

Northern Ireland Assembly
Tuesday 1 April 2008

Executive Committee Business
Commission for Victims and Survivors Bill
Second Stage

Sources: <http://www.niassembly.gov.uk/record/reports2007/080401.htm#1>

Mr Speaker: I remind Members that the debate at Second Stage should be confined to the general principles of the Bill.

The First Minister (Rev Dr Ian Paisley): I beg to move

That the Second Stage of the Commission for Victims and Survivors Bill (NIA 12/07) be agreed.

Before I deal with the detail of the Bill, I should like to say a few words about how we have reached this point. Victims and survivors need and deserve the strongest possible voice. In making the decision to create a commission, we have taken a significant step that enables us to draw on a wide range of experience, expertise and commitment. We believe that that will ensure that the needs of victims and survivors are addressed fully: their needs are all-important to us.

I should say that at this stage there will be no attempt on the part of my office or that of my deputy — or of those who support us — to prevent a full debate on the issues in question. The debate today is not about the operation of the commission; it is about creating the commission in law so that it can do its work. Everything that is taken in hand and decided on will be subject to full and free debate in this Assembly, and all Members will be entitled to say what they desire to say.

Those who have set themselves up in opposition are entitled to oppose what is being done, but they are not entitled to blame us entirely for the way in which the Assembly conducts its business. A Business Committee exists on which all parties are represented, and they must make their voice heard on that Committee when the decision is being made as to whether debates such as these take place. Therefore, they are responsible for whether a matter comes to the House. Knowing the agility of the people who are on that Committee, instead of blaming those who are trying to deal with Assembly business, surely they can find a way in which to ensure that certain business reaches the Floor of the House.

Of course, the trouble with many people is that they have no experience of a debating chamber such as this. They think that they can behave just as they do in local councils. However, this is not a local council: this is a parliamentary forum, the rules of which we all have to abide by. All of us have had to learn in the hard school that there is a particular way to do a job and that we have to do it that way.

I am sorry that the Chairman of the Committee for the Office of the First Minister and deputy First Minister is not present, but I hope that the attempt to have an argument between the First Minister and the deputy First Minister — and those who support them on these issues — is a legitimate political argument and has not been arranged before they hear what we will ask of them. I hope that it was not arranged before the debate that certain people would vote against this particular issue. If that is the case, those people cannot then expect us to co-operate fully with them. I said at the beginning of the process that we want to have a good relationship with the Committee. We want to give its members all the information possible. That is what we have been doing, and it is what we will continue to do. However, if they continue to feel that it is their business to make a case against everything that we plan to do, that is too bad.

On behalf of the Administration, I am saying that we will all keep in mind the people who need our help: the victims and others. I want to make it perfectly clear that even if people want to adopt a

certain line, we will not be deterred from carrying out the task that we have been set. In making the decision to create a victims' commission, we have taken a significant step that enables us to draw on a wide range of experience, expertise and commitment. It is a step that will, I believe, ensure that the needs of victims and survivors are addressed fully.

I am amazed that in other realms, not a word of protest is said about the size of commissions or about the work that they do. However, on this all-important matter, about which people have said that something must be done, there seems to be an immediate desire to stop the House from making progress. That progress will not be stopped; it will proceed legitimately through the House. The deputy First Minister and myself, and those who support us in the Executive, will continue with this matter — we will not be stopped.

I say to the victims: we are your friends, we will help you, and we are determined to do what we promised to do. Addressing the needs of victims and survivors is one of the priorities of this Government; it is not a second-rate issue or something that is to be kicked like a football to score cheap political points. This is about people's lives and futures, and it is about the healing process that this beloved Province of ours so badly needs. We will see that it will get it.

The victims are not going to be abandoned or their needs forgotten. The commission demonstrates the importance and pre-eminence of the needs of victims and survivors, which will always be prominent in this Administration.

The Bill will make only minimal changes to the Victims and Survivors (Northern Ireland) Order 2006. It will enable the appointment of a number of people to a commission for victims and survivors. The Bill provides for the appointment of such numbers of members to the commission as may be required. No other substantive policy changes are proposed. The functions of the commission will be the same as those envisaged in the 2006 Order. It is to facilitate those technical changes, which will underpin the work of the commission, that support for the Bill is being sought.

I appeal to Members to support the Bill today in order to allow us to get back to the Assembly with the proposals that people make to us. Those will come from Members of this House, from people further afield, from the commissioners themselves and from the various victims' organisations that have been working on this matter for a long time. All of those voices will be heard, and I trust that the people of Ulster will be briefed properly so that they understand what we are attempting to do.

The provisions of the Victims and Survivors (Northern Ireland) Order 2006, as regards the status, the general powers, the constitution and terms of office of a commissioner, will apply to the new commission. Because the commission is made up of more than one member, all of whom have equal status, the Bill deals with how the commission may regulate its own proceedings. It also has provisions to ensure that the work of the commission can continue in situations which might arise where the number of members of the commission is reduced.

It must be remembered too that some of the commissioners were unable to take up their posts immediately owing to other work commitments. While we intimated to the House at the time that this Bill would be forthcoming, we had to wait until the commissioners could secede from their previous positions and take up their jobs full time.

As the deputy First Minister mentioned yesterday during the debate on accelerated passage for the Bill, in recognition of the difficulties surrounding the definition of "victim", both of us will ask the proposed victims' forum to examine urgently the definition of "victim" and to bring forward proposals for consideration. We must deal with and face up to the fact that there is a difference of opinion in the House about who is a victim, and that is what we are attempting to do. We cannot bury our heads in the sand; the matter must be out in the open. All Members must have their say, and we must use the instrument of democracy to allow that to happen.

The purpose of the Bill, as indicated by the long title, will be to achieve the single policy objective of replacing the commission for victims and survivors referred to in the Victims and Survivors (Northern Ireland) Order 2006 with a commission for victims and survivors for Northern Ireland.

I commend this short Bill to the House, and I hope that, when it is passed, the commission can swing into action and that we can proceed along the democratic way and ensure that people's rights and needs are met under the terms of this legislation.

10.45 am

Mr Moutray: I welcome the remarks made by the First Minister this morning. As I have already stated in the Chamber, the four recently appointed commissioners represent a great opportunity for the innocent victims of the Troubles. Throughout the Province there are thousands of men, women and children who each day face the physical and mental scars of the Troubles. Those people demand our assistance, and I am glad that the House has been able to demonstrate a commitment to those innocent victims through the appointment of the commissioners. That is the type of practical —

Mr Ford: Will the Member give way?

Mr Moutray: No, I do not intend to. You will have an opportunity later. That is the practical —

Mr Ford: On a point of order, Mr Speaker. Is it proper that the Member has already twice this morning referred to “commissioners”, as opposed to “commissioners designate”?

Mr Speaker: Point of order taken, Mr Ford. I ask the Member to be more accurate when he is speaking.

Mr Moutray: Thank you for that. I have been well chastised, but it is typical of the Alliance Party to indulge in party point-scoring, as it has done all along.

The First Minister: On a point of order, Mr Speaker. Surely one is entitled to mention what is stated in the Bill. It refers to those people as they should be referred to if it becomes law. It cannot be a point of order, when we are debating a Bill, that one must not say, think or anticipate that the Bill is going to go through the House. I may say that the Member who brought up that point of order is not going to stop the Bill. His party tried it yesterday, and had no success. There is power in this House to ensure that the Bill is passed, and I can assure the people of this country that it will be passed.

Mr Speaker: I ask Members to keep, as far as possible, to the principles of the Bill. I am not trying to stifle debate on this very important issue, just reminding Members once again.

Mr Moutray: I am confident that much of the alienation experienced by many innocent victims and the groups who represent them will be addressed by the “commissioners designate”.

A Member: Say that again for him.

Mr Moutray: Happy, Mr Ford?

Throughout the political process spearheaded by the Ulster Unionist Party, and especially under the Belfast Agreement, the interests and concerns of the innocent victims of the Troubles were largely ignored. No one was more affected by the Troubles than the innocent victims and the security forces, yet those two groups were the most neglected by the Ulster Unionist Party when it led unionism. The UUP failed to deliver on matters of importance to victims, and still today it, along with others, is dragging its feet as others seek to deliver assistance to those who suffered most as a result of terrorism.

When my party took over the mantle for unionism, we made the issue of innocent victims a priority and ensured that they were given a voice through the establishment of a commission. We will not let the victims be forgotten.

The recent Budget announcement concerning victims is also to be welcomed. Over £30 million has been set aside for the ends of the victims. That is the largest ever Budget allocation for that purpose, and I trust that, in the very near future, innocent victims will see the practical benefits of that money. I trust that the House will join me and fully support the work of the commissioners as they seek to deliver for one of the most vulnerable groups in society.

Mr Molloy: Go raibh maith agat, a Cheann Comhairle. I support the Bill and agree with the First Minister about the good working relationship that we need between the Committee and the Ministers in order to develop the work and to progress as quickly as possible, not only on this issue but on many others that have come before us. The victims need to be given their place and the opportunity to have a forum and a commission to deal with the issues that they have wanted to see dealt with for a number of years.

If the Assembly is to mean anything to people, it is important that it, with its local knowledge and responsibility, responds to the needs of the victims and the community.

I hope that this short, clear-cut Bill that legislates for the establishment of a commission rather than one commissioner attracts unanimous support today. All parties have been crying out for the legislation to be enacted. Instead of yesterday's party politicking, we must make progress as quickly as possible.

It is important that we get support for victims so that they can see that the Assembly is tackling the issues and that there is a commission to which they can talk. Victims will be able to highlight their needs, to which the Assembly can then respond.

I hope that the Bill can be progressed today and that the commissioners designate can be put in place. I look forward to the rebuilding of working relationships among members of the Committee for the Office of the First Minister and deputy First Minister.

Mr Elliott: As we debate the general principles of the Bill, I am pleased to hear that it is victims' needs that should be addressed; I fully support that principle. I am also pleased to hear the First Minister say that Members will be allowed to express their views.

I seek clarification on a certain issue. During my contribution to yesterday's debate, I was challenged to provide a Hansard record of what had been said by the First Minister at an evidence session of the Committee for the First Minister and deputy First Minister. I am happy to do so now. He said:

"The new Commissioner will not, of course, be bound by Mrs McDougall's recommendations".

For information, I will leave a copy of those minutes of evidence in the Library.

The First Minister: The Member's point is not the source of the argument. I read the Hansard record carefully, and my argument with the Member is that he ought to bear in mind what was actually said rather than putting his spin on the words, which is what he did. How could any new commission be bound by the actions of the former Interim Victims' Commissioner? That commissioner's report has been published, but its recommendations cannot be considered until the new commission is in place. I am sure that the recommendations will be examined once that happens. I do not know what the Member's argument is, but I welcome that fact that his heart has been regenerated and that he is prepared to help us rather than hinder us.

Mr Elliott: I thank the First Minister for his quite lengthy intervention. For the record, yesterday's Hansard and the minutes of evidence for the Committee meeting of 20 June 2007 will clearly show what the First Minister and I said.

I was pleased to hear the junior Minister say that the Office of the First Minister and deputy First Minister is preparing a comprehensive strategy. That process is at an early stage, but I would be willing to listen to those proposals in the future, which should come via the Committee for the Office of the First Minister and deputy First Minister. Unfortunately, in the past, the Committee has not received the information that it should have.

The junior Minister (Office of the First Minister and deputy First Minister) (Mr Donaldson): I assure the Member that the draft strategy will be brought to the Committee before it is published for general consultation. We have made a lot of progress, and many of the proposals will be familiar to the Member from Mrs McDougall's report when he reads the draft strategy. The Member should also bear in mind that Mrs McDougall is one of the commissioners designate; no doubt, she will influence the working of the commission, because of her earlier report.

Mr Speaker: I remind the House that Members should speak on the principles of the Bill, and not on wider issues. I do not want to stifle debate but Members must only address the principles of the Bill.

Mr Elliott: Others Members have talked for longer than I have since I got up to speak so it is not my fault that we have strayed from the matter. I was trying to clarify what was said yesterday. I could have raised that issue in a point of order but I am keeping it simple by doing so now.

When did the Office of the First Minister and deputy First Minister take the decision to change the process from appointing a commissioner to appointing a commission? That issue must be dealt with, and Members need to hear about it in the Chamber. Members must be able to see that the process is moving forward in a positive manner that will help the real victims in this society. I am hugely concerned that this process is actually going to help people who are not the real victims.

I welcome the announcement of the enormous amount of funding for victims — which Mr Moutray referred to — but I want to know how that money is going to be spent. That may be revealed in the draft strategy, but I have doubts. How much will be swallowed up by statutory agencies and administration? How much will go to the real victims? How much will be swallowed up by the commission itself? Those questions have not been answered. Indeed, I am concerned that accelerated passage will mean that they will never be answered.

Mrs D Kelly: As a party that is well-documented as having supported and championed the needs of victims — and one that did not create any victims over the last 35 years — the SDLP welcomes the opportunity to speak about victims and the accelerated passage of the Bill.

At the outset, the First Minister said that the needs of the victims had been prioritised. Why, then, was the House told that a decision would be made before the summer recess last year? Why were Members told in September that it would be issued shortly, and why was the whole thing turned on its head by December?

There are now four commissioners designate rather than the single commissioner originally envisaged. The Committee has not had an opportunity to discuss in detail whether there is an upper limit on the number of commissioners designate that can be appointed, and I seek clarification from the First Minister on that point. The draft Bill, as sent to the Committee, contained no such upper or lower limit.

The First Minister referred to other commissions. However, I remind him that it has been proposed that the victims' commissioners designate will each receive a salary of £65,000; a

number of other commissions only receive up to a maximum of £5,000 per individual. That is a substantial difference in salary for what is, in essence, the same job as before.

It is my understanding from previous discussions — and certainly from Bertha McDougall's report — that the victim's forum is going to progress several issues that the commissioners are to address. Members need to know the distinction between the commission and the forum; and we need to tease out the thoughts of the First Minister and the deputy First Minister on the work of the forum vis-à-vis that of the commission.

The forum's first piece of work should not be the divisive issue of the definition of a victim. Political parties have had little agreement on that point, and it would stymie the advantages for victims and survivors if the forum had to deal with it.

One of the big issues that we have heard about in meetings with many victims' groups is truth-telling, and Bertha McDougall refers to that. It is an opportunity for victims to tell their story of how their lives were affected by their injuries or by the death of their loved ones.

11.00 am

I note that in an earlier debate in this House there was little support for the work emerging from the consultative process led by the Eames/Bradley group. How will that pan out? We have a legitimate interest in such questions and want to learn more. The integrity of the House was mentioned yesterday, and Hansard records the genuine concerns of many Members. Never mind all this bluster: we did not create the indecision and inactivity around the victims. OFMDFM did that, as it has done in respect of many other decisions. Matters have been kicked into the long grass, partly because Sinn Féin gave the DUP a triple veto in many decision-making processes. Shame on it for that.

I hope that the First Minister will respond to the points that I have raised. I have attempted to put them in the context of accelerated passage. This is not the way to do business. Had we really wanted to do justice by victims and survivors, this Bill would have been introduced last May.

Mr Ford: I begin by agreeing with the First Minister and the spokesmen for the DUP and Sinn Féin. This is certainly a small Bill — in fact, it is a grubby little Bill whose grubby little purpose is to cover over the complete inability of the First Minister and the deputy First Minister to agree on the appointment of a victims' commissioner.

Dolores Kelly has reminded us that this appointment was to be a priority in May 2007. An appointment was to be made before the summer recess, and then there was to be action in the autumn. There was a flurry of activity in the few days before Christmas — an urgency to interview people so that an appointment would be made. What did we end up with in January? A fudge.

The First Minister and deputy First Minister cannot agree on what goes on, and the sole purpose of this Bill is to keep them together. All the bluster that we have heard from the First Minister, and the lectures on how to be in opposition — and I grant that his experience in that role is greater than mine — do nothing to conceal the fact that the reason for this Bill —

Some Members: Nonsense.

Mr Speaker: Order. The Member has the Floor.

Mr Ford: All the bluster does nothing to conceal the fact that the reason for this Bill is to cover over the complete failure of the First Minister and the deputy First Minister to put victims first, as they promised they would do when devolution was restored. They are the ones who failed and who made a complete mistake of things.

My colleagues and I believe that the needs of victims will be far better served by the original proposal, which the First Minister and deputy First Minister were working on until December 2007 — the appointment of a single victims' commissioner, who could have taken a single unified approach and ensured that the Balkanisation referred to yesterday by Francie Molloy, with every victims' group having someone to speak to, did not happen. An opportunity to bring together some of those victims' concerns and to begin the healing process has been lost. To allow Balkanisation of the process of dealing with victims exacerbates the problems, and that is what this Bill will do. It is designed to do that to spare the embarrassment of OFMDFM.

The arguments produced by the First Minister today and the deputy First Minister yesterday might have had some credibility had they been brought forward in May 2007. They have no credibility whatsoever on April Fool's Day 2008.

Mr Storey: I thank the Member for giving way. Several years ago — before I ever came into public life — the Alliance Party made another failed electoral attempt. One of its slogans was “Pulling together, not pulling apart”, and the picture showed two donkeys. I do not know whether they were members of the Alliance Party at that time. Will today's party leader tell us what valid, viable and useful contribution the Alliance Party will make to this process, rather than being a continual hindrance, whether about finance or some other issue?

Mr Ford: I take great pride in being a hindrance to a process that promotes Balkanisation and division and continues to maintain segregation, and I thank the Member for giving me the opportunity to say so.

Mr Donaldson: Will the Member give way?

Mr Ford: Gosh, the Minister is very busy this morning.

Mr Donaldson: If the Alliance Party is opposed to Balkanisation and supports integration, why does it support a separate education system? Why will it not support the state education system as being the best means of integrating education in Northern Ireland? Why does the Alliance Party agree with Balkanising education?

Some Members: Hear, hear.

Mr Ford: Mr Speaker, before you tell me off for straying from the purpose of the debate, I must respond briefly. The Alliance Party was party neither to the Programme for Government that established those methods of education nor to the St Andrews Agreement, which cemented those methods. Therefore, it ill behoves members of Executive parties who established those arrangements to criticise others.

However, if I may return to my — [Interruption.]

Mr Speaker: Order, order. Members are straying from the principles of the debate and the Bill. I appreciate that the debate has many legs. However, I again remind Members, as far as possible, to debate the principles of the Bill.

Mr Ford: If DUP Members can restrain themselves from making generalised attacks on the Alliance Party, I will manage to stick to debating the principles of the Bill. [Laughter.]

Until the First Minister and deputy First Minister announced the plan to establish four commissioners designate and released those individuals' names, they had not suggested that the concept of a single commissioner was flawed. Only when they failed to agree on one commissioner did they produce that argument. Similarly, since May 2007, the matter has not been considered urgent. Despite the Executive not working on it for 10 months, it is suddenly a

matter of urgency. However, that change will brook little, if any, concern about amendments or proper consideration of the Bill.

I understand that the Committee for the Office of the First Minister and deputy First Minister agreed that, although a resolution was urgent, it was more important to get it right. At the moment, the Bill gets it completely wrong. Although it is effectively a one-clause-plus-schedule Bill, the current proposals are flawed. Standing Orders require the four commissioners — by that stage, they will be commissioners — to agree unanimously. However, nowhere does it state how they are expected to achieve that agreement. There is talk of potential direction from the First Minister and deputy First Minister. However, given their inability to do their own job and run a Government, I suspect that having lectured the Alliance Party for providing an opposition, they will proceed to lecture the commission on how it should operate.

The First Minister and deputy First Minister will hand four coequal commissioners the responsibility of reaching consensus without providing any direction on how to achieve that, which will create problems and will be sensitive and difficult for the commission when it is established.

This debate has proved that the First Minister and deputy First Minister cannot agree on the definition of “victim” — moreover, they cannot even agree on the name of the region that they govern — yet they expect to delegate those difficult problems to four recently appointed commissioners. There are serious concerns over whether that model is workable. The First Minister criticised the number of people appointed to, for example, the Human Rights Commission and the Equality Commission. However, those commissions employ a chief commissioner, a full-time member of staff who is paid a salary similar to that proposed for each of the victims’ commissioners, and a number of part-timers who are paid modest rates. That is more appropriate than the model —

The First Minister: I objected to the compositions of those bodies, which are totally unfair to the unionist population. If the Member is suggesting that unionists should not have a leading role, we do not want those bodies. That is a fact. The Member may rub his moustache again, but it means nothing.

Mr Ford: I shall not stray from discussing the Bill in order to respond to that completely irrelevant point.

The concept of having one full-time commissioner and a number of part-time commissioners would have been a credible way of amending the idea that a single commissioner would not have been practical. However, that is not what we have. We have four coequal commissioners, each of whom, apparently, has a veto. They hold that veto in much the same way that the First Minister and deputy First Minister hold vetoes over each other: and look at what that has achieved for us.

As Mrs Dolores Kelly pointed out, there is not even a cap on the number of commissioners who may be appointed. Will we be in the position, in four years’ time, in which six or eight commissioners have been appointed? Is that a realistic and sensible way to proceed? The Bill is defective in that respect, because even though I understand that that matter was raised in the Committee, the Bill stands as it was proposed originally. That is another example of where the First Minister and the deputy First Minister have simply failed to introduce a Bill that provides a workable and meaningful way of addressing victims’ needs.

I notice that none of the DUP or Sinn Féin members of the Committee for the Office of the First Minister and deputy First Minister contradicted the criticisms that Naomi Long made yesterday. That is a rather interesting statement, which shows that the Committee failed to get answers during that hurried, private session, when matters were not considered properly and when there was not even a fair consultation with the Committee at that point. Perhaps the speechwriters had not written the answers for the Back-Bench Members.

Mr Molloy: Will the Member give way?

Mr Ford: Even though Sinn Féin Members do not give way, I will do so.

Mr Molloy: I do, in fact, give way.

The Member may remember that I said yesterday that the First Minister, the deputy First Minister and the junior Ministers attended the Committee meeting and answered the questions that all members of the Committee asked. There was no time limit on the questions being asked, and the Committee discussed the issues for a fairly lengthy period of time. I made that point to Mrs Long yesterday. She covered a range of issues, and I do not think that it would be expected that Sinn Féin Members, or any other Members, would respond to every one of them. The Committee discussed the issues in detail in the meeting at which the Ministers were present.

Mr Ford: Given the absence of a record of that meeting, it is difficult to tell what happened. I have been given to understand that no substantive answers were given, and the fact that a letter followed, which also contained no substantive answers, indicates that the matter was not thought through fully.

Mrs D Kelly: Further to Mr Molloy's intervention, as a member of the Committee who was present and who paid attention to what happened at that meeting, I know that many questions were left unanswered. I asked about the policy framework and the job descriptions of the commissioners, and no answers were given. Furthermore, no advance notice was given to the Committee about asking for accelerated passage and, at the request of the First Minister and the deputy First Minister, the Committee meeting was held in closed session. That brings a new dimension to smoke-filled corridors.

Mr Ford: I thank the Member for her intervention, which backs up my second-hand understanding of what happened during the Committee meeting.

It is noteworthy that there was no detailed response yesterday, and, certainly, the Hansard report does not record any of those Members giving detailed responses to Mrs Long's points. Perhaps the speechwriters had not written those responses; perhaps they are upstairs now busy scribbling in order that we will get them later in the debate. It shows the failure, at that point, of the matter being taken up properly by the Committee.

There are huge potential problems with the Bill. The danger of a commission being set up that does not function properly concerns me hugely. The needs of victims must be prioritised, and that would have been best achieved by implementing the Victims and Survivors (Northern Ireland) Order 2006 and by the First Minister and deputy First Minister agreeing on the appointment of a single commissioner.

I put it to the House that the example of Mrs Bertha McDougall's work as Interim Victims' Commissioner, in spite of the way in which she was appointed by the then Secretary of State, was a clear example of how one individual, regardless of personal circumstances and background, was able to reach out across the community and engage with victims' groups from different sectors. Although we cannot agree the definition of a victim, to have the example of an individual who came from one particular grouping and who was able to engage with others seems to prove that the Bill is not only dangerous but unnecessary.

There should have been proper scrutiny of the Bill in Committee Stage, which has been refused. On that basis, and given the inadequacies of the Bill, my colleagues and I have no option but to oppose the Bill at Second Stage.

11.15 am

Mr O'Dowd: Go raibh maith agat, a Cheann Comhairle. The principle that we are discussing today relates to the appointment of the victims' commissioners. The Assembly has accepted that the Bill will be given accelerated passage; we are now discussing the Bill.

Some of the contributions from the parties who appear to be opposing the entire process are missing the point. It does not matter what the Alliance Party, the SDLP or indeed Sinn Féin think about the commissioners; what matters is what the victims and survivors think of them. If the Bill is passed, then, over time, they will be able to judge whether the commissioners are carrying out their task well. The victims and survivors will judge that; not the parties in the Chamber. If they return with a strong voice to say that it is not working out, there will then be a duty on us as politicians to reconsider the matter.

Party politics is being played over the issue, and that should not be done. This is a debating Chamber, and it is natural that we politicians will have a go at each other over many different issues. However, it is a mistake to play with this issue. The proposal is for four commissioners instead of one, and it is better for the two leading parties in Assembly to have made that proposal, rather than having stalemate and deadlock. The people who would lose out because of such a stalemate would be the victims and survivors.

Mr Ford: Will the Member inform the House who has caused the stalemate and deadlock since May 2007?

Mr O'Dowd: The Alliance Party and the SDLP have said that the matter should have been sorted out last May. If it had been sorted out then, the Bill would have to have been passed by accelerated passage because the Assembly only came into being on 8 May 2007. Those parties wanted the Bill rushed through, but if it had been, the Committee would not have been consulted, the victims would not have been consulted and the interviews would not have taken place. Instead, discussion and debate has taken place on how to move forward this important and difficult matter.

Mr Ford, you are missing the point — through the Speaker. [Laughter.]

The difficulty for the Alliance Party is that the matter has been sorted out. The Alliance Party does not want the institutions to work. It cannot see a future for itself within institutions in which the two main political groupings on this part of the island work out an agreement. This Bill is an outworking of the work that has been carried out.

I am beginning to come to the opinion that one of the reasons that the Alliance Party is so vexed about the commissioners is because none of them are serving, or former, members of the Alliance Party. It used to be that Alliance Party members would retire and be put out to grass with public appointments: they would receive their fat salaries and be happy forever.

Mr McElduff: As a member of the Committee for the Office of the First Minister and deputy First Minister, I want to point out that the closed session was agreed to by Committee members to allow serious examination of the issues and a full opportunity to raise all issues. Those issues are not even being raised this morning. Time and again, the Speaker has had to remind Members to address the principles of the Bill. Members have waffled all morning, but those principles must be addressed. It does no credit to the Committee that neither the Chairman nor the Alliance Party Deputy Chair could see fit to be here for the Second Stage consideration of the Bill.

Mr McNarry: That is a cheap shot.

Mr McElduff: When one of the commissioners designate appeared on television and said that they wanted to be enabled to carry on with their work, the SDLP Minister said on the same programme that the Executive would move heaven and earth to see that they could do so immediately. Let us allow them to get on with their work without any further delay.

Mr O'Dowd: I thank the Member for that contribution.

The Bill allows the commission to get on with its work of helping and assisting survivors and victims of the conflict. It is not about the party political differences that may exist between the two senior political parties in the Chamber or the other political parties in the Chamber. The Bill is about allowing the victims' commission to move forward and carry out its duties, which every political party in the Chamber has demanded. I am disappointed that the Chamber split yesterday over the accelerated —

Mr McNarry: The cosy coalition.

Mr Speaker: Order. The Member has the Floor. Every other Member will have an opportunity to speak.

Mr O'Dowd: Thank you, Mr Speaker, but I was not listening to him anyhow. It was just a drone in the background.

It is disappointing that the House divided on the vote on the accelerated passage for the Bill because, as my colleague Mr McElduff said, public pronouncements on television programmes to move heaven and earth mean diddly-squat. Members must come forward in the House — the House has the power, not the studios of UTV or BBC1. The Chamber has the power to advance matters: it is where raising the hand to vote counts, where going through the Lobbies counts and where legislation is made. I urge Members to allow the legislation to progress unhindered, allow the victims' commission to be established and allow the commissioners to get on with their work.

Mr Shannon: It is important that the members of the Committee for the Office of the First Minister and deputy First Minister make the Assembly aware of the lengthy and vociferous discussions that took place on the accelerated passage to get the Bill to its current position. All of the Committee members asked questions and put forward their points of view.

Yesterday, Mr Ford mentioned the accelerated passage and referred to Standing Order 40(4). However, when an explanation was given, he was sitting on one of the soft seats at the back of the Chamber and did not listen to the explanation. Instead, he was yammering — which is the Ulster Scots word to describe what he was doing — to one of his colleagues.

Mr Speaker: I remind the Member that it is vitally important to try, if possible, to keep his remarks to the principles of the Bill. [Laughter.]

Mr Shannon: I will endeavour to do so. It was important to make that point — the Member was so vociferous yesterday that it was important to make everyone aware of what he was — or was not — doing. It is imperative that we support —

Mr Ford: On a point of order, Mr Speaker. As I have been named, do I get an opportunity to respond to that point?

I am not sure how good Mr Shannon's hearing is, but I am perfectly aware of what happens in the Chamber. The deputy First Minister had failed to address my points in his proposing speech, which was the point of order that I had raised; moreover, I listened to him fail adequately to address them in his summation.

Mr Speaker: Order. The Member has already spoken, but he could ask for an intervention.

Mr Shannon: I can hear doves flying between half a mile and three quarters of a mile away, so I am well able to hear what the Member was up to at the back of the Chamber — nothing.

It is important to support the Bill. It is important to debate it in the Chamber and it is important that all Members wholeheartedly support it. We are here for one reason — to hear the voices of the innocent and the cries of the suffering. I support the Bill because I have listened to the people I represent, some of whom have lost loved ones. I urge Members to listen to those people, to support the Bill and not to thwart it.

Mrs D Kelly: As a fellow member of the Committee, will the Member acknowledge that, contrary to Mr O'Dowd's comments, the reason that the Committee meeting was in closed session was a possible judicial review of the decision and the seeking of legal advice? That was the sole reason given to Committee members. Furthermore, we were not told in advance that we would have to make a decision.

Mr Shannon: There may be a slight difference of opinion. That was the Member's opinion of what happened, and many of us had views on other issues. The important thing was that most of us realised that it was important to advance the issue, that it was important for the Bill to have accelerated passage, to have the debate in the Chamber today, and to respond to the victims. The people I represent have told me that they want the Bill to be passed as soon as possible.

I urge Members — including all the parties with questions about it — not to try to obstruct and thwart the Bill, but instead to support it. If Members want to help the victims and make their lives better, we must move forward. I urge Members to support the Bill.

Mr B McCrea: Once again, there is a political fudge.

The so-called senior parties seem to have sorted this matter out between themselves, and they appear to think that the rest of us therefore need not bother ourselves with it. That does not seem to be the right approach. If this is such an important topic, is it not right that we should have a proper debate on it? Is it not right that we should discuss the issues and be allowed to express our reservations? That is what UUP Members meant yesterday when we talked about the process. We opposed accelerated passage, not because we are in any way shy of supporting victims, but because we do not think that taking that course of action would do victims justice. If we are to do this, we must do it right. We must be inclusive and bring everybody around the table, and we must confront the past.

Mr O'Dowd: The Member says that he opposed accelerated passage on behalf of victims. Can he tell me which victims' groups approached the Ulster Unionist Party and asked its Members to oppose accelerated passage?

Mr McNarry: We are talking to them right now — right this minute, upstairs.

Mr Speaker: Order. I must tell the Member that I will not warn him again. He has interrupted and tried to speak from a sedentary position. I simply want to warn the Member.

Mr B McCrea: My colleagues have talked about victims in general, but I will mention a particular constituent of mine. He was an RUC detective sergeant who was shot six times, but who is still alive. He had to relocate. He was informed through the HET of who shot him, and, according to this information — it has not been tried — the people who shot him have associations with people in the Assembly. What do those people have to say? There is a wide variety of information, and I am not trying to trivialise what has to be said. I accept that we must deal with the past and find a way forward. However, if some Members think that the two senior parties can get together and ram this Bill through without taking any cognisance of what the rest of us think, they are wrong. They may be able to carry the vote, but they will not be able to carry the people.

The UUP Members want there to be due process; it is our right to express our points of view and concerns and our absolute disdain about the definition of "victim". Let me put on record that the Ulster Unionist Party is not happy about the definition of "victim". We will table an amendment,

through the proper channels and at the proper time, and that is why we are rejecting this motion. We will want to see what Members have to say when we come to discuss the victims. Are DUP Members really happy with the current definition of “victim”? Do they not want to change it? Have they not thought about that issue? Did they just forget about it?

Mr Donaldson: Yes, we did think about it. We voted against a proposal by you.

Mr Speaker: Order. The Member has the floor.

Mr B McCrea: Did they just forget about it, or is it the truth that their cosy coalition with the Members opposite did not allow them to come up with a proper definition of “victim”? The First Minister took issue with me yesterday when I said that, as far as I am concerned, a “victim” is someone who was passive, who had something done to them through no fault of their own. Many innocent people suffered at the hands of others, and we have an obligation to sort that out. People may well want to discuss other issues and other people who have suffered. Fair enough; let us talk about that.

Mr Poots: Will the Member give way?

Mr B McCrea: I will give way, and I am interested to hear whether the Minister's attitude today is different from his attitude last night.

Mr Poots: I thank the Member for giving way. We have heard a lot about the definition of “victim”, but can the Member remind us of the Ulster Unionist Party's definition of “victim” when it held the office of First Minister? What did the party do for victims at that time? How much money did it apportion to victims? Please remind us of what the Ulster Unionist Party did then.

Mr Donaldson: Nothing; absolutely nothing.

Mr B McCrea: Well, I am very sorry —

Mr McNarry: We never gave the Provos an amnesty.

Mr B McCrea: I am very sorry —

[Interruption.]

Mr Speaker: Order, order. I have already warned Members not to speak from a sedentary position.

11.30 am

Mr B McCrea: I am disappointed that the Minister is not aware of the UUP definition of a victim. Perhaps if he had gone through the due process and taken this discussion through the Committee, he would have known. Instead, a spark of light has suddenly hit him, and he is now asking the question. Let us address the situation properly, confront it and talk about it. The Ulster Unionist Party is not afraid to take on those tough issues. The party will discuss the matter and find a solution.

Mr Durkan: The Member should remind the DUP that, when the Office of the First Minister and deputy First Minister was set up, there already was a victims unit in the Northern Ireland Office. Despite that, the then First Minister and deputy First Minister insisted on setting up a victims liaison unit, because they said that devolution could not simply shrug its shoulders because somebody else was dealing with those problems. Those Ministers also introduced, and had a full consultation on, a strategy for victims. Funding for victims was also provided not only in the Department but under European funding; it was a priority in the European Peace programme.

Mr B McCrea: I am grateful for the intervention from Mr Durkan.

People talk about stalemate, and one can see why, given that the issue has been going on for so long. There is stalemate because people cannot reach agreement. Until, and unless, the genuine concerns of all people are at least considered, we will not make progress. The Ulster Unionist Party will not support the Bill until it finds out what is happening about the definition of “victim”. If people do not like that, they should understand that inclusivity means exactly that.

Mr Moutray: Will the Member give way?

Mr Donaldson: Will the Member give way?

Mr B McCrea: I was just about to finish, but there is a queue of interventions.

Mr Moutray: Some Members find that Ulster Unionist Party opposition on this issue is rather half-hearted. In yesterday’s debate, exactly 50% of UUP Members bothered to turn up to oppose the motion.

Mr Donaldson: Earlier, the First Minister clearly stated what was being done about the definition of “victim”. Victims should have a say, and they will be consulted. The SDLP and the Ulster Unionist Party do not want to hear from the victims and do not want them to have a voice in this matter. However, we believe that victims should have a say. [Interruption.]

Mr Speaker: Order, order. The Member has the Floor.

Mr Donaldson: Victims should have a say on how “victim” is defined. It is a matter of regret if the Ulster Unionist Party opposes that. The commission needs to be put in place now; UUP opposition, while we wait for the response, is ridiculous.

Mr Speaker: Order. Members should be discussing the principles of the Bill. I remind Members that the definition of “victim” has nothing to do with the principles of the Bill.

Mr B McCrea: The fundamental point is that the definition of “victim” has a bearing on the appointment of four or more commissioners. Members accuse the UUP of not caring about, or listening to, victims. People who make those statements are not interested in what the victims have to say; they are interested only in their own statements. The DUP is interested only in what happens between it and Sinn Féin. This is shoddy work.

Mrs D Kelly: Does the Member share my recollection that during consultation with victims’ and survivors’ groups, many victims advocated that there should be more than one forum because they would have difficulties sharing one with the perpetrators of violence?

Mr B McCrea: I thank the Member for her intervention. I am well aware that Members on different sides of the House have different attitudes about whether victims should have to share forums with the perpetrators of the crimes that affected them. Frankly, to have to do so is a disgrace.

There is a critical issue about the responsibilities of commissioners. What is it that we want them to do? That is the issue that we want to get to the bottom of.

In conclusion, the Ulster Unionist Party has always stood by the victims. We did not create any victims — neither by action nor by words. We are trying to find a solution. If Members ramrod this legislation through without listening to wider society, they are doomed to failure, as is Northern Ireland. Therefore, the real message is: get real, we need to work this out and we need to talk about it openly.

Mr Durkan: I refute the point that was just made by junior Minister Jeffrey Donaldson about the SDLP having no wish to hear from victims. He said that in response to the issues about the victims' forum. Mr Donaldson knows full well that the SDLP has long advocated having a victims' and survivors' forum. Furthermore, he knows full well that he and I had many conversations — both when he was in the UUP and the DUP — about the issue. During those conversations he explained that his difficulty with a victims' and survivors' forum was the definition of what constitutes a victim; who would be on the forum; and that victims would have difficulty sitting with perpetrators. Mr Donaldson now says that he sees a role for a victims' forum. However, having come late to that concept, it is a bit much for him to accuse the rest of us of not wanting to hear from victims.

I made the point yesterday that when we were advocating having a victims' forum, during negotiations in 2003 at Hillsborough before the joint declaration, we were told that the reason it got no more than consideration in the document that was produced by the two Governments was because the UUP — of which Mr Donaldson was then a member — and Sinn Féin objected to it. We were told that that was why more substantive progress on that issue was not made. Therefore, we are not going to take lectures from people who are in no position to give them.

Mrs Long: Does the Member agree that had the Bill gone through the normal Stages — including the Committee Stage — there would have been ample opportunity to hear the views of victims and their representatives? That would have enabled us to establish whether they are in favour of the Bill, or whether that assertion is simply spin being put on the issue by certain political parties for their own ends.

Mr Durkan: I thank the Member for that point, which I was going to make during my remarks. Accelerated passage was granted yesterday owing to the Sinn Féin/DUP axis. The rest of us are now being told that by raising other issues or other considerations, we are trying to hinder progress on the issue and that we are against victims. However, we are simply trying to do the work of due diligence that is required from a proper legislative Assembly.

That is on a par with what happened in the Committee for the Office of the First Minister and deputy First Minister. We have been told that that Committee agreed to the accelerated passage of the Bill; however, the issue was not even on the agenda of that Committee meeting. The decision was taken in closed session. Taking a decision entirely in private about the public process of legislation is creating a dangerous precedent. It could well be that the reasons for accelerated passage had to be shared with the Committee in closed session, and I understand that there were legal sensitivities that Ministers wanted to share with the Committee in closed session. That is entirely legitimate and it was responsible of the Ministers to do that. However, it was not legitimate and responsible to insist that a decision had to be taken in closed session.

The First Minister: It was the prerogative of the Committee to say whether it would meet in closed session or not. The Member should not blame people who had no say in the matter. The Committee made the decision that it would be a closed meeting.

The Member is trying to tell us that an undercurrent ran beneath that decision. There was no such undercurrent. The Committee did not even tell us that it would not meet us in closed session. As the Member rightly points out, for legal reasons certain matters could not be discussed in open session.

Mr Durkan: The First Minister has completely missed the point. I raised no direct objection to the Ministers having asked the Committee to meet them in closed session; some of the issues that they wanted to discuss were matters of legal sensitivity and, therefore, legal jeopardy could have been an issue. That is the right and proper procedure to have followed. Obviously, the Committee made a reasoned and responsible decision to hear the Ministers in closed session. However, the insistence by the Sinn Féin/DUP axis that a decision about accelerated passage must be made, there and then in closed session, was neither reasoned nor responsible.

Mr Molloy: Does the Member accept that the Committee would have needed to agree to go into closed session and that a Committee member would have needed to propose that the meeting come out of closed session? No such proposal was made by any Committee member — not by a member of the SDLP or the Ulster Unionists — or by the Ulster Unionist Chairperson of the Committee. [Interruption.]

Mr Speaker: Order. Mr Durkan has the Floor.

Mr Durkan: There was a proposal at that meeting not to make a decision on accelerated passage during that meeting but to return to the matter at the Committee's next meeting. The Sinn Féin/DUP axis voted that proposal down and forced a decision through that day.

Mr Molloy: I thank the Member for giving way again. The Member raised the issue of closed session. No proposal was made by the SDLP member of the Committee either for the meeting to be in public session or for it to come out of closed session before a decision on accelerated passage was made.

Mr Durkan: Clearly, the proposal was made not to make a decision on accelerated passage that day while the Committee was in closed session; it was decided that the Committee would return to it at a later meeting. That was the proposal that was made and the position that several members and parties adopted. That is a fact.

Clearly, a dangerous precedent has been set in which a decision on the public business of legislation — the question of whether to support accelerated passage — was taken during closed session. That is absolutely unprecedented.

Mr Poots: Does the Member agree that the fact that the First Minister and the deputy First Minister actually attended that meeting represents progress? During the previous dispensation, for some of which the Member was the deputy First Minister, the First Minister and the deputy First Minister attended the Committee of the Centre only once, regardless of whether its meetings were held in closed or open session.

Mr Durkan: I certainly attended the Committee of the Centre: as to who was with me is another matter. I never refused or made excuses about any request to attend that Committee; none whatever. That is the truth.

The Bill has been put before the House purely on a take-it-or-leave-it basis. That is wrong. The devolved Assembly certainly could have done better by its own spirit and responsibility, and it certainly could have done better by the victims. However, the SDLP recognises that there has been a long delay on the issue, both prior to and since devolution. My party does not want to create unnecessary further delays. If it believed that opposition to the Bill would create and guarantee a better outcome, it would be prepared to oppose it. However, it has no reason to believe that successful opposition to the Bill would lead to a better, more rational outcome that included, for example, Mr Ford's suggestion of having one senior commissioner and other part-time commissioners.

My party wants to ensure that a commissioner or a commission exists to act on behalf of victims. The SDLP is not opposed to that concept. It believes that there could have been a much better outcome than the current proposal for a commission that comprises four commissioners.

The way in which that decision was made was questionable and wrong. However, to compound the delay and confusion would not be better for victims or for the reputation of the House. At least there is now a proposal, which may or may not work: it may work well; it may work not so well. The Assembly has a duty to ensure that the four commissioners will be in a position to do the best possible job.

11.45 am

Had the Bill been given full and proper consideration, the Assembly would have been in a position to ensure that the role of the commissioners would be better understood, supported and appreciated. Proper consideration would have allowed victims' groups and others to give evidence to the Committee and raise issues and questions, and it would have ensured greater consideration and understanding of the remit and role of the commissioners. Using the proper legislative route would have been better for the proposed commission and helped to relieve many concerns and address many questions.

Furthermore, the Assembly would have had to face up to its responsibility in addressing some of the issues that it is ducking, such as the definition of "victim". Had the Assembly been debating a more comprehensive Bill through a more complete procedure, Members would have been able to table amendments and take on board suggestions and evidence from others on how issues might be addressed.

People may have thought that the victims' commission would deal with the definition of "victim". Why should it not address that particular issue? Instead, when introducing the motion for accelerated passage yesterday, the deputy First Minister told the Assembly that the problem of defining "victim" would be left to the victims' forum. Given that the definition is such a vexed issue — one about which Members have been sniping at each other — is it fair or responsible for the political parties in the Assembly and Executive to devolve to victims the most difficult issue of all?

Does the Assembly want to make a success of the victims' and survivors' forum? The forum has been handed the most difficult issue even though we do not know exactly how it will be run and the precise relationship between it and the commission is unclear. Yet the Assembly was simply told that that dangerous issue is to be left to the victims' and survivors' forum — that is absolutely irresponsible.

The First Minister: The honourable gentleman misunderstands what the deputy First Minister said yesterday and what I said today. Therefore, I will repeat what I said earlier: "As the deputy First Minister mentioned yesterday during the debate on accelerated passage for the Bill, in recognition of the difficulties surrounding the definition of "victim", both of us will ask the proposed victims' forum to examine urgently the definition of "victim" and to bring forward proposals for consideration."

The forum will not make the decision: I have said, and will repeat, that the House will have the final say on all matters.

Mr Durkan: I thank the Member for his intervention. I still do not believe that the matter is clear enough, and the First Minister's words are at variance with the way in which the point about the definition of "victim" was made yesterday. Simply to hand the issue to the victims' and survivors' forum, particularly when it has been the subject of such vexed exchanges in the House, is to duck responsibility for the issue. It will cause some apprehension among those who may wish to serve on, or contribute to, the victims' and survivors' forum.

Had the Assembly considered the legislation through the normal procedures and processes, those issues would have been more fully explained and any fears and apprehensions better allayed, because the concerns would have been aired and shared more effectively and credibly.

The Bill provides an answer — although maybe not a good answer — to the long-standing demand to ensure that there is a victims' commissioner: we now have commissioners in a commission. They have a very difficult job, not least because their jobs are not clear. Neither the Bill nor previous legislation makes the locus of the commission clear in respect of issues such as the victims' funding package that we have been told about. A lot of emphasis has been placed on

the fact that there is a funding package for victims, but it is not clear exactly what locus or oversight the victims' commission will have on that. Will it be entirely up to Ministers, the Executive, the Departments, or whatever; will the commission have a serious oversight role, or will it just have the right to intervene if issues arise about individual spending decisions? None of that is clear.

The commission's precise role in respect of the victims' strategy is also not clear. Will it be developing or proofing the strategy, or will it be playing an intervening, regulating or adjusting role? It is not clear whether those responsibilities are for the Executive Ministers and what role the victims' commission will play.

If there had been fuller consideration of the Bill, Members would have been able to explore the issues; relevant amendments could have been proposed, and assurances and explanations provided. This is a recipe for a lot more confusion. All we have been given is an answer to the problem of appointing a victims' commissioner — we now have four commissioners appointed, and their precise role and remit is not clear. However, it is clear that it will be difficult.

Mrs D Kelly: For the record, Mr Speaker, when moving the motion for accelerated passage, the deputy First Minister said:

"We recognise the difficult issues that surround the definition of "victim". Victims and survivors should consider that issue. We will, therefore, request that the proposed victims' forum makes it a priority to examine the definition of "victim" and brings forward its proposals." — [Official Report, Vol 29, No 1, p16, col 2].

Is the First Minister not aware of that?

Mr Durkan: I thank the Member for her point. I have already said that this will be a difficult issue to devolve to a victims' and survivors' forum, particularly by those who previously resisted the idea of such a forum and were very hostile to it, and that went back several years. It is not right or proper to hand the one issue that the Assembly has great difficulty with to the forum, without Members having considered the matter further. [Interruption.]

The junior Minister is saying that we are suggesting that we ignore the victims. We are not. The people who are ignoring the victims are those who want accelerated passage for a Bill that denies victims the right to have their say on an issue that is meant to be about them. Yesterday, we heard Sinn Féin and the DUP talk about the need to have a victim-centred approach and a victim-led approach — [Interruption.]

Mr Speaker: Order. The Member has the Floor.

Mr Durkan: We now have a means of legislation that does not even allow us to hear from victims and allows us to make no reference to victims whatsoever by way of taking evidence from them or receiving other considerations. The people who imposed accelerated passage are the people who do not want to hear from the victims. We are not even hearing from the victims' commissioners — the people whom we are meant to be equipping and appointing — because of accelerated passage. We cannot hear about their ambitions, hopes, and sensitivities. That would have been helpful in ensuring wider confidence and consensus in the House, and it would have garnered greater confidence and support in the community at large. We have been denied that opportunity, and the victims have been denied that opportunity.

Mr McElduff: Will the Member clarify whether the SDLP will support accelerated passage or will continue to oppose it?

Mr Durkan: To clarify for the Member: the decision on accelerated passage was taken yesterday. The Sinn Féin/DUP axis pushed accelerated passage through to ensure that Committees could

not give the Bill proper consideration — [Interruption.] It seems that I have to tell the Teller — and to ensure that there would be no opportunity for victims to express their views on the legislation.

Mr O'Dowd: The Member's colleague Mrs Kelly has been quoting from yesterday's Hansard report, and my colleague Mr McElduff has intervened on the matter of accelerated passage. I shall refresh Mr Durkan's memory on what he said yesterday:

"I do not go as far as advocating outright opposition to accelerated passage". — [Official Report, Vol 29, No 1, p20, col 1].

Mr Durkan: That is correct, but if the Member reads on, he will see that I asked the deputy First Minister to respond to several issues. Those were not addressed, and for that reason we voted against accelerated passage. The issues that we wanted Ministers to address in order that we could have assurances on them were very clear. Given the nature of the debate and the contributions that Sinn Féin and DUP Members made — particularly those that misrepresented the role and the record of other parties — we certainly felt that we had no choice but to vote against accelerated passage. If we had voted in favour of it, Members of both Sinn Féin and the DUP would misrepresent that vote, both now and in the future.

Now that a decision, with which we disagree, has been made in favour of accelerated passage, the SDLP as a party must decide whether it will oppose the Bill. I have already mentioned that we have concluded that we cannot oppose the Bill, because that would not necessarily guarantee any of the better outcomes that have been discussed. In theory, those better outcomes would be available; in theory they were available before the First Minister and deputy First Minister came to the House with the proposal to have four commissioners.

We want some certainty now, and we need some traction. I wish that we were in a position to have a better decision, a better outcome and a better Bill, with better consideration and better input from all Members, and, particularly, with a better hearing from victims. Unfortunately, we have been denied that because the issue was delayed for too long and has been scrambled.

However, I notify the House that the SDLP will consider tabling amendments to the Bill and will consider how to use the opportunity that the Bill presents to address practically and positively some of the issues that we and other parties have identified. Furthermore, we will consider fully whatever amendments other parties or other Ministers may table.

I understood from a comment that junior Minister Jeffery Donaldson made yesterday from a sedentary position that Ministers might address the fact that the Bill does not currently limit the number of commissioners who may be appointed. At one point Mr Donaldson said that that matter will be addressed; we will wait and see whether that happens. It was pointed out yesterday that there is no cap on the number of commissioners that could be appointed and that their number would not necessarily be limited to four. Perhaps that is how the job-creation targets in the Programme for Government will be met. Perhaps there will be lots of commissioners for victims — it will be Northern Ireland's biggest growth sector if we approach the role in that way. [Laughter.]

Just as Ministers may want to reflect on the desirability of some amendments, other Members may want to do the same. Unfortunately, we are unable to do that through the best possible legislative conditions, such as the Committee Stage, during which there is proper consideration of different issues. Therefore, parties will have to take their chances on amendments.

It might be that, as the other parties table amendments, the cosy alliance of the Sinn Féin/DUP axis will continue to drive things through. I ask Sinn Féin and the DUP to show greater respect for the role of the devolved Assembly and to show greater sensitivity to the diversity and complexity of victims' issues. Those parties have no right to associate themselves with victims as though that association were a badge that belonged to them exclusively. Both parties have a record of

ghettoising victims, and they have no right to come to the Assembly and patronise victims based on the claim that they are the only parties that are proposing the commissioners and driving through this proposal, thus concluding that only they care for victims.

That sends out a very dangerous signal. It is dangerous to argue that anybody who has any difference of view on the practicality of the legislation suddenly does not care about victims. We care about victims, and we care about our legislative responsibilities in the House. We want to do our job properly, and we want to ensure that the commissioners — who will inevitably be legally empowered as a result of the Bill — will be in a position to do a good job. The Assembly will have legislated the commission's job into existence; however, the way in which Sinn Féin and the DUP have produced the legislation will not allow us to look the commissioners or victims in the face and say that we know what that job is. That is a poor bit of legislation.

12.00 noon

However, if that is all that will be done for victims, and if it is the best legislation that we will get — and that seems to be the case, because it is the best that those parties can come up with — the SDLP will not stand in its way.

Dr Farry: The Alliance Party opposes the Bill's Second Stage, because it is a flawed Bill, which carries a major risk of providing a flawed solution to the problem of victims and survivors in society.

If the Bill does not go through, we will not let victims down, because the existing legislation will remain in place, and the challenge will go back to the First Minister and deputy First Minister to fulfil the task that they set themselves last spring of appointing a victims' commissioner. We can move forward without the Bill; it is not necessary for addressing the issue on the way forward.

There is a major substantive issue for debate; the Bill is not simply a technical one that we should rubber-stamp in the way in which, for example, parity legislation has been granted accelerated passage in the past. The commission was an afterthought on the part of the Office of the First Minister and deputy First Minister. Nothing has been said to challenge the Alliance Party's theory that, instead of deciding that a commission, rather than a single commissioner, was the better way forward for victims in Northern Ireland, and consulting victims on that point, the First Minister and deputy First Minister — having argued and argued over the appointment of a single victims' commissioner — decided to split the difference. They decided to appoint four commissioners as a means of covering up their inability to show leadership to society and to develop a shared way forward for dealing with the victims issue.

That, in itself, was a major let-down for victims in our society. However, beyond that, it is an example of an extremely bad approach to policy-making. Policy-making should be based upon strategic thinking, rather than on people dreaming up mechanisms to cover up their inability to agree. The First Minister lectures the Alliance Party on how to perform in opposition; however, perhaps, he will reflect on those realities in the next few minutes.

How will the commission work? Is it actually workable or feasible? Who will ensure that the commission will express a single, coherent view? Those are the key questions, and we have received no reassurances or details on them. There is a concern about open-ended membership and whether four commissioners will become six, or eight, or 20, or 70,000. We simply do not know the answer, and we have received no reassurance on that point.

The biggest concern for Members and the public in Northern Ireland is the potential emergence of a Balkanised approach to the issue of victims. Francie Molloy more or less confirmed yesterday that there would be a situation in which different victims' groups would feel that they should approach different commissioners to address their particular concerns, as opposed to looking to a single body with a coherent perspective.

My comments are no reflection on the four individuals who have, so far, been designated as commissioners by the Office of the First Minister and deputy First Minister. I have high regard for those individuals. I have no doubt that they are people of integrity, but they have been placed in a totally invidious situation. We should reflect on that in great detail.

There has also been much discussion about a victims' forum and the definition of a victim. The Bill does not change the definition of a victim. It merely contains an amendment to the Victims and Survivors (Northern Ireland) Order 2006, which includes the definition of a victim. Therefore, that issue has been prejudged. Members of a victims' forum will be there on the basis of the existing definition of a victim, and if they are asked to address that issue, it will already have been prejudged. The forum's first task will be to revise the definition of a victim and, in practical terms, to decide who will have to leave the room as they will no longer fit the new agreed definition.

Mrs D Kelly: Does the Member agree that an absurd situation is being created? On what basis will the First Minister and deputy First Minister establish the forum, given that they have no agreed definition of a victim?

Dr Farry: It is a paradoxical situation. The only legal basis on which the victims' forum can be created is through the existing provisions in the 2006 Order. Therefore, the definition of a victim remains, and it has been prejudged. The forum's first act will be to decide who it will throw out of the room, and that is patently absurd. Furthermore, the forum will be granted what in rugby terms is deemed a "hospital pass" to deal with perhaps the most difficult issue facing society. Our political leaders should reach agreement on the issue, but they cannot, so they will pass it on to the forum to come up with a solution. There is a real risk that we will end up with several definitions of a victim, and that will further perpetuate a Balkanised way forward on victims' issues. Again, that is not an ideal situation.

Those major issues would have benefited from the Bill having a proper Committee Stage, as it would have provided the opportunity for victims' groups to give their views.

People are prejudging what victims' groups actually want. There is an assumption that the First Minister and deputy First Minister are perpetuating the idea that victims' groups are in favour of such a solution. That would take a long stretch of the imagination. It is important that we give victims the space to offer their comments if we are serious about having a victim-centred approach rather than an approach centred on overcoming the blushes of the First Minister and deputy First Minister because of their inability to agree.

I wish to refer to comments that were made by other Members — in particular, John O'Dowd. He said that the Alliance Party is raising this issue only because a member of the Alliance Party was not designated as one of the commissioners. David Ford paid a glowing tribute to the work of Bertha McDougall as a single victims' commissioner, and, as far as I am aware, she has never been a member of the Alliance Party, so there we go. She is not a member of the Alliance Party, yet we have recognised that she has done good work.

Mrs D Kelly: Mr O'Dowd's question requires an answer. Who are the Sinn Féin, UUP, DUP and SDLP members on the commission?

Dr Farry: That is quite right. There is a major fallacy in trying to attribute —

The First Minister: Will the Member give way?

Dr Farry: I will give way in a minute.

The First Minister: On a point of order, Mr Speaker. Is it right to refer to the political parties of the nominees and to make the assertion that they belong to Sinn Féin, the DUP or other parties? Is that in order?

Mr Speaker: I remind Members that it is important to get back to the principles of the Bill.

Dr Farry: Thank you for that clarification. I was about to make the very point that the First Minister made had he allowed me to continue my remarks for a few more seconds before giving way.

It was not the Alliance Party who introduced comments about the political affiliations of the commissioners. In fact, I was about to make the point that that is a dangerous route to go down, and it is one that we should avoid at all costs.

As for how we have got to this stage, there has been a great deal of discussion about the procedures adopted by the Committee for the Office of the First Minister and deputy First Minister and the nature of the closed session that it conducted. It is worth putting on record that the Committee's decision to grant a closed session to the First Minister and the deputy First Minister was based on a request to discuss the nature of the appointments of the commissioners designate and potential legal ramifications arising from that. The goalposts were shifted during that session when the new issue of accelerated passage was introduced. A number of parties have made the point that that second discussion on accelerated passage raised an important issue about transparency and accountability in the political system. That discussion should have taken place in public so that the people of Northern Ireland could hear exactly what was being said.

There are broader issues of transparency and accountability for the Committee to consider. It is tasked with holding the Office of the First Minister and deputy First Minister to account, but a majority of the members of that Committee belong to the same parties as the two top office-holders. Those members act effectively on a party basis, following the dictates of Ministers. That creates major difficulties for the role of the Committees, which is to hold Departments to account, and which was set up in the Good Friday Agreement and ratified by the St Andrews Agreement. All Members of the Assembly should reflect on that.

Mr O'Dowd said that the Alliance Party is here to oppose for opposition's sake, and recited his usual mantra, which is to say to us, "How dare you oppose anything", and declare that opposition in the House to what the Executive are doing undermines the institutions. What we are doing is clearly the opposite of that. The Alliance Party has worked for more than 35 years to build stable political institutions in Northern Ireland. Society was held back for 35 years by the parties that are currently in office.

We are here now: let me illustrate for Mr O'Dowd the importance of democracy. Democracy is not about Governments making decisions and having them rubber-stamped by legislators. It is about proper scrutiny, accountability and challenge. The Alliance Party will not be deflected from fulfilling the important role of opposition, which is integral to ensuring that we have stable political institutions. Let me nail that issue comprehensively.

Major issues of substance have been raised in this debate, not just by the Alliance Party, but also by the Ulster Unionist Party and the SDLP. These are important issues, and, unlike yesterday, when the spokespersons for the Office of the First Minister and deputy First Minister failed to address the substantive issues and engaged in platitudes, it is important to have a detailed response from the First Minister to the detailed challenges that have been raised by Members in the House. That is the purpose of the Second Stage of a Bill. Simply saying that this is for the good of victims, that we have had enough delay, and other platitudes will not do.

The deputy First Minister said yesterday that we are all responsible for where we are in society. That will not do either. The Alliance Party is not responsible for anything bad that has happened

in society. We have worked for progress, which is a lot more than can be said for the two parties that have come to the House today seeking a rush job to cover up their own inadequacies and failure to make progress in the past 10 months.

The First Minister: This has been a very interesting debate, although well wide of what we were supposed to be discussing. I have no intention of getting into the boglands occupied by those who oppose the Bill. I am only interested in heeding and harkening to the innocent victims. It is a disgrace for a Member of this House to suggest that our desire to consult with a victims' forum is a betrayal of the House.

Mrs D Kelly: Will the Member give way?

The First Minister: No. In view of what you said about the affiliations of the people who have been appointed, I will not give way. As far as I am concerned, none of them were ever members of the Democratic Unionist Party. [Interruption.]

12.15 pm

Mr Speaker: Order. The First Minister has the floor. Every other Member has had an opportunity to speak.

The First Minister: The other parties will be able to make statements after they consider what the honourable lady has said. I do not believe that that matter should have been dragged into the debate. It is a bit late for the Alliance Party to be speaking about supporting, and coming to the assistance of, Mrs McDougall.

Mrs Long: Will the Member give way?

The First Minister: No, I will not give way. The Speaker told me that lunchtime is approaching, and I do not want the Member to die; I want her to live. I know that she does not believe that —

Dr Farry: On a point of order, given that the Alliance Party has supported Mrs McDougall from day one, is it appropriate for the First Minister to make completely false statements regarding that support?

Mr Speaker: Order. The First Minister shall continue.

The First Minister: Its members must have whispered their support. The matter before the House is whether we should proceed to establish the commission and go forward. All right-thinking people in Northern Ireland are saying yes; the time has come for real action in relation to that matter, and all the excuses and the baring and clapping of hands on breasts will have no effect. For years, people have suffered, and we want to react now and get the job done. As far as I am concerned, we are faced with a simple proposition: having achieved accelerated passage, should the Bill proceed?

The current course of action emerged from the Committee, which deliberated in secret, although it may as well not have bothered because we have heard everything that happened in that Committee. We have heard four versions of the Committee's minute, and no Committee member who spoke agreed with everything that was said.

The last Member to speak appears to think that there is something wrong with a Committee if it fully represents the electorate's wishes. The wish of the electorate is that the majority on a Committee, regardless of who is in office, reflects the majority in the House. The Member wants Committees to be set up in order that those who support the Government will not be heard although he will be heard. Of course, for many a long day, that has been an Alliance Party feat.

Under direct rule, how many Committees were Alliance Party members appointed to? It had appointees on all the quangos —

Mr Ford: On a point of order, Mr Speaker; on several occasions you reminded Members about the importance of sticking to comments about the Bill. Some of us have been restrained and have not responded to entirely off-the-record attacks. Will you ask the First Minister to stick to the Bill?

Mr Speaker: I remind Members from all sides of the House that it is vitally important that, as far as possible, they stick to the principles of the Bill.

The First Minister: Those Members were calling on me to give answers and, when I start to give answers, they do not seem to like them.

Mr Ford: Will the Member give way?

The First Minister: No, I will not give way. The Alliance Party did well out of quangos; however, those days are over. Democracy has taken over, and democracy dictates that the House —

Mr Ford: On a point of order, Mr Speaker; on several occasions you have reminded all sides of the House about sticking to the Bill. Will you please now ask the First Minister to address the issue, because some of us came here to debate whether the Bill will provide for victims, and not the merits or demerits of the Alliance Party?

Mr Speaker: People following the debate know that I have given all Members some latitude. There is no Committee debate on this issue, and for that reason I am sympathetic to Members' attempts to widen the debate as far as possible. As I said earlier, it is, unfortunately, inevitable that the debate will take on legs.

The First Minister: Those who maintain that we must get on with the job for the sake of the victims say that they have been lambasted, their position misrepresented and their very words — which are on record — dismissed. However, when an opportunity arises for comment on what they have said, they get angry. There have been many interruptions for bogus points of order, because I seek to deal with the issue. It is a sad day for the Assembly when it spends so much time on an issue that did not need any time devoted to it. We have heard eulogies on the characters of the four victims' commissioners designate, who are great people who must be honoured, yet Members use the debate to oppose their appointments. [Interruption.]

Those Members do not like it because no Alliance Party member was appointed. [Interruption.]

Mr Speaker: Order. The Minister has the Floor.

The First Minister: All I say is that we must do the job. Who are we talking about but the victims: people who need a voice, deserve to be heard and who were largely forgotten in the last Assembly — no matter what the leader of the SDLP has said about his party. The victims' case must be faced up to.

I appreciate that Members want to know what is happening, and they will be kept informed. Every decision that has to be taken will be brought to the House, and Members will have the opportunity to have their say. We are not trying to close down the debate: we are trying to have the real debate on the innocent victims, and we intend to do that.

I had nothing to do with the decision by the Committee for the Office of the First Minister and deputy First Minister to discuss the matter behind closed doors. Under the circumstances, I would have been happy to meet the Committee. I have responded to every invitation. When other parties ran the Executive, they were not so attentive; rather, they appointed two helpful,

independent people to take over the issue, and full-time Ministers did not attend the meetings. The Chairman sits there; he knows that; and I have looked at the minutes of those meetings.

Ministers have attended Committee meetings, will attend others and are glad to do so. However, I do not want to attend Committee meetings to witness a repeat of this debate. We need to hit the ground running in our efforts to help these people — the victims. We believe that that will be done.

Question put,

The Assembly divided: Ayes 49; Noes 15.

AYES

Mr Adams, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Mr Buchanan, Mr Butler, Mr T Clarke, Mr Craig, Mr Dodds, Mr Donaldson, Mr Easton, Mrs Foster, Mr Hamilton, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Mr McElduff, Mrs McGill, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Mr Moutray, Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Rev Dr Ian Paisley, Mr Poots, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.

Tellers for the Ayes: Mr McElduff and Mr Shannon

NOES

Mr Beggs, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Elliott, Dr Farry, Mr Ford, Mr Gardiner, Ms Lo, Mrs Long, Mr McCarthy, Mr McClarty, Mr B McCrea, Mr McNarry, Mr B Wilson.

Tellers for the Noes: Mrs Long and Mr McCarthy

Question accordingly agreed to.

Resolved:

That the Second Stage of the Commission for Victims and Survivors Bill (NIA 12/07) be agreed.

Mr Speaker: That concludes the Second Stage of the Commission for Victims and Survivors Bill. The Business Committee has arranged to meet immediately upon the lunchtime suspension. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm.

The sitting was suspended at 12.36 pm.