those issues were divided up into Monday, Wednesday and Friday meetings. I am sorry that the issue of confidence building was morphed into this wording. The original issue was raised by the UUP and the DUP — it was not raised by nationalism, and you can read Hansard and check that out. It related directly to a perceived lack of confidence within the unionist community.

3241. We have now moved into a social discussion about disadvantaged communities, which is important, but it is not why the topic was on the agenda originally.

3242. **Mrs Long:** I accept the reasons that the topic was put on the agenda. Nothing that I have said, or the removal of the last part of Michael's proposal, would diminish the reality. It would simply ensure that all need and disadvantage was dealt with on the basis of evidence of need and not sectional interest. That is the crux of the matter. It is not to deny that those issues exist within unionism; it is simply to say that they should be addressed on the basis of objective need. At the moment, it may be a problem for unionism, but at other times, it might be a

problem for someone else, and agreeing the proposal could create feelings of alienation in others. Why should we be sectional in our approach? Why not look for a whole-community solution to a problem, which is not simply one for unionism? The lack of confidence within unionism being a barrier to political progress is also my problem, whether or not I am a unionist.

3243. **Mr McFarland:** We were trying to identify issues that are major problems to setting up Government, and unionist confidence, in terms of the DUP and the UUP's going into Government with Sinn Féin, is a major problem. It was identified as such in all the initial discussions. Naomi is right: we have moved on to a different issue. However, we were discussing unionist confidence, and it seems slightly daft to have a proposal that does not refer to a topic that was on the agenda only because it related directly to unionism.

3244. **Mr Ferguson:** Mr McFarland made the point that although Sinn Féin did not make this proposal, it could have made a similar proposal. Sinn Féin chose not to make such a proposal for the very reasons given by Alban and Naomi. Sinn Féin does not want to sectionalise or sectarianise the issue, which is why it focused on objective need. Naomi is right: if members push through the proposal, with the wording that they prefer, they will increase the danger of further sectarianising the issue.

3245. The bullying of the British Government into the Protestant task force and the subsequent allocation of £300 million caused great furore, and many nationalists perceived those actions as sectarianising certain poverty while ignoring their poverty. Sinn Féin rejected making a proposal such as this because it would only sectionalise and sectarianise poverty. Objective need, and addressing need wherever it exists, would be the best way forward, and that is how the Programme for Government operated under the previous Assembly.

3246. **The Chairman (Mr Wells):** It is clear that we will not reach consensus on this. Mr Maginness suggested dropping the reference to the unionist community in Mr McGimpsey's

proposal. Mr McGimpsey appears to be unhappy with that and, therefore, will not accept it. Mr Maginness can still make that proposal, but I suspect that it will not achieve consensus. Mr Maginness, do you want to make your proposal formally?

3247. **Mr A Maginness:** Yes. I make formally my amendment to Mr McGimpsey's proposal, which is to drop the reference to the unionist community.

3248. **The Chairman (Mr Wells):** Is there consensus?

*Members indicated dissent.*

3249. **The Chairman (Mr Wells):** In the absence of any other attempt at a composite proposal, we move to the individual proposals. I will start with what I perceive to be the least contentious, and I will work towards what I perceive to be an interesting proposal from Ms Lewsley.

3250. **Lord Morrow:** The nuclear option.

3251. **The Chairman (Mr Wells):** Yes.

3252. Mr McCausland's proposal is aimed at those groups whose principles do not enable them to claim National Lottery money. Is there consensus?

3253. **Mr Ferguson:** No. I am not happy to agree this proposal without having seen the evidence base for it and its potential implications. For that very reason, I would not want to agree to something that could impact adversely on anyone. Even in council, we seek equality impact assessments for most of these types of proposal. Therefore, I would be —

3254. **Mr McGimpsey:** On a point of information, Mr Chairman. This issue arose during the Golden Jubilee celebrations. I was the Minister responsible for the Golden Jubilee grant awards and I created a non-Lottery grant scheme. The scheme allocated substantial funds and it was supported not only by the UUP and the SDLP but by Sinn Féin. All parties in the Assembly agreed to the concept. Therefore, the precedent is there.



3255. **The Chairman (Mr Wells):** Yes, but that grant scheme was for the Golden Jubilee specifically; it did not extend further.

3256. **Mr McGimpsey:** The argument is about the principle: could there be non-Lottery funding? That principle has been conceded in the Assembly.

3257. **Mr Poots:** I will explain this for those who live in caves and do not realise what is going on in the country. Many churches, for example, have not been able to benefit from the Heritage Lottery Fund. The fund distributes millions of pounds that help to retain much of Northern Ireland's architectural heritage, but many churches are not prepared to accept that money because they have specific issues with gambling, the problems that arise from it, and the lives that have been destroyed as a result of it. It is as simple as that. Some groups have serious issues with gambling and see the National Lottery as the first step to the problems that gambling causes.

3258. **Lord Morrow:** There is something fundamentally wrong with a society that cannot protect the consciences of people, which is all that this proposal is trying to do.

3259. **The Chairman (Mr Wells):** The only reason that I am allowing this issue to be debated is because it had not been addressed during the main discussion. Let us focus and not get bogged down on this particular issue.

3260. Does that reassure the Sinn Féin representatives?

3261. **Mr Ferguson:** I want to comment anyway. Mr Poots is well aware of my position on gambling. In Lisburn City Council I have put forward motions — for which I sought his support but could not get it — opposing the introduction of gambling facilities in my constituency. He is only too aware of how vociferous I have been on this issue. I welcome the clarification; it does reassure us.

3262. **The Chairman (Mr Wells):** So it looks as though we will reach consensus?

3263. **Mr A Maginness:** We see no problem with this. The only rider that I would add is that

if we are trying to identify obstacles and impediments to restoration, I cannot see this issue being an obstacle or an impediment. Certainly, in the course of any restoration, such a scheme should be addressed and reintroduced.

3264. **Mr McCausland:** Would it not be agreeable that, by creating an enabling environment, we might be able to look forward to such things?

3265. **Mr A Maginness:** We are not objecting to it. We are simply pointing out that it does not appear to be a significant issue.

3266. **Dr Birnie:** In response to Michael's query, a consultancy report was prepared for the Department for Social Development, which produced evidence of the problem to which Edwin referred.

3267. **The Chairman (Mr Wells):** Do we have consensus on the proposal?

*Members indicated assent.*

3268. **Mr Ferguson:** Would you like to strike the comment about the caves? I have to say that it was rather offensive.

3269. **The Chairman (Mr Wells):** We now come to the issue of passports. Some individuals say that no evidence was produced. Mr McCausland, perhaps you would explain the modalities of what you are trying to do so that people understand the problem.

3270. **Mr McCausland:** If people are wondering whether there is concern about this matter, they need only look at the letters page of 'The Irish Times' to see that it has been raised by a number of correspondents. There is no doubt that it is a genuine issue.

3271. We propose that British passports should be available for those born in the Republic of Ireland since 1941. Currently, they are available only if people apply for British citizenship, whereas Irish passports are available automatically and at no extra cost for those in Northern Ireland who view themselves as Irish. It is an equality issue.

3272. **The Chairman (Mr Wells):** Is that since or before 1941, Nelson?

3273. **Mr McCausland:** Since 1941.

3274. **The Chairman (Mr Wells):** Is that sufficient explanation for members?

3275. **Mr McFarland:** Is it 1949 or 1941?

3276. **Mr McCausland:** Since 1941.

3277. **Mr McFarland:** The Republic of Ireland Act came into force in 1949. Is there something else that brings this back to 1941?

3278. **Mr McCausland:** It is my typing, or someone else's typing.

3279. **Ms Lewsley:** It is all coming out now.

3280. **Mr McCausland:** I did not have my glasses yesterday; I could not see anything.

3281. **Mr McFarland:** The Republic of Ireland seceded from the Commonwealth in 1949.

3282. **The Chairman (Mr Wells):** Are members happy with the explanation?

3283. **Mr Attwood:** It is not for me to argue the DUP point, but it does smell of interference in the affairs of another country. Given that, I think that the height of what could be agreed is that the Committee could request that the Irish Government consider the matter.

3284. **The Chairman (Mr Wells):** Are you happy enough to amend the proposal?

3285. **Mr McCausland:** No, it concerns British passports.

3286. **Lord Morrow:** It is a matter for the UK Government, Chairman. It has nothing to do with the Dublin Government.

3287. **Mr Attwood:** This is an inter-jurisdictional matter. I do not think that the British Government would act unilaterally. That is not the nature of the relationship or of the issue.

3288. **Lord Morrow:** That is a way of saying no.

3289. **Mr Attwood:** The matter should be referred to the British and Irish Governments, given that it is clearly —

3290. **Mr McCausland:** It would be referred to the British Government, and they would presumably want to speak to others about the issue.

3291. **Mr Attwood:** You are talking about people who live in the South, so some acknowledgement must be given to the Irish Government's role in this. The British Government may well say that they cannot accept —

3292. **The Chairman (Mr Wells):** I cannot see this being a major obstacle on 24 November.

3293. **Mr McFarland:** We could support it in principle without identifying who should deal with it.

3294. **The Chairman (Mr Wells):** Does that have consensus?

3295. **Mr McGuigan:** The specific requirements and needs of the people in the North — or the Six Counties — were made clear in the Good Friday Agreement, and they are different from those who live in the South. What came out of the Good Friday Agreement was necessary in relation to British and Irish citizenship for people in the South. On that basis Sinn Féin does not support the proposal.

*1.15 pm*

3296. **Mr Attwood:** That is why this matter should be referred to the two Governments for their consideration. If there were a demand or a perceived need, the Irish Government might look at the matter positively, especially in view of the new relationships and the new political environment that have existed since 1984 or 1985. I am surprised by Sinn Féin's approach, because the nature of relationships was reworked with the Good Friday Agreement, as was the issue of identity, to some degree. Therefore that matter must be considered — not that one would want to be prescriptive about the outcome. There are people on this island who think that it is a matter that requires consideration. Should we not address their needs as well? I am surprised at the attitude of Sinn Féin. Can we agree that this matter should be referred to the appropriate Governments for their consideration?

3297. **The Chairman (Mr Wells):** Would that gain consensus? Are members content that the matter be considered by the two Governments?

3298. **Mr McGuigan:** I made my comments based on the proposal before me. Sinn Féin is

content for the two Governments to have consultations, but it is not a major impediment to the restoration of the Executive and is not an issue in which the Executive or the Assembly should become engaged.

3299. **Mr McCausland:** I will not be pedantic about the terminology. It is the principle that is important.

3300. **The Chairman (Mr Wells):** Do we have consensus that the two Governments consider this issue?

*Members indicated assent.*

3301. **The Chairman (Mr Wells):** The next DUP proposal concerns a fund for the border community: that the Preparation for Government Committee recognises the unique problems faced by some local communities along the border, which have suffered from a campaign of ethnic cleansing, and supports the development of a border fund to support those communities.

3302. **Mr Attwood:** What is the proposal?

3303. **The Chairman (Mr Wells):** The Preparation for Government Committee recognises the unique problems faced by some local communities along the border, which have suffered from a campaign of ethnic cleansing, and supports the development of a border fund to support those communities.

3304. **Mr McGuigan:** The DUP is making deliberately provocative proposals that its members know have no chance of success. A number of important issues have been discussed today, and with some work and agreement we could proceed on them. However, this DUP proposal is deliberately provocative and has no chance of achieving consent.

3305. **Lord Morrow:** He is not listening to what is being said; he is looking at who is saying it.

3306. **Mr McGuigan:** That is not correct. I am looking at the use of such terms as “ethnic cleansing”, which are clearly —

3307. **Mr Poots:** In County Fermanagh, in particular, many people were driven from their properties. The men of the households were shot dead, and, consequently, many people had

to abandon properties and family farms that had been in their names for generations. Many of those people would like to return.

3308. **Mr McGuigan:** Should the people of Ahoghill — an area that was ethnically cleansed last year — get special funding?

3309. **Mr Poots:** I would expect the same courtesy to apply to everyone. Is there not an onus on us to allow those people who were driven from their homes at the hands of gunmen and terrorists to return to their property, and to help to facilitate their doing so?

3310. **Mr McGuigan:** An unfortunate aspect of being an elected representative in North Antrim is that every week I encounter people who have been forced out of their homes. In the past week, there have been petrol-bomb attacks in Ballymena, and, last year, we suffered a horrific campaign of ethnic cleansing. We are happy to address those issues on the sensible foundation of addressing need where it exists without provocative language from the DUP.

3311. **Mr Poots:** What is provocative about it?

3312. **Mr McFarland:** We will not reach agreement on this proposal.

3313. **The Chairman (Mr Wells):** Is there consensus on Mr McCausland’s proposal? I have not heard any comments.

3314. **Mr Attwood:** It may be better to say that the Committee requests consideration of targeting resources at border communities to maintain border life.

3315. **The Chairman (Mr Wells):** That is your amendment, which we will come to next, but do we have consensus on Mr McCausland’s proposal?

*Members indicated dissent.*

3316. **The Chairman (Mr Wells):** We will move to Mr Attwood’s amendment to Mr McCausland’s proposal: that consideration be given for resources to be targeted to sustain border communities and enhance cross-border initiatives —

3317. **Mr Attwood:** Enhanced initiatives where there are cross-border projects.

3318. **The Chairman (Mr Wells):** Do we have consensus?

*Members indicated dissent.*

3319. **The Chairman (Mr Wells):** We will not get progress on that issue.

3320. The next proposal concerns universities. Several members said that they would oppose it. Have those members changed their minds?

3321. **Lord Morrow:** What is the proposal?

3322. **The Chairman (Mr Wells):** The proposal is that there should be work in universities to eliminate the chill factor for those from a unionist background. Do we have consensus?

*Members indicated dissent.*

3323. **The Chairman (Mr Wells):** There is one issue remaining. Nelson, was your suggestion on youth provision a proposal?

3324. **Mr McCausland:** No, it was tied in with the issue about the voluntary and community sector. It was highlighting the fact that there is a fundamental issue with alienation, and we have got nowhere with that.

3325. **The Chairman (Mr Wells):** That gets rid of all the proposals, except the elephant in the room — I am sorry, that is a scurrilous remark.

3326. **Ms Lewsley:** I could leave this Committee damaged from all the references that have been made about me.

3327. **The Chairman (Mr Wells):** That proposal does not sit neatly with the discussions that we have had up until now.

3328. **Lord Morrow:** Is it in order?

3329. **The Chairman (Mr Wells):** It is in order: the Committee calls for the full restoration of the Assembly and its institutions, for Sinn Féin to support the rule of law and policing structures, and for the DUP to sign up to the institutions.

3330. **Mr McFarland:** When the full Committee is reorganised, after the Monday, Wednesday and Friday teams have met, that proposal may come forward.

3331. **The Chairman (Mr Wells):** That will not happen, Alan. Each strand will agree its own report.

3332. **Mr McFarland:** Members have been standing in for colleagues, but the original members of the Committee will be required to sign off the report that is produced from the Monday, Wednesday and Friday teams.

3333. **The Chairman (Mr Wells):** The deputies have the authority to sign it off.

3334. **Mrs Long:** This is the main Preparation for Government Committee. It meets to discuss issues of equality, rights, safeguards and victims. It is not a subcommittee. There was only one subgroup, and that was the Subgroup on the Economic Challenges Facing Northern Ireland. Therefore this does not come back anywhere for ratification.

3335. **Mr McFarland:** My point is that there is a subgroup report and there will be one report from the Preparation for Government Committee.

3336. **The Chairman (Mr Wells):** There will be three separate reports from the Committee; I have seen the drafts.

3337. **Mr McFarland:** Is that what was agreed?

3338. **The Chairman (Mr Wells):** Yes. That is the only way in which it could be done. I will ask Patricia to come in because I am intrigued by the proposal. I am reminded of a famous Act of Parliament on shipping under King Henry VIII, the last line of which was: “I hereby divorce my fourth wife.” The proposal seems to have been dropped in completely out of context, and I want to know what the rationale is.

3339. **Ms Lewsley:** We are talking about confidence building on both sides of the community, and much of the lack of confidence comes from some of the parties around this table. That is why the proposal deals with restoration. That is what people want to see: the restoration of the Assembly and its institutions. However, there are problems: Sinn Féin has not signed up to policing and the rule of law; and the DUP is not prepared to work the institutions and the agreement.

3340. **Mr Ferguson:** I am happy to amend that, if the SDLP is prepared to withdraw its remarks on policing. It knows our position well. We



would probably have achieved what we wanted on policing if the SDLP had not pulled out so quickly. If the SDLP is happy to withdraw the reference to policing, I am sure that the DUP will want to withdraw references to itself as well. The restoration of the institutions is an objective on which we could try to secure consensus.

3341. **The Chairman (Mr Wells):** Why was it introduced at this point in the discussions?

3342. **Ms Lewsley:** Because it is a confidence-building measure.

3343. **Lord Morrow:** It is not a confidence-building measure. The role of the Preparation for Government Committee is purely to scope the issues; it is not to bring about the restoration of devolution. It is purely to identify the issues that are holding back the restoration of the Assembly. This proposal is to bring back the Assembly, and that is contrary to everything that we are discussing here.

3344. **The Chairman (Mr Wells):** I will go round the parties.

3345. **Mrs Long:** I do not believe that the proposal is out of context. It goes further than my opening statements that to restore confidence in the community as a whole we need an end to threats, intimidation and all paramilitary activity. I said that we needed a firm commitment from all parties around this table that they are building for government. We have not had that commitment; we have certainly not had a commitment on paramilitary activity. The proposal is not out of order, as it addresses the fact that much of the lack of confidence in our community does not just relate to either unionism or nationalism but to the vast swathe of people who have no confidence in the ability of their politicians to move the process forward. The way to address that is to show, in a concrete way, that we are committed to making progress.

3346. **Lord Morrow:** With all due respect, Naomi, that is a different issue. If people do not have confidence in us, they can remove us at the next election.

3347. **Mrs Long:** As it applies to Northern Ireland, progress includes building confidence

in the political process and its ability to deliver for the community.

3348. **Mr McFarland:** It is like motherhood and apple pie. However, there are a great many ifs: if the conditions are right, if we have identified all the issues, if the negotiations in October succeed and if Sinn Féin supports policing. We have spent weeks discussing what might or might not happen in future. It is a wonderful aspiration with which one could not argue.

3349. **Ms Lewsley:** It is a basic principle to which people could sign up.

3350. **The Chairman (Mr Wells):** It would get good press coverage if it got through.

3351. **Lord Morrow:** Now you are touching on the issue.

3352. **Mr A Maginness:** It is not apple pie and it is not aspirational. It is very precise in what it proposes: that Sinn Féin signs up to policing is the first part of the proposal. All of us here, save for Sinn Féin, of course, see that as a serious obstacle to restoration. It is an impediment to restoration.

3353. Hypothetically, if Sinn Féin were to say that it would sign up to policing and that it would do so today or tomorrow, a major obstacle to restoration would be removed in one stroke. How other parties would respond to that is a matter for them. However, if Sinn Féin were to sign up to policing, as people have been demanding, it would transform the political situation.

3354. Equally, the DUP's refusal to give a commitment to work the institutions remains an obstacle to restoration. Most people — particularly the nationalist electorate — see the DUP as unwilling to work the institutions. However, if the DUP were to say that it was prepared to work the institutions, that obstacle to restoration would be removed. If the DUP committed itself today, and said that it would work the institutions under the agreement, the Committee would make political progress. Therefore, it is not an aspirational proposal; it is precise and would transform the political situation if it were passed.

1.30 pm

3355. **The Chairman (Mr Wells):** I will take contributions from Mr McGuigan and Mr Poots, and then the Committee will vote on the proposal.

3356. **Mr McGuigan:** With regard to the second part of the proposal, I understood that the PFG Committee is considering policing and justice in a separate format, and I presume that that version of the Committee will produce a report. Policing and justice should be left with that version of the Committee. As Michael Ferguson said, I am more than happy to outline Sinn Féin's position on policing: it is a very good position.

3357. **Mr A Maginness:** The Committee is discussing confidence-building measures. The SDLP has identified two confidence-building measures: Sinn Féin's signing up to policing, and the DUP's committing to work the institutions under the agreement. They are short-term, but they are confidence-building measures. Nobody in this room could deny that if the two parties made those commitments, it would be a confidence-building and -boosting measure that could transform the whole political situation.

3358. **The Chairman (Mr Wells):** Mr Poots.

3359. **Mr Poots:** Yes, thank you —

3360. **Mr McGuigan:** I was not finished.

3361. **Mr A Maginness:** It was an intervention.

3362. **The Chairman (Mr Wells):** I am sorry. I thought that Mr McGuigan had finished.

3363. **Mr McGuigan:** Another format of this Committee is dealing with policing and justice. However, Sinn Féin has a position on policing and would like to work through those issues to a successful resolution. That is the aim and objective of Sinn Féin. I agree with the first part of the proposal, regarding the political institutions. There was no reason or impediment for the institutions to be brought down in the first place, and the real lack of confidence exists because the institutions are not up and running.

3364. I listened to this morning's discussions about unionist areas. First and foremost, if the

politicians from the unionist communities want to act on behalf of their communities and want to address their very real needs, which, as in other communities, are caused by social deprivation, they should get the institutions up and running. After that, we can work to address the lack of confidence that exists across the communities.

3365. **Mr Poots:** This amendment may deal with the issues that Alban raised: that the PFG Committee calls for all-party support for policing and justice, and for all parties to work fully with relevant authorities to end criminality and establish accountable, democratic structures inclusive of those committed to exclusively democratic and peaceful means.

3366. **The Chairman (Mr Wells):** Let us go through the formalities. Do we have consensus on Ms Lewsley's original motion?

*Members indicated dissent.*

3367. **The Chairman (Mr Wells):** Is there an amendment to Mr Poots's proposal in your name, Mr Ferguson? I was not sure whether it was meant to be moved.

3368. **Mr Ferguson:** It is no more likely to go through than Ms Lewsley's proposal.

3369. **The Chairman (Mr Wells):** Mr Ferguson's amendment was to delete references to Sinn Féin, the rule of law and policing structures. That would leave the proposal as follows: that this Committee calls for the restoration of the Assembly and institutions and calls for the DUP to sign up to the institutions.

3370. **Lord Morrow:** Did he put the DUP bit in?

3371. **Mr Ferguson:** We can take that bit out.

3372. **Mr McFarland:** There is not going to be much left. *[Laughter.]*

3373. **The Chairman (Mr Wells):** What is left is: that this Committee calls for the full restoration of the Assembly and its institutions. Is there consensus?

*Members indicated dissent.*

3374. **The Chairman (Mr Wells):** We are then left with an amendment by Mr Poots, which, I perceive, may not achieve consensus.

3375. **Ms Lewsley:** Will the member read it out again, please?

3376. **Mr Poots:** That this Committee calls for all-party support for policing and justice, and for all parties to work fully with relevant authorities to end criminality and establish accountable democratic structures inclusive of those committed to exclusively democratic and peaceful means.

3377. **The Chairman (Mr Wells):** Does everyone understand that? Is there consensus?

*Members indicated dissent.*

3378. **The Chairman (Mr Wells):** I heard a definite “No” from my left.

3379. **Lord Morrow:** Is it the SDLP?

3380. **The Chairman (Mr Wells):** Members know the rules. There is no consensus. Someone talked about four parties reaching agreement. That is academic, because there is still not consensus.

3381. That brings us to the end of discussion on confidence-building measures. We now move on to culture, which includes the cultures of nationalists, unionists and the ethnic minorities. As usual, each party is allowed to give a five-minute presentation on the issue. I assume that all parties will deal with all three groups together, rather than take five minutes on each. Even though Sinn Féin has covered the issue partially in its earlier submission, it will be given an opportunity to speak.

3382. **Mrs Long:** I will not need five minutes. Many issues impinging on culture have been dealt with in other strands, so I just want to give an overview.

3383. Northern Ireland is changing. Our society is increasingly diverse and multicultural and, as we look today at dealing with our culture, we need to take account of that changing society and increasing diversity. The discussion will impinge on the balance between equality and rights. For example, we will also explore some issues around parading that we previously discussed.

3384. There is no reason why culture should be divisive. Celebration of culture in a positive and

stable political context should be an enriching experience for all — both those who share the culture and those who do not. However, we do not have that political or social stability.

3385. In Northern Ireland, culture has often been celebrated, used and abused in an aggressive and confrontational manner. Indeed, aggression has often been dressed up and rebranded as culture. Politicisation of flags and emblems and their use as territorial markers is an example of that; another is politicisation of language and the context and demeanour of parades and protests. It is not that those individual items and issues are invalid or do not have cultural merit; rather it is that they are often abused in our society and used as cultural weapons against others who disagree.

3386. Issues around culture and confidence will not be fully addressed amid the continuing structural division in Northern Ireland — that will only happen when we work hard towards, and reach a point of having, some collective view of society, regardless of national aspirations and identities. At that point we will have a genuine and cross-cutting adherence to the notion that we have a single society and that we have to share space. In the context of cultural celebration, we will allow others to experience and express their culture, and we will have to experience and express culture in a way that is not aggressive.

3387. This will only be fully addressed when issues around a shared future are fully addressed — that will be the crux of dealing with what has almost become cultural warfare.

3388. **Mr McCausland:** As was said this morning, culture lies at the heart of creating a cohesive society. That has to be seen in the context of ‘A Shared Future’ and its vision of equity, diversity and interdependence — principles particularly appropriate when we examine cultural diversity, which is part of the cultural wealth of Northern Ireland.

3389. I wish to begin by drawing attention to some aspects of Irish nationalist culture. Irish nationalism, whether in the form of nationalism or republicanism, is essentially cultural nationalism. The Irish cultural movement has

always been essentially nationalist. When the Gaelic Athletic Association was founded in 1884, it was on the initiative of the Irish Republican Brotherhood, and it still remains the situation that trophies, grounds and clubs are named after Irish republican heroes, past and present. The constitution of the organisation also affirms its support for a united Ireland. That is an issue that needs to be addressed, and the DUP proposes that work be undertaken in collaboration with the Sports Council and the Community Relations Council towards that end.

3390. The Gaelic League was founded in 1893. In 1914, Patrick Pearse said that it:

*“will be recognised in history as the most revolutionary influence that has ever come into Ireland ... The Irish revolution really began when the seven proto-Gaelic Leaguers met in O’Connell Street.”*

3391. Someone asked why language is divisive — people have been killed because of the Irish language. That drew me to the comments made by Sinn Féin at the point when it took the Irish language to the fore in 1982, after the hunger strikes. At one of its conferences, the Sinn Féin cultural officer said:

*“I don’t think we can exist as a separate people without our language ... every phrase you learn is a bullet in the freedom struggle.”*

3392. Another speaker that day said:

*“The armed struggle is the highest point of the cultural revival”.*

3393. The gun and the Gaelic language were, in his mind, closely linked.

3394. The statements appeared in a Sinn Féin publication, ‘Learning Irish’, which also stated:

*“Everyone was agreed that there was a definite link between the National Struggle and the Cultural Revival”.*

3395. Today, most republicans are more sophisticated and subtle in their approach, but they remain intolerant of cultural traditions that are not Irish and Gaelic. They continue to seek preferential treatment for Irish and Gaelic culture. Their concept of culture has been an assimilative one based on the concept of one

island, one nation and one culture. One of the gurus of the Irish Ireland movement, D P Moran, said:

*“The foundation of Ireland is the Gael and the Gael must be the element that absorbs.”*

3396. In other words — and it is still the view of most republicans — they see everything being absorbed into a Gaelic Ireland identity.

3397. On the other hand, the DUP believes in the ‘A Shared Future’ concept, which promotes equity, diversity and interdependence. Those principles are appropriate for culture. Diversity recognises the right of individuals and communities to determine their own cultural traditions and identity, whether they be Irish, Ulster Scots, orange or whatever. Equity relates to recognition, respect, resources and representation. Interdependence encourages shared learning and co-operation. However, that can only be taken forward on the basis of equity.

3398. The Government approach over the years to cultural diversity in Northern Ireland has been extremely flawed. For many years it was based on a “two traditions” model that was equally flawed, and did not recognise the plurality that there is in Northern Ireland. In 1987, the Central Community Relations Unit (CCRU) was set up to undertake a Government programme for cultural diversity, and resulted in a briefing paper, drawn up in 1997 by the head of the unit, Tony Canavan. I shall table a copy of the paper. In a Government briefing for the Minister — undated, though it was obviously written towards the end of 1997 — can be found what led to the content of the Belfast Agreement. It is clear upon reading the document that most of the strands of the cultural element of the Belfast Agreement came from it.

3399. The irony is that, on one hand, Tony Canavan was saying to the Minister — who, I assume, at that time was Tony Worthington — that there was a problem with Irish, in that it had been politicised and needed to be depoliticised. I would certainly commend that. He then went on to say that he wondered whether the Government should do things at the beginning or the end — would Sinn Féin take it better if they got sweeteners at the beginning, or should the



Government wait until the end to do nice things for them? In other words, should we use culture for political ends — as the Government was saying — or depoliticise it? There is an inherent inconsistency in the Government's position.

*1.45 pm*

3400. The Government then said that there was another problem — Ulster Scots had emerged and they needed to find a way of dealing with that. They proposed a number of measures, which eventually found their way into the Belfast Agreement. All were based on the presumption that Ulster Scots would be played down and marginalised while the Irish language was mainstreamed. That is unacceptable because it gives preferential treatment to one language and one cultural tradition.

3401. Cultural rights should be respected. The Council of Europe Charter for Regional or Minority Languages, the Framework Convention for the Protection of National Minorities and the United Nations Convention on the Rights of the Child all contain significant cultural provisions. Unfortunately, for many people in Northern Ireland, the requirements — particularly those with regard to the Convention on the Rights of the Child — are not being implemented. That is something I will return to.

3402. As regards the European Charter, the Government are committed to taking proactive measures to promote the Ulster-Scots language in the same way as they are committed to taking proactive measures to promote the Irish language. The distinction is that Ulster Scots has Part II status under the charter while the Irish language has Part III status. However, Part II status is not to be seen as a hindrance — rather, it is a stepping-stone to Part III status, and there should be a positive programme of action by Government to take it forward on that basis.

3403. I move on to the overall treatment of language in several areas and the associated and attendant cultures. First, there is the cross-border language body, which has two strands — Foras na Gaeilge and the Ulster-Scots Agency. The distinction is that for every £1 that goes to the Ulster-Scots Agency to cover language and

culture, £7 goes to the Irish language body. That is unacceptable.

3404. Mr Chairman, do I have 15 minutes for the three elements?

3405. **The Chairman (Mr Wells):** Technically.

3406. **Mr McCausland:** That was my assumption, because there are three points.

3407. **The Chairman (Mr Wells):** They are sub-headings. I will allow some latitude because you did not use your full allocation previously, but 15 minutes would be pushing your luck.

3408. **Mr McCausland:** My assumption was based on last week's meeting, at which five minutes were allowed for each point.

3409. **The Chairman (Mr Wells):** Clever folk ensure that their subsequent interventions last five minutes and they get their points in anyway.

3410. **Mr McCausland:** It is to give some coherence.

3411. **The Chairman (Mr Wells):** How much more do you have, Nelson?

3412. **Mr McCausland:** Festival funding, which is a very contentious issue; education; and cultural tourism.

3413. **The Chairman (Mr Wells):** I will have to ask members for their views on this.

3414. **Mr McCausland:** I started on the assumption —

3415. **The Chairman (Mr Wells):** I can see where the confusion arose, but if folk feel disadvantaged by this —

3416. **Mr McFarland:** The position is that we have had two minutes from each party and we can take an hour if we want to discuss our own areas. That is how we have traditionally operated.

3417. **Mr McCausland:** Presentations like that will lack coherence — points are linked to each other.

3418. **Mrs Long:** I suggest that, within reason, we allow Mr McCausland to finish his points. It is more important that people have the opportunity to express their points than to stick rigidly to time, given that it is only 1.50 pm.

3419. **Mr McCausland:** I will endeavour to be as quick as possible.

3420. **The Chairman (Mr Wells):** On this occasion I can see how the confusion has arisen, but from now on I will explain clearly what is meant by sub-headings.

3421. **Mr McCausland:** As regards culture in the classroom: we have a divided education system, with the controlled sector, the voluntary grammar sector, the Irish-medium sector, the integrated sector and the Roman Catholic maintained sector.

3422. Under the United Nations Convention on the Rights of the Child, all children are entitled to the same cultural rights. Articles 29, 30 and 31 of the convention make provision for children to be taught in school about the culture of the community they come from. That is a guaranteed international convention to which the United Kingdom Government are committed.

3423. It is clear that that happens in the Irish-medium sector, because that is its cultural ethos, and it is also true in the Roman Catholic maintained sector. In an interesting article in 'Daily Ireland', commentator Jude Collins said that nationalists should want to hold on to the Council for Catholic Maintained Schools (CCMS) because it helps children to have an Irish view of the world and to imbibe Irish culture.

3424. However, the one sector in which there is a weakness is the controlled sector, which has shied away from cultural identity. I argue strongly that we — and in particular the Department of Education — need to look at measures to tackle that problem. All children are entitled to the same rights. There should be guidance on cultural rights for distribution by the Department, and there should be resources to support the teaching of cultural traditions that are relevant to the child, including Ulster Scots. Appropriate elements should be incorporated into teacher training; in-service training; the training of school governors; inspection and monitoring; and information for parents and children about the rights of the child.

3425. If that were done, every child in the controlled sector, whether from an Irish

background, such as the pupils of Vere Foster in west Belfast, or from the Ulster-Scots or Chinese community, would be guaranteed its rights. It is an issue from which the Department of Education has thus far shied away. When the Department was asked to provide some funding for Ulster-Scots materials in schools, it refused to provide a single penny; however, it funds an entire Irish-medium sector. It was left to the Ulster-Scots Agency, which has only one seventh of the budget of the other body, to fund something that was the responsibility of the Department of Education.

3426. I would like to give two examples of the fundamental issue. The question of funding for community festivals has been about for some time. Festivals such as those in west Belfast, Ardoyne and New Lodge have been given major funding. In 2006-07, the west Belfast festival was given £244,000; the Ardoyne festival was given £40,500; and the New Lodge festival was given £38,400. In explaining that away, the head of the Department for Social Development said that the funding awards were in response to representations from Gerry Adams MP on behalf of the west Belfast festival and Gerry Kelly MLA on behalf of the Ardoyne and greater New Lodge festivals.

3427. This happened after the Government admitted that there had been a problem with funding differences in the past, and said that a scheme was to be set up to which everybody would apply equally and from which everybody would get a fair deal. What happened when that produced its results? It did not suit certain people. The head of the Department said that it did not matter about the scheme or about equality or fairness: the two Gerrys got their act together, asked for funding and got it. In 2003-04, the west Belfast festival got £393,000 — in addition to another £100,000 for the other two festivals. At the same time, not one penny came to a unionist community festival in Belfast. That inequality creates resentment and alienation in the unionist community, and that needs to be addressed.

3428. The Tourist Board has been extremely remiss in promoting cultural tourism; it has done very little to promote any cultural tourism

other than Irish cultural tourism. Northern Ireland's cultural tourism, festivals and education system need the equality, diversity and interdependence to which the Government are committed. However, the Government's discrimination in favour of nationalist festivals in Belfast is an example of the fundamental problem that needs to be addressed.

3429. **Mr Ferguson:** Earlier, I made the point that we had to adhere to the principles of full respect for and equality of civil, political, social and cultural rights and that all citizens needed parity of esteem and freedom from discrimination. There is a proposal to that effect before the Committee.

3430. I want to pick up on a couple of points that Nelson raised, because it is worrying that his comments seek to demonise the Irish culture in its entirety. As a consequence of our historical and social development, native Irish people have resisted colonialism, occupation and oppression, yet Nelson somehow thinks that it is OK to demonise everything that has come out of the country as a result. That is poor. It is almost like saying that native Americans or people living in occupied countries during the Second World War were wrong to resist occupation and that the occupier had a right to demonise them.

3431. We have made the point consistently that the only times when orange culture is not welcome are the few times a year when people do not want orange marches through their areas. The other aspects of orange culture are welcome, however, and we even encourage dialogue with local residents to reach an accommodation on marches. The implication of Nelson's comments is that he is demonising sports, dance, music and language, and that is very worrying. I do not ever remember the GAA taking thousands of kids off street corners at weekends and marching them, carrying hurley bats, through areas where they were not wanted. It is amazing that Nelson makes such implicit comparisons.

3432. Money is invested in festivals such as the Féile in West Belfast, at which one of Nelson's colleagues spoke last year and at which Michael

McGimpsey's brother, Chris, spoke this year. Nobody would dispute the fact that that festival promotes the social economy, the economy of the Gaeltacht quarter, tourism, and so on. The festival aids regeneration, which is something from which we can all benefit.

3433. Inclusivity is a fundamental aspect of the Irish culture. Naomi and others mentioned that Presbyterians supported and maintained Irish culture in the nineteenth century. We also know that orange marches through Catholic villages in the eighteenth century resulted in pogroms that left people dead. I am sure that Nelson would not support that now —

3434. **Mr McCausland:** On a point of information, Chairman. There was no Orange Order —

3435. **Mr Ferguson:** I will not give way at the moment.

3436. As I said, we need to promote the principles of inclusion and respect for all cultures. We will most definitely support the proposal, and I hope that Nelson will see his way to supporting our proposals.

3437. **Ms Lewsley:** The key culture and identity issues can be found in the requirements in the Good Friday Agreement for parity of esteem and for just and equal treatment for the identity, culture and aspirations of both communities. I hope that all parties can agree to that approach and create a partnership, thereby establishing the conditions for reconciliation, which includes the basic need for tolerance and respect for diversity. All parties should recognise that people have the right to identify themselves as — and to be accepted as — Irish, British, or both.

3438. We are concerned that the commitments in the agreement regarding the Irish language have not yet been fully realised. For example, TG4 is still not available throughout the North, despite endless commitments being made that it would be. Furthermore, not enough is being done to implement the European Charter for Regional or Minority Languages. We would like that to be developed through an Irish language Act.

3439. We also want more to be done to recognise other languages. In particular, I would like more

recognition to be given to sign language. I commend Michael McGimpsey's role in his time as Minister of Culture, Arts and Leisure. Through his Department, he at least recognised the issue and tried to deal with it.

3440. More must also be done to ensure that minority ethnic communities can access services, goods and facilities and that they are not excluded because of language difficulties. That is particularly important considering the recent cuts in the education budget for English as a foreign language. Children from minority ethnic communities are often the key communicators for their families when visiting the doctor or even a local shop. Language is certainly a large barrier for many such people.

*2.00 pm*

3441. We need to ensure that the North is a welcoming place for minority ethnic communities, which are growing significantly. That is why it is so important that we operate an inclusive equality agenda and extend the highest standards of equality protection to minority ethnic groups, using, as far as possible, the precedent of existing fair employment law.

3442. Finally, we need a more sensitive approach to symbols. Those on public property, such as lamp-posts, should not be used to mark out territory or to intimidate. Public property belongs to all of us and should not be used for those purposes. We need living spaces with parity of esteem. When agreement cannot be found on that issue, neutrality should be the default position. That is why the SDLP proposes to make it a crime to fly flags from public property, except where that is authorised, following cross-community agreement.

3443. **Mr McGimpsey:** I will start with the subject of ethnic minorities, which has not been discussed. We have seen a dramatic rise in the number of racist attacks over the past few years and a dramatic increase in the pressures and fears that ethnic communities live under in Northern Ireland. Those will continue to grow until we do something about the matter. At the very least, we need a proper cultural diversity strategy, properly budgeted and with widely agreed objectives, to deal with these issues.

3444. There is also a need to use education to tackle the problem and to go into the schools and into the communities to discuss the issues. We know about reported racist crime and about attacks on ethnic minorities. However, we never hear about the low-level crime and abuse that is not reported — for example, where people have “Chinky” shouted at them as they walk down the street. They routinely suffer that sort of low-level abuse. Much of that should be dealt with through education. There is no use in making lists of the number of crimes and attacks unless we try to identify some of the solutions. We could talk about a strategy to deal with this, but that would produce only high-blown principles. We need to get closer to local communities. Although some efforts have been made, they really need to be budgeted properly and to have clear objectives.

3445. As far as nationalist and unionist cultures are concerned, we have almost slipped into the shorthand of Ulster Scots for unionist and Irish for nationalist, and both those phrases are guilty by omission. When I was a Minister, I discovered that a significant proportion of unionists/Protestants do not regard themselves as Ulster Scots. Indeed, there was initially a resistance in that section to Ulster Scots. There was much public criticism from prominent writers and broadcasters within the broad unionist community. That still exists. You cannot equate Ulster Scots with all unionists or all Protestants in Northern Ireland — far from it.

3446. Ulster Scots has, however, an important role to play. The Ulster-Scots Agency was originally set up as a language body, but I took the view, as the Minister, that the culture was much bigger than the language. Ulster Scots had been ignored officially for generations, as Nelson said. Because the language was at a particular stage of development, there was a need to codify it and to write it down. That was one activity, but there was a broader cultural area for development, including cultural tourism. We took the view that the agency should promote not only the language but the whole culture and that it should not confine itself to the island of Ireland. It had to be much broader, not least because in Irish America there



are some 40 million Americans who consider themselves to be of Irish descent, of whom 56% are Scotch Irish or Ulster Scots.

3447. There was a huge diaspora that could be tapped into for a variety of issues, not least cultural tourism. In 2001, I took part in the first Ulster-Scots Day in Washington with John Laird. The Ulster-Scots Agency, which has had a number of hiccups along the way, has in recent times developed extremely well. In the early days we were beset by issues such as underspending and handing money back. That no longer happens, and a strong case can be made for increasing the budget and funding.

3448. It is a similar situation with the Irish language. Foras na Gaeilge took over the former Bord na Gaeilge, so it had a ready-made infrastructure and a budget of over £7 million. It expanded and, with the Ulster-Scots Agency, comes under the cross-border body An Foras Teanga or Tha Boord o Leid, the all-Ireland body for Ulster Scots and Irish. The Irish language has progressed.

3449. Irish and Ulster Scots are parts of a shared heritage for the people of Northern Ireland. There is much that both communities can gain from both languages; they are not exclusive. A draw a line cannot be drawn around Ulster Scots to state that it is only for Protestants and unionists. The same applies with the Irish language. There can be much cross-fertilisation and common identity, which surprised me. The Irish language continues to be strong and vibrant. It was codified generations ago, so it is at a much more advanced stage of development. Irish is dealt with in part III of the European Charter for Regional or Minority Languages, and Ulster Scots is dealt with in part II.

3450. For those people who say that Ulster Scots is only a dialect and not a language, the European charter states quite clearly that Ulster Scots is a language. Ulster Scots is developing rapidly, and that should be strongly encouraged. Funding of the sector must also increase to the levels reached under devolution. When we took over, funding to Ulster Scots was around £100,000, and we increased that 16-fold. There

were hiccups along the way when not all the money was spent, but the establishment of the infrastructure and the Ulster-Scots Agency brings huge potential for growth, which benefits everybody. There is a great potential for Ulster Scots and Scotch Irish in Irish America. If everyone from Irish America visited Northern Ireland just once, think of what that would do for tourism.

3451. **The Chairman (Mr Wells):** Culture covers many issues, some of which we have already debated. There is the issue of parades, which had a good airing some days ago and, to a lesser extent, integrated education, which we have also debated. When members make their comments, I ask them not to rerun those debates. That will achieve absolutely nothing.

3452. There are issues such as broadcasting, ethnic minorities, language and festival funding that are all entirely relevant and have not been addressed before by the Friday team. We have had the five presentations, and we are in the unusual situation of having a Minister's perspective. This is the only time that the Committee has heard from someone who was responsible for this aspect of Government. I suggest that we set aside an hour to debate the issue of culture.

3453. **Mr Poots:** That would let you away for 3.30 pm.

3454. **The Chairman (Mr Wells):** That is true. I have had a hint of a proposal from one group, and there is another proposal on its way, but so far there is nothing on the table.

3455. **Mrs Long:** I want two points to be clarified. Ms Lewsley made a tentative proposal about making it an offence to fly flags. Flying flags on lamp-posts that are public property is already an offence. Planning permission is required to put up anything on a lamp-post, and most displays do not have that permission and therefore breach trespass and planning laws.

3456. Party-political election posters are the only exception to the law that states that nothing should be attached to lamp-posts. To me, because such a law exists, the flags and emblems issue is not one of creating an offence; it is about how

the existing law is enforced. I would prefer that it was not an enforcement issue, but that there was some kind of recognition that attaching flags and posters to public property is inappropriate. However, in the absence of such recognition, it becomes an enforcement issue, rather than a need to create a new law. I would like some clarification on the proposal.

3457. Nelson referred to people's right to be educated in their cultures. It is important that people have that right, which they may or may not choose to exercise. However, Nelson went on to say how the Department of Education had refused to fund particular educational tools for Ulster Scots. We need to discuss prioritisation and what the Department can afford. Simply because a right has been acknowledged does not mean that funding will follow. For example, as there is no central library of material, it is often the case that blind or partially sighted children do not receive their textbooks in an appropriate format until months into their courses. Those people cannot communicate or be educated without those materials. Therefore, that need would be a higher priority than cultural education, and I suspect that the pressure on educational budgets may be the reason for the Department's withholding funding for Ulster Scots.

3458. It is not say that people should be denied their right to a cultural education. Of course, they should not be denied that right. However, there needs to be a mature discussion on how funding can match the acknowledgement of people's rights and how far the fulfilment of rights can go in the overall priorities in budgets. We must be realistic about these issues because it could be wrong to castigate a Department for not funding a particular issue. Patricia referred to subjects such as English as a second language and the problems that they have faced, whereby children cannot access education. If we were to try to prioritise those subjects, we may find that there are higher priorities. That may have been the simple calculation made by the Department of Education. Therefore, we need to be careful that we do not prejudge the Department's attitude based on its actions due to its budget constraints.

3459. **Ms Lewsley:** Naomi mentioned the proposal to make flying flags from public property a crime. I do not know whether I made this point, but Naomi was right to say that it is an enforcement issue. We go round the houses on this issue: the Department of the Environment blames the police, and the police blame someone else, and so on. It needs to be enshrined in legislation that a certain body or organisation will take control of the issue and move it forward.

3460. My first proposal is that the parties accept the principle of parity of esteem and just and equal treatment for the identity, culture and aspirations of all communities.

3461. **The Chairman (Mr Wells):** Patricia, will you repeat the proposal?

3462. **Ms Lewsley:** That the parties accept the principle of parity of esteem and just and equal treatment for the identity, culture and aspirations of all communities.

3463. **Mr McFarland:** That is in the agreement.

3464. **Mr McCausland:** What does "aspirations" mean in this regard? It could mean a million things. We have already used the word about 10 times today.

3465. **The Chairman (Mr Wells):** Will you read the last line again, Patricia?

3466. **Ms Lewsley:** In the agreement, it says "both communities", but because of multi-cultural diversity in Northern Ireland, it should be changed to "all communities".

3467. **Mr McCausland:** Are they political aspirations or cultural aspirations?

3468. **Ms Lewsley:** I am referring to cultural aspirations: cultural identity and equal treatment.

3469. **Mr McCausland:** If the context of the word "aspirations" was clarified and the word cultural was added, the proposal would be much clearer.

3470. **Ms Lewsley:** The proposal refers to the "identity, culture and aspirations".

3471. **Mr McCausland:** Cultural aspirations?

3472. **Ms Lewsley:** No, culture and aspirations.

3473. **Mr McCausland:** The difficulty is that the word “aspirations” makes the proposal vague and harder for parties to support.

3474. **Mr Poots:** Are both proposals being retained?

3475. **The Chairman (Mr Wells):** There is a proposal concerning the illegality of flying flags on public property.

2.15 pm

3476. **Ms Lewsley:** No, that was not a proposal for this Committee.

3477. I have two further proposals, the first of which is that the parties recognise the right of people to identify themselves and be accepted as British or Irish or both, as they so choose.

3478. **Mr McFarland:** Those matters are all contained in the Belfast Agreement and have been thrashed out by parties.

*[Inaudible due to mobile phone Interference.]*

3479. The flying of flags on buildings is fundamental to the constitutional question. It has been settled that Northern Ireland remains part of the United Kingdom until there is a vote to the contrary. However, attempts are consistently being made to dilute that position by suggesting the flying of two flags, or no flags, and by raising the question of neutrality. This Committee is starting to renegotiate the Belfast Agreement on such matters. We are here to identify the impediments to restoration. I do not mind members’ submitting proposals, provided they are likely to achieve some consensus. However, if we start to rewrite the Belfast Agreement, we will achieve no consensus.

3480. **Mr Poots:** We may not reach agreement, but if the SDLP wants to renegotiate the Belfast Agreement, the DUP is up for that.

3481. **The Chairman (Mr Wells):** Patricia, do you have a further proposal?

3482. **Ms Lewsley:** The SDLP’s second proposal is that the Committee agrees to recognise sign language along with other languages.

3483. **Mr McGuigan:** I need some clarification. I have no problem recognising sign language,

but it is probably not a matter for this Committee: it is an issue of equality rather than culture.

3484. **Mrs Long:** There are cultural issues relating to sign language. Members of the deaf community consider sign language to be a cultural expression as well as a means of communication.

3485. **Dr Birnie:** I have three points further to my colleague Michael’s comments on racism and race-related issues.

3486. Why are we talking about race issues in the Preparation for Government Committee? Someone from outside the Committee may ask whether they are direct impediments to devolution — although they are hugely important. Perhaps it has been hinted at in the past few minutes of discussion, but the answer is that there is a danger in emphasising the two-communities model of the problems in Northern Ireland over the past four decades and in the extent to which policies in the Belfast Agreement, or any future agreement, perhaps neglect people who do not wish to define themselves within the “two communities”.

3487. We should try to examine several myths relating to race and racism. On 10 January 2004, ‘The Guardian’ ran an article in which it was stated that Northern Ireland was:

*“fast becoming the race-hate capital of Europe.”*

3488. In a subsequent article on 26 June 2006, the same newspaper dropped that “fast becoming” qualification, thus implying that Northern Ireland is now the race-hate capital of Europe. It is worth checking whether that horrendous allegation is true. As my colleague Michael rightly said, there has been a huge increase in racially motivated incidents, particularly over the past five years. The most recent figures show that in 2005-06, the PSNI recorded 936 racially motivated incidents in Northern Ireland.

3489. The latest Home Office figure for racially motivated incidents for 2003-04 in England and Wales is 52,694. The figures may be unreliable, but they are the best and the most up to date that we have. However, the figures are significant.

The population here is 1.7 million, and there are roughly 53 million people in England and Wales; thus, the rate of attacks per head of population in Northern Ireland is “only” half that in England — although, clearly, any level of racist attack or abuse is unacceptable.

3490. **Mrs Long:** The allegation that Northern Ireland is the race-hate capital of Europe is not based on the rate of attack per head of general population, but attack per head of the ethnic minority population. The ethnic minority population is considerably lower in Northern Ireland than in England, but the rate of attack per head of that population is higher than anywhere in Europe.

3491. **Dr Birnie:** I thank Naomi for her intervention. Statistically speaking, she is entirely correct. However, it is simply a product of the fact that the ethnic minority population here is one third or one quarter of that in England — although that is perhaps open to some dispute. On the basis of the same statistics, a member of the traditional or settled population here — or whatever phrase you want to use — is much less likely to be the perpetrator of a racist attack. I do not mean to be complacent about the situation here, but that puts it into perspective.

3492. I want to mention briefly the obvious issue of how we respond to that level of racism. We could argue about how large the problem is, but there clearly is a problem, and it must be dealt with.

3493. The Government introduced ‘A Racial Equality Strategy for Northern Ireland’ in July 2005, which is to be rolled out over 10 years. The first annual implementation action plan was published in April. All parties in a future devolved Executive should check on the implementation of that strategy to ensure that it is on track. Various non-governmental organisations (NGOs), from the business sector and from those represented by, for example, the Concordia umbrella group, have suggested the adoption of an inter-agency approach to ensure the proper treatment and integration of the growing number of migrant workers in the workforce — the

numbers have increased by at least 16,000 in the past two years.

3494. Earlier this year, the Electoral Commission pointed out the very low voter registration rate of about 40% for the ethnic minorities here. Of the 40% who registered, perhaps only half voted. Increasing that participation is a challenge for all our parties, including my own. The UUP is attempting to rise to the challenge by translating policy statements on the party website into at least eight overseas languages. We have also lobbied on the “English as an additional language” issue, which was mentioned earlier.

3495. The increase in the temporary or migrant worker population has wider social and, ultimately, political significance in many areas, including housing. A policy area to which my party — like others — is committed involves houses in multiple occupation (HMOs) and housing stress. We support the move towards a cap on the maximum percentage of houses in an area that can, or should, be HMOs, although we wonder whether the current capped rate of 30% is too high.

3496. **Mr McCausland:** I will first turn to the issue of identity.

3497. My difficulty with the SDLP’s approach is that it misses the emphasis on the multi-layered nature of identity. The phrase “British, Irish, or both” was used. There may be people who wish to be British and Ulster Scots, or British and Irish, or whatever combination. Identity is multi-layered. We have a series of identities — cultural, national and regional — and people should be able to pick and choose. The Committee is dealing with cultural identity, and the DUP’s view is that all cultures should be treated on the basis of equity, diversity and interdependence. The Government are already committed to that, and society should be committed to it, in that people have signed up to a shared future.

3498. On the issue of education, and the cost of providing what I talked about: it is not so much a question of money as a question of commitment. The Department of Education should initiate a programme of work to ensure that the



cultural rights of children, as set out in the United Nations Convention on the Rights of the Child, are fulfilled. The inspectorate does not monitor that, and after 18 months of meetings with the Department of Education, the DUP is no further forward in getting any understanding on it.

3499. Simply producing guidance for schools, governors, teachers and colleges about what it means, the cost of which would be minimal — a few thousand pounds and a few postage stamps — would be a major step in that direction. In the context of the budget of the Department of Education, the level of funding required to produce an information pack would have been minuscule, but in the context of a cross-border body — the Ulster-Scots Agency, which at the time had a budget of only £1.7 million — it would have been a major amount of money. It is not a question of prioritising: there is no need to prioritise, as it is not a budgetary issue. It is an issue of commitment and awareness.

3500. I want to highlight another issue — a reserved matter — that illustrates the problems we face. In 2004-05, there were 5.47 hours of Irish-language broadcasting on television and nothing in Ulster Scots; on the radio, Ulster Scots got 6.7 hours at a cost of £28,490, and Irish got 260.58 hours at a cost of £240,000. There is an issue about the commitment of radio broadcasting. The DUP asked for a half-hour programme once a week on the radio, but even that could not be delivered.

3501. **Mr McCarthy:** Is Ulster Scots in a catch-up situation? Nobody knew about Ulster Scots for years, and as a result there was a lack of funding. When the Assembly wanted to employ someone as an Ulster-Scots interpreter, it could not find anyone. That may be moving forward, but it should be taken into consideration.

3502. **Mr McCausland:** Mr McCarthy's point is valid in that Ulster Scots is lagging behind, and people are trying to move forward fast on the issue. However, there must be a commitment to catch up. We should not be in a position where the spending ratio, which was £1 to £7 several years ago, is still £1 to £7. There should be a programme over a limited period — five, six, seven years or whatever — to move

towards equality. However, there must be a commitment and a timescale.

3503. I found it utterly intolerable that the Government set up a pilot scheme for festivals and set aside money, and then ran a coach and horses through it.

3504. I was amazed by Mr Ferguson's comments about the demonisation of the Irish language. The only people who demonise the Irish language are those who say that it is another bullet in the struggle for freedom. Those people demonise the language because they corrupt it and abuse it for political ends.

*2.30 pm*

3505. I propose that we ask the Department of Education to initiate a programme of work to ensure that the cultural rights of children, as set out in the UN Convention on the Rights of the Child, are implemented and monitored across all school sectors. The proposal does not make a distinction between children's cultural identities. They could be Chinese, Japanese, Ulster Scots or Irish. That is a matter that is determined in children's homes. I hope that that proposal is sufficiently inclusive to cater for the requirements of all parties.

3506. A proposal on flags was suggested earlier. We propose that, as part of the contribution to a shared future, the GAA be asked to work with the Sports Council and the Community Relations Council to ensure that Gaelic sport is depoliticised.

3507. **Mr McFarland:** Culture can be a confusing issue and one on which, as Dermot said, we in Northern Ireland are prone to navel-gazing. We do not have a good knowledge of our history. Republicans have a unique version of history. It has a go at the Brits and the English. It airbrushes unionists out of the equation as Irish people who have become a bit confused but who will eventually come round. It ignores history.

3508. For a long period of our history, the north and east of the island of Ireland formed part of the "Kingdom of the Isles". The kingdom also included Scotland and was ruled by Somerled, who was of Celtic and Norse descent. Ireland

could not be travelled easily because of its forests and bogs, so people moved around by sea. If a big ring were drawn around the north of the British Isles, it would encompass the kingdom of the isles.

3509. A series of events followed, culminating in the plantations. Several eminent families came across from Scotland. For example, the Adamsons, a famous family from the Scottish lowlands, came across, as did the Hume family and, indeed, the Fergusons. They were all lowland Scots. What has become of them? Some have become Irish republicans or prominent nationalists. That is confusing; that was not supposed to happen. Culture is supposed to be simple. I am afraid, however, that it is not.

3510. The Scots-Irish went to America, where they formed the backbone of the army that fought against the English in the War of Independence. That does not make sense: we are Ulster Scots — we do not fight the English. We led the American War of Independence. George Washington is on record as saying that if all went wrong, he would take his last stand with the Scots-Irish in Virginia. That does not compute with our current understanding of culture here. There have been many American Presidents of Irish descent. Traditionally, people from Southern Ireland have left these shores for America and have contributed to the country that it is today.

3511. Anglicans — Church of Ireland people — led the great Gaelic revival. Presbyterians were the saviours of the Irish language. There simply would no longer be an Irish language if Presbyterians had not, in the 1840s, decided to keep it alive. Sam Maguire, whose name is on Gaelic football's all-Ireland championship cup, was a Prod. It is not supposed to be like that. Culture is confusing and not at all straightforward.

3512. **Mr McCausland:** Will Mr McFarland take a point of information?

3513. **The Chairman (Mr Wells):** About Sam Maguire?

3514. **Mr McCausland:** He was also a terrorist, and he was the intelligence officer for the Irish

Republican Brotherhood who helped to ensure the assassination of Sir Henry Wilson.

3515. **Mr McFarland:** Even more confusing, Chairman. *[Laughter.]*

3516. **Mr Ferguson:** That is who he was referring to earlier.

3517. **Mr McFarland:** Prods are not supposed to do that. Culture is not simple; it is confusing. However, we tend to parcel it up with such things as the purity of being Ulster Scots, unionist or Protestant, or Catholic, nationalist or republican. It is confusing.

3518. People are beginning to vote with their feet on this. Tribal attitudes are losing the battle, and young people are going their own way. Young people are voting with their feet, and church attendances are dropping dramatically in the Irish Republic and in Northern Ireland.

3519. I was interested in a recent incentive set up by the Irish Government, in which €300 was offered to any family who would go to live in the Gaeltacht in Galway. Nobody wants to live there, because young people want to speak English.

3520. There is common culture developing, but it is not culture as we know it. Everyone in Dublin watches the same television programmes that we watch, and which people in Scotland, England and Wales are watching. That is where young people are getting their culture. Young people in Dublin are not wearing Shelbourne football shirts; they are wearing Manchester United or Liverpool shirts. Common culture is taking over. Young people are not singing Irish, Scottish or any other tradition's folk songs. In every country across Europe — or, it could be argued, across the world — people are listening to the same music on their iPods. Most young children are not interested in culture.

3521. With the advent of air travel, the great navel-gazing attitude that we have about whether we are Ulster Scots or Irish and what passport we have is irrelevant; our children are winging in and out of Thailand and the Far East, and are travelling to Australia and around the world. Shortly, local culture will not be important. One might think that that is an argument for

keeping the Irish and Ulster-Scots traditions alive. Before long, most people in the country will not be interested.

3522. It is important that we keep the cultures going, but we should not be so neurotic about it, because it is not the issue to most people in our community that it is to politicians and the political parties.

3523. **The Chairman (Mr Wells):** Who will follow that? Philip McGuigan?

3524. **Mr McGuigan :** I will follow that, and I will attempt to be brief. I am no great cultural historian. I listened to Nelson talk about culture and equality in the same terms, and he went on to use 10 of his 15 minutes to castigate Irish culture and the GAA. At this point I should declare an interest, as I am a member of the GAA — a fine organisation that does a lot of good in helping to facilitate communities.

3525. **The Chairman (Mr Wells):** That is a useful point. Is anyone else a member of the GAA?

3526. **Mr McCarthy:** I am an active playing member of Ballycran.

3527. **The Chairman (Mr Wells):** A playing member or a paying member?

3528. **Mrs Long:** It depends on how short of people they are. *[Laughter.]*

3529. **Mr McGuigan:** Young people are voting with their feet. Anybody who is trying to get a ticket for the all-Ireland hurling final this Sunday will know how difficult it is, because young people are clamouring to get to those games. The objective of this Committee is to bring forward recommendations or proposals to prepare for Government.

3530. We are never going to agree on the different aspects and specifics of this matter. I would like us to come up with a broad sentiment that encompasses all of this. As my colleague has said, and as was previously negotiated in the Good Friday Agreement, it should allow respect for, and adherence to, the principles and equality of all people's cultures and their culture rights. The specific issues can be dealt with by an Executive when it is set up.

We could go round in circles attacking various parts of other people's culture; however, it would be more productive to come up with a broad principle on which we can all agree and move forward.

3531. **The Chairman (Mr Wells):** Everyone has given this a reasonable airing. We shall now go through the proposals, of which there are quite a few.

3532. No one explained where the Lewsleys came from. I was listening to Mr McFarland, but he did not explain where that name came from.

3533. **Ms Lewsley:** I do not know. I only married into them. *[Laughter.]*

3534. **Mrs Long:** Although it has been an interesting discussion, I am not sure that it is taking us in any particular direction. What we have noted is that identity, if separated out from culture, is a complex issue; it is multilayered, and people have the right to define their own identity. That is a basic point of principle with which I agree, and it is something that we have been pushing in other strands of this discussion. People have the right to define their own identity and not be pigeonholed.

3535. Something interesting has arisen from our discussions on these matters in the context of preparation for Government. First, let us examine our society and its changing nature; not only increasing diversity due to immigration, but the changing nature of the people who live in society, their expression of their own identity and their exercise of the right to do that. There has to be some recognition that the current political structures, which are built on a "two communities" model, are not a long-term solution to the tensions and divisions in our society.

3536. We do not believe that there are two mutually exclusive communities in Northern Ireland. It is clear — by everything that has been said here — that the amount of interplay and interaction, change and redefinition, proves that there are not two mutually exclusive communities which have no contact, no intermingling and no cross-contamination — whatever way you want to put it. We must get

real, because in previous weeks we strayed into issues on which people were being accused of being racist. Members disagreeing, for example, with a nationalist or unionist perspective were using the term ‘racist’. Today we are arriving at the realisation that that is a falsehood, that that is not the case, and that people can have different opinions, but it is not a collective block.

3537. The second important point is that when we examine models for governing society — the constructs that we set up, whether for festivals, funding, cultural expression or whatever else it might be — those need to be robust and flexible enough to deal with changing society and changing identities in society. Some of this discussion has been useful in clarifying how dangerous it is for us to get locked into a “two communities” mode of thinking and a “two communities” form of words.

3538. That moves me on to the proposal put by Patricia Lewsley, which contains the phrase “parity of esteem”. It is the form of words — not the principle behind it — that we would not support. “Parity of esteem” is a loaded term and is one with which we are not comfortable. It is a construction based on the premise of “separate but equal”, which as a party we do not adhere to or accept. If the phrase “parity of esteem” were removed we would be happy with the overarching theme of the proposal.

3539. Identity is complicated and difficult. It is interesting, but it is not a barrier to people’s working together. People’s cultural identity and expression should not be a barrier to their working together. If we spent as much time and energy considering where we are going and what kind of society we are becoming as we do belabouring the issue of where we have come from and what we have been, we would be a much more aspirational, confident and welcoming society. We need to focus on culture and identity, not simply looking over our shoulder, but looking to a future that offers plenty of opportunities for people from a range of different backgrounds.

3540. **The Chairman (Mr Wells):** Can members set aside the spectre of Kieran playing GAA and move back four hours — not forty

years — to Mr Ferguson’s original proposal that Irish speakers should have the same rights as Welsh speakers in Wales and Scots Gaelic speakers in Scotland, that there should be an Irish language Act, that the British Government should ratify the Council of Europe Charter for Regional or Minority Languages, and that the Government should issue publications in Irish. Those are four separate issues.

3541. **Mr Ferguson:** I had it down to three issues, because I put it down in three paragraphs.

3542. **The Chairman (Mr Wells):** Could we have it in English?

3543. **Mr McCausland:** I cannot understand any reference to ratifying the European Charter. It was ratified years ago.

3544. **Mr Ferguson:** Let me explain, and then you can disagree.

3545. **The Chairman (Mr Wells):** Perhaps you would read it out.

3546. **Mr Ferguson:** We proposed an Irish language Act — go raibh mo leithscéal — with language rights incorporated into a bill of rights, and overseen by the appointment of an Irish language commissioner.

3547. We also proposed that the British Government ratify the additional clauses of the Council of Europe Charter for Regional or Minority Languages through the promotion of the language in public life.

3548. Finally, we proposed that the British Government and Departments communicate through the medium of Irish when requested and make their publications available in Irish.

3549. **The Chairman (Mr Wells):** I will take those issues as a whole.

3550. **Ms Lewsley:** I would like clarification on the final issue. Is Mr Ferguson saying that the British Government and Departments should communicate through the medium of Irish “when requested”?

3551. **Mr Ferguson:** Yes.

3552. **The Chairman (Mr Wells):** Do we have consensus on the proposal?



3553. **Mr Ferguson:** I wish to make one final point. I am concerned about the point that Nelson raised in relation to the failure to fund Ulster-Scots projects. Michael McGimpsey said that the Department of Culture, Arts and Leisure had increased the budget sixteenfold, but it could not be spent. It is appalling that the demand was not met. I would be equally appalled if it was the Irish language, and I would protest that fact. You would have my full support on that. If there is a genuine demand for it, it should be met.

3554. **Mr McFarland:** The Belfast Agreement set out systems that were put in place regarding language and bodies, and those are the forums within which those issues are discussed and developed. I am not sure why we are bringing up the issues in this forum.

3555. **Mr McCausland:** The weakness is that the Belfast Agreement gave eight solid commitments to the Irish language and none to Ulster Scots; it merely recognised it.

3556. **Mr McCarthy:** Ulster Scots was in there, because I remember going back to the Good Friday Agreement and including Ulster Scots in it.

3557. **Mr McCausland:** There were eight commitments, including TG4 reception, but Ulster Scots only got a mention. In fact, the civil servants who drafted the document were clever enough not to use the word “language”, so that they could revert to the dialect argument. The issue has moved on from the Belfast Agreement.

3558. **Mr McFarland:** It has moved on, but wheels were put in place to take this forward. There is an Ulster-Scots Academy, many bodies deal with Ulster Scots, and it has received funding. However, the development of languages should be taken forward within those groupings that have been set up in the agreement.

3559. **Mr Ferguson:** I had recent cause to bring the Irish language sector group to meet the direct rule Minister of Education, Maria Eagle, because since the collapse of the institutions there has been a clear rollback in meeting the commitments that were signed up to in the agreement. That includes the responsibility of

the Department of Education to pick up on Foras na Gaeilge commitments after five years, which it failed to do. I had to bring Comhairle na Gaelscolaíochta and Forbairt Feirste to meet with the Minister recently about a range of development commitments that the Department did not meet. There are major areas of concern, and we include this simply because it is about confidence building and reinforcing what was agreed to, but which many civil servants are rolling back on.

3560. **Mr McFarland:** It is difficult for me to agree because I do not know enough about it.

3561. **The Chairman (Mr Wells):** Yes, but Alan, you are reopening the debate. The only questions that I can accept are those seeking clarification of the wording of the proposal. It is quite clear that people understand the proposal. Is there consensus on the proposal?

*Members indicated dissent.*

3562. **The Chairman (Mr Wells):** The answer is clearly “no”, so we shall move on. I suggest that we move to Patricia Lewsley’s proposal on sign language, which I regard as a less contentious issue. Let us get that out of the way before we move on to more difficult issues.

3563. The proposal is that the Committee agrees that the same recognition should be given to sign language as to other languages. Is there consensus on that?

3564. **Mr McCausland:** We need some clarification on that.

3565. **Ms Lewsley:** I would like sign language to be given the same recognition as Ulster Scots and Irish.

3566. **Mr McCausland:** Could I ask for clarification? The European Charter for Regional or Minority Languages contains requirements and conditions as to what constitutes a regional language and a minority language. Does sign language meet those requirements?

3567. **Ms Lewsley:** My understanding is that that situation has changed because the charter mentions lesser-spoken languages and does not recognise sign language as a spoken language.

3568. **Mr McFarland:** Chairman, sign language is not a language; it is a way of communicating in English or Irish for people who cannot speak.

3569. **Ms Lewsley:** It is still a language; it is how people communicate with each other, and it is not specifically —

3570. **Mr Ferguson:** It is also a disability issue.

3571. **Mr McFarland:** Traditionally, it has been a health issue. I agree that it must be dealt with, and I have been involved in championing the issue in the past when I was health spokesman for my party. It is an issue of equality that must be dealt with and should be given funding. However, I am not sure that sign language can be put into the category of the European charter as a separate language within the understanding of European law.

3572. **The Chairman (Mr Wells):** Patricia, what is your point of view on that?

3573. **Ms Lewsley:** I would like it to be put it to the vote. People can support it if they wish.

3574. **The Chairman (Mr Wells):** Patricia has listened, and she still wishes to put her proposal to the meeting. Is there consensus on Patricia's proposal?

3575. **Mr McFarland:** If you were to change the word "language" —

3576. **Ms Lewsley:** It is called sign language. What do you want to call it?

3577. **Mr Ferguson:** This is an issue, Alan, because, as you know, people who want to be trained in sign language have to go to England. It is a cross-cutting issue.

3578. **Mr McFarland:** I am fully supportive of the need to have signing trainers here. That is a disability and rights issue. I am a bit worried because we have suddenly lumped it into the middle of culture and European legislation on languages. I understand the problem, but we are in danger of dealing with it in entirely the wrong format.

3579. **Mr McCausland:** By going down a road that is unclear, there is a danger of our not actually helping people. I have a fair amount of

knowledge of the European Charter for Regional or Minority Languages; I have been working on it for years. If you look at the requirements of the charter, and what it seeks to do, it does not meet the needs, aspirations and requirements of that particular community. They would get something that would be of no value to them, and that might not even be capable of implementation.

3580. An amendment about adequate provision would be universally agreed. Whatever is required should be provided — I think that you would get absolute unanimity on that. That would have meaning. To tie this matter into the charter is —

3581. **Ms Lewsley:** The big message that I am getting from the deaf community is the need for recognition of sign language. That community believes that sign language does not get the same recognition or priority as Irish or Ulster Scots.

3582. **Mr McCausland:** The problem with that is that much of the charter's work on Irish and Ulster Scots is to do with developing a text base or developing dictionaries. That is about language planning. That is not an issue, as far as I am aware, for sign language. Therefore, I suspect —

3583. **The Chairman (Mr Wells):** We are getting into a debate.

3584. **Ms Lewsley:** We can change the wording of the proposal to "the recognition and provision for sign language".

3585. **Mr McCausland:** Yes. Just do not mention the charter.

3586. **Ms Lewsley:** I did not mention the charter. I have not mentioned it.

3587. **The Chairman (Mr Wells):** Do we have consensus on that? Can you read the amended proposal, please, to refresh our memories?

3588. **Ms Lewsley:** The proposal is that the parties agree the principle of greater recognition and provision for sign language.

3589. **The Chairman (Mr Wells):** Is everyone happy with that?

*Members indicated assent.*

3590. **The Chairman (Mr Wells):** Patricia proposed that the Committee recognise the rights of people to identify themselves and be accepted as British, Irish, or both, as they choose. Is there consensus on that?

3591. **Mr McFarland:** That is written into the Belfast Agreement.

3592. **Ms Lewsley:** But not all parties around this table agree to the Belfast Agreement.

3593. **Mr McFarland:** But hopefully they are about to, if we can quietly shuffle this through to the autumn. *[Laughter.]*

3594. **Mrs Long:** That is a huge assumption.

3595. **Mr McCausland:** We are dealing today with culture. We are not dealing with political aspirations. The word “aspiration” was unqualified; therefore, I personally could not agree to that.

3596. **The Chairman (Mr Wells):** The word “aspiration” actually is not in the proposal, Nelson: the proposal is that the Committee recognise the rights of people to identify themselves and be accepted as British, Irish, or both, as they choose.

3597. **Mr McFarland:** Or neither, Chairman.

3598. **Mrs Long:** Chairman, that is exactly the point that I was going to raise. Human rights law protects the right not to be associated with any national minorities. If people can be British, Irish or both, you must accept that they can also be neither. In fact, it may not be helpful to specify those two particular identities.

3599. **Mr McCausland:** If we are dealing with culture, could we add “and Ulster Scots”? That is a cultural identity. We are dealing with culture, not nationality.

3600. **Mrs Long:** That is why I was suggesting that it would not be helpful to start to be specific in this way. If we specify “British, Irish, Ulster Scots” then we can start again and look at Chinese, Japanese, etc. Where does the list end? Can we not simply accept that people have the right to define themselves?

3601. **Ms Lewsley:** I withdraw the proposal. It is not worth the hassle. It is getting too late on a Friday afternoon.

3602. **The Chairman (Mr Wells):** Patricia has withdrawn the proposal. Her next proposal is that we accept the principle of parity of esteem and of just and equal treatment for the identity, culture and aspirations of all communities.

3603. **Mr McFarland:** It is not at all clear what that means. Those of us who were in the discussions leading to the agreement spent months on this.

3604. **Ms Lewsley:** Just put it to the vote.

3605. **Mr McFarland:** It was very carefully crafted so that everybody could live with what was in it. If we are now trying to tie stuff down we will have to tease out the detail of what it means.

3606. **Ms Lewsley:** There is no consensus on it.

*Members indicated dissent.*

3607. **The Chairman (Mr Wells):** We have several more proposals from Nelson. First, that this Committee requests that the Department of Education initiate a programme of work to ensure that the cultural rights of the child as set out in the UN Convention on the Rights of the Child are implemented and monitored across all sectors.

3608. **Mr McFarland:** What does that say, Chairman? What is it about? What are the rights? We have not had a discussion on what we are actually talking about here and I am unsighted, being a —

3609. **Ms Lewsley:** Can I just ask for clarification? Part of the problem for me is that the Government often sign up to UN conventions and never follow them through. They agree and make a commitment, but in reality it never comes to fruition.

3610. **Mr McCausland:** Article 29 says:

*“States Parties agree that the education of the child shall be directed to ... the development of respect for the child’s parents, his or her own cultural identity, language and values”.*

3611. Article 30 provides that:

*“In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language”.*

3612. Article 31 reads:

*“States Parties recognize the right of the child to rest and leisure”.*

3613. However, it is the second paragraph of that article:

*“encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity”.*

3614. which says that children in all sectors of primary and secondary education should have an equal right to access the culture of the community and the home from which they come as well as the wider culture of the community, so that there is a certain element of cohesion and no fragmentation. It should be applied equally to all children. The British Government have signed up to it, therefore we are simply asking that it be monitored and implemented.

3.00 pm

3615. **Mr McFarland:** Is it an education or a cultural issue?

3616. **Mr McCausland:** It is a cultural issue.

3617. **Ms Lewsley:** The Department of Education would take the lead on it.

3618. **Mr McCausland:** It also applies to youth clubs, and so on.

3619. **Mr McFarland:** What are we calling on them to do?

3620. **The Chairman (Mr Wells):** To initiate a programme of work.

3621. **Mr Ferguson:** To monitor and evaluate the implementation —

3622. **Ms Lewsley:** — of something they have signed up to.

3623. **Mr McCausland:** We are asking them to implement the requirements. In other words, we are asking them to deliver what they have promised but have not yet done.

3624. **Mr McFarland:** We had several days of discussion on socio-economic rights and a long discussion about bills of rights and about what is deliverable. It is one thing to have a right, but whether that right is fulfilled will depend on the politicians’ ability to provide the money. It strikes me that we are saying that if, for example, someone’s medical treatment costs £10,000 a day and there is a right to it in law, the Government must provide it.

3625. **Ms Lewsley:** It is not as simple as that.

3626. **The Chairman (Mr Wells):** Nelson has explained it. Members understand the proposal. Is there consensus?

*Members indicated assent.*

3627. **The Chairman (Mr Wells):** The next proposal from Nelson is that the Committee ask the GAA to work with the Sports Council for Northern Ireland and the Community Relations Council to ensure that Gaelic sport is depoliticised as part of its contribution to a shared future. It is pretty clear what that means. Do we have consensus?

*Members indicated dissent.*

3628. **The Chairman (Mr Wells):** That completes Nelson’s proposals.

3629. We have a proposal from the Sinn Féin group that we respect an adherence to the principles of equality for all.

3630. **Ms Lewsley:** That is not a cultural issue; it is an equality issue. We agreed a proposal on that last week.

3631. **The Chairman (Mr Wells):** I read it out as it has been mentioned.

3632. **Mr McCausland:** Can I put an amendment to that?

3633. **Mr McGuigan:** I was not making a formal proposal. It was a suggestion that we reaffirm what is in the agreement.

3634. **The Chairman (Mr Wells):** It was noted just in case you meant it as a proposal.



3635. **Mr McFarland:** It will be in Hansard.

3636. **The Chairman (Mr Wells):** As far as I am aware, all proposals have been dealt with.

3637. There are three issues that we have to get out of the way today. The first concerns the DUP. On 11 August, I chaired the meeting at which the DUP made a proposal to split the Parades Commission's functions in order to create a mediation body and a determination body. The issue was discussed but the proposal was not put. The Committee received copies of the proposal to consider, but the matter never actually got to the decision stage. Does Nelson wish to put the proposal to the Committee now and invite members to consider it?

3638. **Mr McCausland:** The current arrangement has a number of flaws. One is that there is clearly a conflict between the ethos of mediation and the ethos of determination. It would facilitate progress on the issues of parades and protests if the two aspects, which are currently set into one body, were separated.

3639. **The Chairman (Mr Wells):** No views have been expressed on this. The question is whether the Committee wishes to take up the proposal. We have to make a decision today or it will be too late to get it into the report.

3640. **Mr McFarland:** The UUPAG broadly supports the proposal, although we would go further in that the Parades Commission has lost the confidence of the community and should be removed. We would replace it with a mediation system and a tribunal, so my party would modify the proposal.

3641. **The Chairman (Mr Wells):** The only decision we can take today is whether to take forward the DUP proposal.

3642. **Mr McCausland:** It is a question of semantics. The UUPAG proposal is the same: separation of function is the core element.

3643. **The Chairman (Mr Wells):** Naomi, you indicated that you did not agree.

3644. **Mrs Long:** We proposed having further discussions because we thought that there might be merit in splitting the two functions for reasons that I outlined at the time. However, it

is being suggested that there should be two separate bodies. We do not believe that that is necessarily a viable way forward so we would agree with the proposal. We believe that there is merit in examining a split between the determination and arbitration functions and the mediation function.

3645. **The Chairman (Mr Wells):** Do we have a consensus?

*Members indicated dissent.*

3646. **The Chairman (Mr Wells):** Two parties are not happy with the principles. That is that out of the way.

3647. At the meeting of 18 August, the Committee agreed to defer a decision on a law-and-order issue. The issue was whether the Assembly might have power devolved to it — along with policing and justice powers — which involved appointments to the Parades Commission and its operation. The issue has come to us for consideration for possible referral back to what is known as the “Wednesday group”.

3648. **Ms Lewsley:** The SDLP has no problem with that as long as safeguards are in place and appointments are approved by the Executive.

3649. **Mr Ferguson:** Sinn Féin's position is that all public appointments should be made within the context of a functioning Executive. Beyond that, we would not support the proposal.

3650. **The Chairman (Mr Wells):** This would happen after devolution, and there are the issues of a petition of concern and cross-community voting. All sorts of issues can be raised if there is a problem. Do members have views on the suggestion?

3651. **Mr McCausland:** The DUP is opposed to the existence of the Parades Commission, so it would be difficult for the party to take a position on something that it does not agree with.

3652. **The Chairman (Mr Wells):** The party could simply say nothing and let it go through or vote against it. The party has both options.

3653. Are there any other comments?

3654. **Mrs Long:** Given the context in which there would be devolution of powers on policing and justice, the Alliance Party sees no argument for this power being reserved.

3655. **The Chairman (Mr Wells):** Is there consensus on the proposal?

*Members indicated dissent.*

3656. **The Chairman (Mr Wells):** The proposal falls. The Committee does not wish to see that power devolved.

3657. The next item on the agenda is a letter from Prof Monica McWilliams, who is well known to many people in the room. She is the chief commissioner of the Northern Ireland Human Rights Commission, and she has written to Mr Molloy and me suggesting a meeting — a one-night residential — on 19 and 20 September 2006 between members of the Preparation for Government Committee and the commission to discuss a bill of rights.

3658. Prof McWilliams read the Committee's comments on the work of the Equality Commission with great interest, and she felt that a meeting would be very useful. It is something that had been suggested before but was postponed. It is for members to decide. There is a suggestion that the work of the Committee will continue after we have reported, and there may be an opportunity for the meeting to take place. We have various experts in this field and we will start with Ms Lewsley.

3659. **Ms Lewsley:** Thank you very much. Is that a compliment, for a change? *[Laughter]*.

3660. As we reached consensus on the need for a bill of rights, I cannot see why the Committee cannot support the proposed meeting.

3661. **Mr Ferguson:** I agree with Ms Lewsley on the need for a bill of rights, but we have only just received this proposal. We wish to give this matter further consideration, and we will reply as expeditiously as possible.

3662. **The Chairman (Mr Wells):** That is a valid point. The difficulty is that — because of time pressure — we need to reply very soon. Members may need to consult their parties and provide an answer through their representatives

at Monday's Preparation for Government meeting. In some cases, those will be the same members who are present today.

3663. **Mr McFarland:** I understood that Prof McWilliams had spoken to most political parties separately and that she was expecting parties to be able to agree in principle today, if not on the detail. We would wish to see the detail of any proposed discussions. If those discussions simply concern the political parties and the Equality Commission, that is fine. We do not wish to get drawn into a public debate on the wider matter of NGOs. If it is just — as it seems to be — a discussion under the Chatham House rule with the parties, that seems logical. Many parties suggested that representatives of the Equality Commission should appear before the Committee. If we are to have a genuinely serious discussion under the Chatham House rule about the shape of a bill of rights — given the caveats that we have discussed at some length — that seems quite sensible.

3664. **The Chairman (Mr Wells):** I have been alerted to a possible problem: we may have plenary sittings of the Assembly on those days.

3665. **Mr McFarland:** The proposed meeting is an overnighter, is it not?

3666. **Ms Lewsley:** It is all day on 20 September.

3667. **The Chairman (Mr Wells):** The proposed meeting is at lunch time on Tuesday 20 September, but the Preparation for Government Committee dealing with law and order will be discussing its report that day. We can agree in principle whether we wish to accept the invitation, but the mechanics will have to be considered.

3668. **Mr McFarland:** If the meeting were to involve only the human rights or equality whizzo from each party, that may not make a big dent in representation in the Chamber.

3669. **The Chairman (Mr Wells):** Prof McWilliams is thinking of something more than that. She rang me this morning and is very keen to meet as many members of the Preparation for Government Committee as possible.

3670. **Ms Lewsley:** Some parties are not able to say whether or not they are supportive.

3671. **Mr Ferguson:** We agree in principle.

3672. **Ms Lewsley:** Chairman, we could agree in principle to accept the invitation, and you could speak to Prof McWilliams to outline some of the possible problems, particularly with respect to Assembly sittings.

3673. **Mrs Long:** I agree.

3674. **Mr McCausland:** I would prefer to wait until Monday to give a firm commitment. I need to pass information on and get an opinion from my party.

3675. **The Chairman (Mr Wells):** I believe that Prof McWilliams was going to contact Mrs Foster, who, as you know, is indisposed at the moment. Prof McWilliams might have had difficulty in contacting Mrs Foster. The DUP would prefer that we deal with the matter first thing on Monday and get it out of the way.

3676. **Mr McFarland:** Chairman, can we agree on this matter, subject to confirmation from the DUP? Would that be logical?

3677. **Ms Lewsley:** We agree, subject to confirmation.

3678. **Mr McFarland:** If the DUP disagrees, the matter will have to come back before the Committee.

3679. **Mrs Long:** I am not sure where we are on reaching agreement, but we must, at least, get back to Prof McWilliams about the conflict with the plenary sitting. Regardless of other commitments, the proposed meeting will conflict with the plenary sitting of the Assembly, and it will therefore not be possible for our members to be involved in the afternoon session.

3680. **The Chairman (Mr Wells):** I shall explain the situation to Prof McWilliams. She of all people will understand the difficulties that we face in the Assembly.

3681. There is one other issue. The next meeting of the Preparation for Government Committee is on Monday 4 September when we shall deal with institutional issues. The next meeting of the Preparation for Government

Committee dealing with equality, rights, safeguards and victims will be on Friday 8 September.

3682. **Mrs Long:** We have reached the last item on our agenda.

3683. **The Chairman (Mr Wells):** The draft report must be considered, so next Friday's meeting is very important.

3684. **Mrs Long:** Will we receive a copy of the draft report before the meeting?

3685. **The Committee Clerk:** We hope to send that to members on Wednesday.

*Adjourned at 3.14 pm.*

## Friday 8 September 2006

### Members:

The Chairman, Mr Francie Molloy  
Mr Alex Attwood  
Mr George Ennis  
Dr Seán Farren  
Mr Michael Ferguson  
Mr David Ford  
Mr Derek Hussey  
Mrs Naomi Long  
Mr David McNarry  
Lord Morrow  
Mr Dermot Nesbitt  
Mr Edwin Poots  
Mr George Robinson  
Ms Caitríona Ruane

*The Committee met at 10.15 am.*

*(The Chairman (Mr Molloy) in the Chair.)*

3686. **The Chairman (Mr Molloy):** I remind members to switch off their mobile phones. We hope to have lunch at 12.20 pm and are planning to have high tea at 5.00 pm, if that is OK.

3687. In addition to apologies, are there any deputies?

3688. **Mr Ferguson:** Caitríona and I are deputising for Conor Murphy and Michelle Gildernew.

3689. **Mr Attwood:** I am standing in for Mark Durkan.

3690. **The Chairman (Mr Molloy):** Seán is here as of right. Is that correct?

3691. **Dr Farren:** Yes.

3692. **Mr Ford:** I have to leave shortly. I am not sure of Naomi's whereabouts. I will check that out.

3693. **Mr Nesbitt:** I am here in place of Alan McFarland, and Derek Hussey will be here to deputise for Danny Kennedy, I think.

3694. **Mr McNarry:** I am here as of right.

3695. **Lord Morrow:** I believe that I am here as of right also. I expect a couple of others to join us shortly.

3696. **The Chairman (Mr Molloy):** There are two issues. First, the draft report on economic challenges is to be presented to the Assembly in plenary on Monday. Normally, copies of the report would be sent out to those who gave evidence to the subgroup, and a copy of the report is included in members' bundles today. Are members content that copies of the draft report, which is embargoed until the start of Monday's debate, be sent out to contributors?

3697. **Mr Nesbitt:** Are we agreed that a draft report —

3698. **The Chairman (Mr Molloy):** I am sorry. It is the final report of the Subgroup on the Economic Challenges facing Northern Ireland. It will be presented at Monday's debate.

3699. **Mr Nesbitt:** I am sorry. I thought you meant that it was a draft report.

3700. **The Chairman (Mr Molloy):** I am sorry; that was my mistake. Are members agreed that it can be sent to witnesses?

*Members indicated assent.*

3701. **The Chairman (Mr Molloy):** Also included in members' packs is a copy of a press release from the subgroup. Are members content with the press release?

*Members indicated assent.*

3702. **The Chairman (Mr Molloy):** Let us move on to the draft minutes of the meeting of 1 September 2006.

3703. **Mr Nesbitt:** Just before they are approved, Mr Chairman, may I draw your attention to page one of the minutes? The minutes state that I attended the meeting as a DUP representative. Although I know that the DUP would love me to be a member of their party, I am still a member of the Ulster Unionist Party.



3704. **Mr Ferguson:** That must have been wishful thinking.

3705. **Mr Nesbitt:** A little change is required there.

3706. **The Chairman (Mr Molloy):** That might have got you some extra news headlines over the weekend.

3707. **Mr Nesbitt:** Perhaps the silly season is not quite over yet.

3708. **Lord Morrow:** Lawrie Sanchez is making all the news; you are all right, Dermot.

3709. **The Chairman (Mr Molloy):** Are there any other corrections?

3710. **Mr Attwood:** I do not wish to be contentious, but I believe that what was agreed — just before Mr Ferguson left the meeting — has been expressed in a rather uneasy way.

3711. It is true that Nelson McCausland made a proposal that British passports should be made available to citizens born in the Republic of Ireland after 1941. However, it would have been more accurate to say that there may be citizens of the Irish Republic born after 1941 who may want a British passport. That is more accurate, because the draft minutes suggest that British passports should be made available to “citizens” — which could mean everybody.

3712. I believe that Nelson only intended the proposal to be that there may be citizens born after 1941 who may want a British passport, and that the matter should be referred to the two Governments for their consideration.

3713. That is a more accurate way of expressing what was agreed, rather than what could be interpreted as a more general invitation for the people of the Republic to obtain British passports.

3714. **The Chairman (Mr Molloy):** The other issue was that, in fact, the Republic of Ireland Act came into force in 1949.

3715. **Mr Attwood:** Mr McCausland had a reason for stipulating 1941 and not 1949.

3716. **Dr Farren:** It should be 1949.

3717. **Mr Attwood:** Mr McCausland was insistent that it was 1941.

3718. **Mr Ford:** There were no citizens of the Republic in 1941 — they were citizens of the Free State.

3719. **Mr Ferguson:** It does not need to be addressed until later. The minutes suggest that there was all-party agreement to Nelson McCausland’s proposal; in fact there was not. My colleague, Philip McGuigan, stated that Sinn Féin did not support it. However, I am content to discuss the matter later.

3720. **The Chairman (Mr Molloy):** Do you wish to correct the minutes?

3721. **Mr Ferguson:** No. Nevertheless, it is related.

3722. **Mr Attwood:** There was consensus on the proposal, and Hansard will reflect that.

3723. **Mr Ferguson:** If I had agreed to the proposal, I would not be suggesting otherwise.

3724. **Mr Attwood:** Hansard will reflect that there was consensus on the proposal; no one objected to it. However, there was some toing and froing before consensus was achieved. The consensus was that some citizens of the Irish Republic might want to avail of a British passport, and that therefore the matter should be considered by the two Governments. There was no prescription in that consensus — there was merely an invitation for the two Governments to consider the proposal, and that is where consensus was achieved.

3725. **Ms Ruane:** I did not attend the meeting, but Philip McGuigan stated that Sinn Féin did not support the proposal. However, we will raise the matter when we discuss the draft report, because we feel that that is an inaccuracy.

3726. **Lord Morrow:** Was it recorded in Hansard?

3727. **The Chairperson (Mr Molloy):** We will make reference to Hansard now.

3728. **The Committee Clerk:** In last week’s report, there was a discussion about whether the Republic of Ireland Act came into force in 1941 or 1949. Mr McCausland now says that there might have been a typographical error in his notes, which is why we have raised it again today. The correct date should be 1949.

3729. The Chairman then discussed the proposal on passports and asked whether there was consensus. Mr McGuigan said that specific requirements and needs of the people in the North were made clear in the Good Friday Agreement. Then he said:

*“On that basis Sinn Féin does not support the proposal.”*

3730. There was further discussion about referring the matter to the two Governments, which Mr Attwood raised, and Mr McGuigan then said:

*“I made my comments based on the proposal before me. Sinn Féin is content for the two Governments to have consultations, but it is not a major impediment to restoration of the Executive.”*

3731. The Chairman then asked:

*“Do we have consensus that the two Governments consider this issue?”*

3732. Members indicated assent.

3733. **Mr Attwood:** That is precisely what I have just said.

3734. **Lord Morrow:** Therefore there was consensus.

3735. **Mr Attwood:** That is all there was consensus on. To reassure Sinn Féin, the proposal did not instruct the two Governments to go in a certain direction; it suggested that the two Governments consider an issue that the DUP felt may have some relevance for the citizens of the Irish Republic.

3736. **Lord Morrow:** The minutes simply state that it should be referred to the two Governments, and there was consensus on that.

3737. **Mr Attwood:** That is not a threat to anyone around the table — Mr McGuigan acknowledged that at the previous meeting.

3738. **The Chairman (Mr Molloy):** He raised the issue, but it was referred to in a different way.

3739. **Mr Attwood:** That is where we should sign off on it, because it not will interfere or prejudice any party’s ideology.

3740. That is not the issue.

3741. **Ms Ruane:** We want to discuss the matter in relation to rights and safeguards because it has been misrepresented in the document. The issue has become confused; therefore we need to read through the minutes and discuss it further.

3742. **Mr Ferguson:** Two issues are involved: one is that the proposal was agreed, and the other is that it was agreed that there should be a discussion on the proposal. Those two separate issues have been collapsed into one in paragraph 48 of the draft report. Therefore we have an issue with that paragraph.

3743. **The Chairman (Mr Molloy):** We are now dealing with the minutes; we can deal with the report later. I want to focus on the minutes for now. Are members agreed that the matter should be referred to the two Governments for consideration? Nothing is being forced.

3744. **Mr Attwood:** I remember indicating that that was a way to move things along.

3745. **The Chairman (Mr Molloy):** Will we change 1941 to 1949?

3746. Are members happy with the minute as it stands?

3747. **Mr Attwood:** The minutes have to be changed to reflect the fact that there was consensus that the matter should be referred to the two Governments for consideration as there was an issue around whether citizens born in the Irish Republic after 1949 might be entitled to British passports. We could change it to something of that nature.

3748. **The Committee Clerk:** Perhaps you would be content if we amended the minute to read:

*“The issue of whether a British passport should be made available to citizens born in the Republic of Ireland after 1949 should be referred to the two Governments for consideration.”*

3749. **The Chairman (Mr Molloy):** Are members happy with that?

3750. **Mr Attwood:** I think that Lord Morrow’s point was that there may be a category of citizens in the Irish Republic who want to apply for a British passport. The word “citizens” suggests that the proposal applies to a much broader group of people, up to and including all

citizens of the Irish Republic. I do not think that was the intention behind the DUP's proposal, but that is for the DUP to say. My understanding of the proposal was that it applied to a category of citizens who may wish to avail of that option and that that matter should be considered by the two Governments. There was consensus that that should be the height of the proposal.

3751. **The Chairman (Mr Molloy):** Can I have a suggested wording, please?

3752. **Mr McNarry:** The phrase "some citizens" could be used.

3753. **A Member:** Or "there may be citizens".

3754. **Mr Attwood:** I suggest that the wording should be: "That the matter be referred to the two Governments for consideration if there is any citizen, or category of citizen, who may wish to avail of that option." That should satisfy all concerns.

3755. **The Chairman (Mr Molloy):** Are members happy with that?

3756. **Mr Attwood:** This minute is trying to reflect what was agreed last week: following discussion of whether British passports should be made available to any category of citizen of the Irish Republic, it was agreed that the matter should be referred to the two Governments for further consideration. I think that it was agreed that we could not tell the two Governments what to do because the matter had to be worked out at intergovernmental level — if anything was to be worked out at all. That is how the discussion reached that point. I believe that the amended wording that I proposed should satisfy all members' needs and would not pose a threat to anybody's ideology.

3757. **The Committee Clerk:** I am not sure whether I have picked up Alex's suggestion correctly: "The matter should be referred to the two Governments for consideration of whether any category of citizen born in the Republic of Ireland after 1949 might be issued with a British passport." Is that OK?

3758. **Mr Ferguson:** No, I am not happy with that. The confusion over this has occurred

because two separate issues have been collapsed into the agreed proposal. I will not agree to that.

3759. **Lord Morrow:** For what reason?

3760. **Mr Ferguson:** For the fundamental reason that the Twenty-six Counties is a sovereign state in its own right; it is quite different from the distortion of a state in which we live. There are issues around sovereignty, so I do not support the proposal.

3761. The confusion arises because paragraph 48 of the draft report suggests that Sinn Féin agreed the proposal, when it did not.

*10.30 am*

3762. **Mr Poots:** Sinn Féin agreed to the proposal, and that is recorded in the Hansard report — it cannot run away from that fact. The issue is about how the Committee portrays that in the minutes so that they give an accurate reflection of the decisions that took place last week. If Mr Ferguson has had the rug pulled from under his party because of its incompetence last week, that is his problem, and not the Committee's. The Committee's problem is to reflect what happened accurately in the minutes.

3763. **Mr Ferguson:** I want to say something about Edwin Poots's rude remarks. Philip McGuigan's comments were read out before Edwin came in. He might not have been so quick to jump in if he had been here earlier and heard what Philip McGuigan said, according to the Hansard report.

3764. Irrespective of that, no one is saying that any of us, at any time, cannot disagree, or go out for 10 minutes to have a rethink about what has been said here — just as we will do over press releases.

3765. I am not happy with this, and I would like to take it away and rethink it, primarily because of the way that the matter has been reported in paragraph 48 of the Committee's draft report. That is not unreasonable. Edwin can interpret it as he wishes; however, he might want to come early to the meetings.

3766. **Mrs Long:** Alex's intervention was quite useful. Sinn Féin did, on a number of occasions,

say that it was not entirely happy with the proposal, but was content to enter into discussion about it. Those discussions would have given Sinn Féin the opportunity to make its points. What was agreed last week should be in the Hansard report, and it should simply be a matter of reflecting that on paper. The Committee should not be reopening the debate about the ins and outs of the matter — that is for another day.

3767. **Lord Morrow:** What does the Hansard report state? After all, that is why Hansard staff were brought in.

3768. **Mr Nesbitt:** I was not at the Committee last week so I have only the benefit of listening to this discussion. There are two clear points. First, Sinn Féin's position is that it does not support some citizens of the Republic being granted UK citizenship, or passports. Secondly, the issue of whether the two Governments do that is to be referred to the Governments. The latter, from what the Committee Clerk read out, was agreed by consensus and the former was not.

3769. I can see the dilemma: the minutes say that Nelson McCausland proposed something, and they then say that there was consensus and that the proposal was agreed. That brings the two matters together. I understand from what was read out that it was agreed that the proposal would go to the two Governments. Sinn Féin cannot block that. That is what the Hansard report says — and I understand that that is all that the SDLP has asked. The principle is very clear; it is simply a matter of semantics.

3770. **Mr Ford:** I accept that Sinn Féin may wish to revisit this point as regards the Committee's report. Like Dermot Nesbitt, I was not at last week's meeting. However, when I heard the extract from the Hansard report read out, it was clear that Alex Attwood's amendment to the minutes reflected what happened. There was not consensus on Nelson McCausland's substantive proposal, but there was consensus that the issue should be referred to the Governments.

3771. I do not see how the Committee can do anything other than approve minutes that say that something was recorded in the Hansard

report. If the issue is to be revisited later in the meeting, that is an entirely different issue.

3772. **Lord Morrow:** That was the compromise.

3773. **Mr Nesbitt:** It is very clear, Mr Chairman. It states:

*"Sinn Féin is content for the two Governments to have consultations".*

3774. That is unambiguous — it is all in the SDLP's proposal.

3775. **Ms Ruane:** Sinn Féin is concerned about the confusion surrounding this issue. As Michael said, there are inaccuracies in the Committee's draft report, and we cannot agree the minutes or the draft report. There was confusion about the way proposals were taken. The Committee operates on consensus, and Sinn Féin is concerned about the way the whole issue was dealt with.

3776. **Mr Attwood:** I agree with Caitríona Ruane that the conclusions do not reflect what was agreed in the Hansard report, and the minutes do not reflect what was agreed in the Hansard report. In those circumstances, the Committee should go back to the source document, which is the Hansard report.

3777. Hansard is a substantially verbatim record of what was agreed. What appears in Hansard is what was agreed. I understand why members are sensitive about the wording in paragraph 48. I would not be talking about the way in which the minutes have been drafted if the SDLP did not also have sensitivities about the draft minutes.

3778. To rectify this, we should agree that paragraph 48 of the minutes be amended to say that, following a discussion on the availability of British passports to citizens of the Irish Republic who were born after 1949, it was agreed to refer the matter to the two Governments for further consideration. I do not think that that wording prejudices any party's views, and it most accurately reflects what was agreed.

3779. It may be helpful were I to give that wording to the Committee Clerk.

3780. **Mr Ford:** I supported Alex's wording when I first heard it. However, an alternative, which might be more helpful to Sinn Féin,



given that other proposals that fell were recorded, would be to say that Nelson McCausland proposed that British passports should be made available to citizens born in the Republic of Ireland after 1949. There was not consensus and the proposal fell. He then proposed that the matter be referred to the two Governments for consideration. There was consensus on that proposal.

3781. That seems to me to be almost exactly what was read from Hansard. My suggested wording is not quite what Alex said, because my suggestion records Sinn Féin's objection and its subsequent agreement to the slightly lesser proposal.

3782. **Mr Nesbitt:** David gives substance to the two elements, and I support his suggested wording. I cannot see how Sinn Féin members can be confused.

3783. I make this comment tongue in cheek: I remember Mr O'Dowd said a few weeks ago that the Sinn Féin's equality gurus were on holiday. Perhaps its equality gurus have returned and are saying: "Here is a little missive from Sinn Féin on what they agreed to last week."

3784. **The Chairman (Mr Molloy):** Let us not get into semantics. Have we agreement on either Alex's or David's suggested wording?

3785. **Mr Attwood:** Is Sinn Féin content that my wording accurately reflects what was said and is not prejudicial to its views or those of any other party? That is the issue.

3786. **The Chairman (Mr Molloy):** Are you content with David's wording?

3787. **Mr Attwood:** Yes. His suggested wording and mine are essentially the same.

3788. **Mr Ford:** They are essentially the same. I was trying to help Sinn Féin by spelling out in more detail where consensus lay and where it did not lie.

3789. **Mr Attwood:** David's suggested wording is probably better.

3790. **Mr Nesbitt:** David's suggested wording decouples the two proposals that were made.

3791. **Ms Ruane:** We are concerned, because we do not accept that there was consensus. The way in which the proposals were put caused confusion.

3792. **Lord Morrow:** Which are you? Are you concerned or confused? Or is it a combination of the two?

3793. **Ms Ruane:** We are concerned. There has been confusion written into it in the way in which the proposals have been minuted and — *[Interruption.]*

3794. May I finish?

3795. **Mr Nesbitt:** Where is the confusion?

3796. **Ms Ruane:** Three people have interrupted me.

3797. **Mr Ferguson:** Hansard seems to be inaccurate.

3798. **The Chairman (Mr Molloy):** One member is to speak at a time, please. Otherwise, we will get nowhere in this meeting.

3799. **Lord Morrow:** You are annoying the Chairman now.

3800. **Ms Ruane:** Sorry, Chairperson. I clearly said that there is confusion over the proposals, the way in which the proposals were put, and in the reporting of what was said. In the light of that, we cannot accept that the draft minutes are an accurate reflection.

3801. **Lord Morrow:** How do you know that?

3802. **Ms Ruane:** I know from reading the draft minutes and the draft report. My party — *[Interruption.]*

3803. Is this an interrogation?

3804. **Lord Morrow:** I am merely asking questions.

3805. **Mr Ferguson:** There is clearly ambiguity in paragraph 48.

3806. **The Chairman (Mr Molloy):** I was half joking when I ordered tea, but I think that we need it.

3807. **Mr McNarry:** I have not spoken, but I have sat here patiently for too long. We are discussing an item in the draft minutes. It is either accurate or it is not. It has been

established that what is recorded in the draft minutes is not accurate. The Chairman should call for an amendment to paragraph 48 to be proposed. Two have been suggested. We should decide which reflects Hansard. Today's Hansard will show that there is now no consensus. If Sinn Féin dislikes the proposal, the Committee will deal with it when it arises in the report, and we can make changes to it then.

3808. **Lord Morrow:** In the plenary, Sinn Féin will get plenty of time —

3809. **Mr Ferguson:** The DUP must be signing up to restoration then.

3810. **Mrs Long:** Caitríona has said that there is confusion and concern. The confusion is spreading. I am unclear as to whether there is consensus on either of the proposed amendments. That is the crux of this debate.

3811. There is confusion and concern about the minutes. Does Mr Ford's proposal clarify or allay those concerns? That is the only thing that matters at this stage; simply restating concerns does not move us forward.

3812. **The Chairman (Mr Molloy):** I asked whether that was the case, and it was not. That is how we have arrived back at this situation.

3813. Alex's proposal was worded differently. Is there agreement on that?

3814. **Mr Nesbitt:** I support David Ford's proposal.

3815. **Mr Ford:** I was happy with Alex's proposal.

3816. **The Chairman (Mr Molloy):** Dermot, you may support that proposal, but I asked Alex a question.

3817. **Lord Morrow:** Behave yourself, Dermot.

3818. **Mr Ford:** I was quite happy with Alex's proposal. I merely sought to expand it in an attempt to be helpful to Sinn Féin. I am content to agree to Alex's proposal, if Sinn Féin is content to do so.

3819. **The Chairman (Mr Molloy):** Perhaps if Alex rereads his proposal, members will listen, and we can see if there is consensus.

3820. **Mr Attwood:** Following the discussion on the availability of British passports to citizens of the Irish Republic born after 1949, it was agreed to refer the matter to the two Governments for further consideration.

3821. **The Chairman (Mr Molloy):** Have we agreement on that?

*Members indicated dissent.*

3822. **Mrs Long:** To resolve this matter, can we simply insert the relevant section from the Hansard report?

3823. **The Chairman (Mr Molloy):** That is all we can do. However, David's proposal was a reflection of what was recorded in the Hansard report.

3824. **Mr Ford:** I attempted to insert in the minutes both the proposal that fell and the proposal on which there was consensus. In effect, that is what Hansard records.

3825. **Mr Attwood:** Perhaps David will withdraw his proposal and agree to Naomi's proposal to insert the relevant paragraphs from the Hansard report.

3826. **The Chairman (Mr Molloy):** Are we agreed?

3827. **Mr Poots:** It will become evident that the only confusion is among the ranks of Sinn Féin.

3828. **The Chairman (Mr Molloy):** Do members want a copy of the Hansard report? We can adjourn for five minutes to arrange that.

3829. **Mr Ford:** We have accepted the accuracy of it.

3830. **Mrs Long:** There is no point in looking at the Hansard report to decide whether it is accurate. It is accurate. We cannot dispute Hansard. If members wanted to do that, they would have done so before today.

3831. **Lord Morrow:** If we have copies, we will know what the Hansard report says.

3832. **The Chairman (Mr Molloy):** At least we would know to what we are agreeing.

3833. **Mrs Long:** It is immaterial.

3834. **Mr Poots:** Referring to the Hansard report will make it worse for Sinn Féin.

3835. **Mr McNarry:** This is the final report of Hansard and not the draft, is it not?

3836. **The Committee Clerk:** It is the draft.

3837. **Mr McNarry:** Have all members approved the draft Hansard report, according to normal procedures, and said either that they have no problem with it or that they do have a problem?

3838. **Lord Morrow:** Does that include Mr Ferguson?

3839. **Mr Poots:** It will be explicit from the Hansard report what we agreed.

3840. **Mr McNarry:** Technically, that is what should be done.

3841. **Mr Ferguson:** Technically, we usually do that at the beginning of every meeting. That is why we are talking about it now.

3842. **Mrs Long:** The only changes that members can make to Hansard are minor alterations to grammar. The context and detail cannot be changed, whether in draft form or not.

3843. **The Chairman (Mr Molloy):** It would be handy if there were less cross debate, so that we can listen to the member who is talking.

3844. **Mrs Long:** The only changes that members can make to the draft and final versions of a Hansard report are minor grammatical amendments in order to assist the flow. Members cannot change what was agreed or not agreed. Whether in draft or final version, the Hansard report reflects what happened.

3845. **Mr Poots:** Correct.

3846. **Lord Morrow:** That is true.

3847. **The Chairman (Mr Molloy):** Can we go back for one moment?

3848. **Mr Nesbitt:** I support what Naomi said. The Hansard report shows that the Chairman asked if there was consensus that the two Governments should be asked to consider the issue, to which members indicated assent. That will be clear from the tape. There can be no ambiguity, unless the tape shows something different.

3849. **Mr Ford:** I am happy to follow Alex's suggestion that I withdraw my proposal in favour of Naomi's.

3850. **The Chairman (Mr Molloy):** The Clerks must know the exact wording to ensure future accuracy.

3851. **Mrs Long:** My proposal is simply to delete the paragraph that paraphrases the Hansard report and to replace it with the relevant paragraphs from the actual report, wherein the proposal is made and consensus sought and reached.

3852. **The Committee Clerk:** Our difficulty is that we reflected what we thought was agreed in the body of the report. If we are not clear on what was agreed, there is a difficulty with the report. That is why we are trying to clarify that proposals were agreed last week.

3853. **Mr Attwood:** On this occasion, the Hansard report is explicit. It records that the Chairman asked if there was consensus, that the matter would be referred to the Governments and that no one dissented.

3854. **The Chairman (Mr Molloy):** We could copy the two proposals directly from the Hansard report and insert them into the minutes.

3855. **Mr Attwood:** Yes.

3856. **Mr Ferguson:** I suggest that the Committee be suspended for five minutes so that members can read the Hansard report and consider Alex's proposal.

3857. **Lord Morrow:** We can take the Hansard report wherever we like; we cannot change it.

3858. **Mr Ferguson:** My suggestion is that we take a five-minute adjournment. Does Maurice have a problem with that?

*10.45 am*

3859. **Lord Morrow:** I have no difficulty with that; the protocol has been that if an adjournment is asked for, it has been granted. Sometimes it is useful to state the reason. The DUP is not objecting to an adjournment.

3860. **Mr Ferguson:** Well, I am asking for one.

3861. **The Chairman (Mr Molloy):** Let us take five minutes and come back to the matter then.

*The Committee was suspended at 10.45 am.*

*On resuming —*

10.59 am

3862. **The Chairman (Mr Molloy):** Do any members who have not attended before — Mr Ennis; Ms Ruane; there might be others — have any interests to declare?

3863. **Mr Ennis:** I have no interests to declare.

3864. **The Chairman (Mr Molloy):** You are very welcome to the meeting.

3865. Can we agree the minutes?

3866. **Mr Ferguson:** No. Sinn Féin is not going to agree, primarily because Philip McGuigan's comments, as recorded in the Hansard report, clearly reflect our objection on the passport issue. That being the case, why would we then feel that it would be OK for the two Governments to discuss something that we object to?

11.00 am

3867. **Mr Nesbitt:** That is your logic.

3868. **Mr Ferguson:** It is fairly clear to me.

3869. **Mrs Long:** Previously, when there has been no consensus on the substantive issue, we agreed that it could become part of the talks, or be referred to the two Governments for further consideration. That has happened on a number of occasions. I cannot cite them all now, but they are in the Hansard report. It does not follow that if you disagree with the proposition you must automatically disagree with other people having further discussions on it.

3870. Take the DUP's paper on parades, for example. We did not agree with the entirety of the paper but were happy to bring it back for further consideration. There was consensus that it should return to the Committee for further consideration. There have been instances where people clearly do not agree with the substantive point but do agree that there should be further discussion, either with the Governments or within the Committee.

3871. **The Chairman (Mr Molloy):** I do not know if we are going to get anywhere in this debate. I will ask the Committee Clerk to clarify the minutes, and we will either agree or disagree at that point.

3872. **The Committee Clerk:** Nelson McCausland proposed that British passports should be made available to citizens born in the Republic of Ireland after 1949. There was not consensus, and the proposal fell.

3873. **The Chairman (Mr Molloy):** Is everyone happy enough with that? What is the next part?

3874. **The Committee Clerk:** He proposed that the matter be referred to the two Governments for consideration. There was consensus, and the proposal was agreed.

3875. **Mr Ferguson:** It was not agreed.

3876. **The Chairman (Mr Molloy):** As regards the Hansard —

3877. **The Committee Clerk:** That is what the Hansard report says.

3878. **The Chairman (Mr Molloy):** We do not have agreement on it.

3879. **Mr Nesbitt:** Where does that leave us?

3880. **The Chairman (Mr Molloy):** It leaves us with minutes that are not agreed.

3881. **The Committee Clerk:** We have agreed that the proposal that British passports be made available did not have consensus. If the second part has not been agreed then it is not agreed, so it does not appear in the minutes.

3882. **Mr Poots:** We are agreed that we put those particular portions of Hansard in the minutes, are we not?

3883. **The Chairman (Mr Molloy):** That is why I have asked the Committee Clerk to reword that.

3884. **Mr McNarry:** This is a very dangerous precedent.

3885. **Mr Nesbitt:** Very dangerous.

3886. **Mr McNarry:** I suggest that you should take advice on this, Chairman. The exercise that we engaged in this morning was just to agree the minutes — a relatively simple thing. Here we are at 11.05 am and we have not agreed them. We cannot just say that the minutes are not agreed. Unless you can give a direction now, Chairman, I respectfully suggest that you take advice. This will set a precedent for every issue. Any party could decide for political reasons — which I



suspect is the case here — to change its mind at the next meeting and attempt to alter the minutes. If we cannot accept this, we cannot accept the whole minute.

3887. **Mr Poots:** Chairman —

3888. **The Chairman (Mr Molloy):** Naomi was first.

3889. **Mrs Long:** I am very concerned about this. This is not a matter of something being implied; it is explicit. The Hansard report says that members indicated assent. Philip McGuigan said:

*“I made my comments based on the proposal before me. Sinn Féin is content for the two Governments to have consultations, but it is not a major impediment to the restoration of the Executive.”*

3890. If Sinn Féin is saying now that it disagrees with Philip McGuigan, then that is an entirely different matter. Sinn Féin cannot dispute the accuracy of what is recorded.

3891. **Mr Ferguson:** My point is that paragraph 48 of the proposed draft report implies that Philip McGuigan also supported the notion of the passports. The confusion arises out of how that is interpreted. That is why we have a difficulty with it.

3892. **Mrs Long:** We are only dealing with the minute.

3893. **Mr Ferguson:** The logical conclusion of the minute is that we would support the notion of passports for —

3894. **The Chairman (Mr Molloy):** All we are dealing with at this stage is the accuracy of the minute.

3895. **Mr Nesbitt:** Sinn Féin cannot get away with that. We are not confused about what Sinn Féin is saying we are confused about. We have spent an hour and five minutes trying to decouple two dimensions: one, Sinn Féin does not agree with Irish citizens getting British passports; and, two, it did permit that to be suggested for consideration by the two Governments. There is no confusion; this point does need to be clarified.

3896. It was suggested that we would be here for some time today. This quite simple matter

should be clarified as a matter of priority and, if possible, before the meeting completes its business today.

3897. **The Chairman (Mr Molloy):** The minute is not agreed, so we will check the position on it. We also have a previous minute that was not agreed, and we need to look at it.

3898. **Lord Morrow:** Therefore we are returning to it.

3899. **The Chairman (Mr Molloy):** We will return to it afterwards.

3900. **Mr Ford:** At that point we did not have the benefit of Hansard. The Committee’s report on this strand will include a full Hansard of last week’s discussion, and so what was agreed will be absolutely clear. I said earlier, about a hundred years ago — well perhaps 45 minutes ago — that it was entirely open to Sinn Féin, when making recommendations in a report, to change its position. However, it simply cannot say that it did not say last week what it clearly did say.

3901. **The Chairman (Mr Molloy):** I do not think that we can get any further on this, so let us move on.

3902. **Mrs Long:** It is difficult to see how we can make progress if people are in denial about what they said and if they are prepared to sit with the Hansard report — which is clearly an accurate reflection of what was said — in front of them yet say the opposite of what it contains. That places the whole Committee in a very precarious position. The lack of agreement on the minutes was the reason for bringing Hansard into proceedings of the Committee in the first place. That was done so that we would not get into these wrangles, and everyone else has accepted the accuracy of the Hansard report and the minutes ever since. Now, at the end of a lengthy process, we have people disputing the accuracy — not the content, which is for discussion under the report — but the accuracy of the record, and that is a substantive issue that we need to address. How we move on from this is not clear to me.

3903. **Mr Nesbitt:** Mr Ford said a moment ago that Sinn Féin could change its position when we deal with the report; however, I am not sure

whether that can happen. The report is meant to be a record of the deliberations of this Committee.

3904. **Mr Ford:** During discussion, any party is surely at liberty to change its position and to request that an amendment be made. The record of what happened last week is one thing; but surely any party is at liberty to say that it has changed its mind. My point is that no party is at liberty to say that it did not say something that it did say.

3905. **The Chairman (Mr Molloy):** I suggest that we reflect the minute as the Clerk read it out, and I rule that it is an accurate record of last week's meeting.

3906. **Lord Morrow:** It is an accurate record; that is what was agreed.

3907. **The Chairman (Mr Molloy):** The minute is accurate.

3908. **Mr Nesbitt:** I did not say that people or parties could not change their positions; of course they can. However, does the substantive report that we put to the Assembly reflect what was agreed here?

3909. **The Chairman (Mr Molloy):** We have decided that it is an accurate minute, with the amendment that we are using Hansard as an accurate account.

3910. **Mrs Long:** We agree that without question. We need to address the issue that Mr Nesbitt raised: the status of the draft report. Parties could challenge the way in which paragraph 48 is worded; but that is a completely different issue.

3911. **The Chairman (Mr Molloy):** We are coming to that.

3912. **Mrs Long:** If we muddle the two, it creates more difficulty.

3913. **The Chairman (Mr Molloy):** We are not dealing with the report at this stage; we are dealing with the minutes. We will come to the report. There may be variations, as different people have different ideas.

3914. **Mr Ferguson:** We have put on record that we are not happy with the minutes.

3915. **The Chairman (Mr Molloy):** Yes.

3916. **Mr Nesbitt:** May I deal briefly with a matter that arises from the minutes, now that

they are agreed? Monica McWilliams's letter was considered at the end of the meeting, and I was not present for that. A letter from the Human Rights Consortium was considered at the beginning of our previous meeting, but that is just a matter of procedure. My question is this: what happened at the meeting of 4 September as regards that item?

3917. **The Chairman (Mr Molloy):** We were going to bring that up at the end of the meeting, but we can deal with it now.

3918. **The Committee Clerk:** The matter was deferred at the meeting on Monday. The DUP came back with its position.

3919. It was agreed that the Committee would not accept the proposal made by Prof McWilliams in its current form, and members requested that I ask her whether she could arrange either a shorter seminar or alternative dates. Prof McWilliams phoned me with an alternative date. She is to confirm that in writing but has yet to do so. Therefore I have nothing to table today.

3920. **Mr Nesbitt:** Thank you.

3921. **The Chairman (Mr Molloy):** It will be a shorter seminar. There do not appear to be any other matters arising from the minutes.

3922. The next item of business is the draft report. As is customary, our discussion of the draft report will take place in closed session. Are members content that we continue with that practice? It means that today's Hansard report will not include details of the discussion.

3923. **Mr Poots:** Will the session be taped for accuracy purposes?

3924. **The Chairman (Mr Molloy):** Yes. The session will be taped to help staff when drafting the Committee's report, but the discussion will not be included in the Hansard report. As was agreed for other meetings, even though the session is closed to all other parties, the research staff will remain.

*The Committee met in private session from 11.11 am to 4.13 pm.*

*Adjourned at 4.13 pm.*



## Friday 15 September 2006

### Members:

The Chairman, Mr Francie Molloy  
Mr David Ford  
Mr Derek Hussey  
Ms Patricia Lewsley  
Mr Kieran McCarthy  
Mr Nelson McCausland  
Mr Alan McFarland  
Mr Philip McGuigan  
Lord Morrow  
Mr Dermot Nesbitt  
Mr Edwin Poots  
Mr Pat Ramsey  
Ms Caitríona Ruane

*The Committee met at 10.13 am.*

*(The Chairman [Mr Molloy] in the Chair.)*

3925. **The Chairman (Mr Molloy):** I remind Members to switch off their mobile phones, because they interfere with the recording. Are any new members present today? The SDLP's Pat Ramsey is deputising for Seán Farren.

3926. **Ms Lewsley:** I am deputising for Mark Durkan.

3927. **Mr McGuigan:** I am deputising for Conor Murphy.

3928. **Ms Ruane:** I am deputising for either Michelle Gildernew or Martin McGuinness.

3929. **Mr McCausland:** I am not sure for whom I am deputising.

3930. **Lord Morrow:** You are deputising for Ian Paisley Jnr.

3931. **Mr Nesbitt:** I am here on behalf of Alan McFarland, and Derek Hussey will be here on behalf of Danny Kennedy. David McNarry will not be present today.

3932. **Mr Ford:** Ecstatic cheers.

3933. **The Chairman (Mr Molloy):** Do members have any interests to declare?

*Members indicated dissent.*

3934. **Mr Ford:** Chairman, I expect to be joined this morning by Kieran McCarthy, who will be deputising for Naomi Long. I must leave later, and at that point Kieran will replace me, as Naomi should be here by then.

3935. **Lord Morrow:** That is very clear.  
*[Laughter.]*

3936. **Mr Ford:** Clearer than Dermot generally is.

3937. **Mr Nesbitt:** Chairman, as I mentioned at our first meeting, this need to state who is deputising for whom at every meeting is crazy.

3938. **The Chairman (Mr Molloy):** It is just procedure.

3939. **Lord Morrow:** Dermot, you are only a sub.

3940. **Mr Nesbitt:** I know that I am only a sub.

3941. **The Chairman (Mr Molloy):** There is an amendment to the minutes of 8 September 2006. On page 3, item 4 states that the:

*“deliberations on the sub-group's report would not be included in Hansard.”*

3942. That should read:

*“deliberations on the report would not be included in Hansard.”*

3943. **Ms Ruane:** What page are we on?

3944. **The Chairman (Mr Molloy):** We are looking at “Agenda item 2”, paragraph 4 of the draft minutes.

3945. **The Committee Clerk:** It is on the third page.

3946. **Ms Ruane:** I do not know where we are. The pages are not numbered.

*10.15 am*

3947. **The Chairman (Mr Molloy):** We are taking the word “subgroup's” out of the minute. “Agenda item 2”, paragraph 4 of the minutes reads:

*“It was agreed that the Committee's deliberations on the subgroup's report”,*



3948. but it should just read “*deliberations on the report.*”

3949. **Lord Morrow:** Can you take us through that again? I begin to think that I have not the right folder. I certainly cannot see that under item 4.

3950. **The Committee Clerk:** It is on the third page of the minutes, “Agenda item 2”, in paragraph 4.

3951. **Lord Morrow:** Are these pages numbered?

3952. **The Committee Clerk:** No.

3953. **Ms Ruane:** It is at paragraph 4, “Agenda item 2”.

3954. **Lord Morrow:** “Agenda item 2”?

3955. **The Committee Clerk:** Where it says “the Committee’s deliberations”, not “the subgroup’s deliberations”.

3956. **Lord Morrow:** Thank you.

3957. **Mr Ford:** I suggest a minor modification. Near the bottom of page 2, it is recorded that I left the meeting at 11.10 am, which is accurate. However, I left after the discussion on the minutes, so that should be recorded above paragraph 4, which we have been talking about. It was such fun that I wish to be recorded as having been here.

3958. **Lord Morrow:** I take it that you are assuming no responsibility for them, is that right?

3959. **The Chairman (Mr Molloy):** We will have your departure noted in the correct place. With those changes made, are the minutes agreed?

*Members indicated assent.*

3960. **The Chairman (Mr Molloy):** We move on to matters arising. They include consideration of the invitation to a meeting with Monica McWilliams, the Northern Ireland Human Rights Commissioner. The revised list of dates and times is at tab 2 of your papers. It will help to agree a date today. The meeting can take place on Thursday 5 October or Friday 6 October. There is a problem with 6 October, in that on that day the PFG Committee will consider the ‘Second Report of the Subgroup on the Economic Challenges facing Northern Ireland’.

3961. **The Committee Clerk:** The subgroup is due to report on 4 October, so we will probably be looking at its report on that day.

3962. **Mr Nesbitt:** What will the Committee will be doing on 6 October?

3963. **The Chairman (Mr Molloy):** The economic subgroup’s second report is to be considered, either in the morning or afternoon. It is a matter of balancing between the two.

3964. **Ms Ruane:** Is the meeting urgent? Can we not meet on 19 October?

3965. **Ms Lewsley:** I propose 5 October. Does that suit members?

3966. **Ms Ruane:** I am not free on 5 October.

3967. **The Chairman (Mr Molloy):** The 5 and the 19 October have been suggested.

3968. **Lord Morrow:** The 5 October would be better.

3969. **Ms Ruane:** The 5 October is difficult.

3970. **Ms Lewsley:** The 6 October is out, so that leaves 19 October.

3971. **The Chairman (Mr Molloy):** Is 19 October suitable?

3972. **Mr Ford:** Unless the Prime Minister and Taoiseach invite some of us elsewhere, which is still possible.

3973. **Ms Lewsley:** That is a problem in that week.

3974. **Mr Ford:** The 19 October does not suit.

3975. **Lord Morrow:** The letter from the Human Rights Commissioner suggests Thursday 5 October 9.30 am – 12.30 pm, with lunch from 12.30pm – 1.30 pm. Is that her proposal?

3976. **The Chairman (Mr Molloy):** Yes.

3977. **Lord Morrow:** She wants lunch from 12.30 pm – 1.30 pm?

3978. **The Chairman (Mr Molloy):** Yes. That is what is being offered. The meeting will be outside this building, perhaps in a hotel, and the commission will provide lunch.

3979. **Ms Lewsley:** You do not have to stay for lunch. That is optional.

3980. **Lord Morrow:** I understand that.

3981. **The Committee Clerk:** Or the meeting could be held in the afternoon and start with lunch.

3982. **Ms Lewsley:** We can have an afternoon meeting, but that would be on 6 October, which is the day for the economic subgroup report.

3983. **The Chairman (Mr Molloy):** That would make it difficult on that date, but it may be possible to have both on 6 October.

3984. **Mr Nesbitt:** I am happy with either date. However, I am curious to know what the Human Rights Commission's view is on a symposium.

3985. I would like some guidance on how the meeting will be structured before it takes place. Will the representatives of the Human Rights Commission make a presentation? Will they give it to us beforehand? Will we question them on their presentation? What format will it take?

3986. **The Chairman (Mr Molloy):** I have no details. However, the suggestion is that discussion will be about a bill of rights. The Human Rights Commission representatives will make a presentation and then engage in general discussion with the political parties.

3987. **Mr Nesbitt:** If they make a brief presentation, we can ask them to send it to the officials in advance so that we can see it.

3988. **The Chairman (Mr Molloy):** We should ask them for as much information as possible before the meeting.

3989. **Ms Lewsley:** I propose that the meeting take place on 5 October 2006. Caitríona has agreed to that. I worry that a meeting on 19 October might drift into the period of negotiations.

3990. **Ms Ruane:** In light of that, we will work around 19 October.

3991. **Mr Nesbitt:** I am concerned, not that we will drift into negotiations, but that the negotiations will drift.

3992. **The Chairman (Mr Molloy):** Let us not get into the negotiations.

3993. Do members agree with Patricia's suggestion of 5 October?

*Members indicated assent.*

3994. **The Chairman (Mr Molloy):** The next part of this meeting is in closed session for consideration of the report.

*The Committee met in private session from 10.20 am to 12.08 pm.*

*On resuming—*

*12.08 pm*

3995. **The Chairman (Mr Molloy):** Members have the two suggested motions for debate.

3996. **Mr McGuigan:** Can we take a five-minute break to consider them?

3997. **The Chairman (Mr Molloy):** We break for lunch at 12.20 pm.

3998. **Ms Lewsley:** Can we break early for lunch?

3999. **Mr Nesbitt:** There are two motions before the Committee. Which one has the same layout and wording as the one that we discussed last week?

4000. **The Committee Clerk:** The second one. Last week, the Committee identified specific issues requiring resolution and further discussion in its report.

4001. **Mr Ford:** We did not.

4002. **Mr Nesbitt:** We had a motion before the Assembly on Monday 11 and Tuesday 12 September, and the wording, phrasing and format of the second one — *[Interruption.]*

4003. **The Committee Clerk:** The motion on the economic subgroup's report was quite different because that report had specific recommendations. None of the PFG Committee reports contains specific recommendations. They contain either proposals agreed, proposals not agreed or issues identified for further discussion or resolution. There are two different sets of wordings because when the motions were drawn up we did not know whether this PFG Committee would identify issues for further resolution or discussion, which it has now decided not to do. Therefore the wording in the second motion would not cover the report. The first motion has a suggested wording.

4004. **Mr Nesbitt:** What is the wording of the first motion?

4005. **The Committee Clerk:** It is a suggested wording, but it does not reflect the motion for the economic subgroup's report, which makes specific recommendations.

4006. **Mr Nesbitt:** None of those motions is the same as the economic subgroup's one.

4007. **The Committee Clerk:** No.

4008. **The Chairman (Mr Molloy):** We will break for lunch and resume at 12.45 pm.

*The Committee was suspended at 12.11 pm.*

*On resuming —*

*12.47 pm*

4009. **The Chairman (Mr Molloy):** I remind members to switch off any mobile phones that may have been on over the lunch break because they interfere with the Hansard recording equipment.

4010. **Ms Ruane:** Sinn Féin has agreed the content of the report but will not ratify it, because reports are being used as the basis for talking-shop debates. We will not participate in that sham for all the reasons that we have outlined. It is obvious from Ian Paisley's comments two days ago that the DUP has no notion of, or interest in, power sharing before 24 November. Therefore Sinn Féin will not ratify reports until it sees how they contribute to restoration.

4011. If we are satisfied, at some point in the future, that the reports have such a contribution to make, we will revisit the matter. However, we are not prepared to take part in shams and at the moment will not support the report. We do not agree to its being published or to a motion going forward to the Secretary of State.

4012. **Mr McCarthy:** I propose that we accept the first of the two motions that were presented to us for a plenary debate and forward that to the Secretary of State.

4013. **The Chairman (Mr Molloy):** Caitríona, what do you mean by not ratifying the report?

4014. **Ms Ruane:** Sinn Féin agrees with the content of the report but will not ratify it. We do not accept that the report be published or that it go forward to the Secretary of State, because it is not agreed.

4015. **Ms Lewsley:** In that case, may I ask for a point of information? My understanding is that when members were asked at each stage of this report whether they agreed it, Sinn Féin said yes. Yet you are saying now that you do not agree the report.

4016. **Ms Ruane:** No. In answer to your point of information, Sinn Féin agrees the content of the report, which is why I asked the Chairperson earlier whether the report would be ratified. We do not agree to its being ratified or published, nor do we agree to the motion.

4017. **Mr McGuigan:** In essence, that means that the content of the report is a true and accurate reflection of what was discussed.

4018. **Lord Morrow:** You can support it.

4019. **Mr McGuigan:** Sinn Féin agrees that it is a true and accurate reflection of what was discussed. As Caitríona has clearly pointed out, we do not want the report to be ratified, published or used as the basis for a sham debate.

4020. **Ms Lewsley:** I am sorry that Sinn Féin has taken that stance, particularly given the issues that have been discussed in the Committee. In my opening remarks at the beginning of this sequence of meetings, I said that we had made history by getting all the political parties around one table. We have agreed on several issues — there were some on which we disagreed — but the amount of consensus that we reached was positive. Sinn Féin's stance now is a bit ironic, given that it was going to agree to a comprehensive agreement that referred to talking shops, a shadow Assembly and all the rest.

4021. We have done a lot of work, and we are trying to move this matter forward so that we can hold a debate in the Chamber to show the public that political parties can work collectively and deliver for people on issues such as disability and poverty, but now Sinn Féin is reneging on its responsibility.

4022. **Ms Ruane:** We welcome the discussions, which are important, but we should not claim that we are making history. We work with other parties in councils and in education and library boards, but we will not participate in sham debates or discussions, because we could hold

those discussions anywhere. The institutions should be up and running. Who are the blocks to the restoration of the institutions? Who is their party leader?

4023. Let us examine what the party leaders have said. Our party leader is clear that there are no blocks to restoration. Your party leader, Mr Ian Paisley —

4024. **Mr Poots:** Speak through the Chair.

4025. **Ms Ruane:** I am not finished. Your party leader —

4026. **Mr Poots:** On a point of order, she should speak through the Chair.

4027. **Ms Ruane:** Mr Ian Paisley, the party leader of Edwin, Nelson and Maurice, has said that there will be no deal before 24 November. The essential question is: who is blocking the deal? Who is wasting people's time?

4028. **Mr Poots:** The IRA.

4029. **Ms Ruane:** Patricia Lewsley mentioned Sinn Féin, but let us place the focus where it should be.

4030. **Mr Poots:** The IRA does not know how to go away.

4031. **Lord Morrow:** This is another turnaround by Sinn Féin. On the Business Committee, Sinn Féin said that, if the Committee on the Preparation for Government were established, it would be prepared to discuss and debate anything that emanated from it. However, now that the Committee's deliberations are ready for publication and ready for debate, Sinn Féin is saying, "No. Hide it away, and do not tell anyone about it".

4032. She says that we are the sole blockers to the restoration of devolution, because of Dr Paisley's statement on Wednesday. However, I heard Dermot Nesbitt saying that his party would not go into Government, and I think that she heard that too, but has deliberately decided to ignore it for reasons best known to herself.

4033. It is horrendous that members have given up a great deal of their time to attend the Committee meetings and have discussed all the relevant issues, only to be told that this report

should not be debated in the Assembly. Why come here and waste your time if you feel that these matters have no life beyond a discussion? We highlighted areas where we sincerely feel that there can be no movement until a host of issues has been addressed, but you feel that that is not relevant in today's world, or relevant to the deadline of 24 November. The Secretary of State pulled that date out of the sky — we did not come up with it.

4034. Sinn Féin has not signed up to policing, and it has no intention of doing so. We knew from day one that that party would not support the security forces and the police in their drive against all the shenanigans that have gone on in this country, because, often, Sinn Féin is part of them. Before you throw all your stones at us, take a look at what is happening in your own backyard, because you will find that there may be a problem there.

4035. **Mr McGuigan:** I want to clarify a few points. Patricia mentioned debates and delivering for people. The truth is that the debates that have taken place in the Assembly Chamber are not delivering for people. The only way to deliver for people who want issues to be discussed and legislation to be passed is to get the institutions up and running as envisaged under the terms of the Good Friday Agreement. That is not happening at the moment.

4036. Sinn Féin has said, at the Business Committee and at these Committee meetings, that if there were genuine issues and a genuine attempt to get the institutions up and running by 24 November, it would consider taking part in plenary sittings. As Caitriona has quite clearly outlined, the DUP has not made that genuine attempt, and, until that happens, Sinn Féin will not take part in plenaries.

4037. Patricia might think that these debates are delivering for people, but they are not. The only way in which we can deliver for people is to have the Government, the institutions — including the all-Ireland institutions — up and running so that we can do the real work and put this Committee's work into action.

4038. **Mr McCausland:** The comments from Caitriona Ruane were bizarre and disingenuous.



It is clear that she has been sent here today to say no, and she has done that. It is an insult to the democratic process and to the other political parties who have given of their time and commitment to contribute to the discussions and to the production of a report.

4039. If I were to speculate on the reasons that Sinn Féin has taken this action, my first suggestion would be that Sinn Féin cannot cope with equality, particularly in this case. It prefers that others be discriminated against to the advantage of its community, and, in particular, Sinn Féin. It is disappointing that it cannot cope with equality, and that is one of the reasons that its members constantly say no to all these issues.

4040. The party is probably unwilling to stand on the Floor of the Assembly and expose the cracks and the differences within the ranks that we have witnessed here on a number of issues. Mr McGuigan has been in some difficulty at times.

4041. **Lord Morrow:** He has been in the vanguard.

4042. **Mr McCausland:** Indeed, he has been very much to the fore of some of that confusion. There have been a couple of notable examples of that, which was interesting.

4043. The key word is “delivery”. If the institutions or devolution are to be restored — or whatever we want to be restored — in Northern Ireland, there must be delivery. That means that republicans have to deliver what they were supposed to deliver years ago. That means delivering up the proceeds of all the criminality and getting to the same place as every other democratic party. That means becoming a truly democratic party that is not inextricably linked to criminality and gangsterism.

4044. Furthermore, the Government have to deliver the equality that the people in this country are entitled to and that they have been denied for far too long. Cultural, community and educational equality are all important and must be delivered before we can start to get anywhere. I doubt whether they can be delivered by 24 November. Whether the deadline is 24 December or 24 January or 24 of any other month, the onus is on people to start delivering.

We know that they must be delivered and simply sending Caitríona Ruane along today to say no is an insult.

4045. **Ms Lewsley:** I am saddened because this issue has turned into a personal attack. It is misrepresentative, and it is an example of political grandstanding because Hansard is here to record this meeting for future reference.

4046. To clarify a couple of points: when I talked to Philip about delivering for the people, I meant it in a political sense. People think that every MLA is sitting at home with their feet up, doing nothing. This was our opportunity to show people that we are serious about equality, human rights, victims and the disappeared, and so on. It was an opportunity to allow parties to put their views on record so that the public can see how each party felt about every issue and to let the public know that we have not been doing nothing all summer. It is a slap in the face for all those members — particularly those in your party, Philip — who gave up their time every Friday to contribute to the debate.

4047. To respond to Caitríona, I replied to you today because you raised the issue. It is on record in Hansard that, for the past number of weeks, I have attacked the DUP and any other party that I think is blocking restoration.

4048. That is on record. My party made a proposal asking both those parties to live up to their responsibilities. I would like Caitríona to clarify one point: is she telling me that Sinn Féin is denouncing the comprehensive agreement?

4049. **The Chairman (Mr Molloy):** We will come back to that.

4050. **Mr P Ramsey:** With reference to the motion, the SDLP will support the proposal made by Mr McCarthy. This is my first time at the Committee, and it has been a learning curve. A hell of a lot of good work has been done recently on a huge range of subjects that would have caused major difficulties in the past. There would have been huge dissent on a number of areas: safeguards, a bill of rights, human rights, equality, good relations and the whole shared future aspect.

4051. The public will be looking expectantly to see what the Assembly can do in this mode. The SDLP does not want to be in this mode. It wants to see a fully restored Government back in Northern Ireland, but in the absence of that, it will endeavour to do what it can to make a difference. To a certain extent Caitríona is right. We want to see whether the Secretary of State will take heed of the series of motions debated in the Assembly. However, I am disappointed with the hypocrisy. Sinn Féin signed up to an agreement to what would, in essence, be similar to a shadow Assembly — similar to what is happening at present. What has changed? Is it because so many secret were deals done at that time with the British Government that enabled it to sneak in the on-the-run legislation?

4052. It is disappointing. “We can agree in principle to the report, but we will not ratify it.” That is nonsense. It is nonsense that Sinn Féin members are sitting on the Committee very productively and responsibly, participating on a range of issues that resulted in an executive summary and safeguards for equality and victims, but they will not debate it in the Chamber with the rest of us. That is what the people of Northern Ireland want.

4053. I do not understand. Sinn Féin got a secret deal, and it even went into the Assembly Chamber and debated it, but it will not go in now to debate the fundamental difficulties of our society over the past 30 years. We have the gift to cure it by introducing legislation that will give people equality, fair employment, and safeguards, and make this society a better place.

4054. I am not having a go at Sinn Féin but, like Patricia, I cannot understand why the minute that Hansard starts reporting proceedings there is a rant from Sinn Féin saying that it does not want this published now and that it will not agree to this document now because the Committee is in public sitting. There is something wrong, and only Sinn Féin can answer that.

4055. **The Chairman (Mr Molloy):** The Committee can ask Hansard to leave if Members prefer. It is not about Hansard.

4056. **Ms Lewsley:** It seems to be.

4057. **Mr Nesbitt:** I do not agree with Hansard’s leaving. I will ask a question and if the answer is not immediate, I will make a comment. Sinn Féin said that it does not agree with the report being published or going forward. Does that mean that it does not go forward and it is not published?

4058. Sinn Féin clearly said that it agreed with the report but it will not take it forward because debate on the report will be just a talking shop. However, Sinn Féin has no notion or interest in sharing power with unionists. Let me make one succinct comment, which is not to grandstand, as Patricia said. The president of Sinn Féin went to the Middle East 10 days ago, and his press statement was issued on 3 September. I do not have a copy with me because I did not know what Sinn Féin was going to say today. In that statement he referred to the principles of solving problems, which were transferable between the Middle East and here — although we are sitting here in an equality-based committee with human rights. One of the principles he mentioned was — and I quote him verbatim:

*“respect for human rights and international law”.*

4059. If the party of which Mr Adams is president fully respected human rights and fully abided by international law, there would not be a blockage to devolution in Northern Ireland. I put the onus, fairly and squarely, on Sinn Féin and the Government because they acquiesce and accommodate Sinn Féin in its non-compliance with international human rights law.

4060. In conclusion, had the Sinn Féin president, the members of that party and its associated organisation abided by his words, there would not be a problem today. Rather than a talking shop, there would be a functioning democratic institution in Northern Ireland. That is where the blame for the blockage lies.

4061. **Mr Poots:** I do not want to pay much attention to what Caitríona Ruane said because everybody knows who has truly caused the blockage. It is not Ian Paisley, but “Slab” Murphy and his IRA colleagues, who now have the upper hand and are up to their eyeballs in criminality. No political settlement will be achieved until

that criminality is dealt with and Sinn Féin signs up to the policing structures.

4062. Can I confirm that the Committee agreed the report?

4063. **Ms Ruane:** The content has been agreed.

4064. **Mr Poots:** I want to ask the Clerks what the next step is once the report has been agreed.

4065. **Mr Nesbitt:** I also want to ask that question.

4066. **The Chairman (Mr Molloy):** There must be agreement on whether the report will be printed. I interrupted Catríona — she wants to make a point about the executive summary. We must deal with certain issues about the report.

4067. **Mr Nesbitt:** On a point of procedure, Mr Chairman. I understand that Sinn Féin members have agreed the report. However, they do not agree with its publication. If all parties have agreed the report, but all parties do not agree to its being published, does that mean that it will not be published?

4068. **The Chairman (Mr Molloy):** There must be consensus on whether the report will be published.

4069. **Mr Nesbitt:** Sinn Féin has, therefore, shifted its position, which it has now clarified.

4070. During the debate on whether to agree the economic subgroup's report, Sinn Féin acquiesced, if only by silence, that the report be published. The report was agreed and published, despite Sinn Féin's non-attendance at the debate. Sinn Féin made it clear at its ardhomhairle that unless it was given directions about the way forward up until 24 November, it would reserve judgement as to whether it would participate in the Assembly debate. In the event, it did not participate. Now, it is ratcheting up that position: it agreed that the economic subgroup's report should be published; now it says that it disagrees with the publication of the PFG Committee's report. Let us be clear that that party is ratcheting up the ante.

4071. **Mr Poots:** I want to finish asking my questions. I have not been given a clear response. It was my understanding that the report was agreed before lunch time and that, afterwards, we would proceed to discussion on the motion.

There is no doubt that the report was agreed before lunch time. Let us be clear about that.

4072. What step is taken after the report has been agreed? Do we need consensus for the report to be published? I thought that publication was a natural step taken thereafter and that no party could agree the content of the report but prevent its publication. Could you clarify that?

4073. **The Committee Clerk:** I have no answer to that question. Before the Committee was suspended, I understood that it had agreed that the report be printed. The question was put and there was consensus. *[Interruption.]*

4074. **The Chairman (Mr Molloy):** Let the Committee Clerk answer the question.

4075. **The Committee Clerk:** Once a report is ordered to be printed, the Committee normally discusses a motion for debate in plenary session, which then goes to the Business Committee. I understood that we were discussing the motion for debate.

4076. **Mr Poots:** That is correct. We are discussing the motion. Therefore we cannot go back and undo this morning's work. It has already been agreed. I do not know whether these members have been involved before in democratic structures. When matters are agreed, it is impossible to undo them without a proper motion to rescind. I have heard no motion to rescind, and that motion to rescind would have to be agreed. The report is now agreed and publication will take place. Sinn Féin is free to table a motion to rescind that and stop the publication. It is free to do that; the Committee may agree or disagree. I suspect that it will disagree.

4077. **Mr Nesbitt:** Exactly. I understand that the report is agreed, but does Sinn Féin not agree to its publication? Can I have an answer to that?

4078. **Ms Ruane:** That is not the situation.

4079. First, what I said was that Sinn Féin agrees the content of the report. Please let me finish, Dermot.

4080. **The Chairman (Mr Molloy):** One at a time, please. If we are to have continuous interruptions there is no point in continuing.

4081. **Ms Ruane:** I will not start until I have space to speak. Members will recall that when we began to discuss the Executive Summary, I asked whether the report would be put to us for ratification. I was cut off by the Chairman and told: “We are dealing with this part of the report now” or words to that effect. We agree that the content of the report is an accurate reflection; however, Sinn Féin does not agree, ratify or agree to publication of the report.

4082. I am not finished yet. Members will please bear with me.

4083. **Ms Lewsley:** I have a point of information. I will be brief.

4084. **Ms Ruane:** I will not give way. I wish to answer Ms Lewsley’s comments.

4085. **The Chairman (Mr Molloy):** Please continue, Ms Ruane.

4086. **Ms Ruane:** As to Nelson’s comments about insult to democracy, the greatest insult to democracy was when his party leader refused, on the Floor of the Assembly, to share power with Sinn Féin and the other parties. As to equality issues, Sinn Féin firmly put equality and human rights onto the agenda in the Good Friday Agreement along with other parties; it is a major concern for the party and will continue to be.

4087. Sinn Féin is not afraid of debate with the DUP — we welcome it. The DUP is the one that runs away from debate; it is afraid to share platforms. I am not finished yet. I listened to you, Maurice, when you had your say.

4088. Here we are, parliamentarians elected by the people, but there is no parliament. It is a joke, and it is wrong. Surely members want real power to change things.

4089. As for Ms Lewsley’s comments on delivering, we are not delivering here. Just because we have sat down to discussions does not mean that we are delivering. Her party leader talked of Wendy houses. That perception is accurate. Who decides what is discussed? Who decides what is changed? A foreign Prime Minister, who is not elected in any part of Ireland. For the record, and for the benefit of the SDLP, Sinn

Féin’s context is the entire Good Friday Agreement, not just the north of Ireland. Pat mentioned “Northern Ireland” — to use his terminology — but the context embraces the Assembly, the all-Ireland institutions, human rights and equality agendas and the British-Irish dimension.

4090. If we really want democracy — the democracy that he spoke so lovingly about — let us get the institutions up and running and stop putting pretend blocks in the way. In case there is any confusion, we did not agree or ratify the report. We agreed the content of the report, but we did not have the opportunity to discuss the ratification of the report. That is the question that I asked before we discussed any of the other issues.

*1.15 pm*

4091. **Mr McGuigan:** Ms Ruane has said a lot of what I intended to say. She rightly made the point that what we agreed this morning was the content of the report. We were interrupted, and she has now made the point that she intended to make earlier in the discussion. A few members have talked of people wanting to see MLAs engaged in debate. None of the people that I have talked to has said that; they want to see MLAs, in a serious manner and with serious authority, taking on and discussing the issues that are of concern to the people out there. Everybody knows the serious issues that face our society; I am not going to rehash them.

4092. The SDLP has referred on a couple of occasions to some imaginary agreement that Sinn Féin has signed up to about a talking-shop Assembly. Sinn Féin has signed up to nothing but the Good Friday Agreement. We will not settle for anything less. We want to see that agreement implemented before 24 November, as everyone who is serious about this process should.

4093. I agree that this Committee has done some good work over the summer. That is not what we are talking about. We want to see the good work that has been done implemented. It is not about MLAs debating for some sham reason to justify their jobs. Sham debates do not fool anybody out there. That may make MLAs think that they are doing the job, but it is not the



job that they are meant to be doing. We were elected in the same way as everyone else. We want to do the serious job that we were elected to do.

4094. Agreeing this report and allowing it to go forward to debate would be an insult to the people who voted for us. We can agree the content of the report. The serious job between now and 24 November is to ensure that the institutions are restored. As yet, we have seen no serious suggestion from the DUP that it is going to even try to get them restored. It is pointless to have debates between now and 24 November, unless we get some signal from the DUP that it is prepared to act along with the rest of us in restoring the institutions — and not just the institutions here in the North, but also the all-Ireland institutions that can make a difference to people's lives all over this island.

4095. **Ms Lewsley:** Can I ask for some clarification? My understanding was that we were going through this report piece by piece. We went through the things that we agreed and the things that we did not agree. We went through the 40 points, or whatever it was, and we agreed them collectively. Then we agreed the conclusions and the executive summary. It was only at that stage that Caitríona Ruane raised this issue. Sinn Féin agreed the things that we agreed and the things that we did not agree, and it agreed the conclusions.

4096. **Lord Morrow:** They did say that they were confused.

4097. **The Chairman (Mr Molloy):** Let Patricia talk.

4098. **Ms Lewsley:** It was only when we got to the executive summary that Caitríona asked whether we were ratifying the whole report, but we agreed it as we went along. Sinn Féin agreed it.

4099. **Ms Ruane:** We did not agree it.

4100. **Ms Lewsley:** You did. The Chairman asked for consensus, and there was consensus.

4101. This beggars belief. Gerry Adams supported the comprehensive agreement provisions on institutional matters, which included a shadow Assembly. If that is not a

talking shop, what is? That was on 7 December 2004, in a letter to the Taoiseach. I really do not want to get into this argument.

4102. What Sinn Féin is now doing is vetoing an opportunity for young people, disabled people, older people and even those who want to see an increase in the status of the Irish language to hear what the parties collectively have said. I would have respected Sinn Féin more if it had said at the very beginning — nearly six weeks ago — that it was not prepared to take part in debate. That would have saved us all, including Sinn Féin's members, a lot of heartache and a lot of time.

4103. **Mr McGuigan:** We have not taken part in any debates. Our public position on debates is quite clear. Patricia seems to be confused about what we were doing this morning, but I think that it is very clear. We were agreeing the content of the report. As Caitríona tried to say before lunch, we never at any stage agreed what should happen with the report. We have no difficulty with agreeing that what is in this report is a true and accurate reflection —

4104. **Ms Lewsley:** That is not what you said. When the Deputy Speaker asked for consensus on each part of the report, the parties around the table said: "Yes." Sinn Féin did not say: "Sorry, we are not agreeing this report; we are agreeing that it is a true and accurate record." Not once did it say that.

4105. **Mr McFarland:** I apologise to the Committee for not being present this morning; I had an unbreakable engagement.

4106. **Ms Lewsley:** On a point of information, Mr McFarland, could you tell me who he is now? He substituted for you earlier.

4107. **Mr McFarland:** After lunch, I am me, and he is Danny Kennedy.

4108. **Mr Nesbitt:** For the Hansard record, the "he" to whom Mr McFarland and Ms Lewsley refer is Dermot Nesbitt. *[Laughter.]*

4109. **The Chairman (Mr Molloy):** Let us be serious.

4110. **Ms Lewsley:** Sorry.

4111. **Mr Nesbitt:** We need to be light-hearted sometimes, Chairman.

4112. **Lord Morrow:** You are not allowed to be light-hearted.

4113. **The Chairman (Mr Molloy):** Mr Nesbitt, your colleague is trying to speak.

4114. **Mr Nesbitt:** I would not wish to stop him.

4115. **Mr McFarland:** I have sat on the various formats of this Committee and have agreed the economic subgroup's report and the policing and justice report. We are halfway through the institutions report, and things are going well. In reaching agreement on those reports, there has been a similar debate to this one. In the other formats of the Committee, and its subgroup, a system has evolved, which I suggest be used in this instance. It has taken quite a long time to develop, but it seems logical and effective.

4116. The system is as follows. The Committee agrees that the report is an accurate record of what has been said. Given that it is an accurate report, it is published, as has happened in all other formats of the Committee. There has then been a discussion on a possible motion related to that report. Agreeing the report is completely unconnected to agreeing to a debate on a motion. Martin McGuinness and Peter Robinson have discussed this matter ad nauseam. The content of the motion is unconnected with anything that happens subsequently, but it reflects that a report has been written.

4117. Previously, Sinn Féin has accepted reports as accurate records and agreed motions to go with those reports. There have then been healthy discussions about whether there should be a debate on the motion, which have ended in disagreement. The motion has been referred to the Business Committee to decide whether there should be a debate.

4118. In the two previous instances, I understand that the Business Committee has not been able to reach agreement. The motions have then been referred to the Secretary of State, and the debates have been held on his say-so. That seemed to be an extremely effective method of moving matters forward, while protecting everybody's position. That allows us to have

something to show for all the meetings since May, without disrupting Sinn Féin's position on the Assembly.

4119. I suggest that that system be used to agree this report. If we are agreed that the contents are correct, that is fine and the report will be printed. We would then discuss the detail of a motion, which is completely unconnected with whether there should or should not be a debate. If we agree a motion to go with the report, we can get on with scrapping with one another about whether there should be a debate in the Assembly.

4120. I guarantee that this situation will be no different from that pertaining to any other report; there will not be agreement because Sinn Féin disagrees with having a debate in the Chamber. The motion would then be referred to the Business Committee, which would have a row about the motion and not agree it. As has been the case all summer, the motion would be referred to the Secretary of State. That system has been very effective and has worked well. Martin McGuinness, Peter Robinson and the rest of us have all been able to reach agreement.

4121. I am worried that we have become confused as to how the PFG Committee, in all its formats, has dealt with this situation before.

4122. **Ms Ruane:** I do not accept that this is a similar situation; there is a difference. Alan was not here this morning, but it is a matter of record that I asked the Chairman for clarification as to whether we were ratifying the report. I was interrupted and was not permitted to raise that matter at that point. That is why we asked for an adjournment. We agree the content of the report, but we will not ratify it. Our reasons for that — in answer to Patricia — are that we came in good faith to try to get the institutions up and running. As Philip said, good work has been done. We had plenty of debate at different levels. Two days ago, Ian Paisley Snr said that there will be no agreement. Therefore if anyone is wasting people's time, it is Ian Paisley, the leader of the Democratic Unionist Party.

4123. The difference is that we have not agreed. A week ago, the DUP said that it wanted to get the institutions up and running, although there were criticisms about the time frame. However,

when the leader of a party speaks in such a categorical way, people take it that he speaks for the entire party.

4124. In the past, the reports that we agreed have been used for talking-shop debates. Sinn Féin will not participate in such debates and will not agree to the ratification or the printing of the report. We will not ratify the reports until we see how they contribute to restoration. This is very different from other situations. That should clarify the matter.

4125. **Mr McCausland:** The interview with Dr Paisley that Caitríona Ruane heard was obviously different from the one that I heard. My recollection is that, on coming out of 10 Downing Street, Dr Paisley said that he did not foresee the possibility of matters being put in order before 24 November 2006. That is not the categorical “No; never” that Caitríona Ruane suggests. He simply said it as he saw it at the time. Many share that view, because delivery is needed on so many issues, particularly criminality and equality, that it would be almost impossible to complete work on them by 24 November.

4126. For those reasons, Dr Paisley’s assessment of the position was reasonable and accurate. That assessment is now being twisted and perverted by Sinn Féin to justify its position, and to get itself off the hook. Sinn Féin wants to be the party to say no but does not want to take the flak for it, so it blames everyone else. Caitríona Ruane has obviously been given the difficult task of justifying Sinn Féin’s position.

4127. We looked at item 4 on the agenda, “Motion for Debate of Report”. If I am at item 4 on an agenda, I have passed item 3. That is simple, plain arithmetic. It was like that when I was at school and when I was teaching, and it has not changed: by the time you reach four, you have passed three. Caitríona Ruane may not have understood that.

4128. She may have been inept in how she handled the matter. At one point, Dermot wanted to raise a matter at a later stage only to be told that it should have been done earlier. I am emphatic that people on the other side said: “No, you cannot.”

4129. The problem for Caitríona Ruane is that she left it too late. She was inept. When you get to four, you have passed three. We are at item 4, so let us stick to that, because item 3 is finalised and finished.

4130. **The Chairman (Mr Molloy):** Caitríona did make an intervention. I asked, perhaps wrongly, whether the issue concerned the executive summary, as regards the debate, and I said that the issue around the motion would come up later. I accept that we should, perhaps, have listened to that intervention at the time, but the issue was the debate. We do not have agreement on the printing and publishing of the report.

4131. **Ms Lewsley:** Could I ask for a point of information?

4132. **The Chairman (Mr Molloy):** Dermot has been trying to speak for some time.

4133. **Ms Ruane:** Can a comment be withdrawn? I have just been called inept. I do not like that, and it is a breach —

4134. **Lord Morrow:** You called me a corner boy.

4135. **Ms Ruane:** No, I did not, actually.

4136. **Lord Morrow:** You did.

4137. **Ms Ruane:** No.

4138. **Lord Morrow:** There you go again.

4139. **Ms Ruane:** I want that comment to be withdrawn.

4140. **Mr McCausland:** The sensitivity of Caitríona Ruane knows no bounds.

4141. **Ms Ruane:** Could I have clarification from the officials on withdrawing remarks?

4142. **The Chairman (Mr Molloy):** We have been trying to keep to appropriate language.

4143. **Ms Ruane:** Can we have clarification on that? I have asked for the comment to be withdrawn, please.

4144. **Lord Morrow:** Mr Chairman, you did not say anything to Caitríona Ruane when she called me a corner boy.

4145. **The Chairman (Mr Molloy):** You did not make a complaint about that.

4146. **Lord Morrow:** Yes I did.

4147. **The Chairman (Mr Molloy):** I did not realise that you had.

4148. **Lord Morrow:** Yes I did.

4149. **Ms Ruane:** I would like some clarification.

4150. **Lord Morrow:** She would know more about corner boys than anyone else.

4151. **The Chairman (Mr Molloy):** Can I take members' views that both comments are not appropriate for this discussion?

*Members indicated assent.*

*1.30 pm*

4152. **Mr Nesbitt:** That was a fascinating debate on the nuances of this matter. I will go through matters again so that I can understand where we are.

4153. I said that Sinn Féin agreed the report; Sinn Féin qualified that by saying that it agreed the content of the report. Sinn Féin is playing with words. I agree that Catriona said at the outset that she would not ratify the report. As I understand it, ratification is a legal term. For example, if a Minister signs a report at some body, it will be ratified — or endorsed — by his Parliament. Therefore, he is acting on behalf of his party.

4154. That procedure does not apply here. We have agreed a report and we expect that those here are speaking, and acting, on behalf of their parties. By agreeing the contents of the report, those members are, in the same breath, ratifying it. There is no separate procedure.

4155. The real essence of the play on words by Sinn Féin is encapsulated by the words of Philip McGuigan, who said:

*“we never at any stage agreed what should happen with the report.”*

4156. Sinn Féin's problem is not with the report; it is with what happens to the report. That is what he said, and I wrote it down verbatim as he said it. If Sinn Féin does not agree to the report being published or moving forward, can it still be published and move forward? I ask that question because the report has been agreed.

4157. **The Chairperson (Mr Molloy):** I have said that consensus is required.

4158. **Mr Nesbitt:** Therefore, if we need consensus — with Sinn Féin not agreeing to the report's publication — the report will not be published and will not go forward.

4159. I come back to the point that I made at the outset. Sinn Féin is upping the ante today. Previously, the 'Report on the Economic Challenges Facing Northern Ireland' was agreed, published, and went forward for debate. Sinn Féin has said that it will not participate in Assembly debates. Sinn Féin is upping the ante today — and it is disgraceful — by saying that it wants no one else to participate in the debate. Sinn Féin is trying to block a debate in the Assembly because of what would happen if the report went forward.

4160. You have upped the ante, Sinn Féin — that is what you have done.

4161. **Ms Ruane:** There is no Assembly, Dermot.

4162. **The Chairman (Mr Molloy):** Let Dermot finish.

4163. **Ms Ruane:** Sorry, Mr Chairman.

4164. **Mr Nesbitt:** There is an Assembly; whether it has executive, legislative or administrative powers is a different matter. Catriona is correct in saying that this report is different from others. Of course, you are treating it differently — you are upping the ante. I have said that three or four times. Do you deny that? There is silence.

4165. **Ms Lewsley:** I want some clarification following Dermot's comments. If there is consensus to agree the content of the report, what is the difference between that and ratifying the report?

4166. **The Chairman (Mr Molloy):** The report moves to being printed. That is the next stage.

4167. **Ms Lewsley:** I would have assumed that, once the content of the report was agreed, it would be published automatically. The content has been agreed.



4168. **Mr Nesbitt:** Sinn Féin members are playing with words when they speak of ratification. Sinn Féin is trying to block the report and to block a debate in the Assembly; it is upping the ante.

4169. **Ms Lewsley:** Sinn Féin is creating a veto.

4170. **Mr McGuigan:** People are obviously not listening to what Caitríona and I are saying. Ian Paisley and the DUP upped the ante. That is the reality. We have been coming here in good faith for the past six or seven weeks, because we thought that other parties could possibly be genuine about trying to restore devolution and the institutions. As Caitríona said, it was not Sinn Féin that upped the ante, but the DUP. That party said publicly several times that it has no interest in reaching agreement by 24 November. As Nelson said, if there is no agreement by 24 November, the institutions will be closed. That is the reality.

4171. **Mr Nesbitt:** Will Philip take a question?

4172. **Mr McGuigan:** I want to answer your first question. You wrote down what I said about what should happen to the report. I said clearly several times, as did Caitríona, that we agreed this morning that what was in the report was a true and accurate reflection of the weeks of discussion. We can talk about playing with words, but we have agreed that the report is a true reflection. However, we do not agree that the report should be published and neither do we agree that it should be used for the purpose of a sham debate that many people here want to hold merely to justify their jobs.

4173. We do a great disservice to those who elected us by having such nonsense debates on important issues.

4174. **Ms Lewsley:** I am glad that you spoke of a nonsense debate on the status of the Irish language. Thank you.

4175. **Mr McGuigan:** No.

4176. **Ms Lewsley:** That is what you said. You said that it was a “nonsense debate”.

4177. **The Chairman (Mr Molloy):** One at a time, please, members.

4178. **Mr McGuigan:** If that is what I said, I chose the wrong words. People here have used the wrong words in many contexts, and they have not been pulled up for it. I am saying that the debates are nonsense: the topics, however, are not nonsense. We show great disrespect to the topics in the debates — and to the people who elected us — by justifying our taking part in the debates of an Assembly that has absolutely no power. We would do our electorate, and serious and important issues — the Irish language; equality; victims; and survivors — a much greater service by not addressing them in the Hain Assembly, Patricia. The only way to address them is through the institutions of the Good Friday Agreement.

4179. **Mr Nesbitt:** My question has not been answered. I noted what Dr Paisley said, but I put it on record today that the DUP is not the blockage: the party that I represent would not sit in Government today with Sinn Féin either. I put it to Sinn Féin for the fifth time: you have upped the ante. You have not participated in the debates so far, so you are now trying to ensure that no one participates in any debate. Are you upping the ante?

4180. **Lord Morrow:** It is a dictatorship.

4181. **Ms Ruane:** Philip answered your question, but I will answer it again: the DUP has upped the ante. It sounds as if you are speaking for the DUP.

4182. **Mr Nesbitt:** I am speaking for the Ulster Unionist Party.

4183. **Ms Ruane:** That is all right. We are very clear about the comments that Ian Paisley made. Sinn Féin is here in good faith; Ian Paisley has upped the ante. Perhaps members of his party differ from his opinion, because they are now trying to rewrite and revise what he said in order to justify it; however, it is obvious that they are uncomfortable with their leader’s remarks.

4184. **Lord Morrow:** No, we are not.

4185. **Ms Ruane:** We have made our position clear and we are not upping the ante. We are not participating in sham Assembly debates, and we will not pretend that everything in the garden is all right when it is not. We want the institutions

up and running and we are here to discuss how that can be done. When we feel that there is a serious attempt at getting the institutions restored, we will review our position and will consider the report and how we take it forward. At the moment, however, we do not believe that, in the light of what Ian Paisley said, real discussions are taking place.

4186. **Mr Nesbitt:** I have listened to the explanation of your decision today. What has changed from the criteria that you listed for not participating in sham Assembly debates? The debate last Monday was, in your eyes, a sham debate, but you did not stop it. If the motion on this report goes forward to plenary, it will still be a sham debate. What is the difference?

4187. **Ms Ruane:** Past reports have been used to create sham debates, but we must look at the situation in the light of what Dr Paisley said.

4188. We will not be party to that or allow reports to create sham debates. We have to get real, and the DUP has to get real. You cannot have the party leader saying one thing, and Nelson McCausland rewriting and misinterpreting what he said.

4189. **Mr P Ramsey:** We all need to get real. Surely we are not going to spend another two hours on this matter. Sinn Féin is now saying — correct me if I am wrong — that because of something Ian Paisley said outside Downing Street, it is fundamentally changing its position on debates. Patricia is right: not only is Sinn Féin vetoing the debate, it is vetoing the right of all political parties to debate the issues that we have discussed. Sinn Féin was happy enough with Assembly Members meeting to discuss industrial derating, the economy and planning.

4190. Would Sinn Féin have delivered the shadow Assembly that it signed up to under the terms of the comprehensive agreement? It has not answered that question. Gerry Adams wrote a letter to the Taoiseach, and an article in ‘The Irish Times’ confirmed that Mr Adams had signed up to a shadow Assembly. What is the difference? That was a Hain Assembly too.

4191. There are people who are anticipating the outcomes of Assembly debates, whether or not

Philip or Caitríona want to accept that. Those are the facts of life. There is huge anticipation out there for this Assembly to kick in. We want to know whether the Secretary of State will take heed of the debates out of which emerges a true consensus of public opinion.

4192. I do not know why Sinn Féin has spent four or five weeks deliberating on this whole range of subjects — human rights; civil rights; and equality. The only issue that it challenged in two hours this morning was the status of the Irish language. Sinn Féin agreed fundamentally and entirely with all of the matters that had been agreed and those that had not. There is something badly wrong.

4193. Philip and Caitríona, are you now saying that you want to stop other political parties from discussing equality, human rights and the future for victims in Northern Ireland? That is what you are saying.

4194. **Mr Nesbitt:** That is right.

4195. **Mr McGuigan:** Our position with regard to debates in the Assembly has not changed.

4196. **Mr Nesbitt:** It has.

4197. **Mr McGuigan:** Tell me how it has. It has not.

4198. **Mr Nesbitt:** I will tell you if you give me the time. Before today, you permitted debates to take place without your participation. Your position today is to not allow any —

4199. **The Chairman (Mr Molloy):** Dermot, I asked Philip to answer one question.

4200. **Mr McGuigan:** Sinn Féin’s position has always been that it would not engage in sham debates. A number of such debates have taken place in the Assembly Chamber, and Sinn Féin has not taken part in those. We have always said — and this is a matter of public record — that if there were a genuine attempt to get the institutions up and running, and a debate would contribute to that, we would consider taking part. That has been our position since the Hain Assembly was set up, and it has not changed one iota.

4201. We have seen — and are increasingly seeing — that there is no genuine attempt on the part of others to get the institutions up and

running. These debates are playing no serious part in preparing for Government, which is the purpose of this Committee. How can we prepare for Government when one party is saying that it has no inclination to engage and to form the institutions?

4202. Our position has not changed. It is clear. I will repeat and repeat what we said earlier: we are happy enough with the report's contents as a true reflection of proceedings, but we see no point in taking the report any further, and certainly not to the stage of a sham debate in the Assembly. That in no way diminishes the importance of the points that are discussed in the report. We take all of those issues very seriously.

4203. **Ms Lewsley:** Is there any point in our going round in circles on this argument? Are you telling us that, even though we have agreed the content of this report, unless it is ratified in its totality, it cannot move forward?

4204. **The Chairman (Mr Molloy):** We have no agreement, at this stage, for the report to go to print. That is where we are stopped at this time. I take some responsibility for cutting off the debate earlier. That is where we are at present.

*1.45 pm*

4205. **Lord Morrow:** Caitríona Ruane said that the DUP members were trying to rewrite what Dr Paisley said. We most certainly are not. We emphatically agree with everything that Dr Paisley said when he spoke outside Downing Street. Caitríona Ruane and company do not like having the spotlight directed on them. They now want to ensure that no debate takes place, because their argument will not stand up to scrutiny in the light of day. Furthermore, if they are so annoyed about what Dr Paisley said outside Downing Street and if they are so confident about their position, why do they do not come to the Assembly and debate the point, take him on and cross-examine him?

4206. The fact remains that Sinn Féin is not confident in its position. It is not even confident about the issues that its members discussed in this room. Sinn Féin does not even want matters that it allegedly holds dear to be implemented — issues such as the Irish language. Sinn Féin

now says that they should not be debated. That is quite extraordinary. However, when Sinn Féin deprives every other political party that disagrees with it of debate, I know exactly where it is coming from.

4207. **Ms Lewsley:** May I propose that the report goes to print?

4208. **Mr McFarland:** Sinn Féin has made it crystal clear, beyond any shadow of a doubt, that it is not prepared to agree to the report being printed, to a motion or even to a debate.

4209. It seems fairly pointless to continue today, because unless Sinn Féin has a Damascene conversion, we will get nowhere. As we would merely be going round in circles for however much longer, I suggest that we call a halt.

4210. **Mr McCarthy:** What has been said in the last couple of minutes is exactly what frustrates me. What I have heard from Sinn Féin is diabolical, because it denies everyone else the right to a debate. The debate on the economic report that took place on the Floor of the Assembly was important. The economic subgroup met again yesterday, and the leaders of industry who attended to give evidence said how valued and welcome that report was in the attempt to progress the economic future of Northern Ireland. That is important, and the same would apply to this Committee, should we continue. It is a shame that Sinn Féin, or any party, has a veto over progress.

4211. **The Chairman (Mr Molloy):** I put to the Committee Patricia's proposal that the report be printed. Do we have consensus?

*Members indicated dissent.*

4212. **Mr Nesbitt:** On a point of procedure, has such a proposal ever been put to a Committee before?

4213. **The Chairman (Mr Molloy):** Yes, it has.

4214. **Mr Nesbitt:** The proposal that a report be published?

4215. **Ms Lewsley:** Is there any procedure that allows for a proposal to defer the matter to the Business Committee?

4216. **The Chairman (Mr Molloy):** No.

4217. **Ms Lewsley:** OK. I just thought that I would ask.

4218. **The Chairman (Mr Molloy):** We can take this no further at this time.

4219. **Ms Lewsley:** It is a waste of time. Unfortunately, we have all wasted our time.

4220. **The Chairman (Mr Molloy):** All we can do is adjourn the meeting, on the basis that no further progress can be made.

*Adjourned at 1.48 pm.*





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## **Appendix 3**

# Proposals not agreed by the Committee

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**Proposals not agreed by the Committee**

<b>Paragraph</b>	<b>Proposal</b>
15	That the Committee should, in principle, support the formation of a Round Table Forum to help establish the creation of a Bill of Rights for Northern Ireland.
17	That the Parades Commission's functions should be split to create a mediation body and a determination body.
21	That the Northern Ireland Act 1998 should be amended to give the Equality Commission enforcement powers.
21	That all public bodies should be designated to comply with Section 75.
21	That the British Government needs to establish an independent recruitment and selection panel for the Equality Commission to ensure that the Commission is representative and balanced in its composition.
24	That all parties should endorse the aspiration of having a single shared education system in Northern Ireland.
24	That all parties should endorse the 'Shared Future' framework document (March 2005) and the Shared Future Action Plan (April 2006) and regard their implementation as critical to political progress.
24	That the Equality Commission should be identified as the primary body responsible for promoting good relations.
31	That full, independent, Cory-compliant inquiries for those promised at Weston Park should take place.
34	That there ought to be a Day of Remembrance and Reflection.
34	That a Victims' Forum should be established.
38	That the Committee should agree that community disadvantage and alienation are obstacles to political progress and are particularly evident in the unionist community.
38	That the Committee should agree that community disadvantage and alienation are obstacles to political progress and where these conditions exist, or are perceived to exist, appropriate action should be taken based on objective need.
38	That the Committee should agree that disadvantages within communities seriously undermine confidence in the political process, particularly within those communities, and that currently this is particularly apparent within unionist communities.
38	That the Committee should agree that disadvantages within communities seriously undermine confidence in the political process.
38	That the Committee should recognise the unique problems faced by some local communities along the border who have suffered from a campaign of ethnic cleansing and support the development of a border fund to support these communities.
38	That consideration should be given to resources being targeted to maintain border communities and enhance initiatives where there are cross border projects.
38	That there should be work within Northern Ireland universities to eliminate the 'chill factor' towards the unionist community.
38	That the Committee should call for the full restoration of the Assembly and its institutions, for Sinn Féin to support the rule of law and policing and for the DUP to sign up to the institutions.
38	That the Committee should call for full restoration of the Assembly and its institutions.
38	That the Committee should call for all parties to support policing and justice and for all parties to work fully with all authorities to bring about an end to criminality and establish democratic structures inclusive of those committed to exclusively democratic and peaceful means.
38	That British passports should be made available to citizens born in the Republic of Ireland after 1949.
38	That the question of the availability of passports should be referred to the two Governments for consideration.
41	That there should be an Irish Language Act with Irish language rights incorporated into the Bill of Rights and overseen by the appointment of an Irish language commissioner; that the British Government should ratify the additional clauses in the European Charter on Regional and Minority Languages related to the promotion of language in public life and that the British Government and its departments should communicate through the medium of Irish when requested and make publications available in Irish when requested.
41	That all parties should accept the principle of parity of esteem and just and equal treatment for the identity, culture and aspirations of all communities.
41	That the Committee should call for the GAA to work with the Sports Council and the Community Relations Council to ensure Gaelic sports are depoliticised as part of the contribution to a shared future.





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## **Appendix 4**

# Submissions from the Parties

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# Democratic Unionist Party

## **DUP Response to Parades Commission Consultation**

### **Parades, A Step in the Right Direction**

#### **Introduction**

Solving the problems which have been associated with parades is a fundamental pre-requisite to political progress and stability in Northern Ireland. While there are no easy answers to dealing with these issues it is clear that the Parades Commission has failed to bring about a solution to the problems. In fact, very often its approach has exacerbated difficulties within the community and it has proved to be part of the problem rather than part of the solution.

The problems with the Parades Commission are not simply questions of the personalities involved or questions of detail but matters of fundamental principle which are not capable of being addressed within the present structures. In a number of crucial regards the Parades Commission is structurally unable to meet the challenges with which it is faced.

Whilst no structures can be a panacea to the difficulties which are faced in this area, it is possible to create arrangements which can play a valuable role in helping to solve the problem. Just as the difficulties which surround the question of parading cannot be divorced from wider political questions, it is also now true that wider political issues cannot be divorced from a solution to the parading question.

#### **Problems**

There are clearly a number of problems with the current arrangements.

- Decisions are seen to be arbitrary, unfair and inconsistent.
- The parades commission lacks the confidence of a majority of the community.
- There is a lack of transparency in the process.
- Bad behaviour is seen to be rewarded.
- There is no regulation of parade protests.



## **Proposal**

We believe that the following proposal offers an outline of what could be a long-term solution to the problem.

Split the mediation function from the determination function and establish two separate bodies, one to deal with the issue of mediation the other to deal, where required, with the issue of determination.

Allow the mediation body to concentrate on resolving issues affecting *contested parades* and agreeing arrangements without the need for a formal determination hearing.

Set up a process whereby *contested parades* can be identified and dealt with separately from the vast majority of *uncontested parades* which will not require any determination.

Where it has proved impossible to resolve an issue relating to a *contested parade* to the satisfaction of the affected parties, the Determination body (The Parades Tribunal) would operate as a Tribunal in a quasi-judicial capacity with decisions taken in accordance with established law and guidelines.

Both the *contested parade* and any *contested parade* protest would be regulated by the Parades Tribunal.

The formulation of guidelines would be critical but would be predicated on a presumption in favour of a parade proceeding. The traditionality of a parade would weigh further in its favour and each determination would be tilted towards providing incentives for good conduct.

These guidelines would be established in statute and would have the force of law. In order to allow proper time for matters to be considered notice should be 28 days before the planned event with a determination at least 21 days in advance of the event. This would allow time for attempted resolution or appeals of the decision.

Any protest held against a *contested parade* would, in order to be allowed to continue, be subject to any and all conditions set by the Parades Tribunal.

The Parades Tribunal would sit in public and, where possible, take evidence in public and would publish the detailed reasons for its determinations. The mediation body (The Parades Mediators) could give evidence (or be called to give evidence) to the Tribunal about its efforts to resolve the matter as could the parties involved. The police could also give evidence where necessary.

The panel from which the Parades Tribunal would be drawn would be limited to between 5 and 7 members. The Parades Tribunal would always be chaired by a former or present judge.

The issue of disorder, either as a result of a previous parade going ahead or not going ahead, would not be a factor which could be taken into account by the Tribunal in favour of those who are responsible for the disorder though obviously in the final analysis police decisions would always be critical.

Much more emphasis must be placed on the conduct of those involved – both those parading and those who may be protesting against the parade.

Clearly in a situation where a previous lawful parade had been illegally interfered with, this would count in favour of the next parade. However where parade conditions had been breeched this would count against the next parade. The Parades Tribunal would weigh the value of any proposal made to rectify a previous breech.

It is important that good behaviour rather than bad behaviour is rewarded.

### **Uncontested Parades**

Notification of such parades would be given to the police but a determination would not be required. The Parades Tribunal shall, periodically, review the list of *contested* and *uncontested parades*. Where it is proposed to change the classification of either a contested or uncontested parade an opportunity shall be given for representations to be made.

### **Conclusion**

The existing Parades Commission is part of the problem rather than the solution. The solution must therefore lie in creating new arrangements which seek to avoid wherever possible the requirement for a determination but where it is needed the process is seen to be open, transparent and fair. A first step is a process which can enjoy community confidence and operated by those who command respect.

New arrangements cannot of themselves solve the problems associated with parading but they offer the opportunity to get out of the present *cul de sac* and the potential for a better way forward.





## **The Ulster Unionist Party**

### **Preparation for Government Committee**

### **Equality** **(Labour Market issues)**

**Dermot Nesbitt**  
**18 August 2006**



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## **1. Introduction:**

It is important that the Government demonstrates benefit (effectiveness) from its equality policies. The duties that Government, by law, places upon the Equality Commission (EC), and also both public and private sectors, are extensive. There is a widespread view that these duties are onerous, time consuming and costly.

*“Northern Ireland is all consulted out. It started innocently enough, with a line in the Northern Ireland Act saying ‘to have due regard to the need to promote equality of opportunity’.”*<sup>1</sup>

In order to demonstrate effectiveness there is a clear need to identify, within already defined policy objectives, both the problem (baseline) and the anticipated outcomes required to alleviate the problem (effectiveness). There has been neither a clearly established baseline for the equality problem, or an effective measurement methodology to gauge the level of policy success.

To compound the problem, various perspectives are held with regard to the ‘equality problem’ from within different sections of the community (unionist and nationalist). Therefore, some clearly perceived overall objective assessment is required that will impact upon Government policy and, in turn, be communicated effectively to the public. In other words, a rigorous and clear evidence based policy process is urgently needed.

In this context, the EC’s Mission Statement is as follows: *“combating discrimination and promoting equality of opportunity through advice, promotion and enforcement.”*<sup>2</sup>

Finally, both Governments have taken a continuous interest in equality matters. For example, they reported on 14 July 2001 that the: *“statutory obligation on public authorities in Northern Ireland to carry out all functions with due regard to the need to promote equality of opportunity was enacted”*<sup>3</sup>

The British-Irish Intergovernmental Conference (BIIC) reported:

*“The Conference reiterated its commitment to tackling inequality and disadvantage on the basis of objective need. In that context it reviewed progress on the commitment in the Good Friday Agreement to tackle the differential in unemployment rates between the two communities. It also looked forward to the publication of a study on changing patterns of inequalities in the Northern Ireland labour market.”*<sup>4</sup>

And finally, the BIIC again reported:

*“The Conference welcomed a paper by the British Government on progress in combating unemployment and progressively eliminating the differential in*

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<sup>1</sup> Irish News: Platform Article, 2 April 2003.

<sup>2</sup> Equality Commission: ‘Annual Report 2004-2005’ February 2006.

<sup>3</sup> Irish & UK Governments: ‘Achievements in Implementation of the GFA’, 14 July 2001.

<sup>4</sup> BIIC: ‘Joint Communiqué of the BIIC’, 19 October 2005.

*unemployment rates between the two communities in Northern Ireland. The Conference welcomed the considerable progress made in recent years in tackling the overall level of unemployment in Northern Ireland. The Conference noted that while the percentage gap in the employment rates between the two communities has reduced considerably, the ratio of Catholic unemployment to Protestant unemployment has remained broadly static and is still approximately 2:1. The British Government reiterated its commitment to tackling continuing labour market inequalities and removing barriers to participation in the labour market. The Conference agreed to keep this matter under continuing review.”*<sup>5</sup>

Two further meetings of the BIIC have been held: 2 May 2006 and 25 July 2006. The above issue was not referred to in either of the two Joint Communiqués for these meetings.

The “study” referred to in the above BIIC quotation is a 230-page research report conducted by Scottish Economists (DTZ Pidea) - costing £100,000 - and published in November 2005. Though required by Government to conduct research relevant to issues in this submission, none was done. Government misled on this requirement and consequently only minor reference is made in this document to this Government report (known as the DTZ Report).

## **2. Related to Violence:**

The following Table is from a book described by an Irish News Editorial (23.04.91) as “*the most important and credible survey of discrimination to date*”. Only 18 of the 1,672 respondents could not be classified as either Catholic or Protestant.

Table 3.1 Perceived causes of the Troubles, by religion (%)  
(page 68)<sup>6</sup>

	Protestants	Catholics
Political/Constitutional	35	32
Discrimination/Rights	21	27
Violence	16	7
Attitudes	15	15
Religion	13	12
Socio/Economic	11	15
Segregation	5	4
Others	18	15

## **3. Importance of the Issue:**

The following quotations aim to indicate the importance placed upon equality issues.

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<sup>5</sup> BIIC: 1 February 2006.

<sup>6</sup> Smith & Chambers: ‘Inequality in Northern Ireland’, Oxford 1991.

(i)

*“4.10 One such argument for providing equality of opportunity is that its achievement is necessary for improved relations between the different sections of the community in Northern Ireland. Only when both sections of the community have equal standing will they have the confidence to overcome the mutual suspicions and prejudices which now nourish hostility and violence.”*

**‘Religious and Political Discrimination and Equality of Opportunity in Northern Ireland: Report on Fair Employment.’ SACHR<sup>7</sup>, October 1987**

(ii)

*Par 1.1 “Furthermore, widespread confidence that the labour market operated fairly, with recruitment and promotion based on merit, would lead to greater social cohesiveness and better relations between different sections of the community.”*

**Government White Paper (Cm3890), March 1998**

(iii)

*“Fair Employment in Northern Ireland remains an issue of considerable importance and sensitivity ... Several witnesses stressed how important to the Peace Process issues of equality of opportunity are, particularly issues of fair employment. We agree”*

**The NI Affairs Committee Special Report: ‘The Operation of the Fair Employment (Northern Ireland) Act 1989: Ten Years on’, October 1999**

(iv)

*“Nearly four out of five [in West Belfast] felt that those living in the area suffered employer discrimination. This was perceived to perpetuate the problem of high unemployment through reducing the motivation of jobless people in the area who may share a perception that there is little point in acquiring new skills if the opportunities do not exist to gain meaningful employment.”*

**‘Report of the Taskforce on Employability and Long-Term Unemployment’**

**December 2002**

(v)

*“The issue of religious discrimination and disadvantage became recognised as a key aspect of the conflict ... However, five years on [from The Agreement] the issue of discrimination against Catholics and Nationalists has*

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<sup>7</sup> SACHR: A body named ‘The Standing Advisory Commission on Human Rights’ which at the time advised the Government on matters related to equality and human rights.

*dropped down the political agenda. The lack of media coverage that the issue receives would suggest that the problem of religious and political discrimination has been resolved and no longer exists. Such a conclusion could not be further from the truth. Two issues in particular show this ... The unemployment differential between Catholics and Protestants continues ... These differentials are little different to those twenty years ago."*

**West Belfast Economic Forum (WBEF), Policy Paper No 23, May 2003**  
**(Comments resulted from the publication of the 2001 Census of Population)**

(vi)

*"There were recurring criticisms of Shared Future<sup>8</sup> along the following lines ... [for example] there cannot be good relations until there is equality of opportunity and outcome and the full protection for human rights for all society - the active promotion of equality can lead to good relations but not vice-versa."*

**Darby & Knox 'A Shared Future (Consultation responses)'**

**Executive Summary, January 2004**

(vii)

*"These cases are essential because discrimination is rife in all sections of our society. Catholic males for example are still twice as likely to be unemployed as Protestant males."*

**Caitriona Ruane MLA (SF) 'The Outlook' 3<sup>rd</sup> March 2004**

(viii)

*"We want a system in Northern Ireland that provides jobs for Unionists as well as Nationalists. Figures released by the Equality Commission show that in the last ten years there have been 22,000 more Roman Catholics and 5,000 fewer Protestants in work. (Monitored Full Time workforce) An equitable system will mean people get recruited because of their ability to do the job, if you can live with that we can, but on that basis the above figures will have to change, discrimination against our people has to stop."*

**Gregory Campbell MP MLA (DUP) Derry Journal, 30<sup>th</sup> July 2004**

(ix)

*Due to the paraphernalia of discrimination and inequality that has been institutionalised since partition, we are sitting around a table talking about human rights and equality. We are dealing with institutionalised*

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<sup>8</sup> The 'Shared Future' document was a Government consultation document considering how NI could become a more harmonious society.



*discrimination and a situation in which Catholics are twice as likely to be unemployed as Protestants.”*

**Michael Ferguson MLA (Sinn Féin)**  
**Preparation for Government Committee, 11 August 2006**

I believe that the above quotations may be categorised as follows:

- (i) Some nationalist politicians remain focused on the UD and believe that discrimination against Catholics is the cause and that it is still present in the labour market;
- (ii) Some unionist politicians are also concerned about the labour market and have expressed the view that Protestants are not being treated fairly, perhaps even discriminated against; and
- (iii) Community relations have still some way to go and believing that there is a fair labour market would likely assist in improving relations.

#### **4. The Unemployment Differential:**

The Unemployment Differential (UD) has been defined by The Northern Ireland Statistics and Research Agency (NISRA) as follows:

*“This differential is the ratio of Roman Catholic to Protestant unemployment rates and is calculated by dividing the unemployment rate of the group with the higher rate of unemployment by that of the group with the lower rate.”*

**‘2000 Labour Force Survey Religion Report’: Page 8, (2001)**

For example, if the Catholic unemployment rate is 12% and the Protestant unemployment rate 6%, the differential is 2.

The ‘Unemployment Differential’ has long been a central aspect of the Equality Agenda. A wider phrase, ‘Community Differentials’ refers to differences between both communities on a wide range of social issues, such as mortality rates. However, it has been the traditional view that the over-arching measurement of difference, and disadvantage, between the two communities is the Unemployment Differential.

The 1987 SACHR Report<sup>9</sup> recommended targets for the reduction in the UD as follows:

*“4.8 An interim target to aim for would be the reduction in the differential between the male Catholic unemployment rate and the male Protestant unemployment rate from two and a half times to one and a half times within five years. This is not a prediction that the recommendations made in this*

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<sup>9</sup> See reference for quotation (i), page 5

*Report will result in this being achieved. Rather the Commission recommends this as a reasonable target which on public policy grounds, the Government should set itself to achieve. The Commission knows of no evidence which demonstrates that this is an impossible goal to achieve.”*

The 1997 SACHR Report<sup>10</sup> represented a comprehensive review of employment equality after five years experience of the operation of the Fair Employment (NI) Act 1989. It again concluded, like the 1997 Report, that attention must be paid to the UD as follows:

*“2.29 The Government should publicly adopt realistic targets for the reduction of long-term unemployment and unemployment differentials over five, ten and fifteen years. ....it is clear that any optimism within government at the time of the 1989 Act - that the differential would be reduced to 1.5 within 5 years unaccompanied by any strategy for greater labour market intervention - was misplaced. If the current rate of progress continues, the differential will still be unacceptably high by the time of the next census.”*

Two examples of commentary on Government policy at this time are as follows:

(i)

*“Although the Fair Employment Act was introduced to prevent discrimination on political and religious grounds, it has failed to remove the unemployment differentials and discrimination that continues to characterise Northern Ireland Society.*

*The UN Committee should therefore ask the incoming UK Government whether it will amend current legislation to reduce the unemployment differentials and strengthen measures to fight religious and political discrimination.”*

**Submission by UNISON<sup>11</sup> to UN Committee on Economic, Social  
and Cultural Rights, May 1997**

(ii)

*“In Northern Ireland my Government will seek reconciliation and a political settlement which has broad support, working in co-operation with the Irish Government. They will work to build trust and confidence in Northern Ireland by bringing forward legislation to deal with terrorism and to reduce tension over parades, and other measures to protect human rights, combat discrimination in the workplace, increase confidence in policing and foster economic development.”*

**Queen’s Speech, 14<sup>th</sup> May 1997**

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<sup>10</sup> SACHR: ‘Employment Equality: Building For The Future’, Cm 3684, June 1997.

<sup>11</sup> UNISON: The NI branch of a United Kingdom wide trade union representing public sector workers.

**5. The Government's Response to the above 1997 SACHR Report:**<sup>12</sup>

**(i) Introduction by the Secretary of State:**

Page 4

*"We promised reform in Northern Ireland too - not only devolution within an agreed framework, but also measures to safeguard human rights and counter unjust discrimination in the labour market. This White Paper sets out our plans and seeks views on a number of proposals to enhance equality in a range of areas centering on jobs and employment. They relate to the particular circumstances of Northern Ireland and do not carry implications for equal opportunities and race relations strategies in the different context of Great Britain."*

Page 5

*"SACHR argues that employment equality cannot be achieved without equality of opportunity based on a broad front of private and public sector action. We agree. That is why, complementing our labour market policies and proposals to strengthen Fair Employment legislation, we propose to put in place a new statutory framework requiring the public sector to promote equality of opportunity."*

**(iii) Employment and Unemployment: (Chapter 2)**

Par. 2.12

*"The Secretary of State has already indicated her intention to clarify the law in this respect. It is now proposed to amend the Fair Employment and race relations legislation to clarify that an employer will not be liable to complaints of discrimination by seeking to recruit only from those not in employment, or only from those who have not had a job for a given period."*

Par. 2.21

*"Not all of the factors determining the differential are within the Government control but the measures outlined above, particularly the New Deal and children initiatives, together with the proposals listed in Chapters 3 and 4, [Education/Training/ Equality of Opportunity/ New TSN] should reduce the levels of long-term unemployment and, with them, the ratio between the percentage of Catholics and Protestants who are unemployed."*

Par. 2.22

*"To assess the rate of progress the Government proposes to commission the new Equality Commission to agree with the representatives of employers,*

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<sup>12</sup> Cm 3890: 'Partnership for Equality' White Paper, March 1998.

*employees, political parties and other interests, benchmark measures for the future reduction of the unemployment differential.”*

## **6. The Northern Ireland Affairs Committee:**

The NI Affairs Committee considered the issue of fair employment<sup>13</sup>. By way of indicating its acceptance of the viewpoint that discrimination was prevalent in NI, at the outset the Report stated that: *“In the course of this inquiry, we visited the United States of America from 10 to 13 May to seek to draw on American experience in combating discrimination in employment.”* (page vi, par.5)

The Report noted that: *“considerable attention was given by several witnesses to the problem of long-term unemployment in NI and the issue of differences in unemployment rates between Catholics and Protestants”* (page xiv, par.42), yet *“one witness, Dermot Nesbitt, who dissented from the SACHR report in 1997 on this issue, regarded the Government’s focus on the unemployment differential as mistaken.”* (page xv, par. 42). Nevertheless, it concluded: *“we consider that the community differences in unemployment should remain an appropriate and important issue of concern for Government. While not a simple measure of success of the legislation, it is one measure of the success or failure of government policy generally in the area, but not the only one.”* (page xv, par.47)

It noted that *“it remains to be seen to what extent”* recruitment from the long-term unemployed *“will affect the unemployment differential.”* (par. 127).

The Report referred to the hope that the EC would have an early agreement on the *“benchmark measures for the future reduction of the unemployment differential”* (par. 129) noting that the next review in five years *“will consider any deviation between the benchmarks established and the available data.”* (par. 130) It added that: *“this would provide a suitable opportunity for appropriate policy initiatives on the unemployment differential.”* No further review has been conducted by the NI Affairs Committee.

I believe that the following comments are valid:-

(i) It seems clear that the Committee reported in the mode and mindset of what I would term as the accepted view of the equality issue and rejected, without reason, any evidence that presented a contrary viewpoint. Namely: discrimination prevalent; more processes needed to combat this discrimination; and one measure of success is by a reduction in the UD.

(ii) The Northern Ireland Economic Council (page 69, Minutes of Evidence) and I (page 167, Minutes of Evidence) both presented statistical evidence in addition to our oral evidence. No recognition of this statistical evidence was contained in the Report. Rather, by inference from its recommended future directions, the Report rejected this statistical evidence.

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<sup>13</sup> NI Affairs Committee (House of Commons): ‘The Operation of the Fair Employment (NI) Act 1989: Ten Years On’, July 1999.

## **7. NISRA's 'Briefing Note':**

The introductory comment from this 'Note'<sup>14</sup> stated that: *"The Northern Ireland Statistics and Research Agency (NISRA) was invited by OFMDFM to provide a note on statistical and technical issues associated with the persistent differences in unemployment rates of Catholics and Protestants in Northern Ireland."* There was persistent resistance on the part of Government to the publication of this documentation. Only after a Freedom of Information request was the documentation published in January 2005.

Regarding the UD the Note stated that:

*"It is the ratio which has been used by Government and other commentators and on which research has been focused. Analysis of labour force statistics from the 1970s onwards has typically found the unemployment rate of Roman Catholics to be twice that of Protestants - more than twice in the case of males and less than twice in the case of females. This position has persisted despite significant changes both in the composition of the labour force and in the overall rate of unemployment over the past 30 years."*

The Note viewed the factors affecting the differential as:

*"A substantial body of research has indicated that the difference in the unemployment rates between Protestants and Catholics is due to the complex interaction over time of a number of demographic and socio-economic factors. These factors, the importance of which may have changed since the research was undertaken, include personal characteristics such as age, marital status, number of children, family experience of unemployment, housing tenure and educational qualifications; regional factors such as area of residence, sectoral performance (including the size and composition of the security forces) and demographic factors such as labour force growth and migration and the 'chill' factor."*

However, it concluded that:

*"Research findings to date do not, however, point to specific actions which the administration could take which could be stated with confidence to have a measurable impact on the differential, measured as a ratio. This is not to say that further research would not identify such actions."*

The Note had three further conclusions, relevant to this submission:

- (i) *"Analysts would, however, accept that the differential is not a valid measure of the extent or the existence of discrimination in employment."*

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<sup>14</sup> NISRA: 'Unemployment - Statistical and Technical Issues'; OFMDFM, October 2000.



(ii) *“An analysis of these returns [Applicants and Appointees] over the last decade indicates that, in overall terms, Protestant and Roman Catholic job applicants have a similar chance of obtaining jobs.”*

(iii) *“As Catholics are disproportionately represented among the unemployed, it is commonly believed that targeting jobs on the unemployed on a proportionate basis would reduce the differential. This is not the case. However, a policy which targeted the long-term unemployed (LTU) on a proportionate basis could have a marginal first order effect.”*

Exceptionally and indeed a probably unprecedented step, because of the sensitive nature of the issues, NISRA invited the Economic and Social Research Council to identify two academics that could comment authoritatively on the issues contained in the NISRA Note and to undertake an independent review of the work.

In his summary at the end one reviewer<sup>15</sup> stated:

*“There is likely to be a trade-off between depth of statistical information and clarity in any Briefing Note, but I believe that a simple focus on the unemployment rate is inadequate to summarise all the complex features of any labour market’s jobless problem. Northern Ireland is no exception to this.”*

The other reviewer<sup>16</sup> cautioned on the data used in the Briefing Note:

*“At the outset it should be made clear that these data are not adequate to address the issue of whether there is discrimination in employment opportunities in NI. However what is also clear is that there are no appropriate data available for the analysis of this question. Hence this is not a question of negligence on the part of NISRA - merely that the appropriate data do not exist.”*

He added that:

*“The unconditional analysis of unemployment rates is fairly meaningless in assessing the question at issue [discrimination]. What is required is careful econometric analysis of the conditional analysis of the unemployment probability subject to the conditioning of education, and other socio-demographic characteristics.”*

His comment regarding the Note’s view that Catholic and Protestant job applicants have a similar chance of obtaining jobs is as follows:

*“The conclusion is based on evidence from the monitoring returns of the Equality Commission. However the analysis is not conditional on characteristics and therefore can only provide limited evidence of fairness in recruitment.”*

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<sup>15</sup> J. Wadsworth: ‘Review of Briefing Note - Northern Ireland Labour Force’; (Four pages) NISRA, 2001 (available on OFMDFM web-site from January 2005).

<sup>16</sup> P. Dolton: ‘Review of Briefing Note - Northern Ireland Labour Force’; (Nine pages) NISRA, 2001 (available on OFMDFM web-site from January 2005).

I believe that the following comments are valid:-

(i) The UD is not a valid measure of unlawful discrimination. Indeed it is fairly meaningless in assessing whether or not there is discrimination. Put another way: if unemployment rates are different by religion it does not follow that there is unfair discrimination in the labour market.

(ii) The use of Applicant/Appointee statistics are of limited use in the consideration of whether or not the labour market is operating fairly. A full answer requires careful consideration, likely by econometric analysis, of the probability of success in the application process - allowing for characteristics such as educational attainment etc. This aspect is considered in Section 9 of this document.

I recognise fully this limitation and where I have used such data in this document I have made the assumption that all candidates have the same socio-economic profile and that I have merely offered *one* answer, not *the* answer.

I do not assume that any variation in success rates between Catholics and Protestants infers unlawful discrimination but rather that it merely poses an important question requiring an answer: why the difference in success rates?

## **8. Dignan's Research:**

The following represents elements of this Government sponsored research<sup>17</sup> that I consider relevant to this document. The DTZ Report stated that New TSN: "*continues to be the central policy in the region for combating poverty and social exclusion.*" (page 7, phase 1) An important element related to New TSN, and viewed as crucial by the Government, was recruitment from the unemployed. Two comments by Dignan are as follows:

*"Thus, for example, in the case of unemployment, the overall ratio of unemployment rates can be reduced if resources are disproportionately skewed towards the long-term unemployed. This is not because of the higher per capita incidence of long-term unemployment amongst Catholics. Rather it is due to the fact that the long-term unemployed account for a greater share of total Catholic unemployment than Protestant unemployment."* (par. 132)

*"This example illustrates the general point that, if the mix needs in a given policy area does not vary between the two communities then there is no effect on the overall ratio of rates from skewing towards the greater objective need, even if the per capita incidence of total need is higher in one community than in the other."* (par. 133)

Taking away all the carefully crafted language used by Dignan, these paragraphs support the view taken by NISRA regarding the lack of impact that Government

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<sup>17</sup> Tony Dignan: 'Community Differentials and New TSN: Summary Report' OFMDFM, 2003

policies can have on the UD, notwithstanding that New TSN's purpose is to skew resources to appropriate need. This skewing is a wholly acceptable policy.

### **9. The book - 'fair employment in Northern Ireland, a generation on':**

This book<sup>18</sup>, commissioned by the EC, comprises "a collection of essays by a distinguished panel of researchers, academics and policy makers." Also, "The book is designed to provide an assessment of how matters stand in Northern Ireland in relation to fair employment, which has been one of the most important areas of public policy interventions in the region in the past generation" (page 1).

It commented on fair employment legislation as follows.

*"The impact of fair employment legislation implemented under Direct Rule cannot be ruled out either, though its direct effect, to the degree that could be picked up in the social mobility survey, is likely to have been relatively minor in comparison to the more sweeping effects of educational reform and changes in the industrial structure. Fair Employment legislation's main impact may have been as much on preventing the evolution of new discrimination mechanisms in developing areas of the economy as on redressing traditional wrongs" (page 62).*

### **Social Mobility**

I shall now look in a little more detail at the social mobility aspect to fair employment. This dimension led to what was described as "perhaps one of the most significant conclusions for this book as a whole ..." (page 20).

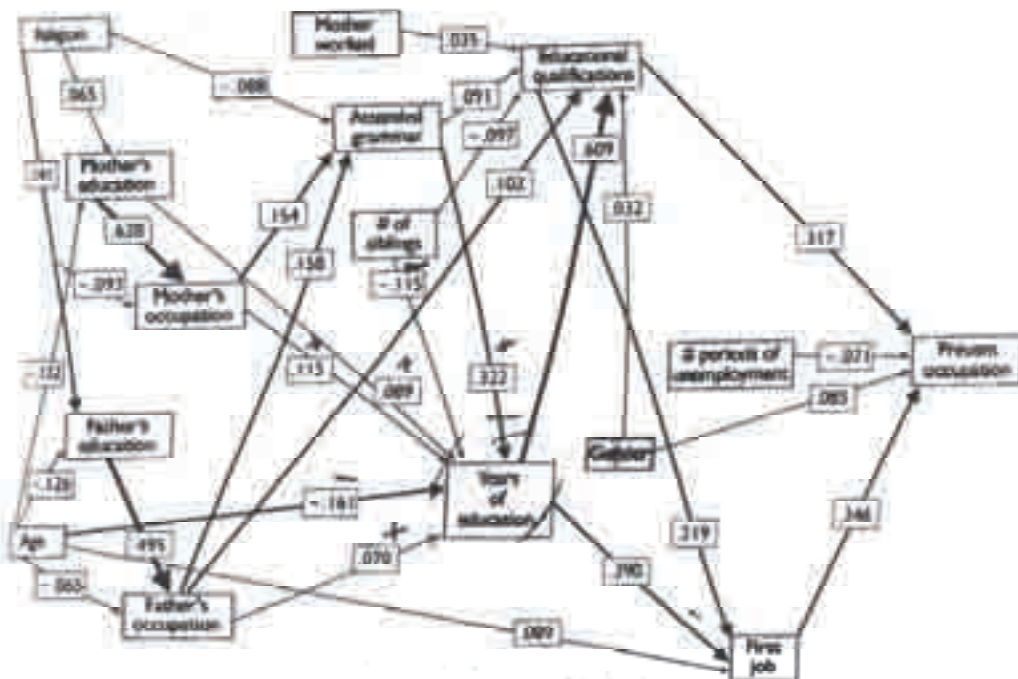
The book used social mobility and applied advanced statistical techniques in order to investigate equality of opportunity. The data used was derived from a 1996-97 survey and was designed to replicate the 1973-74 mobility survey. To see how social mobility can be used for the examination of discrimination/equality of opportunity, the book stated that: "Much of the claims of discrimination being voiced by the Northern Ireland Civil Rights Association could be seen as claims of adverse social mobility." (Page 50) In brief, what conclusions can be drawn from the book?

The diagram below displays the conclusion by way of a regression path analysis. For example, it indicates that one's present occupation depends more (.346) on one's first job than upon gender (.085). One's first job depends most on years of education (.390). And years of education have a significant effect on educational qualifications (.609) etc. It can be seen from this regression were religion played a part in one's first job and present occupation.

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<sup>18</sup> Osborne & Shuttleworth (Eds.): 'fair employment in Northern Ireland: a generation on', Blackstaff Press, 2004.

Path model, 1996/97 survey, males and females



Source: 'Fair employment in Northern Ireland a generation on'  
 Edited by Bob Osborne & Ian Shuttleworth, Blackstaff Press  
 Page 55

The book offered commentary of this path model. For example:

*“Respondents from larger families are less likely to have higher educational qualifications, have fewer years of full-time education, and are less likely to have attended a grammar school”* (page 56).

It summarised the results as follows:

*“Hence, compared to a generation earlier, religion in analyses based on the 1996/97 dataset appears to have lost its unique significance for people’s mobility chances”* (page 56).

A loglinear analysis was also conducted, for comparison purposes, with the above regression path analysis. The book stated, *“If the same results, although using a different method, are derived as in the regression path analysis, then it is highly likely that they are robust”* (page 58). Loglinear analysis confirmed the findings of the regression path analysis.

In summary, the Social Mobility chapter stated that:

*“Unlike the previous generation in the 1973/74 data, if Catholics and non-Catholics begin their working lives with the same levels of education and first job, their mobility through their careers will not be directly advantaged or disadvantaged by religion” (page 63)*

The overall conclusion to this analysis was that it reinforces the position that:

*“religion ceased in the 1990’s to have a direct independent effect upon an individual’s social position.” (page 185)*

In the book the primary reasons for bringing about change were attributed to the post-war educational system and the decline of traditional industries.

I believe that the following comments are valid:-

(i) The book concluded that the impact of fair employment legislation was relatively minor, compared with other aspects, in the all-important area of social mobility.

However, summary articles do not reflect this dimension fully. Indeed the back cover summary of the book states: *“This book offers clear evidence that strong policy and law can help create change.”*

And one of the Editors (Osborne), writing in a regional newspaper about the book, said:

*“We have measured real social change over the past generation and the existence and use of fair employment legislation has played a vital part in this.”*<sup>19</sup>

Further removed from the book, a feature writer for the same paper wrote:

*“They emphasis [the authors] the importance of anti-discrimination laws, first introduced in the 1970’s and then hardened in 1989.”*<sup>20</sup>

(ii) A significant conclusion of the book is that religion in the employment market has lost its unique significance. Religion ceased in the 1990’s to have a direct independent effect upon an individual’s social position.

A significant dimension to this conclusion is that the data that led to this conclusion related to the time period 1996/97. It was precisely at this time that SACHR, the Government and others were wrestling with how to combat discrimination.

## **10. Worked Examples:**

### ***(i) Explanation of some concepts:***

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<sup>19</sup> Bob Osborne: Platform Article, Belfast Telegraph, 7 March 2004.

<sup>20</sup> Barry White: Platform Article, Belfast Telegraph, May 2004.



Equality of Opportunity: (EoO) This means equality of opportunity between persons of different religious beliefs in that every person has the same opportunity for appointment to a job as any other person, due allowance being made for any material difference in their suitability for the job.

Equality of Outcome: If all candidates from both the Catholic and Protestant communities have the same profile of educational attainment and experience, then the outcome of an appointment process should result in the same proportion of a particular community being appointed as the proportion that applied. In short, if 60% of a group of candidates applied were Catholic then 60% of the successful applicants should be Catholic. In reality, the bigger the number involved – in both applications and appointments – the more likely is such a result to occur.

Active Population: This comprises all persons in the labour market, either in work or seeking work. It does not include, for example, retired persons or students.

Employed Population: Of the Active Population, this represents the number actually in work. The difference between the Active and Employed populations represents the unemployed.

New Active Population: The working population is constantly changing – new people come into the labour market and people retire. A particular characteristic of the Northern Ireland labour market has been that the New Active Catholic population coming into the labour market has been steadily increasing over time, in comparison with the Protestant population. Over the last 10-year period the Active Catholic population has increased approximately from 39% to 43%. Also, this means that in any one year the proportion of New Active Catholic population coming into the labour market is likely to be greater than its present Active proportion. For example, assuming the present Active Catholic population is 43%, the New Active Catholics coming into the labour market may be 45% of this year's total New Active population - Catholic and Protestant.

***(ii) Application of above concepts to worked examples:***

Each worked example will be laid out as follows. The numbers used here are different from reality but this has no bearing on the dynamics of the labour market, it is merely for ease and clarity of working. It is the relative relationship in size between the Catholic and Protestant communities that is important.

Initial position

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>100</b>	<b>95</b>	<b>5</b>	<b>5</b>	
<b>Protestant</b>	<b>200</b>	<b>190</b>	<b>10</b>	<b>5</b>	<b>1</b>
<b>Total</b>	<b>300</b>	<b>285</b>	<b>15</b>		

**Catholics:** The above assumes that there are 100 Catholics either in work or seeking work (Active), 95 are in work (Employed) and with 5 people unemployed, the unemployment rate is 5%.

**Protestants:** The Active Protestant proportion is twice the Active Catholic proportion (2 to 1).

**Unemployment Differential:** Since both Catholics and Protestants have the same unemployment rate, the differential is 1. In reality, this means that there is no differential in unemployment between the two communities, that the proportion is 1:1.

The above labour market could be described as stable in that the proportions are in balance (so there is no potential disadvantage to either community) and, on the assumption that New Active Catholics and New Active Protestants reflect existing proportions, the market should remain stable.

#### New position

We now introduce some dynamics into the labour market. Suppose: 18 New Active people in total come into the labour market, 6 Catholics and 12 Protestants; there are only 9 new jobs available; and that all jobs will go to the New Active. How is this reflected numerically, mindful of the concepts mentioned at the beginning?

**Appointment procedure:** In all examples it is assumed that there is EoO and that both communities have the same profile of educational attainment and experience. It follows therefore that the proportion appointed from either community should reflect the proportion of applicants from that community. If 50% of the applicants are Catholic then 50% of the appointments should be Catholic: the selection process should ensure that no unlawful discriminatory criteria are applied in order to select the number of applicants to reflect the number of jobs available.

This could be represented numerically in two ways. The result in both cases is of course the same.

(i) Since 6 out of 18 of the New Active population are Catholic, Catholics are entitled to 6/18 (or 1/3) of the 9 new jobs.

**Thus: 9 new jobs x 1/3 = 3 C new jobs**

OR

(ii) Since there are 18 applicants seeking 9 new jobs, each Catholic and Protestant applicant has a 50% chance of obtaining, or not obtaining, a job. The number of jobs available is 50% [9/18] of the number of total applicants.

**Thus: 6 C x 50% = 3 C new jobs**

The worked examples in each case will show these calculations. Looking at the new position, compared with the initial position above, the outcome is as follows:

New position

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>106<sup>1</sup></b>	<b>98<sup>2</sup></b>	<b>8</b>	<b>7.5</b>	
<b>Protestant</b>	<b>212</b>	<b>196<sup>3</sup></b>	<b>16</b>	<b>7.5</b>	<b>1</b>
<b>Total</b>	<b>318</b>	<b>294</b>	<b>24</b>		

<sup>1</sup> 106 = 100 + 6 (increase in the Active Catholic population)

<sup>2</sup> 98 = 95 + 3 (6 C x 50%)

<sup>3</sup> 196 = 190 + 6 (12 P x 50%)

If instead of 9 new jobs 16 new jobs were available, the outcome would be as follows.

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>106</b>	<b>100.33<sup>1</sup></b>	<b>5.67</b>	<b>5.3</b>	
<b>Protestant</b>	<b>212</b>	<b>200.67<sup>2</sup></b>	<b>11.33</b>	<b>5.3</b>	<b>1</b>
<b>Total</b>	<b>318</b>	<b>301</b>	<b>17</b>		

<sup>1</sup> 100.33 = 95 + 5.33 ( 6 C x 16/18)

<sup>2</sup> 200.67 = 190 + 10.67 (12 P x 16/18)

Note: In both cases the UD has remained stable but more people are unemployed than in the initial position because the number of new applicants coming into the labour market in each case was greater than the new jobs that were available.

***(iii) Recruiting directly from the Unemployed:***

In an effort to convey more reality the following two examples use actual labour market statistics as provided by NISRA. The year 1997 has been chosen as a year when there was a marked degree of difference between the two communities.

This policy of recruiting directly from the unemployed was recommended by the Government in 1998 (page 9, par. 2.12 above) and actively welcomed by both the Fair Employment Commission (FEC) and its successor the EC, as follows:

*“.... But the unacceptable discrepancies in the unemployment rate remain and it is a matter of satisfaction that the recent Government White Paper identifies this as the major outstanding issue and concentrates on measures to remove them.”* <sup>21</sup>

<sup>21</sup> Fair Employment Commission (FEC): Monitoring Report No. 8, March 1998.

*“The unemployment differential is an unacceptable inequality which must be tackled if there is to be equality and fair participation for all. It is hoped that the new legislative provisions allowing for recruitment directly from those not in employment and religion specific training will go some way to bringing this about.”<sup>22</sup>*

However, the reality of the labour market presents a different picture.

#### Initial Position

	<u>Active</u> (‘000’s)	<u>Employed</u> (‘000’s)	<u>Unemployed</u> (‘000’s)	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>289 (41.4%)</b>	<b>254 (39.6%)</b>	<b>35</b>	<b>12.11</b>	
<b>Protestant</b>	<b>409 (58.6%)</b>	<b>388 (60.4%)</b>	<b>21</b>	<b>5.13</b>	<b>2.36</b>
<b>Total</b>	<b>698</b>	<b>642</b>	<b>56</b>		

Source: NISRA for 1997

#### New Position

Assume: Government policy is targeted at reducing the unemployed by 7,000 in one year (12.5%) by permitting recruitment directly from the unemployed. Since it is assumed that EoO obtains, a fair and proportionate number from both communities would be expected to benefit from this policy initiative.

	<u>Active</u> (‘000’s)	<u>Employed</u> (‘000’s)	<u>Unemployed</u> (‘000’s)	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>289</b>	<b>258.375<sup>1</sup></b>	<b>30.625</b>	<b>10.60</b>	
<b>Protestant</b>	<b>409</b>	<b>390.625<sup>2</sup></b>	<b>18.375</b>	<b>4.49</b>	<b>2.36</b>
<b>Total</b>	<b>698</b>	<b>649</b>	<b>49</b>		

<sup>1</sup> 258.375 = 254 + 4.375 (7,000 x 62.5%).

<sup>2</sup> 390.625 = 388 + 2.625 (7,000 x 37.5%).

Since Catholics comprise 35 of the 56 total number unemployed, given EoO and both communities having the same educational profile, Catholics should obtain 35/56 (62.5%) of the 7,000 jobs that Government has targeted for the unemployed.

Protestants comprise 21/56 (37.5%) of the total unemployed and thus, like Catholics, should receive their fair share of the 7,000 jobs targeted by Government.

Catholics receive 63% of the 7,000 jobs yet the differential is unchanged. We can now begin to see how both Catholics and Protestants could potentially feel unfairly treated. Catholics see the UD not being reduced while Protestants see more Catholics getting

<sup>22</sup> Equality Commission (EC): Corporate Plan 2000 – 2003.

jobs. Government must be open about these issues for the benefit of the whole community, both Catholic and Protestant.

***(iv) Recruiting directly from the Long-term Unemployed:***

Assume: Government policy targeted at reducing the Long-term Unemployed (LTU) by 7,000. Again both communities would be expected to benefit from the policy initiative. In 1997 there were 28,000 LTU - Catholics 19,000 and Protestants 9,000. The same initial position is assumed as above so we need only consider the new position.

New Position

	<u>Active</u> (‘000’s)	<u>Employed</u> (‘000’s)	<u>Unemployed</u> (‘000’s)	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>289 (41.4%)</b>	<b>258.750<sup>1</sup> (39.9%)</b>	<b>30.250</b>	<b>10.47</b>	
<b>Protestant</b>	<b>409 (58.6%)</b>	<b>390.250<sup>2</sup> (60.1%)</b>	<b>18.750</b>	<b>4.58</b>	<b>2.29</b>
<b>Total</b>	<b>698</b>	<b>649</b>	<b>49</b>		

<sup>1</sup> 258.750 = 254 + 4.750 (7,000 x 67.86%)

<sup>2</sup> 390.250 = 388 + 2.250 (7,000 x 32.14%)

Catholics comprise 19,000 of the total 28,000 LTU and thus should obtain 19/28 (67.86%) of jobs targeted for the LTU. Protestants comprise 9/28 of the LTU and thus should receive 9/28 (32.14%) of the jobs.

Catholics obtain 68% of the jobs, long-term unemployment is reduced by 25% and there is a reduction in the Differential of only 0.07. This very small reduction is because, within the total unemployed, Catholics have a higher proportion of the LTU. However, the UD is based on data supplied by NISRA and its estimate for the margin of error is 0.40 (resulting from sampling error). The reduction in the UD is so small - only 18% of the margin of error (0.07/0.40) - that it is for all practical purposes fairly meaningless, compared with the major outcome of jobs provided to those who were LTU.

There are many other factors over which government has no control that could change the UD. For example, people from one community may migrate into Northern Ireland and increase the Active labour market for that community.

Therefore, it is not really possible to measure any actual contribution by Government policy to the reduction in the UD measured as a ratio and so it should not be used as a measurement tool by which to judge the success, or otherwise, of the Government and its policies.



What is more noteworthy is that the original absolute differential has been reduced from 6.98% points (12.11% - 5.13%) to 5.89% points (10.47% - 4.58%). This is a reduction of 1.09% points. This is referred to as the 'gap' in the unemployment rates between Catholics and Protestants. In similar manner there would be a reduction in the 'gap' in the employment rates between the two religious denominations.

Today's unemployment rate is below 5% - the lowest it has been for many years. There is also a lower difference in unemployment rates measured either as an absolute gap or as a ratio (the UD). Also, the difference in the employment gap within the Catholic community has been reduced. Such dynamics can be seen from the above example, based on recruitment from the long-term unemployed. Namely: the difference in the absolute gap reduced by 1.09% points; the UD was reduced by 0.07; and, the Employment gap for Catholics reduced from 1.8% points [41.4% - 39.6%] to 1.5% points [41.4% - 39.9%].

## **11. The Unemployment Differential and 'Chance' V 'Incidence'**

Probability<sup>23</sup> is an interesting dimension to statistics and is used as a predictor of outcomes. For example, the chance of throwing a six with a dice is one in six. Afterwards, following many throws, the incidence of the actual number of times a six was recorded should equal the chance of throwing a six: the more throws, the more likely will be that outcome. One can reverse the logic: it is possible to infer chance (a possibility of something happening) from the incidence (occurrence or rate of frequency of an event).

In the Government's DTZ Report reference is made to the concepts of 'chance' and 'incidence'. On page 27 (phase 2) the phrase "*less chance of being unemployed*" was utilised. On page 19 (phase 2) the title of Table 2.1 read: "*Incidence of unemployed...*" The DTZ Report, like the above simple example, infers the chance of an event from the incidence that occurred. This has led to the UD being widely interpreted as a measure of discrimination. When/if persons seek a job, it is inferred by some from the incidence of unemployed (by reference to the UD) that Catholics will have less chance in obtaining a job, compared with Protestants, because the Catholic unemployment rate is higher than the Protestant unemployment rate - hence the belief that discrimination is occurring in the labour market.

However in the actual labour market, from the incidence of unemployed one cannot infer anything about the chances, after having applied for a job, of obtaining the job or not, and, if unsuccessful, of being unemployed.

Put it another way: using a one year incidence of unemployed (a cross section) tells us nothing about the flows into employment/unemployment. However, if the labour market was stable (e.g. not having one religious denomination increasing, as a proportion of the increase, greater than that denomination's present active population proportion) then incidence would be an indicator of chance in the labour market.

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<sup>23</sup> 'Chance' and 'Probability' are used interchangeably; the correct term in this context is 'probability'.

Example:

*Assume:* a stable labour market (so no UD) and New Active Catholic and Protestant persons coming into the labour market are in proportion (1 to 2) to the existing labour market proportions; New Active Catholics are 6 and New Active Protestants are 12; and there are 9 new jobs with only new persons being appointed to these jobs.

Initial position

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>100</b>	<b>88</b>	<b>12</b>	<b>12</b>	
<b>Protestant</b>	<b>200</b>	<b>176</b>	<b>24</b>	<b>12</b>	<b>1</b>
<b>Total</b>	<b>300</b>	<b>264</b>	<b>36</b>		

New position

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>106</b>	<b>91<sup>1</sup></b>	<b>15</b>	<b>14.15</b>	
<b>Protestant</b>	<b>212</b>	<b>182<sup>2</sup></b>	<b>30</b>	<b>14.15</b>	<b>1</b>
<b>Total</b>	<b>318</b>	<b>273</b>	<b>45</b>		

<sup>1</sup> 91 = 88 + 3 (6 C x 50%)

<sup>2</sup> 182 = 176 + 6 (12 P x 50%)

This example shows normal movement within a labour market where there is stability and no single community is potentially less disadvantaged than another. Since there are 18 applicants seeking 9 new jobs each Catholic and Protestant applicant has a 50% chance of obtaining, or not obtaining, a job. The incidence of unemployment indicates the chance of applicants obtaining a job or becoming unemployed. The market remains stable and also reflects EoO.

However if non-stability of the labour market occurs, it in turn **creates an UD** (from a position of no differential). Assuming that each applicant has an equal chance of obtaining a job the result still creates a differential. This would indicate however, from the incidence of the unemployed, that there is a greater chance of being unemployed (less chance of obtaining a job) if you are a Catholic compared with a Protestant, which is not the case.

Example:

*Assume:* initially a stable labour market (no differential) as above; the Active Catholic proportion increases more than its present Active proportion - say, New Active Catholics are 8 and New Active Protestants are 10 (Active Catholic proportion was 1 to 2 and now New Active coming into the labour market is 4 to 5); and, as before, there are 9 new jobs with only new persons being appointed to these jobs.

Initial position

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>100</b>	<b>88</b>	<b>12</b>	<b>12</b>	
<b>Protestant</b>	<b>200</b>	<b>176</b>	<b>24</b>	<b>12</b>	<b>1</b>
<b>Total</b>	<b>300</b>	<b>264</b>	<b>36</b>		

New position

	<u>Active</u>	<u>Employed</u>	<u>Unemployed</u>	<u>%</u>	<u>Differential</u>
<b>Catholic</b>	<b>108</b>	<b>92<sup>1</sup></b>	<b>16</b>	<b>14.8</b>	
<b>Protestant</b>	<b>210</b>	<b>181<sup>2</sup></b>	<b>29</b>	<b>13.8</b>	<b>1.07<sup>3</sup></b>
<b>Total</b>	<b>318</b>	<b>273</b>	<b>45</b>		

<sup>1</sup> 92 = 88 + 4 (8 C x 50%)

<sup>2</sup> 181 = 176 + 5 (10 P x 50%)

<sup>3</sup> Increase in the UD can depend upon: recruitment pool (here it was from the New Active - if the existing unemployed were included in the application pool, the differential would have increased further); number of jobs; and number of new entrants.

With the New Active Catholic proportion higher than its present overall active proportion (4 to 5 compared with 1 to 2) there is pressure upwards on the UD. This has nothing to do with an unfair labour market or with lack of EoO. Numerically, more Catholics are added (fairly) to the unemployed number than previously, thus increasing the Catholic unemployment rate more than the increase in the Protestant unemployment rate, so creating an UD.

Therefore in the above example, knowing the incidence of being unemployed (the UD) says nothing about the chance of getting a job if one applies, the latter being the cornerstone of anti-discrimination and EoO policy.

## **12. Poverty and Disadvantage:**

It was accepted within the latest Government (DTZ) Report that poverty and disadvantage are manifested in large measure by being unemployed. It follows that one of the most important mechanisms within the labour market is whether or not a person who applies for a job is successful. In short, is an applicant appointed? Is the process fair or not? Is there or not equality of opportunity (or discrimination) at the point of recruitment?

In the context of comparing applicants with appointees, some general comments have been made. For example, a researcher from the EC commented that:

*“The representation of Catholics among applicants and appointees [private sector] has been broadly similar over the period 1991-2001 ...Up until 1997, as NISRA (2001) pointed out, the same could be said about the public sector*

*... During the 1997-9 period, however, the representation of Catholics among appointees was approximately 3 percentage points higher than their representation among applicants”<sup>24</sup>*

The researcher highlighted an aspect that requires further examination. That an official of the EC pointed out these dynamics is commendable. However, the EC in its Monitoring Returns has resolutely refused to mention this dimension. To date no cognisance has been taken by Government of this apparent anomaly notwithstanding several representations having been made in this regard.

I make it clear that the comments above do not, as a consequence, imply unfair discrimination in favour of Catholics. Rather that an issue of concern about recruitment needs to be addressed by the relevant equality authorities.

Of course, the EC gives reasons for not considering this issue. It states that: “*Caution is required when making comparisons between the community composition of applicants and appointees.*”<sup>25</sup> The two reasons adopted by the EC for a non-examination of the issue, rather than a supposed cautious approach, are: (i) aggregated applicant and appointee data may not necessarily refer to the same recruitment exercise and (ii) temporary appointments may not always be recorded by employees.

It can be shown<sup>26</sup> that, even allowing for a 20% carry over of applications into the next year’s monitoring round before recording the related appointments, this does not statistically influence the outcome as to whether or not any one year is significant. Also, making a reasonable assumption that any omission of temporary appointments is roughly balanced between the two communities (even though the person recording the information is not aware of any one applicant’s religious denomination) would result in no material difference to the statistical test.

### **13. Statistical Test of Significance:**

A statistical test for significance can be applied in order to assess any significant variation between applicant and appointee proportions within the Catholic applicant/appointee flows.

It is not unreasonable to assume that, if a group of applicants contained 40% Catholic, one would expect that the number appointed would comprise 40% Catholic – assuming the same education/experience profile across the communities and equality of opportunity. The bigger the group of applicants and the greater the number of jobs, the more likely it is that this will occur.

I was advised by NISRA officials within OFMDFM that, while agreeing with the approach of comparing yearly applicants with appointments in order to gauge equality of opportunity, the methodology presented below should be used. By way of example I have taken one year (2001) as a comparative year, that has been assessed as not

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<sup>24</sup> R. Russell: ‘Employment profiles of Protestants and Catholics: a decade of monitoring’ In ‘fair employment in Northern Ireland: a generation on’ Eds. Osborne & Shuttleworth. Blackstaff, 2004.

<sup>25</sup> Equality Commission: ‘Research Update’, December 2005, Page 6.

<sup>26</sup> Dermot Nesbitt: ‘Presentation to DTZ Economics Team, Edinburgh’, October 2004, page 36.

significant, and compared it with the latest data (2004) which are judged to be statistically significant: namely, the Catholic proportion of appointees to the public sector was higher than would have been expected (compared with the Protestant proportion), thus requiring an explanation. This is based on the assumption that both religions have the same profile.

The relevant Monitoring Returns for Applications and Appointees collected by the EC, together with a statistical test for significance, are presented below.

## Monitoring Returns – Applicants/Appointees

### (Public Sector)

#### 2001

<u>Applicants:</u>	Protestants	74,865 (52.2%)	<u>Appointees:</u>	Protestants	10,137 (52.1%)
	Catholics	68,585 (47.8%)		Catholics	9,305 (47.9%)
	Total	143,450		Total	19,442

$$\frac{9,305}{68,585} = 13.57\% \text{ (Catholic percentage success rate)}$$

$$\frac{10,137}{74,865} = 13.54\% \text{ (Protestant percentage success rate)}$$

Applying the Standard Error formula at the 95% confidence level the following is obtained:

$$\sqrt{\frac{13.57(100 - 13.57)}{68,585}} \times 1.96 = 0.2563$$

i.e. 13.57% + or – 0.2563 (margin of error for Catholic appointees)

$$\sqrt{\frac{13.54(100 - 13.54)}{74,865}} \times 1.96 = 0.2451$$

i.e. 13.54% + or – 0.2451 (margin of error for Protestant appointees)

Analysing the above you find that, with 95% confidence, the Catholic appointee range is 13.57% + or – 0.2563 (i.e. 13.31% to 13.83%) and the Protestant appointee range is 13.54% + or – 0.2451 (i.e. 13.29% to 13.79%).

**Thus:** since within the two ranges there **IS** an overlap between 13.31% and 13.79% the outcome is **NOT** statistically significant.



## Monitoring Returns – Applicants/Appointees

(Public Sector)

2004

<u>Applicants:</u>	Protestants	79,411 (52.1%)	<u>Appointees:</u>	Protestants	12,180 (50.1%)
	Catholics	<u>72,937</u> (47.9%)		Catholics	<u>12,153</u> (49.9%)
	Total	152,348		Total	24,333

$$\frac{12,153}{72,937} = 16.66\% \text{ (Catholic percentage success rate)}$$

$$\frac{12,180}{79,411} = 15.34\% \text{ (Protestant percentage success rate)}$$

Applying the Standard Error formula at the 95% confidence level the following is obtained:

$$\sqrt{\frac{16.66(100 - 16.66)}{72,937}} \times 1.96 = 0.2704$$

i.e. 16.66% + or – 0.2704 (margin of error for Catholic appointees)

$$\sqrt{\frac{15.34(100 - 15.34)}{79,411}} \times 1.96 = 0.2506$$

i.e. 15.34% + or – 0.2506 (margin of error for Protestant appointees)

Analysing the above you find that, with 95% confidence, the Catholic appointee range is 16.66% + or – 0.2704 (i.e. 16.39% to 16.93%) and the Protestant appointee range is 15.34% + or – 0.2506 (i.e. 15.09% to 15.59%).

**Thus:** since within the two ranges there is **NO** overlap between 15.59% and 16.39% the outcome **IS** statistically significant.

An intuitively logical explanation to the two statistical sets above is as follows. In 2001 it is possible (within 95% confidence) to have exactly the same proportional success rate for both Catholics and Protestants – somewhere between 13.31% and

13.79% - thus the 2001 results are not significant, whereas in 2004 it is not possible (within 95% confidence) to have the same outcome for both Catholics and Protestants - thus the 2004 results are considered statistically significant.

Using the above test for significance for the EC's data for all monitored years, significant outcomes (\*) are indicated in the table below. For example, in six of the last eight years the Catholic appointee proportion to the public sector was higher than expected, assuming the same education/experience profile across the communities and also EoO. Further, the latest Monitoring Returns show that for the first time both private and public sectors are showing a bias in favour of the Catholic community.

<b>1 No</b>	<b>2 Yr</b>	<b>3 Yr. Pub.</b>	<b>4 Public sig. gain C</b>	<b>5 Public sig. gain P</b>	<b>6 Private sig. gain C</b>	<b>7 Private sig. gain P</b>
2	'91	'92				*
3	'92	'93				
4	'93	'94		*		
5	'94	'95			*	
6	'95	'96			*	
7	'96	'97				*
8	'97	'98	*			
9	'98	'99	*			
10	'99	'00	*			
11	'00	'01				
12	'01	'02				
13	'02	'03	*			
14	'03	'04	*			
15	'04	'05	*		*	

### ***Fundamental Questions***

The above points to certain fundamental questions that need to be addressed. Is the appointment procedure fair or not? Is there EoO or not at the point of recruitment? What is an acceptable margin of error in appointments beyond which an explanation is required? Naturally, supplementary questions arise from these primary questions.

The above analysis is one answer to these fundamental questions. I readily accept that there is no one unique answer and that difficulties arise with aggregating data. Indeed, I have no doubt that statisticians may disagree as to an appropriate answer or indeed whether or not there is an answer. Thus, I do not claim my answer is the answer, merely one answer.

DTZ stated in its response to me on 14 February 2006 that:

*“As stated clearly in our commentary the applicant/appointee data has certain limitations which make other data sources more appropriate for this type of analysis. To carry out the econometric analysis in Phase 2, it was essential to have data on labour market outcomes linked with the explanatory variables such as qualifications, which the applicant and appointee data does not provide.”*

In its response to me on this matter, dated 10 April 2006, OFMDFM stated that:

*“To use such data in this way would require making assumptions about levels of educational qualifications and experience which applicants and appointees have. In the absence of this data (which FETO does not require employers to provide) we need to interpret trends with extreme caution.”*

Both responses were similar. I agree that caution is required and that is the reason it is more important that some fundamental questions are addressed than the particular numerical test of significance. As with ratio analysis of an organisation's financial position, an adverse ratio does not necessarily indicate anything other than further examination is required. The silence by the DTZ Report on pointing out a requirement for further examination of applicant/appointee proportions is not acceptable.

### **14. Wider Comparisons**

The DTZ Report indicated that *“it may also be worthwhile to capture differences in the labour market performance of different denominations of Protestants”* (page 19, phase 4) noting that Osborne and Shuttleworth wrote that *“it is also a little noted fact that the 1971 Census revealed significant differences between various Protestant denominations in their experience of unemployment, with Church of Ireland members more likely to experience unemployment rates similar to Catholics.”*

Perhaps more interestingly and clearly even less well known, if at all, is a comparison between unemployment rates within the two jurisdictions within the island of Ireland.

For example, using the unemployment rates from the 1981 Census in Southern Ireland the following results<sup>27</sup> were calculated.

*Unemployment Differential*

Monaghan	3.1	Donegal	1.7
Cavan	2.7	Ireland (South)	1.8

The above are examples calculated on the same basis as Northern Ireland's UD. Is this outcome suggesting that Catholics are discriminated against in the Republic of Ireland as compared with Protestants? Indeed, in NI are members of the Church of Ireland discriminated against in comparison with Presbyterians or Methodists?

## **15. Conclusion:**

Presenting data accurately to the public is a continuing problem. The EC recently conducted a survey of attitudes and presented its results. The first paragraph of its press release stated:

*"Most people in Northern Ireland believe that it is not Protestants or Catholics who are treated most unfairly, but racial or ethnic groups."*<sup>28</sup>

This tone was replicated in the media coverage of the survey data. On closer examination of the survey it is noted that:

*"A greater proportion of respondents from the Protestant community (36%) than Roman Catholic community (27%) and Unionists (40%) compared to Nationalists (30%) expressed agreement ... [that]... Equality laws protect one group at the expense of another."*<sup>29</sup>

The Chief Commissioner of the EC viewed these data with "concern" and that "this is a real crux in the public understanding of equality" which presents "a real challenge to the Equality Commission."<sup>30</sup>

Meanwhile the Government and its officials carry on without any real sense of a need to address the equality issue accurately. Regarding the DTZ Report the then Government Minister, Lord Rooker, pronounced at its time of publication: "Report shows Government's equality policies are working."<sup>31</sup> The Government thus gave itself a pat on the back - based on evidence contained in, what is to many, an incomprehensible research report. How accurate is this Government statement?

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<sup>27</sup> Northern Ireland Economic Research Centre (NIERC): 'Catholic and Protestant Unemployment in Ireland, North and South', 1994 (unpublished).

<sup>28</sup> Equality Commission: Press Release, 21 June 2006.

<sup>29</sup> Equality Commission: 'Research Update' June 2006.

<sup>30</sup> Bob Collins: Platform Article, Belfast Telegraph, 21 June 2006.

<sup>31</sup> Government Press Release, 29 November 2005.

The process of accurate, clear and simple representation by Government and the EC of information regarding equality is essential. This could begin by Government assessing its policy analysis of the 1990's (as it is the basis for today's policy). This procedure is recommended as a requirement for good policy making<sup>32</sup>. Questions also need to be considered by Government and/or the EC. Is the UD a means of measuring the success of Government policy, as indicated in the BIIC Report in February 2006? Does the UD measure discrimination, measure equality of opportunity, measure the chances of being unemployed and is it a statistic that government policy can have a meaningful influence upon? Also, Government and/or the EC should initiate, as a matter of urgency, an examination of the appointments procedures to the public sector.

The Ulster Unionist Party strongly supports fairness for all. It is realised that equality is a sensitive issue and disadvantage must be addressed by Government and others who have such responsibility. The challenge to Government is to fully address the issues of equality that are of concern to people in Northern Ireland. Until then, it will be difficult to turn away from past perceptions and look to a different future - a future beneficial to both Catholics and Protestants.

**Dermot Nesbitt**  
**Ulster Unionist Party**  
**18 August 2006**

[dermotnesbitt@hotmail.com](mailto:dermotnesbitt@hotmail.com)

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<sup>32</sup> OFMDFM: 'A Practical Guide to Policy Making in Northern Ireland', July 2003





# Democratic Unionist Party

## Equality Commission – Monitoring Reports – 2002-2004

### Employment patterns in the Voluntary Sector

The 2004 report from the Equality Commission covers all types of employer in Northern Ireland but from these I have extracted the figures for some of the key organisations in the Voluntary Sector.

They reveal a fairly consistent and disturbing pattern of disparity in employment, with an under-representation of Protestant workers in all of the following organisations.

#### Northern Ireland Council for Voluntary Action

Year	P	RC	ND	Total	% P	% RC
2002	15	17	2	34	46.9%	53.1%
2003	14	19	1	34	42.4%	57.6%
2004	17	25	1	43	40.5%	59.5%

Over the past few years the employment imbalance in NICVA has deteriorated. This organisation has a unique position within the voluntary and community sector and is at the heart of the interaction between government and those sectors. The increasing under-representation of Protestants on the workforce is therefore of particular concern.

#### Community Foundation for Northern Ireland

Year	P	RC	ND	Total	% P	% RC
2002	16	16	1	33	50%	50%
2003	14	19	4	37	42.4%	57.6%
2004	13	16	6	35	44.8%	55.2%

The situation in CFNI has fluctuated but in the last two years there has been a substantial under-representation of Protestants.

#### Educational Guidance Service for Adults

Year	P	RC	ND	Total	% P	% RC
2002	21	35	6	62	37.5%	62.5%
2003	25	42	5	72	37.3%	62.7%
2004	23	42	5	70	35.4%	64.6%

The situation in EGSA is one of the worst in the voluntary sector, and it has deteriorated in the past year.

#### Rural Community Network

Year	P	RC	ND	Total	% P	% RC
2002						
2003	Under 10			33		
2004	Under 10			34		

RCN has an extremely poor record in that Protestants represent just 27% or less of the workforce.

#### Cooperation Ireland

Year	P	RC	ND	Total	% P	% RC
2002						
2003						
2004	Under 10			29		

30% or less of the workforce of Cooperation Ireland is Protestant.

#### NIPPA – The Early Years Organisation

Year	P	RC	ND	Total	% P	% RC
2002	35	31	7	73	53%	47%
2003	40	39	12	91	50.6%	49.4%
2004	43	52	15	110	45.3%	52.7%

From a fairly balanced workforce in 2002 a disparity has emerged in NIPPA over the past two years and gives cause for concern.

#### Workers Educational Association

Year	P	RC	ND	Total	% P	% RC
2002	26	35	5	66	42.6%	57.4%
2003	47	58	15	120	44.8%	55.2%
2004	40	50	16	106	44.4%	55.6%

There has been a minor improvement in the WEA but the imbalance remains.

#### Law Centre (NI)

Year	P	RC	ND	Total	% P	% RC
2002	10	25	5	40	28.6%	71.4%
2003	15	23	4	42	39.5%	60.5%
2004	11	25	4	40	30.6%	69.4%

There is a pattern of under-representation of Protestants on the staff of the Law Centre although this fluctuates.

#### NIACRO

Year	P	RC	ND	Total	% P	% RC
2002	31	41	4	76	43.1%	56.9%
2003	19	38	1	58	33.3%	66.7%
2004	27	46	2	75	37.0%	63.0%

Here again there is some fluctuation but the under-representation of Protestants remains.

It is clear that across a number of key organisations in the voluntary sector there is an under-representation of Protestants in the workforce. The level of under-representation varies from organisation to organisation, and in some cases there is an extremely poor level of Protestant employment, but there is a clear pattern across the sector.

**There are several issues that emerge from these figures:**

- 1) These organisations within the Voluntary Sector have a Northern Ireland wide remit and they should be reflective of the wider community that they serve but that is not the case.

What have these organisations done to address the under-representation of Protestants, and why has there been almost no progress?

- 2) These figures demolish the claim that there is no differential in community development in Protestant and Roman Catholic communities.

If the levels of community development in the Protestant and Roman Catholic communities were the same, these organisations would be recruiting from a pool that reflected the overall community balance in Northern Ireland. The fact that there is such an imbalance in the voluntary sector, shows that there is a difference in the size of the pools and in the levels of development.

- 3) Several of these bodies are Intermediary Funding Bodies for European Peace and Reconciliation programmes. It is a matter of concern that a number of these IFBs have such unbalanced workforces and in each case the imbalance is an under-representation of Protestants.

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**March 2006**





# Democratic Unionist Party

## Briefing Paper prepared by Tony Canavan

This is the text of a briefing paper prepared by J A Canavan (Tony Canavan), who was head of the Central Community Relations Unit prior to devolution. This unit in the Northern Ireland Office was responsible for the Irish language policy. Later it established its own linguistic diversity branch. After devolution this was moved into the Department of Culture, Arts and Leisure.

It provides a fascinating insight into how a senior Northern Ireland civil servant, who was responsible for Irish language policy and ultimately minority language policy, approached this issue.

### **European Charter for Regional or Minority Languages and Other Irish Language Issues**

1. This submission forewarns the Minister of forthcoming Cabinet level correspondence on the subject of the Council of Europe Charter for Regional or Minority Languages. It also deals with two other Irish language issues on which he should be brought up to date.

#### **Background to Charter**

2. The Council of Europe (NB this is not a European Union issue) adopted a Convention (subsequently redefined as a Charter) in 1992 for the purpose of encouraging the preservation and, if possible, a revival of indigenous minority languages throughout Europe. The Charter has no bearing on the languages of immigrant ethnic minorities. The situation of minority or regional languages in Europe varies considerably. In the Balkans and Baltic States the treatment of minority languages is a central political issue and an index of national treatment of minorities. In Western Europe the pattern is usually that of ancient languages surviving in rural pockets, but being eroded by the process of modernisation.
3. The 1992 Charter describes its purpose as cultural and aims to protect and promote regional or minority languages, rather than linguistic minorities. It does not establish any individual or collective rights for the speakers of those languages. The mechanism for monitoring adherence to the Charter is one common in UN and Council of Europe conventions, ie

published reports are submitted for the examination of a Committee of Experts, which in turn forwards a report to the committee of Ministers. The only sanction against a Government falling short of its obligations under the Charter is therefore public criticism by this Committee of Experts.

4. There are 2 levels of commitment to the Charter. At the time of signature of the Charter, a State commits itself to the objectives and principles of Part II:
  - recognition of regional/minority languages as an expression of cultural wealth;
  - respect of the geographical area of each language so that administrative arrangements are not an obstacle to its promotion;
  - the need for resolute action to promote the languages in order to safeguard them;
  - the facilitation and/or encouragement of the use of those languages in speech and writing, in public and private life;
  - the maintenance and development of links between different groups using these languages and cultural relations with those using other languages;
  - the provision of appropriate forms and means for the teaching and study of the languages at all appropriate stages;
  - the provision of facilities enabling non-speakers of a language to learn it if they wish;
  - promotion of study and research at universities;
  - the promotion of appropriate transnational exchanges with those using similar languages in other States.
5. A signatory State must undertake to eliminate any unjustified distinction, exclusion, restriction or preference relating to the use of a regional/minority language, intended to discourage or endanger its maintenance. States also undertake to promote mutual understanding between all linguistic groups in the country, in particular the respect, understanding and tolerance of regional/minority languages in education, training and the mass media. Part II also encourages the establishment by governments of advisory bodies on the languages.
6. The second level of commitment only applies at the stage of **ratification** of the Charter by a State. At that time, a State may specify regional/minority languages to which Part III of the Charter applies. Other languages may subsequently be added to their Part III list. The provisions of Part III are considerably more exacting than the general commitments of Part II. Not all, however, need to be applied. There are 65 paragraphs covering obligations on education, courts, public service, media, economic and social life, and transfrontier exchanges. Under each of these headings, are a large number of optional paragraphs. In total, a State must be able to commit itself to at least 35 of these paragraphs, with at least some commitment to most of the activities specified above.
7. Seventeen of the 39 Member States of the Council of Europe have signed the Charter, but only 4 have ratified. The Charter will enter into force only when 5 have ratified and this is expected next Spring, as Croatia has indicated its intention to ratify. The previous UK Government considered the question of its approach to the Charter over a long period, before announcing in a PQ in April 1996 that it had decided not to sign, as the Government was better placed to assess the needs of, and determine the level of support for, its indigenous

minority languages. In Opposition, the Labour Party expressed support for the principle of signing the Charter, but there was no manifesto commitment. A PQ reply on 28 July from the Welsh Office (the Department in the lead on this) indicated that the implications of signing were under consideration. Significance numbers of Scottish and Welsh Labour backbenchers are keen for early progress. The Welsh Office recently revived official correspondence on the issue and I attended a meeting in London on 28 October with other Territorial departments and the FCO. The position of other Departments is as follows.

**Welsh Office** – The Secretary of State for Wales is keen to draw matters to conclusion with signature and ratification of the Charter. Since the Welsh Language Act 1993, effective bilingualism has been established in the Principality and the Welsh would have no difficulty in meeting the requirements of Part III.

**Scottish Office** – Brian Wilson is the Minister responsible for Gaelic and he is personally strongly in favour of early signature and ratification in respect of Scottish Gaelic as well as Welsh. Scottish Office officials claim that they could just make the 35 paragraph threshold under Part III (though I have strong doubts about this).

**Home Office** – Home Office Ministers have not yet been consulted but officials seem content to go with the flow of whatever the other Territorial Departments want. They are less sensitive than before the Election on the possible erosion of the distinction between indigenous and immigrant languages.

**FCO** – Again, subsidiarity seems less of an issue for the FCO than it was under the previous administration. The lead division on this issue deals both with Council of Europe and Organisation for Security and co-operation in Europe (OSCE) business. They are keen to underpin stability in Eastern Europe by tying governments into various international conventions, including this Charter. It considerably strengthens the FCO's hand if the UK has itself signed and ratified.

8. Within the next few weeks the Secretary of State for Wales is likely to write to the Foreign Secretary, copied to Cabinet colleagues, suggesting that the UK should now sign the Charter and in due course ratify in respect of Welsh. At that time we will need to give advice to the Secretary of State on how she should respond to that letter. There are a number of special considerations in Northern Ireland which will need to be taken into account. Accordingly, I have copied this submission widely to NIO colleagues to allow them to register at this stage wider political issues. In all previous dealings with the Welsh Office and other Departments on the Charter, it was widely suggested that the Northern Ireland peace process was of considerably greater importance than the signature of the Charter. Other Departments were always ready to make allowances for any problems which might be created in Northern Ireland.

### **Impact on Northern Ireland of Signature**

9. The following comments relate to the Irish language, which has previously been regarded as the indigenous language to which the Charter would have effect in Northern Ireland. The only real pressure for signing the Charter within Northern Ireland has come from Irish language organisations and political parties which support them. The question of Ulster-Scots is discussed below at para 13.

10. Of the specific objectives and principles set out in Part II, most are unexceptionable and coincide with existing Government policy. One or two might be cited by Irish language organisations as involving a commitment to greater efforts on behalf of Irish, eg ‘resolute action to promote’, ‘facilitation and/or encouragement ... in public and private life’. What these worthy sentiments might mean in practice is a matter of interpretation and we could argue that our interpretation is as valid as anyone else’s. We can expect a three-sided correspondence on this between Government, the Committee of Experts and local Irish language groups when the periodic reports on the UK’s performance under the Charter is considered, as is the case with other Council of Europe and UN conventions to which the UK is signatory.
11. The other main dimension to Part II is the undertaking to eliminate ‘any unjustified distinction, exclusion, restriction or preference’. With the repeal in 1995 of the old Stormont legislation on street names, the main discrimination against Irish on the statute book has been removed. There remains one possibly relevant law applying in Northern Ireland, which is not the responsibility of the Secretary of State, but of the Lord Chancellor. This is the Administration of Justice (Language) Act (Ireland) 1737, an antiquated statute which declares that the language of the Courts shall be English but which apparently was not only directed at Irish but at medieval survivals in legal language. This Act bears little relation to current practice in Courts where interpreting facilities are available for people who cannot speak English. The removal of this Act should not imply any form of bilingualism in the Courts. If the Secretary of State wishes to go down the road of signature and ratification of the Charter, it will be necessary for her to write to the lord Chancellor about the future of this Act. If agreement can be reached on its appeal, an undertaking to do so at some point in the future would be sufficient to enable us to accept Part II of the Charter.

### **Impact on Northern Ireland of Part III**

12. Acceptance of Part III of the Charter would be much more difficult for Northern Ireland, without a quantum leap in the government’s approach to the Irish language. I estimate that, on current policies, we could meet the requirements of 20-25 of the paragraphs in Part III, falling well short of the threshold of 35. Any narrowing of the gap would need to be achieved gradually, taking account of resource and political implications. Short of a major development in the context of the Talks process, it is not realistic to expect that Irish would be specified, along with Welsh, at the time of ratification as meeting Part III requirements, nor could it be added in the short to medium term.

### **Discussion**

13. There are two new factors in Northern Ireland which did not enter into previous consideration of this issue. The first is the rapid growth of Unionist interest in the Ulster-Scots linguistic movement. This is analogous to the Scots language movement in Scotland. The Scottish Office certainly does not propose to specify Scots for Part III purposes. In Northern Ireland Unionists have demanded parity of treatment between Ulster-Scots and Irish. In terms of Part III obligations, this does not present an immediate problem, if we rule out specifying Irish. However, the Ulster-Scots movement would claim that the more general declaratory provisions of Part II should also apply to them. We would therefore need, in close conjunction

with the Scottish Office, to make a firm decision on whether Ulster-Scots is to be regarded as a regional/minority language entitled to whatever benefits derive from Part II. These include certain educational rights – ‘provision of appropriate forms and means for the teaching and study ... at all appropriate stages.’ This is an area where Ulster-Scots is completely undeveloped and Unionists might claim a need for including it in the curriculum, examinations and perhaps even Ulster-Scots medium schools.

14. The second issue is the current political Talks process. The Irish language is given particular importance by the Irish government, the SDLP and, above all, Sinn Féin. Though it is unlikely to make or break the process, concessions on Irish could help make a settlement package more attractive to Nationalists. If the UK decides to sign the Charter its exploitation for maximum political benefit in Northern Ireland will need to be carefully judged, particularly in terms of timing. It could be presented at an early stage as an confidence building measure for nationalists; it could be retained as a possible relatively minor concession at a later point in negotiations; or Part III status for Irish could be held out as a substantive development of government policy on Irish and a concession of real weight. The views of NIO colleagues on this point would be particularly welcome.
15. A further issue, not exclusive to Northern Ireland, is which languages should be specified at the time of ratification. Welsh clearly will be specified. Mr Wilson (other Scottish Office Ministers have not yet considered the issue) is keen to specify Gaelic also at the time of ratification. This could present serious problems for us. If Irish was the only Celtic indigenous minority language not to be specified, Nationalists and Irish language supporters would be critical. A special position for Welsh is justifiable, as the Welsh Language Act 1993 effectively created bilingualism. Our preference would therefore be for Irish and Scottish to be unspecified, at least at the time of ratification. The Scottish Office, at official level, is aware of the northern Ireland concerns and it may be necessary to broker a bilateral deal with Scottish Ministers on how to play the issue of ratification. One possibility might be a commitment to keep the matter of Irish and Gaelic under review, perhaps with the objective of ratification at some point in the future. It would seem to make good tactical sense to keep along similar lines to Scotland in the approach to Irish, as well as to Ulster-Scots.

### **Recommendation**

16. We need to establish the minister’s position, before offering advice to the Secretary of State when the letter from the Welsh Secretary to the Foreign Secretary is copied to her. I recommend that our position should be in favour of the UK signing the Charter at an early stage, and ratifying in due course, with Part III specification only in respect of Welsh. It would probably be necessary for the Secretary of State to write to the Lord Chancellor to establish his position on the 1737 Act. There might also be need for bilateral contact with the Scottish Office perhaps at Ministerial level, to establish a consistent line on the specification of other languages and on Scots/Ulster-Scots. If NIO recipients foresee timing difficulties in the context of the Talks process, perhaps they could register their views now.



### **Columba Initiative**

17. As the Minister is aware, Brian Wilson, the Scottish Office Minister responsible for Gaelic and the Islands, made a brief stop-over in Northern Ireland on 23 October and held a meeting with the Ultach Trust to discuss the Columba Initiative. This initiative is intended to create links between Irish speakers in the Republic and Gaelic speakers in Scotland with a view to a mutually productive exchange of experience on issues such as education and broadcasting. The main purpose of Mr Wilson's visit was to establish contact with the authorities in the Republic about carrying forward the initiative. However, he is also conscious that significant number of Irish speakers will be excluded from these contacts unless Northern Ireland can in some way be integrated into the initiative. The resource implications of this would be modest, as the initiative is being run by one co-ordinator in Scotland and one in the Republic. If the Ultach Trust was to submit an application for funding for one post plus overheads, we could probably find the resources within our cultural traditions budget.
18. The Ulster-Scots lobby might object that they too require a cross-channel initiative. An imaginative approach might involve appointing an individual to strengthen links with Scotland in the field of minority languages generally, though it is hard to imagine someone with sufficient credibility with both the Irish and Ulster-Scots lobbies to fill the post. If we were to attempt this, a 'neutral' organisation like the cultural traditions Group of the community Relations Council might be a better location.
19. The minister's views are requested on whether we should proceed with including a Northern Ireland input into the Columba Initiative and whether we should seek to add a Scots/Ulster-Scots dimension to the work of an individual who might be appointed as co-ordinator.

### **Possible Meeting Between the Secretary of State and Individuals Interested in the Irish Language**

20. In the margins of a meeting with lord Rothschild and others on 17 July, the Secretary of State discussed with DOE and DENI officials the position of the Irish language and how it might be de-politicised. One suggestion was that the secretary of State might meet a small group of individuals interested in the language, including Aodan MacPoilin of the Ultach Trust, Chris McGimpsey of the UUP and Gerard Dawe a poet and academic. In subsequent correspondence with Mr MacPoilin, reference was made to a possible future Ministerial meeting with himself and the Chairman of the Ultach Trust, Christopher Napier, sometime after the holiday season. This may be an appropriate time to organise a meeting (probably best over dinner) with Messrs Napier, MacPoilin, McGimpsey and Dawe. The Minister may wish to consider whether such an event would be better hosted by the Secretary of State or himself. He has been exposed to several meetings with abrasive end of the Irish language spectrum and there might be benefit for him in establishing direct contact with the more moderate side of the movement.
21. I would be grateful for the Minister's views on the utility of such a meeting, whether it should involve the Secretary of State or himself, and whether it should take the form of a dinner.

**J A Canavan**

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## **Appendix 5**

# Directions from the Secretary of State

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Northern  
Ireland  
Office

Northern Ireland Office  
11 Millbank  
London SW1P 4BN  
Telephone 020 7210 6460  
Facsimile 020 7210 0246  
www.nio.gov.uk

Secretary of State for Northern Ireland

cc: Mr. Hoiv  
Mr. Reynolds  
Ms. Donnelly  
Mr. Gormel  
Ms. McGivern  
Mr. Pearce  
Ms. Gredon  
file

Mrs Eileen Bell, MLA  
Speaker of the Assembly  
Parliament Buildings  
Stormont  
Belfast  
BT4 3XX

26 May 2006

Dear Speaker,

**ASSEMBLY STANDING ORDERS AND COMMITTEE**

I wish to notify you that I have determined two directions under Paragraph 4(1) of Schedule 1 to the Northern Ireland Act 2006.

The first amends the Standing Orders that were notified to you on 10 May 2006.

The second directs that a Committee of the Assembly be established.

A copy of each direction is enclosed.

Further to this, under section 1(1) of the 2006 Act, I wish to refer the following matters to this Committee. Namely:

*to scope the work which, in the view of the parties, needs to be done in preparation for Government.*

26. MAY. 2006 16:48

SUP'S PRIVATE OFFICE

NO. 508 P. 3

I am copying this letter to the leaders of all parties represented at the Assembly and to the two independent members.

PP  (PRIVATE SECRETARY)

RT HON PETER HAIN MP  
SECRETARY OF STATE FOR NORTHERN IRELAND  
[Approved and signed in his absence]



26. MAY. 2006 16:48

SOF'S PRIVATE OFFICE

NO. 508 P. 4

NORTHERN IRELAND ACT 2006

DIRECTION DETERMINED BY THE SECRETARY OF STATE AND  
NOTIFIED TO THE PRESIDING OFFICER UNDER PARAGRAPH 4(1) OF  
SCHEDULE 1 TO THE NORTHERN IRELAND ACT 2006

1. The Standing Orders notified to the Presiding Officer on 10 May 2006<sup>1</sup> shall be amended in accordance with paragraphs 2 and 3.
  2. After Standing Order 11B there shall be inserted the following:  
“ 11C. Committees of the Assembly  
(a) Where
    - (i) the Assembly decides by cross-community support; or
    - (ii) the Secretary of State directs,that a Committee be established, the Business Committee shall make arrangements to establish that Committee in accordance with any such decision or direction.
  - (b) Any decision of the Assembly to establish a Committee shall provide for the Committee's terms of reference and membership.
  - (c) The procedures of any Committee so established shall be such as the Committee itself shall determine, unless otherwise provided for by a decision of the Assembly or direction of the Secretary of State.
  - (d) In these Standing Orders, references to “Committee” shall include any working group.”
3. Standing Order 12(b) shall be replaced with the following:  
“(b) The following, namely:

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<sup>1</sup> As amended by direction of the Secretary of State dated 22<sup>nd</sup> May 2006.


26. MAY. 2006 16:48

SOTS PRIVATE OFFICE

NO. 508 P. 5

- (i) A vote on a matter in respect of which a petition of concern has been presented;
- (ii) A vote on a decision to establish a Committee of the Assembly; or
- (iii) A vote on any other matter as directed by the Secretary of State shall require cross-community support."

*Signed*

79  (PRIVATE SECRETARY)

SECRETARY OF STATE FOR NORTHERN IRELAND

[Approved and signed in his absence]

DATE: 26 May 2006

26. MAY. 2006 16:48

SOFS PRIVATE OFFICE


NO. 508 P. 6

NORTHERN IRELAND ACT 2006

DIRECTION DETERMINED BY THE SECRETARY OF STATE AND  
NOTIFIED TO THE PRESIDING OFFICER UNDER PARAGRAPH 4(1) OF  
SCHEDULE 1 TO THE NORTHERN IRELAND ACT 2006

1. I hereby direct that a Committee of the Assembly be established on necessary business relating to the preparation for Government. This Committee shall operate in accordance with the following paragraphs.
2. The Committee shall deal with such matters as I may refer and such other matters that the Committee itself agrees.
3. The membership of the Committee shall be up to three representatives from each party with more than 15 seats held in the Assembly and up to two representatives from any other party with two or more seats.
4. It shall be for the Committee to determine its own procedures, including arrangements for chairmanship.
5. Decisions of the Committee shall be by consensus.
6. The Committee may establish sub-committees to look at specific issues.
7. The Committee may refer matters to the Business Committee for debate in the Assembly.
8. The first meeting of the Committee shall take place on Tuesday 6 June.

Signed

PP 

(PRIVATE SECRETARY)

SECRETARY OF STATE FOR NORTHERN IRELAND

[Approved and signed in his absence]

DATE: 26 May 2006

2. JUN. 2006 15:17

SOFS PRIVATE OFFICE



Northern  
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Speaker of the Assembly  
Parliament Buildings  
Stormont  
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BT4 3XX  
By fax: 028 9052 1959

**ASSEMBLY BUSINESS**

Under Paragraph 2 of Schedule 1 to the Northern Ireland Act 2006, I hereby direct that the Assembly shall meet at the date and time set out below.

**Tuesday 6 June 2006**      Assembly to sit at 2.00pm

In addition, further to my direction of 26 May under Paragraph 4(1) of Schedule 1 to the Northern Ireland Act 2006, I hereby direct that the date of the first meeting of the Committee of the Assembly on necessary business relating to the preparation for Government ("the Preparation for Government Committee") be brought forward. The first meeting of this Committee shall now take place on Monday 5 June at 11.00am. The Committee may refer matters to the Business Committee for its consideration or for debate in the Assembly.

I would hope that this Committee will be in a position to refer issues to the Business Committee for scheduling for debate when the Assembly meets on Tuesday. I will therefore defer a decision on what referral I may make for 6 June until I have received any recommendations for future Assembly business that the Business Committee might make following the inaugural meeting of the Preparation for Government Committee on Monday.

RT HON PETER HAIN MP  
SECRETARY OF STATE FOR NORTHERN IRELAND

5. JUN. 2006 18:09

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Mrs Eileen Bell, MLA  
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BT4 3XX

By fax: 028 9052 1959

5 June 2006

Dear Speaker

**ASSEMBLY BUSINESS: PREPARATION FOR GOVERNMENT COMMITTEE**

Further to my earlier direction, under Paragraph 4(1) of Schedule 1 to the Northern Ireland Act 2006, I hereby direct that the second meeting of the Committee of the Assembly on necessary business relating to the preparation for Government ("the Preparation for Government Committee") be held on Tuesday 6 June at a time to be determined by the Clerk Assistant.

Fiona McCoy  
Private Secretary

PR

RT HON PETER HAIN MP  
SECRETARY OF STATE FOR NORTHERN IRELAND

(Approved by the Secretary of State and signed in his absence)

cc Mr Hain  
Mr Reynolds  
Mr Good  
Ms Donnelly  
Mrs Pritchard.  
File



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Secretary of State for Northern Ireland

cc Mr Blair  
Mr Reynolds  
Mr Good  
Ms Dunwoody  
~~Ms [unclear]~~  
File.

Mrs Eileen Bell MLA  
Speaker of the Assembly  
Parliament Buildings  
Stormont  
Belfast  
BT4 3XX

Dear Speaker,

#### PREPARATION FOR GOVERNMENT COMMITTEE

I was grateful for sight of your letter to the Committee on the subject of arrangements for chairing the Committee.

I want to offer my support for your explanation of the importance of protecting the impartiality of your position. I have privately expressed my appreciation for the manner in which you have discharged the responsibilities of that office since your appointment. I can assure you that your discharge of those responsibilities continues to enjoy my support.

However, I am keen that the Committee should make some progress. Whilst I share your views on the impartiality from party politics of the Speaker, as we agreed when we spoke last week, I believe that the trust which Assembly Members have shown in your Office and its incumbents offers a way forward for the Committee and that an arrangement whereby Mr Jim Wells and Mr Francie Molloy, whom I appointed on 11 May to the Office of the Speaker to act as deputy presiding officers, be responsible in rotation for chairing that committee, offers the best prospect for the Committee to make the progress that is required. Mr Wells and Mr Molloy, in chairing the

/TW



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Preparation for Government Committee, will bring the same impartiality to the committee proceedings as they would when deputising for you in plenary.

Therefore, under Paragraph 4(1) of Schedule 1 to the Northern Ireland Act 2006 ("the 2006 Act"), I direct that the meetings of the Preparation for Government Committee, established under my direction of 26 May 2006, shall be chaired by the deputy presiding officers appointed by me under Paragraph 3(1) of Schedule 1 to the 2006 Act.

I further direct that the Committee shall meet on Monday 12 June at 4pm under the chairmanship of Mr Wells and on Tuesday 13 June under the chairmanship of Mr Molloy at a time to be determined by the Clerk Assistant. From 13 June onward, the Committee shall agree the date and timing of further meetings. If at any meeting the relevant deputy presiding officer is unable to act, or chooses not to, that meeting shall be chaired by the other.

JP 

[Private Secretary]

**THE RT HON PETER HAIN MP**  
**Secretary of State for Northern Ireland**  
*[Approved by the Secretary of State and signed in his absence]*

/TW



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Secretary of State for Northern Ireland

Mrs Eileen Bell MLA  
Speaker of the Assembly  
Parliament Buildings  
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3 July 2006

Dear Speaker,

Thank you for your letters of 21 June and 27 June 2006 recording the views of the Business Committee on issues for plenary debate by the Assembly, the date of summer recess and arrangements for setting up a working group on economic issues.

I have reflected on these views, on the progress that has been made in the Preparation for Government Committee and on the discussions between the Prime Minister, the Taoiseach and the parties last Thursday. The statement that was issued by the Prime Minister and the Taoiseach following these discussions, and the associated work plan, set out both Governments' objectives for the coming weeks for achieving the goal of a restored Executive by 24 November. The work plan rightly envisages a key role for the Assembly as well as for individual parties. My decisions, set out in this letter, about Assembly business reflect this key role and responsibility and the timeframe in the work plan.

I have determined that:

- There should be a plenary debate of the Assembly at 10:30 on Friday 7 July.
- The Assembly should rise at close of business on Friday 7 July and should return on Monday 4 September.

/TW



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This should be taken as a direction under Paragraph 4(1) of Schedule 1 to the Northern Ireland Act 2006. I will notify you on Wednesday of the subject for debate on 7 July, after the PFG and Business Committee have met, by a referral under Section 1(1) of that Act.

As envisaged in the work plan published by the two Governments yesterday, I am also directing, under Paragraph 4 (1) of Schedule 1 to the 2006 Act, that the Preparation for Government Committee continues its work during the summer recess at times to be agreed by that Committee. I regard the work of that Committee as of particular importance in addressing the issues highlighted in the work plan. I understand from discussions with the parties that similar issues have also been identified in the context of the PFG debates.

The remit of this Assembly, as set out in the 2006 Act, is to take part in the preparations for the restoration of devolved government in Northern Ireland. It seems right, therefore, that the PFG in taking forward their work both share their thinking with and take the views of Assembly members.

I would, therefore, be grateful if the PFG, with the help of the Chairs in facilitating and leading discussion, could take account of the issues and timeframe set out in the work plan published by the two Governments in developing its work and propose to the Business Committee issues for plenary debate in the Assembly. I am referring these matters to the PFG under section 1(1) of the 2006 Act.

My current intention is that there should be a plenary debate of the Assembly on 4 September and a further debate on Tuesday 5 September. I would be grateful if the Business Committee could advise me by Wednesday 30 August on appropriate

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topics which emerge from the Preparation for Government Committee for those debates and on the sequencing of issues for debate.

I have noted that parties have different views on the best way to give effect to the agreement in the Assembly debate on 15 May to a working group on recommendations to a restored Executive on the economic challenges facing Northern Ireland. Given that the aim of such discussion is to make preparation for the work of a restored Executive, I am referring the matter of discussion of economic issues to the PFG under section 1(1) of the 2006 Act and directing them, under Paragraph 4 (1) of Schedule 1 to that Act, to set up a sub-group and report back to the Assembly in September.

I am also directing, under Paragraph 4(1) of Schedule 1, that the PFG set up sub-groups on two issues identified in the two Governments' published work plan – 'changes to the institutions' and 'devolution of criminal and justice and policing'. These two sub-groups should also report back through the PFG to the Assembly. Should the PFG wish to establish sub groups additional to these two – for example on rural planning - I would welcome this.

I direct that the membership of sub groups should comprise one PFG member from each party plus five other members (one from each of the five parties on PFG) with a particular interest or expertise in the issue being considered. The sub-groups should be chaired alternately by the two independent chairs of the PFG. If the PFG decides that further independent chairs are needed for such sub-groups, I will invite the UUP, SDLP and Alliance parties to nominate suitable candidates to me. These names, along with the two deputy Speakers, can then comprise a list of independent chairs from which the PFG can choose when setting up sub-groups. In selecting suitable candidates it is important that they, like the two deputy speakers, have the skills and







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experience both to secure the confidence of all parties in their ability to act independently and to facilitate and lead discussion. After discussing progress in the PFG with the deputy Speakers I wish to clarify that their role should be not merely to preside but to promote consensus in all meetings of the PFG and its sub groups.

I should perhaps say again on the issue of consensus that whilst I continue to believe that it is right that the parties reach agreement on recommendations that are put to me for Assembly debate, I do not think it is right that any party should use the basis of consensus as an opportunity to exercise a veto unreasonably or as an opportunity to prevent the effective operation of or progress in the Business Committee or the PFG. Rather, I hope that members of these committees will seek to achieve agreement in discussion.

I very much welcome the three plenary debates that have taken place in the Assembly. I look forward to the further work, as set out above, resulting from the first debate on economic issues.

You will be aware that the consultation on PPS14 relating to rural planning has now ended and responses are being analysed. I have asked my officials to ensure that the points raised in the Assembly's debate are included in that analysis. As I have said previously, I will take account of the views of Assembly where there is cross community support and, of course, a restored Assembly will have the power to take forward policy in this area – as in others – as it sees fit.

The debate on industrial rating was a valuable one. Members were obviously well-informed in relation to this issue, reiterating the arguments for changing the policy that those from the manufacturing sector have expressed to me. I remain concerned, however, that any changes to the policy as it stands would require

JTW



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significant spending cuts to front line services. We estimate that the loss of rates revenue, should industrial rating be capped at 25%, in the period to 2011 would be £106m. The policy provides a commitment to a review after two years. I very much hope that a restored Assembly will be in place to conduct that review and to take whatever decisions it considers appropriate in light of it.

I should like to take this opportunity to thank you, your colleagues on the Business Committee and the PFG and the Assembly Clerks for their work for the Assembly over the last seven weeks. This has been a challenging period for all concerned and I am grateful for the commitment that there has clearly been to making the current Assembly work as effectively as the circumstance allow. We all shared frustration in the early weeks that time was expended on procedural issues at the expense of substantive debate. I know that there has also been frustration about the difficulties of agreeing business for plenary sessions. But I believe that there has been valuable progress and I hope that the parties will use the summer constructively to ensure that the Assembly can actively prepare for Government when it reconvenes in September, through plenary debates both on issues that are proposed to the Business Committee by the PFG and other motions that individual parties or MLAs may table.

Yours sincerely,  
Fiona McGlynn  
Private Secretary.

PP

THE RT HON PETER HAIN MP  
Secretary of State for Northern Ireland  
(Approved by the Secretary of State and signed in his absence)





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Deputy Speaker of the Assembly  
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11 July 2006

We met this morning to discuss my letter to the Speaker of 3 July in which I directed the setting up of three subgroups of the Preparation for Government Committee (PFG). You had a number of queries that I was happy to clarify at the meeting and also by way of this letter and the attached direction and referral.

The particular points on which you sought clarification on behalf of the PFG were:

- Am I making a direction to set up the subgroups under Paragraph 4(1) of Schedule 1 to the Northern Ireland Act 2006 and a referral as to the issues for discussion in these subgroups under section 1(1) of that Act?

I confirm that I am making a direction and a referral to set up the three specified subgroups.

- Do I intend the subgroups to operate by consensus or by majority vote?

I am content for them to operate by simple majority of those voting

- Am I content for the subgroups to meet if one or more parties do not attend?





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The attached direction directs that the membership of the subgroups should be two representatives from each of the parties represented on the PFG. If, however, for any reason a party is not able to be represented at a subgroup meeting, or chooses not to do so, I am content for the subgroup nevertheless to meet, I am also content for substitutes.

- Do I envisage discussions of the subgroup on devolution of justice and policing to include the issues of criminality and decommissioning raised at the PFG meetings?
- It is for each subgroup to determine what subjects are relevant to their discussions of the issue that I am referring to them. I am content for the subgroup on devolution of justice and policing to consider issues of criminality and decommissioning if they agree to do so. It is of course also open to the PFG, under the direction I issued on 26 May 2006 establishing the PFG, to establish any other sub committees to look at specific issues.

I hope that this letter and the attached direction and referral are helpful and that the PFG will act on this direction and referral when it next meets. I understand a meeting is scheduled for Monday 17 June.

Thank you again for your work for the Assembly and the PFG. Please do not hesitate to get in touch if you require any further clarification or wish to discuss any matter.

I am copying this letter to the Speaker.

  
**THE RT HON PETER HAIN MP**  
Secretary of State for Northern Ireland



MINISTER OF THE CROWN



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NORTHERN IRELAND ACT 2006

DIRECTION DETERMINED BY THE SECRETARY OF STATE AND  
NOTIFIED UNDER PARAGRAPH 4(1) OF SCHEDULE 1 TO THE  
NORTHERN IRELAND ACT 2006 AND A REFERRAL UNDER SECTION  
1(1) OF THAT ACT

1. Further to my direction of 26 May 2006 establishing the Preparation for Government Committee, I hereby direct that the Preparation for Government Committee shall establish three subgroups. I refer the following matters to each of those subgroups respectively.

- Devolution of justice and policing
- Changes to the institutions
- The economic challenges facing Northern Ireland

The subgroups should operate in accordance with the following paragraphs.

2. Each subgroup shall deal with such matters as each subgroup agrees are relevant to the matter referred above and shall deal with such other matters as I may refer in the future.
3. The membership of each subgroup shall be two representatives from each of the parties represented on the Preparation for Government Committee (PFG). One of each of the two party representatives shall be a member of the PFG.
4. Each subgroup shall be chaired by either of the two independent Chairs of the Preparation for Government Committee. If the Preparation for Government Committee decides that further independent chairs are needed for such subgroups I will invite the UUP, SDLP and the Alliance parties to nominate suitable candidates to me in accordance with my letter to the Speaker dated 3 July 2006.
5. A subgroup may meet whether or not all party representatives are present.





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6. Each party present shall have a single vote. Decisions of a subgroup shall be by simple majority of those voting.
7. It shall be for the Preparation for Government Committee to determine any other necessary procedures.
8. Each subgroup shall report to the Preparation for Government Committee in accordance with the terms of reference set by the Preparation for Government Committee.

A handwritten signature in black ink, appearing to be 'D. M. L.', written over a horizontal line.

SECRETARY OF STATE FOR NORTHERN IRELAND

DATE: 11-7-06

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## **Appendix 6**

# Work Plan Published by the two Governments

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## **NORTHERN IRELAND POLITICAL PROCESS: WORK PLAN**

### **July/August**

*During the summer parties continue to address necessary issues in preparation for government and to consult their members and communities.*

- Preparation for Government Committee continues its work (i) identifying the issues that need to be addressed and (ii) preparing a programme of work to enable the Assembly to address these (to be agreed and announced by end August).
- MLAs and parties discharge responsibilities towards employees, landlords etc in respect of ending of salaries and allowances from 24 November.

### **September**

*During the autumn efforts to elect FM/DFM continue. Parties hold discussions with each other and the Governments on changes to the institutions. Discussions with parties continue on support for and devolution of policing.*

- W/B 4 September: Assembly returns.
- W/B 11 September: Peter Hain and Dermot Ahern take stock of progress on all outstanding issues with the parties.
- Timetabled subjects in plenary on preparation for Government; Preparation for Government Committee continues its work.

### **October**

*Parties conclude discussions on all outstanding issues.  
Taoiseach and Prime Minister continue to monitor progress closely.*

- W/B 2 October: Governments receive and publish IMC report.
- Assembly sessions to prepare for Government continue.
- Final consultations within parties if necessary, and confirmation of readiness to finalise preparations for government.
- Parties conclude discussions and finalise draft Programme for Government and draft Ministerial Code.

Either

**November**

*Parties and Governments make final preparations for restoration of the institutions.*

- W/B 20 November: last opportunity to amend Standing Orders and introduce Emergency Bill (on changes to the institutions) at Westminster following all-party agreement to restore devolution.
- 24 November: last opportunity for selecting FM/DFM and Executive and affirming pledge of office. By midnight Secretary of State notifies Presiding Officer of intention to make a Restoration Order [effective on Monday 27 November].
- W/B 27 November: Ministers arrive at Departments. Executive meets.

Or

**November**

- 24 November: Salaries and allowances for MLAs and financial assistance to parties stop.

**December**

- BIIGC at Prime Ministerial Summit level to launch new British Irish partnership arrangements.





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