

**Northern Ireland Assembly**  
**Tuesday 6 May 2008**

**Executive Committee Business**

**Commission for Victims and Survivors Bill**  
**Consideration Stage**

Source: <http://www.niassembly.gov.uk/record/reports2007/080506.htm#4>

**Mr Speaker:** Members have a copy of the Marshalled List of Amendments, detailing the order for consideration. The amendments have been grouped for debate in the Speaker's provisional grouping of amendments selected list.

There are three groups of amendments, and we shall debate the amendments in each group in turn. Therefore, there will be three separate debates during the Consideration Stage of the Bill.

The first debate will be on amendment No 1, which deals with restricting the maximum number of commissioners that may be appointed.

The second debate will be on amendment Nos 2, 7, 8, 9, 10, 11 and 12, which are listed in group 2. Those amendments relate to the appointment of a chief commissioner, responsibility for commission employees, and the commission's proceedings.

The final debate will be on amendment Nos 3, 4, 5 and 6, which are listed in group 3. Those amendments relate to the appointment of members and employees who have been convicted of a criminal offence.

I remind Members that they can speak in all of the debates. However, Members must address the subject matter of each debate.

Once the initial debate on each group has been completed, any subsequent amendments in the group will be moved formally as we debate the Bill, and the Question on each one will be put without further debate. The Questions on clauses to stand part of the Bill will be put at the appropriate points. Members will be aware that certain matters relating to the appointment of the commissioners designate are before the High Court and are, therefore, sub judice. I encourage Members to bear Standing Order 68 in mind during the debate on that item of business. If that is clear, we shall proceed.

**Clause 1 (The Commission for Victims and Survivors for Northern Ireland)**

**Clause 2 (Short title)**

**Mr Speaker:** No amendments have been tabled to clauses 1 and 2. I propose, by leave of the Assembly, to group those clauses for the Question on stand part.

Question put, That clauses 1 and 2 stand part of the Bill.

The Assembly divided: Ayes 49; Noes 16.

AYES

Mr Adams, Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Campbell, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Doherty, Mr Donaldson, Mr Easton, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr G Kelly, Mr A Maskey, Ms J McCann, Mr McCausland, Mr I McCrea, Dr W McCrea, Mr McElduff, Mr M McGuinness, Miss

McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Lord Morrow, Mr Moutray, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Poots, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Ayes: Mr T Clarke and Mr G Robinson.

NOES

Mrs M Bradley, Mr Burns, Mr Dallat, Dr Deeny, Mr Durkan, Dr Farry, Mr Ford, Mr Gallagher, Mrs Hanna, Mrs D Kelly, Mrs Long, Mr Lunn, Mr McCarthy, Mr Neeson, Mr P Ramsey, Mr B Wilson.

Tellers for the Noes: Dr Farry and Mr McCarthy.

The following Members voted in both Lobbies and are therefore not counted in the result:

Mr Armstrong, Mr Beggs, Mr Burnside, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Gardiner, Mr Kennedy, Mr McClarty, Mr B McCrea, Mr McNarry, Mr Savage.

Question accordingly agreed to.

Clauses 1 and 2 ordered to stand part of the Bill.

**Schedule 1 (The Schedule to the Victims and Survivors (Northern Ireland) Order 2006, as substituted)**

**Mr Speaker:** We now come to the first group of amendments for debate. Group 1 contains a single amendment, amendment No 1, which restricts the number of commissioners that can be appointed to a maximum of four.

**Mrs Long:** I beg to move amendment No 1: In page 2, line 28, leave out "such members as are" and insert "not more than four members".

I welcome the opportunity to have this debate, which has been denied us on a number of occasions. This must be the longest acceleration period that anyone has ever seen.

The clear will of the Assembly, on the basis of the vote at the Second Stage and today, is that there should be a commission, and that is important. Therefore, the amendments that my party is proposing, and the amendment that I am proposing, are intended to make the commission as workable as possible. For many of us, it is fairly clear that, despite the protestations of the First Minister and deputy First Minister that appointing four commissioners was a strategic and well-thought-through decision, that is not the case. Clearly, it was an uneasy political compromise. However the decision came about, it is incumbent on us all to make it work.

Amendment No 1 caps the number of commissioners at four. The argument has been made that this is a large piece of work, and that it therefore requires a number of commissioners to undertake it. I do not accept that argument, because we all realised before this process began that it was a large piece of work. At that stage, too, we all agreed that a single person was capable of taking the matter forward.

However, we now have four commissioners designate, and, although the Alliance Party's preference is for a single commissioner, given that four people have, in good faith, stepped forward to take this process forward, it would be unfair to create confusion about their standing.

The Alliance Party's amendment, therefore, caps the number of commissioners at four — simply four because there are currently four.

I hope that, at some point in the future, we will be able to reduce the number of commissioners to one, as originally envisaged. Having one commissioner would create the strong, clear voice for victims that an advocacy role requires. Furthermore, to appoint a single Victims' Commissioner would ensure that the commission did not simply grow and grow, taking valuable resources from those who most need them, namely the victims.

With the creation of a commission of four, I can see no logical argument for anyone to oppose a cap at four. If four commissioners are sufficient for this first stage of the process to break the back of this difficult area, then, signpost the available services, alert the relevant Departments to any gaps in services and undertake the three or four years' advocacy work that this first commission will do, I see no logical argument for there ever being a need for more than four commissioners.

It is important for the victims' confidence that unwieldy mechanisms are not created. Placing a cap on numbers ensures that the maximum number of commissioners that we have now will be the maximum for the duration; that no resources are directed towards commissioners rather than the needs of victims; and that common sense is brought to bear on what has been an unpalatable process.

The argument for having four commissioners is clear-cut. There is no reason why anyone should oppose that argument, and I hope that Members will give it due consideration.

**Mr Shannon:** I want to support — sorry, to speak on, and to oppose, amendment No 1.  
[Laughter.]

The DUP holds the issue of victims in the highest regard, and that has been made clear by the attention that victims have been given since the DUP became the largest party in the Province. The needs of victims have been discussed and addressed in a way that was not seen under any previous governmental structure. That is because this issue has always been a priority for my party. During our short time in Government, £36 million has been allocated to the sector — more than double the budgetary allocation for victims under the previous devolved Government.

I do not quote those facts to praise the DUP; I quote them to clarify, from the outset, where our hearts and loyalties lie and to illustrate that the Bill must pass in order to address properly the issues that victims have faced alone for many years. The Bill is progressing quicker than it has done for umpteen years — a certain party sat on its backside and did nothing.

It is vital to ensure that the framework is correct and in place as a matter of urgency in order to deliver for victims now and in the future. For too many years, victims in our Province have struggled, with little support. Their needs should have been addressed years ago, and the Assembly must now put an end to their struggles.

I have no desire to play political football with the issue of victims; I have the utmost depth of respect and sympathy for victims and want to display that sentiment in a tangible way. The majority of people in the Province want to support those who lost loved ones to terrorism during the Troubles. Although I welcome the fact that the media has highlighted the importance of the victims issue, we must be sensitive to the feelings of those who deal with loss every day and every night. I do not want to argue and debate this issue constantly yet make no real progress; I want structures to be established to allow the Assembly to offer sensitive support to those who need it most.

Some victims remain financially burdened by losses sustained during the Troubles. Some victims' families paid for their children to go to university or college and, as a result, had to bear a huge financial burden. Some single-parent families still pay mortgages, loans and university loans. Those families have great needs, and, thanks to the Minister of Finance and Personnel, the Assembly can now establish the mechanisms to begin to address those needs. For too many years, people have hummed and hawed and achieved nothing. That must end now.

After careful consideration, I reject amendment No 1; there is no intention — as the scaremongers purport — to increase the number of full-time commissioners to five, six or seven. However, the Bill will allow for the flexibility to increase the number of part-time commissioners, if necessary, in the future. The needs of the victims' commission will, inevitably, change over time. The Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI) are examples of the benefit of employing part-time commissioners to focus on specific issues but remain under one control. I am not saying that, in a few years' time, we will have four part-time commissioners or one full-time commissioner. However, if that mode is workable, why would we legislate to prevent such flexibility in the Bill? It is beyond me and many others in the Chamber. It is impractical to tie ourselves closely into a measure that could restrict future benefits.

Although I oppose amendment No 1, I draw attention to the fact that amendment No 8 allows a team of part-time commissioners with individual responsibilities to support a proposed chief commissioner. That could be a way of ensuring greater efficiency.

**Mr Speaker:** Order. The Member should not stray from debating amendment No 1.

**Mr Shannon:** Mr Speaker, thank you for your graciousness; as always, you are very kind. I want to illustrate the importance of the overlap between the two amendments. These illustrations and examples are not matters of fact. They are not faits accomplis; they are mere possibilities, the benefits of which will be excluded if the Bill restricts the number of commissioners. If we impose a

restriction on the number of commissioners and, at some stage in the future, we decide that part-time commissioners are required, we will again have to amend the legislation at further cost.

I see no benefit in limiting the commission's scope, given that there is no desire to have an unlimited number of full-time commissioners. We want only to ensure that there are enough commissioners to get the job done properly.

11.00 am

Some Members wish to use this issue as a point-scoring exercise. I urge those Members to make their points elsewhere. This is not simply a matter of money; it is an issue of the heart. It is about our desire to do our duty for victims and survivors. The Bill will bring into existence that which should have been brought about a long time ago. I ask those Members to please not withhold what is needed simply to win an argument.

The DUP has no desire to argue about this matter; it does, however, wish to put in place the structure that will provide help for victims and survivors, whether that is achieved by having one full-time commissioner and four part-time commissioners, or two full-time and three part-time commissioners. The Assembly must put that structure in place today without the need for further debate next year or the year after. We must resolve this issue now and do what is right for the victims in the Province. I oppose amendment No 1.

**Mr Molloy:** Go raibh maith agat. I oppose amendment No 1. This is an important moment in the passage of the Commission for Victims and Survivors Bill. As Mr Shannon said, the Bill must have the flexibility to ensure that victims are recognised. We must put in place a mechanism that will allow every aspect of the matter to be covered as we move into a changing situation. At present, victims and survivors have particular needs, and it is important, after 10 years of trying to introduce legislation for a commission, that we move swiftly towards that goal. We must not allow the blocking tactics that are, unfortunately, being used again this morning to try to impede the passage of the Bill.

It is important to properly recognise and address the urgent needs of victims and survivors and their families. We have an opportunity to appoint four commissioners and give them the maximum ability to carry out that work. However, they require the flexibility that will allow them to cope with the changing situation in the coming years and to help to improve the lives of victims and survivors and their families. I oppose amendment No 1, because we must build future flexibility into the Bill. Go raibh maith agat.

**Mr Burnside:** I support amendment No 1. The process that the Bill has gone through should be considered at best a major embarrassment to the Office of the First Minister and deputy First Minister (OFMDFM). By initially fudging a decision on a single commissioner, that Department has stumbled from one mess-up to another. First, it pushed a crucial piece of legislation through

the Assembly by accelerated passage, the reasons for which we have heard. Secondly, by pulling the Bill twice, the Office of the First Minister and deputy First Minister has not shown proper respect to victims. After all that, the junior Minister the Rt Hon Jeffrey Donaldson can come up with only two amendments, in the wake of a great deal of talking by OFMDFM, to the effect that it wanted to achieve consensus and improve the Bill.

Nevertheless, I am glad that the Bill has now been brought to the Assembly for its Consideration Stage, and I hope that all Members are of the same opinion. The people of Northern Ireland suffered 40 years of the cruel terrorism that created thousands of innocent victims. It is therefore right and necessary that we address the needs of those innocent people who were physically and mentally scarred. The commission for victims and survivors will, it is to be hoped, help individuals and families who have suffered up to now in almost virtual silence. I hope that it will help us to move on and put our violent and troubled past behind us.

Several parties have tabled amendments today with the aim of improving the legislation. Although all the amendments have been tabled with the best of intentions, amendment No 1, which is supported by the Ulster Unionist Party, the Alliance Party and the SDLP, is a logical step to restrain the activities of the Office of the First Minister and deputy First Minister. If the Assembly does not support amendment No 1, there is a possibility that the Office of the First Minister and deputy First Minister — having fudged the decision on having one commissioner by appointing four commissioners — could decide to appoint a fifth commissioner. If the Assembly supports amendment No 1, it will be restricting the number of commissioners to four.

There has been prevarication on the issue. The Office of the First Minister and deputy First Minister moved from one commissioner to four by Executive action. Therefore, amendment No 1, which is a tidying up measure to cap the number of commissioners to four, must be supported by the Assembly as that will ensure that the structure of the commission is set in legislation and cannot be altered by further changes in opinion by the DUP or Sinn Féin. Amendment No 1 will have ramifications for subsequent amendments, therefore, I ask the House to support it.

**Mrs D Kelly:** Let us reflect on the past year and on the appointment of a Victims' Commissioner. The post of Victims' Commissioner was advertised and interviews were held twice last year, both before and after devolution. Before the summer recess last year, the Office of the First Minister and deputy First Minister assured the House that a Victims' Commissioner would be appointed before the summer recess.

As late as December 2007, the Committee for the Office of the First Minister and deputy First Minister and all Members were informed that the appointment of a Victims' Commissioner was still on the cards. It was not until the end of the year that four commissioners designate were appointed suddenly. We were told about that in a press statement by the First Minister and the deputy First Minister. We have yet to hear a clear rationale — although we suspect the true rationale — for having four commissioners. However, that being the case, the SDLP is prepared to work with the premise of having four commissioners and no more.

We can already see the cost of having four full-time commissioners, who are paid £65,000 each, and their secretariat — [Interruption.]

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

**Mrs D Kelly:** It appears that the truth hurts. That money will be taken directly from the pockets of the victims that the Members opposite so loudly proclaim that that want to work for. That money could be spent on delivering services. A year later, we are still debating this issue, despite accelerated passage. Had the Committee been allowed to do its job, we might have overcome some of the problems — [Interruption.]

**Mr Speaker:** Order. Every Member will have an opportunity to speak.

**Mrs D Kelly:** Just to inform some Members who do not seem to know; the Saville Inquiry is not being paid for out of the Northern Ireland block grant, unlike the victims' commission. One wonders what truth and justice really costs.

Some Members on the Benches opposite have said that they do not want to turn the issue of victims into a political football. Who created that political football? However, it seems that the DUP and Sinn Féin have scored an own goal through their collective failure to reach a consensus and a decision on the way forward. Several of the amendments proposed by those parties are nothing but a cover to spare their blushes in having for the third time — [Interruption.]

**Mr Speaker:** The Member must stick to discussing amendment No 1.

**Mrs D Kelly:** I was dealing with the points overall, Mr Speaker.

Some Members have said that our party did nothing much. What we certainly did not do was to create any victims, and we did our best to ensure that there was political stability, unlike Sinn Féin and the DUP who, until last year, created nothing but political instability — and worse in some cases. Our party has done much to drive the issue forward and to put victims and survivors on the political agenda during direct rule.

We are prepared to accept four commissioners, but the figure should be capped at four. The First Minister and the deputy First Minister have not yet explained clearly why there should be four commissioners. We certainly do not want any more than four.

**Mr Durkan:** Amendment No 1 attempts to make sense of the situation that the First Minister and the deputy First Minister have created. Unable to deliver a single commissioner, they have produced four commissioners and, thereby, a commission. The First Minister and the deputy First Minister want the Assembly to accept a four-member commission. If that is to happen, surely it is reasonable for the Assembly to insist that it be capped at four commissioners. The amendment is not an attempt to wreck or block anything but an attempt to keep some sense of reasoned perspective.

Mr Shannon said that those Members who oppose amendment No 1 do not plan to have more than four commissioners but may want to have more, and that they may want to have part-time commissioners. A system in which a chief commissioner were supported by part-time commissioners, in addition to the other commissioners, would make a complete nonsense of the arguments that we heard from those proposing the Bill over the past number of weeks. They claimed that there could not be a chief commissioner, and that there had to be four equal commissioners in order to prevent a hierarchy of commissioners and, as a result, a hierarchy of victims. Now we are told that there may be an even larger hierarchy of commissioners and part-time commissioners. There has been no clear or consistent thinking the parties who introduced the Bill. The debate on amendment No 1 is aimed at flushing out that lack of thought.

Mr Shannon highlighted a number of very important issues and problems that victims face. However, he did not say what the Bill would do to solve any of those problems. The Bill has been drawn so narrowly that the commission, and its commissioners, will not have the necessary powers to take on and investigate such cases. The Minister of Finance and Personnel — from a sedentary position — compared the commission for victims and survivors with the Human Rights Commission and the Equality Commission. Those bodies have chief commissioners and multiple commissioners. However, they also have very clear functions, and the Paris principles grant them the powers, as state-created bodies, to deal with human rights issues.

The commission for victims and survivors is absolutely bereft of such powers. Therefore, Mr Shannon's reference to specific issues faced by victims is somewhat hollow; the Bill will neither address nor ameliorate those problems. Francie Molloy said that people want to see various issues dealt with, and dealt with in a proper way. However, nothing in the Bill tells us how things will be dealt with, or dealt with in a proper way. We have been made aware of the possibility of more commissioners, or part-time commissioners, but not of any substantive action or interventions. In this short debate on amendment No 1, we have also heard about the budget for victims. However, we have not been told what say or sway the commission, or commissioners, will have in spending that budget or in the victims' strategy.

I must correct the impression that has been given that no one else ever did anything for victims. In the previous period of devolution, the victims' strategy was produced and consulted on, yet others heckled and opposed it on the grounds of the definition of a victim. They did not get behind that work, preferring to try to get in the way of its progress. Similarly, the victims unit was set up in the devolved context, even though the Northern Ireland Office claimed that victims' issues lay with it. We pushed the very concept of a victims' and survivors' forum, only to meet with resistance from other parties who did not seem to have the care or consideration for victims then that they plead now.

Why can the parties who ask the rest of us to accept four commissioners not accept a cap on four commissioners? Such a cap would ensure that resources were not consumed by the commission but, as far as possible, reached victims, improving their circumstances and meeting their needs.

11.15 am

**The junior Minister (Office of the First Minister and deputy First Minister) (Mr Donaldson):** I welcome the opportunity to address the issues that have been raised during the debate on amendment No 1, which was tabled by the Alliance Party.

Naomi Long, a Member for East Belfast, talked about the need for a cap on the number of commissioners and, in particular, she referred to resources and said how important it was to restrict the amount of money that will be spent on running the commission. It is unfortunate that she made no mention of the fact that we recently announced in the Budget a record £36 million for the victims' sector. None of the parties that oppose the establishment of a victims' commission acknowledges that, because it does not suit them. They are interested only in scoring cheap political points on an issue that should be above that.

**Mr Durkan:** Will the Member tell us what the role of the commission will be in respect of its budget? Members have asked that question on several occasions, and the Office of the First Minister and deputy First Minister has failed to answer. What say will the Commission have in the budget?

**The junior Minister (Mr Donaldson):** The Member for Foyle referred earlier to the Victims and Survivors (Northern Ireland) Order 2006, which was made at Westminster. He should take the time to read that again, and he will see that those matters are already spelled out in that legislation. There is no need for us to replicate those provisions in this Bill, the sole purpose of which is to establish a victims' commission.

**Mr P Robinson:** The passion that has been shown from the opposition Benches is synthetic. If the Members opposite feel so passionately about this issue, they would have tabled an amendment to the Order as it passed through Westminster. They had every right to do so — why did they not?

**The junior Minister (Mr Donaldson):** That question begs an answer, although I suspect that we will not get one.

The Bill deals with the establishment of the commission. The funding, and how it will be spent, will be addressed in the draft victims' strategy, which will be published soon, and on which there will be consultation. The roles of the commission, the forum for victims and survivors, and the victims' sector generally, will then become clear. This Bill will enable us to proceed with the appointment of the commission. It is not intended to be a catch-all Bill that addresses a wide range of issues.

My friend Mr Shannon, a Member for Strangford, rightly made the case against amendment No 1 by saying that the Bill must provide flexibility for the future. No one suggests that the commission's work will be the same in five years' time. The commission will evolve to meet the changing needs of victims and survivors.

The First Minister and deputy First Minister made it clear, when they announced their intention to appoint four commissioners, that there was too much work to place on the shoulders of one individual. The commission has to catch up on years of neglect of the victims' sector. That is why four commissioners are to be appointed. The work is important, difficult and challenging.

[Interruption.]

**Mr Speaker:** Order. The junior Minister has the Floor.

**The junior Minister (Mr Donaldson):** The First Minister and deputy First Minister rightly concluded that that work required more than one commissioner. That is why a commission should be appointed. I do not understand why parties that are opposed to a commission do not see the need to increase the priority that is accorded to the victims' sector.

The agenda for victims is as deserving as the equality agenda and the human rights agenda, and that is why we should have a full commission. [Interruption.]

**Mr Speaker:** Order, Members. As I have already said, every Member will have an opportunity to speak. Please allow the Minister to respond.

**The junior Minister (Mr Donaldson):** OFMDFM makes no apology for establishing a proper commission for dealing with that issue, and for appointing four people to take on the very burdensome responsibility of addressing the long-neglected needs of victims and survivors. I suspect that those who cry loudest have more to hide when it comes to their failure, when they were in power, to address adequately the needs of victims.

**Some Members:** Hear, hear.

**The junior Minister (Mr Donaldson):** Mr Burnside said the process of the Bill to date has been a major embarrassment to the Office of the First Minister and deputy First Minister and that it was one mess after another. I am sorry, I cannot agree with Mr Burnside on that.

When Mr Burnside's party was in power it failed miserably to address the needs of victims. In 1998, it supported an agreement that failed miserably to deal with the needs of victims and survivors. We are now clearing up the mess made by the previous Executive — not the present one — and we will continue to do that. We believe — [Interruption.]

**Mr Speaker:** Order. Order.

**The junior Minister (Mr Donaldson):** For that reason, the work of this Commission is important and that is why amendment No 1 must be opposed. In time, the needs of the victims' sector may change. I am not sure what direction those will take —

**Mr Ford:** Hallelujah. I am grateful to the junior Minister for finally giving way. Furthermore, I am grateful that he has recognised that the needs of victims may change in the future.

If Mr Donaldson is taking the view of his colleague Mr Shannon regarding flexibility — and indeed the same view is taken by Mr Molloy, which is interesting from his perspective — why has Mr Donaldson not tabled an amendment to address the issue of a potential future full-time commissioner and part-time assistant commissioners, rather than failing to address that, even in his own amendment No 8?

**The junior Minister (Mr Donaldson):** If the Member for South Antrim Mr Ford were to take time to read amendment No 8 —

**Mr Ford:** I have.

**The junior Minister (Mr Donaldson):** If he were to take time to read amendment No 8 he would see that we have made provision for the future appointment of a chief commissioner. OFMDFM believes there is a need to retain flexibility. The role of the commission will evolve in response to the changing needs of victims and survivors. When and if this occurs, flexibility in the Bill is required to change the modalities of that commission to reflect the changing nature of its work.

As Mr Shannon rightly pointed out, flexibility is needed if, in future, we change from having four full-time commissioners to a model similar to that of the Equality Commission or the Human Rights Commission; with a full-time chief commissioner and some part-time commissioners. That may not be the case; however, OFMDFM does not anticipate that it will be necessary at any point in the future to appoint more than four full-time commissioners. However, legislation should give sufficient flexibility to allow for possible future reshaping of the commission.

Over the next years, the needs of victims and survivors will change and the new structures of support will develop. The legislation is drafted in a way that gives the flexibility to move away, if necessary, from the model of four, full-time commissioners. For example, the legislation as drafted allows for the possibility of a future commission made up of part-time, rather than full-time, commissioners with part-time remuneration, should that be required to meet the needs of victims and survivors.

Paragraph 3(1) of schedule 1 to the Bill provides that:

“The commission shall consist of such members as are appointed by the First Minister and the deputy First Minister acting jointly.”

Amendment No 1 restricts the number of commissioners to a maximum of four. Therefore OFMDFM does not consider such an amendment to be either necessary or in the best interests of victims and survivors. For those reasons I call upon Members to reject amendment No 1.

**Mrs Long:** Both parties that have supported OFMDFM — first when they told us that the Bill required no amendments and now when they decide that it does — have been very quick to lecture this Assembly that the Bill should not be used as a political football.

We have been told that the issue is sensitive — as though those of us who wish to amend the Bill neither know nor care about that. However it is the members of those parties who are barracking and heckling those who are trying to have a reasoned discussion about these sensitive issues. It, therefore, ill behoves them to lecture others on sensitivity when they do not show any themselves.

Jim Shannon highlighted the needs of victims: we are all aware of those needs. Indeed, they are the reason why we have tabled amendments to the Bill. We are attempting to make a silk purse out of a sow's ear and make a fundamentally flawed Bill, at least, workable. He also said that the Bill has been dealt with in a way that has not been seen under any other Administration. I agree; but that is not something of which the Administration should be proud.

Jim Shannon also said that the matter should be dealt with urgently so that the structures can be put in place. Capping the permitted number of commissioners at four will not slow down the passage of the Bill one iota, and it is a nonsense to suggest otherwise. He also, rightly, highlighted the ongoing financial and emotional burden on families who have become victims during the process. The money that could be spent on them is, instead, being spent on a growing commission. That expenditure is unreasonably high, and we want to ensure that it does not get any higher.

A number of Members raised the issue of part-time commissioners. Such appointments can still happen. The only flexibility that will be removed if amendment No 1 is passed will be the ability to have more than four commissioners. There will be an opportunity to have two full-time and two part-time commissioners or one full-time and three part-time commissioners. There is plenty of room for flexibility within the arrangement of four commissioners, but no one has yet suggested a coherent argument as to why there will be a need for more than four. That is why we have tabled the amendment.

Jim Shannon originally said that it was no one's intention to have more than four commissioners, but he went on to describe a number of arrangements whereby there would have been five. He also said that he did not want the issue to become a point-scoring exercise, and I agree with him. However, he said that we should bring our arguments to another place. This is the place for legislation to be made and debate to be had. There is no other place for the debate on the amendments to take place; this is the appropriate place for that to happen. I see no reason why we should not be having that debate now. We could have had it a month ago, but we are having it now, and this is the right place to conduct that debate. It is not about making a political football; it is about making legislation.

Francie Molloy, unwisely, referred to blocking tactics. Considering that Sinn Féin blocked the progression of the legislation on the previous two occasions on which it was to be debated, it would have been better for Mr Molloy had he not raised that argument. The proposers of the amendments have not delayed anything for the past month; we were ready to come into the Chamber to debate the amendments, as we are today.

Mr Molloy also spoke about the need to move speedily. The Members who tabled the amendments have not caused the delay, and it is incumbent on those who caused the delay not to point the finger at others for merely doing their duty.

I agree with David Burnside; the amendment does not limit flexibility. A range of permutations comprising full-time and part-time commissioners is permissible under amendment No 1. Likewise, one commissioner would be permitted under the amendment if OFMDFM were capable of getting its act together to appoint a single person.

Dolores Kelly was right: even the current Administration accepted that one commissioner was sufficient when they re-advertised for a commissioner. They did not think that four commissioners were required when that re-advertisement was placed. Perhaps they came up with the notion for

four over the much-talked-about dinner at Christmas. However, it has been unpalatable for the rest of us.

Mark Durkan accurately exposed the grubby compromise.

Arguments that have been made in the Chamber have frequently exposed that compromise. Those arguments were neither coherent nor well thought through, much like the commission that OFMDFM has been trying to create.

11.30 am

Jeffrey Donaldson mentioned a sum of £36 million for the victims' sector. He then explained that that budget is not relevant to today's debate because this debate is about the creation of a commission, and the matter of expenditure and budget will be addressed in the draft victims' strategy, which will be put out for consultation. Mr Speaker, I took your advice and stuck to the substance of the amendment. However, the issue of finance has been raised, so it is important that I respond. I want to make it clear that no one has downplayed the amount of money that has been set aside for victims. Nor have I questioned the commitment of those in OFMDFM to see this legislation through, although others have questioned mine. However, I want as much of that money as is physically possible to go directly towards meeting the needs of victims, rather than being subsumed by bureaucracy.

Mr Donaldson also said that amendment No 1 would prevent the commission from evolving. No one has an issue with the commission's evolving; however, I have a problem with its growing and expanding. The importance of any structure is not increased simply by siphoning off money to pay for its additional bureaucracy.

The commission's work is important. However, that importance will be measured not by the number of commissioners but by the quality of the commission's output. Four commissioners is three too many, but it is what we are left with. I simply want to ensure that we do not end up with more than four. Amendment No 1 restricts in no shape or form the commission's ability to function.

The number of four was selected for no other reason than to cover OFMDFM's embarrassment about its inability to agree on one commissioner. That is not a coherent argument for proceeding with this arrangement, and it is certainly not the case that I will accept reassurances —

**Mr P Robinson:** Will the Member give way?

**Mrs Long:** No, I will not give way.

I will not accept reassurances from persons in OFMDFM that they do not wish to further expand the commission. They have said on previous occasions — [Interruption.]

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

**Mrs Long:** They said on previous occasions that they would appoint one —

**Mr P Robinson:** Will the Member give way?

**Mrs Long:** I will give way.

**Mr P Robinson:** The Member makes what she believes to be a very strong case for having no more than four commissioners. Will she join us in supporting legislation to reduce to four the number of commissioners on the Equality Commission and the Human Rights Commission?

**Mrs Long:** When the legislation proposing the Equality Commission and the Human Rights Commission was introduced, it proposed a much better-structured arrangement than the one with which we are currently dealing. The reason that some Members want to allow the commission flexibility to evolve is because they are completely unclear as to the nature of the beast that they have created. That is the fundamental difference between the proposed commission for victims and survivors and those two commissions.

As other Members have suggested, if the proposed commission were to have the same role and remit as those two commissions, there might be an argument for having a larger commission for victims and survivors. However, that is not the case. It is anticipated that the proposed commission will have an advocacy role, and that role is clearly set out. As I have said, the value of the commission's work cannot be calculated based on the number of commissioners that it has — it will entirely depend on what is delivered. Capping the number of commissioners at four will prevent nothing but a further drain on scarce resources. I ask Members to support the amendment.

Question put, That amendment No 1 be made.

The Assembly divided: Ayes 32; Noes 55.

AYES

Mr Armstrong, Mr Beggs, Mrs M Bradley, Mr Burns, Mr Burnside, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Dallat, Dr Deeny, Mr Durkan, Dr Farry, Mr Ford, Mr Gallagher, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Ms Lo, Mrs Long, Mr Lunn, Mr A Maginness, Mr McCarthy, Mr McClarty, Mr B McCrea, Mr McFarland, Mr McGlone, Mr McNarry, Mr Neeson, Mr P Ramsey, Mr Savage, Mr B Wilson.

Tellers for the Ayes: Mr Lunn and Mr McCarthy.

NOES

Mr Adams, Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Campbell, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Dodds, Mr Doherty, Mr Donaldson, Mr Easton, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, Mr McElduff, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Lord Morrow, Mr Moutray, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Poots, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Noes: Mr T Clarke and Mr G Robinson.

Question accordingly negatived.

11.45 pm

**Mr Speaker:** We now come to the second group of amendments, beginning with amendment No 2, with which it will be convenient to debate the remaining six amendments in the group. The amendments in this group deal with the appointment of a chief commissioner and with the proceedings of the commission.

I advise members that amendment No 7 is consequential to amendment No 2. Therefore, if amendment No 2 is not made, I will not call amendment No 7.

Amendment No 8 is mutually exclusive with amendment No 2. Therefore, if amendment No 2 is made, I will not call amendment No 8.

I also advise members that amendment Nos 9, 10 and 11 are mutually exclusive with amendment No 8. Therefore, if amendment No 8 is made, I will not call amendment Nos 9, 10 or 11.

In the event that amendment No 8 is not made, I advise Members that amendment Nos 9 and 11 both relate to the requirement for unanimous decision-making by the Commission. Therefore, amendment Nos 9 and 11 are mutually exclusive.

Additionally, amendment Nos 10 and 11 relate to the removal of the same sub-paragraph in schedule 1 and are also mutually exclusive. Therefore, I will call amendment No 11 only if amendment Nos 8, 9 and 10 are not made.

I call Mrs Dolores Kelly to move amendment No 2 and to explain the other amendments in this group.

**Mrs D Kelly:** I beg to move amendment No 2: In page 2, line 29, at end insert

“( ) the First Minister and the deputy First Minister acting jointly shall appoint one of the members as Chief Commissioner.”

The following amendments stood on the Marshalled List:

No 7: In page 3, line 40, at end insert

“(6A) All employees of the Commission shall be subject to the direction of the Chief Commissioner”. — [Mrs Long, Mrs D Kelly, Mr Ford.]

No 8: In page 4, line 30, leave out paragraph 9 and insert

“9.—(1) The Commission may by standing orders make such provision as it thinks fit to regulate its own proceedings (including quorum).

(2) Standing orders may be made or amended by the Commission only with the agreement of all the members who vote on the matter.

(3) Standing orders shall provide for a decision on any of the following matters to be taken by the Commission only with the agreement of all the members who vote on the matter—

(a) the provision of financial assistance under Article 7(1);

(b) the preparation and submission under Article 8 of—

(i) a work programme;

(ii) a revised work programme; or

(iii) an amendment to an existing work programme.

(4) Standing orders shall provide for a decision on any other matter to be taken by the Commission on a simple majority of the members who vote on the matter.

(5) In making representations or recommendations under Article 7(4) in connection with a review under Article 6(2), the Commission shall in relation to each representation or recommendation specify whether it is made—

(a) with the agreement of all the members who voted on the matter; or

(b) on a simple majority of the members who voted on the matter.

(6) The First Minister and deputy First Minister acting jointly—

(a) shall keep under review the working arrangements of the Commission;

(b) may—

(i) designate a member as Chief Commissioner;

(ii) at any time revoke that designation;

(c) may give directions to the Commission regulating its procedure (including directions supplementing or amending any standing orders of the Commission).” — [The junior Minister (Office of the First Minister and deputy First Minister) (Mr Donaldson).]

No 9: In page 4, line 33, leave out from “by” to end of line 33 and insert

“by a majority of not less than two-thirds of the members”. — [Mrs Long, Mr Ford.]

No 10: In page 4, line 34, leave out sub-paragraph (3). — [Mrs Long, Mr Ford.]

No 11: In page 4, line 34, leave out sub-paragraph (3) and insert

“(3) Where a proposal to make or amend standing orders is not agreed unanimously by the members of the Commission, the Commission may, after further consideration refer such proposed standing orders or such proposed amendments to standing orders, if endorsed by a majority of Commissioners, to the First Minister and deputy First Minister with the recommendation that they, acting jointly, approve them on grounds of sufficient consensus.” — [Mrs D Kelly, Mr Durkan.]

No 12: In page 4, line 39, leave out from “or” to end of line 40. — [Mrs Long, Mrs D Kelly, Mr Ford.]

**Mrs D Kelly:** Mr Speaker, you are the leader of the House, and you have deputies, thereby illustrating that any organisation requires a leader to at least call order and to give direction. The

same applies to the victims' commission: there ought to be a recognisable leader of the commission — a chief commissioner — to give direction not only to his or her fellow commissioners, but to be responsible for the secretariat and to give an accountability mechanism to the wider community.

The manner in which the commission conducts its business will signal one of two things: either we will continue to address victims' issues in a fragmented, divided and factional manner, or we will invest in a new beginning where we attempt to heal the wounds of our people and to move our society forward together. The SDLP is committed to the latter and has therefore tabled its amendments in that spirit.

There is a clear need for the commission's work to have a collective and consensus-building approach. The amendments that refer to collective working under the guidance of a chief commissioner are designed to help ensure that we achieve that. Leadership on the basis of consensus will be central to the achievement of a cohesive approach that can inspire public confidence.

As regards decision-making, I acknowledge that the Alliance Party's amendments are similar to those of the SDLP. However, the SDLP's amendment No 11 is simply a more effective means of achieving an end that is similar to that required by the Alliance Party.

Collective working and consensus-based decision-making should not be an optional approach, as signalled by OFMDFM's amendment No 8. A clear signal must be sent about the type of outcomes that we desire. It is clear to anyone who reads OFMDFM's amendment that it is an attempt to appease the DUP Back-Benchers and that it is a DUP fig leaf as regards the victims' commission. Members will notice the subtlety of the word "may" in some key points in that amendment. A chief commissioner "may" be appointed, and directions "may" be given, rather than "shall". In the past, the DUP indicated that it might support the other amendments. However, it has had to back-pedal on that.

That is unacceptable because the amendments that have been tabled by Mrs Long, Mr Ford and I would have provided a clear structure and format, and a better outworking for the victims' commission — not only for that commission and its organisation, but for other groups that must work with it. It is unfair and unacceptable that victims' interests remain prejudiced by the lack of consensus and failure of leadership in OFMDFM.

There is still an opportunity to give the victims' commissioners designate a framework within which they can work more effectively to create a future for victims and survivors of which we can all feel proud. I do not know how many other commissioners are able to set their own policy framework and their own terms of reference. That key piece of work and responsibility should have fallen on the shoulders of the First Minister and deputy First Minister, not those of the commissioners designate.

Earlier, junior Minister Jeffrey Donaldson and some of his colleagues, speaking to amendment No 1, compared the victims' commission to the Equality Commission and the Human Rights Commission in respect of the numbers of commissioners. Since we are dealing with the proceedings of the commission, I contend that the sincerity of that comparison is challenged by his and his colleagues' failure to propose any similar powers of investigation for the victims' commission, as our disallowed amendments would. They would give the commission clear, real, legal authority, with powers to sanction when needed, and to search the darkest corners when required. Are we to believe or accept that victims and survivors are not entitled to internationally defined rights? Without the inclusion of those principles, the commissioners' ability to make a difference will be limited.

It is also surprising that Sinn Féin has not embraced the need for the inclusion of the Paris Principles in the legislation. That party's failure to do so highlights serious questions about its attitudes towards victims and survivors in particular, and its weak approach to dealing with the DUP in general. Those issues must be dealt with and clarified quickly. I support the amendments.

**Mr Spratt:** I am glad that the Commission for Victims and Survivors Bill is before us today, and that we also have before us a number of amendments from the Office of the First Minister and deputy First Minister, which, if passed by the House, will bring about positive changes to the proposed Bill. In weeks gone by, we witnessed what could almost have been described as gloating by some Members — those who repeatedly seek to undermine efforts to bring about positive changes in Northern Ireland, for no other reason than opposition for opposition's sake, and cheap politicking.

**The junior Minister (Mr Donaldson):** Does the Member agree that the problem for some of the parties is that they do not know whether they are in Government or in opposition? This Bill came from the Government.

**Mr Spratt:** I entirely agree. Some Members believe that they are in opposition, but they are a very weak opposition.

**Mr B McCrea:** Will the Member give way?

**Mr Spratt:** The Member will have an opportunity to speak soon. I will not give way. I wish to deal with the second group of amendments, which relate to a chief commissioner and to the proceedings of the commission. I support amendment No 8, as tabled by the Office of the First Minister and deputy First Minister, and I oppose amendment Nos 2, 7, 9, 10, 11 and 12.

First, I wish to deal with the provision in amendment No 8 for appointing a chief commissioner in the future. I am speaking of the future, and it is my belief that amendment No 8 — unlike amendment No 2, tabled by Mrs Long, Mrs Kelly and Mr Ford — puts in place the required

flexibility for the future for the designation of a chief commissioner, whether that person is appointed from the current appointees or from any future appointees to the commission. That is a sensible approach.

The legislation must be framed to deal with the current situation, and with future circumstances. I fear that that is a recurring failure in the amendments that have been tabled by members of the Alliance Party, the SDLP and the Ulster Unionist Party.

Furthermore, amendment No 8 improves the Bill through the standing orders that regulate the decision-making process of the commission, by allowing a decision to be made by a:

“simple majority of the members who vote on the matter.”

The amendment also provides that certain decisions, specifically those detailed in paragraph 9(3), must be taken:

“only with the agreement of all the members who vote on the matter.”

To increase the transparency of decision-making, paragraph 9(5) will ensure that the commission specifies the strength of support that a report or recommendation received from its membership. Such openness is welcome and refreshing, and it should command the support of the House.

Finally, paragraph 9(6) legislates to keep the working arrangements of the commission under review. That important provision again demonstrates the foresight of the Office of the First Minister and deputy First Minister. As time goes by, improvements may be made to the mechanisms by which the commission operates. As those will have a positive impact on the delivery of services to victims, the Bill should allow for such eventualities.

Amendment No 8 provides the best way forward in dealing with matters relating to a chief commissioner and the proceedings of the commission. Therefore, the DUP will oppose all other amendments in the second grouping. I urge Members from other parties to consider the positive elements of the amendment tabled by OFMDFM, and I hope that they will identify it as the best way to progress.

Let us not forget that the establishment of a victims' commission represents an extremely significant step for Northern Ireland. After years of neglect under direct rule and the previous Administration headed by the UUP and the SDLP, there is now a mechanism by which the Province's victims will be served effectively. Backed up by the £36 million that my colleague Peter

Robinson allocated to the victims' sector in the recent Budget, the effective strategy will help those who need it now and in the future.

Any delay in the Bill is worthwhile, if it improves its effectiveness — [Interruption.]

**Mr Speaker:** Order. The Member has the Floor. Every other Member will have an opportunity to speak to whichever amendments they choose.

**Mr Spratt:** The delay produced improvements and made the Bill a more effective framework for the future. The DUP has long placed the needs of victims at the top of the political agenda, and the Bill signifies the delivery of its pledges.

**Mr Molloy:** Go raibh maith agat. I support amendment No 8, and I oppose amendment Nos 2, 7, 9, 10, 11 and 12. For the past few weeks, some parties have been calling for amendments to address the issues that they raised during various debates and discussions — and amendment No 8 does so comprehensively.

Dolores Kelly raised a concern about the amendment's use of "may" and "shall". I point out to her that the amendment contains three instances of "may" and two of "shall". Therefore, it provides clear direction on what the commission is required to do.

**Mrs D Kelly:** My concern is about where the words appear; not how many times. Amendment No 8 states that the First Minister and deputy First Minister "may" give directions to the Commission and "may" designate a member as a chief commissioner. That is nonsense, and the SDLP is not so foolish as to have missed that.

**Mr Molloy:** So far, most of the SDLP's amendments have been nonsense, which is part of the problem. The Member would be better to deal with victims' issues, rather than playing party politics. It is one thing to stand in the Chamber and oppose everything that is being done to progress the legislation: it is another thing to go out and talk to victims and promise them the sun, the moon and the stars. The Member and her party have been doing that for years, but they have done nothing to resolve the situation.

It is time for Members to deal sensitively and sensibly with the issues that are before them and to move forward with amendment No 8, which leaves a certain amount of flexibility rather than tying everyone down. Why must the SDLP tie us all down to crossing all the t's and dotting all the i's in accordance with that party's thinking?

12.00 noon

The legislation should be flexible enough to allow victims and survivors — not the commission or the parties — to take the lead and decide the next step forward. Amendment No 8 makes provision for the families to do that. It is important that we introduce this legislation to support the commissioners and to give families the opportunity to design and move forward in the way that they want, at the speed that they want. There will be variations, and flexibility is needed to allow that to happen, rather than nailing everything down so that there cannot be any change.

The legislation would have been in place, and the current delay avoided, if weeks had not been spent dealing with SDLP delaying tactics involving trying to change one word in the Bill. I deliberately use the phrase “delaying tactics” because the SDLP has been nit-picking parts of the legislation, instead of moving it forward.

**Mr Durkan:** Will the Member say what delaying tactic was created by my party, the Alliance Party or any other group? The Member’s party, Sinn Féin, postponed previous proceedings that had been due to come before the House.

**Mr Molloy:** The delaying tactics that you, your party and others have used consist of nit-picking instead of taking a sensible, sensitive approach to moving forward and empowering the commissioners to do the job to which they were appointed.

**Mrs Long:** Will the Member accept that what he refers to as nit-picking, others may consider as paying a degree of attention to detail that was lacking in OFMDFM and in the Committee, when the Bill was being discussed?

**Mr Molloy:** You can describe it in whatever way you want. The reality is that the legislation has been delayed by discussions that have gone on for several weeks. Instead of having the —

**Mr B McCrea:** I am sorry, but can the Member please explain to the Assembly why the legislation was not brought forward on two separate occasions? The delay has not been caused by other Members but by his party and his party alone. It is pure prevarication from Sinn Féin.

**Mr Speaker:** Before Mr Molloy continues, I remind Members to address their remarks through the Chair, not directly to each other. Debate is conducted through the Chair.

**Mr Molloy:** Thank you, a Cheann Comhairle. Every Member will have the opportunity to speak and should use it, instead of interrupting me. That would avoid my having to jump up and down all the time. Members should concentrate on what they have to say and take their turn.

Today's objective is to move the Bill forward; to give technical and legislative support; to enable the commissioners designate to start dealing with victims in a comprehensive way.

The issues involved have been discussed for 10 years under direct rule and the previous Administration in an effort to make progress. Sometimes when we look for perfection we can finish up with nothing being achieved. Therefore, let us use what we have at the moment. Let us give the legislation our backing and move it on to the next stage so that survivors and victims' families can see some light at the end of the tunnel and start believing that they will have their say on how the legislation moves forward and on how victims are dealt with in the future.

It is time to focus on supporting the commission and enabling it to do its job of supporting families and victims.

Do not lose sight of the Bill's real purpose, which is to support victims and survivors. Let us give them the opportunity to have their say, through the Bill.

The commissioners for victims and survivors must be given a solid legislative footing that will allow them to get on with the work that they are waiting to do. The Assembly was made aware of a problem when a commissioner designate said that, because the posts did not have legislative support, they could not do the job for which they were appointed. Members of the House said they would ensure that that situation was rectified. There is an opportunity to do that now, and to move matters forward speedily. Let us get on with that job.

**Mr B McCrea:** I thank the Alliance Party Members who tabled amendment Nos 2 and 7, which make logical and functional sense and will improve the commission's workings and outcomes for victims.

Amendment No 2 calls on the First Minister and the deputy First Minister to jointly appoint one of the members of the commission for victims and survivors as chief commissioner. In supporting the amendment, Members must ask: what is the purpose of the Bill? The answer is to continually provide the best possible support for victims — innocent victims — of atrocious acts of terrorism. There is a difference between those who some people define as victims, and innocent victims. Members must identify the best way in which society can deal with that issue.

In supporting the amendment, my party believes that it is proper that one person be identified as chief commissioner. That is consistent with other bodies, such as the Electoral Commission; the

Equality Commission; the Independent Commission on Policing; the Parades Commission, and even, most recently, the post of Local Government Boundaries Commissioner. All of those bodies have one feature in common: they either have a chief officer or a chief commissioner. There is a good reason for that. The chief commissioner would be in a position to provide leadership and guidance to the body corporate — to the commission as a whole.

There is a danger that four individual commissioners will be perceived as representing four individual constituencies. Surely, that is not helpful. Who will argue for the innocent victims who do not pertain to any of those groupings? The answer is that a chief commissioner who has overall responsibility would be able to focus on those people.

If amendment No 2 is not accepted, the downside would be that the system would degenerate into a series of solo runs, whereby each victims' commissioner employs his or her own staff and looks after his or her own brand of victims. A message would be sent out to society that the victims' commission is not concerned with trying to put the past behind us or redressing wrongs, but is merely a continuation of shoddy back-room deals within the cosy DUP/Sinn Féin coalition. That would not move society forward, but would condemn it to live in the past.

The proper way forward is to ensure that the Assembly comes together on this issue. While I deal with that issue, I want to refer to an earlier intervention by a Member who said that he was speaking on behalf of the Government. I want to place it on record that, as far as my party is aware, the Bill is not an Executive proposal. It is a proposal from the DUP/Sinn Féin axis. Although the rest of the Assembly may have been informed of the Bill, it has not been party to it.

**The junior Minister (Mr Donaldson):** Perhaps the Member should consult his colleagues who are Ministers. He would then understand the way in which the Government operate: a collective decision is taken on the principle of a Bill, and it is a matter for the sponsoring Department to take forward any amendments to that Bill. Therefore, we have made proposals on the Government's behalf, and not simply on behalf of a Department.

**Mr B McCrea:** I am grateful — [Interruption.]

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

**Mr B McCrea:** I am grateful to be able to benefit from the Member's four weeks' experience as a junior Minister and his lecture on how the Government work. Just for the record, it was for information — [Interruption.]

Mr Speaker, I am trying very hard —

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

**Mr B McCrea:** For the record, I am prepared to give way to Members if, instead of speaking from a sedentary position, they stand up and make an intervention. It appears that Mrs Robinson wants to make an intervention.

**Mrs I Robinson:** I am happy to make an intervention. It is a case of pot calling the kettle black — the Member makes frequent interventions from a sedentary position.

**Some Members:** Hear, hear.

**Mr B McCrea:** I gather, from what the Member said during that intervention, that two wrongs make a right.

It is quite clear that this is not coming from the Government — it is coming from the DUP.

**Mr Durkan:** The rather evasive answer the junior Minister gave during his intervention was obviously aimed at masking the fact that proposed amendment No 8, which he said came from the Government, never went near the Executive or received their approval.

**Mr B McCrea:** That was an extremely useful intervention from the Member for Foyle. I reiterate my point: the proposed amendment does not come from the Government; it comes from the DUP/Sinn Féin cosy coalition.

The rest of us do not sign up to the amendment, because we were not involved in discussions about it. Earlier, Members urged others not to use the issue as a political football, but it is those who shout the loudest that have the most to fear.

This issue is like a runaway train. Indeed, it is an issue that will come back to haunt us because it has not been dealt with properly. We must find a way to ensure that society progresses, that we deal legitimately with people's concerns and that we look after the innocent victims who need our help and support. It is simply incoherent to say that someone would not support a victim; I cannot believe that that argument is being used.

We have aired our concerns about the Bill to try to make it better; that is why we support amendment Nos 2 and 7. There is no point in appointing a single, chief commissioner if the legislative back-up to ensure that that person is given some authority is not provided. To do otherwise would mean that that person would be simply a figurehead with responsibility and accountability but no authority.

I commend amendment Nos 2 and 7 to the House. I return to my earlier point: what is the point of the Bill? Why do we need a chief commissioner with the appropriate authority? It is to ensure that innocent victims are looked after. Secondary to that, it is to make sure that we can put the terrible past behind us. We have had 30 to 40 years of civil strife, with the most unimaginable atrocities carried out. One has to ask oneself: who is responsible for those atrocities? Who created most of those victims? How can they stand here and say that they want to make it better? That is not what the process is about.

Northern Ireland has to find a way to move forward; we have to find a way of dealing with the past. My vision is for an independent, chief commissioner who represents all victims in a fair, impartial and independent way, and who has the support of all Members of the House and the country. That is the only way forward.

Amendment No 8, which my colleague will deal with in more detail, is a great disappointment and a shoddy piece of work. It shows the Office of the First and deputy First Minister's lack of conviction in tackling the issue.

Three or four attempts have been made to bring the motion before the House, and they have failed because we have not properly engaged with the issue. The Ulster Unionist Party supports amendment Nos 2 and 7 and rejects outright amendment No 8 as a shoddy piece of back-room dealing.

12.15 pm

**Mr Kennedy:** I share the Member's distaste for amendment No 8, which is tabled in the name of junior Minister Donaldson. Presumably, that amendment also carries the weight of junior Minister Kelly, who is in the House, and the Office of the First Minister and deputy First Minister. I highlight my concern, and that of the Ulster Unionist Party, over the proposal under amendment No 8 to introduce sub-paragraph 4 to paragraph 9, which would read:

"Standing orders shall provide for a decision on any other matter to be taken by the Commission on a simple majority of the members who vote on the matter."

Does that not invite chaos and confusion and give at least one commissioner of any four an effective veto on any progress that a victims' commission would bring forward?

**Mr B McCrea:** Judging by the sharp intakes of breath from the DUP Benches, Mr Kennedy has hit the nail on the head. I have no doubt that the junior Minister will address those concerns when he makes his winding-up speech. I am interested to know whether the other junior Minister, whose name does not appear on the Order Paper, is prepared to speak on and support all of those amendments. In response to a point of order from Mr Burnside, the Speaker said that it was not necessary to have any more names on the Order Paper, but it would be nice to know whether a joint position was held by the two junior Ministers, given that the second junior Minister's party found difficulty in bringing earlier motions to the House.

It is a pity that the First Minister and the deputy First Minister lacked the strength of conviction to do initially what was right for the victims of Northern Ireland and appoint one suitable commissioner. If they had acted at that time, that commissioner would be helping all of those innocent victims by now; the work would be being done. As my colleague will outline, amendment No. 8, which was tabled by junior Minister Donaldson, does not do any justice to the points that I have made or the issues that I have raised. The innocent victims of the Troubles, who have suffered greatly, deserve more. We should be prepared to take courageous steps to deliver for them. Amendment Nos 2 and 7 strive to improve the Bill, and the Ulster Unionist Party and I support those amendments.

**Mrs Long:** I thank junior Minister Kelly for the briefing that he provided for me last Friday in my capacity as Deputy Chairperson of the Committee for the Office of the First Minister and deputy First Minister.

I speak as an Assembly Member and not as the Deputy Chairperson of the Committee, and I will consider the amendments in some detail. The Alliance Party's eyes remain fixed on the goal of creating a strong, clear and coherent voice for victims. As I have said on many occasions, that goal would be best achieved by having a single commissioner. However, it is clearly the will of the majority of the House that that will be done through a commission. Therefore, we want to ensure that that commission can, as far as is practicable, create that same strong, coherent voice for victims.

When the Bill was brought forward, I raised a number of issues, for example that of the commissioners working in silos. I raised the issue of how the mechanisms and structures of the commission would facilitate the creation of that strong, clear and coherent voice. The Alliance Party amendments try to deal with the Bill's significant deficiencies.

First, we considered the structures of a victims' commission. For a commission, or indeed any organisation, to work, someone must take the lead.

A Committee requires a Chairperson in order to operate, an Assembly requires a Speaker, a party requires a leader and, if it is to operate and function properly, a commission requires a chief commissioner. That is neither unusual nor strange — in fact, it is the norm. Therefore, in amendment No 2, we have attempted to place the onus on OFMDFM to appoint jointly one of the commissioners as chief commissioner. That would not undermine, devalue or negate the right of any of the other commissioners to express a view — whether that be a majority or minority opinion — nor would it affect their role in dealing face to face with the people who require their assistance. Instead, that arrangement would create coherence in the commission, and roles and responsibilities would be clear to people who wished to contact it.

Furthermore — and crucially — a secretariat that would answer directly to the chief commissioner should be established. Consequently, a situation in which four commissioners each had their own secretariat, worked in silos and became detached from one another — all of which would be highly damaging to the commission's purpose — would be prevented.

Those proposals do not reflect on our opinion of the commissioners designate. This process is not about personalities. In fact, I wish that we could have had the debate about a commission for victims and survivors in advance of appointing anyone to the role. I am on record as saying that any of the four appointed commissioners could have done the job single-handedly. Neither do I doubt the commissioners' wishes — expressed or otherwise — to work together coherently for the betterment of the victims and survivors sector. We do not base judgements on personalities.

As other Members said, we are creating structures that will endure for the long term. Therefore, it is important that those structures are coherent, which is why we tabled amendment Nos 2 and 7, which would allow for the creation of a chief commissioner and enable people to act with regard to him or her. Such clear lines of authority would be helpful to the commission's smooth working.

We must also be realistic when considering matters pertaining to dispute resolution. In most organisations with which I am involved, there is some form of voting mechanism. Some, such as the system in the Chamber, are increasingly complex; others are simple. However, although we all wish for consensus and that that would be the aim on every occasion, consensus may not always be possible. The Alliance Party would prefer to have a voting mechanism in place so that, rather than complete breakdown and no activity, the commission will be able to make progress on the basis of a division. Once again, that would not negate an individual commissioner's right to express an opinion. Although that is a matter for the commission itself, it might be good practice for it to note such minority opinions when it produces reports. Above all, it would prevent a situation in which nothing can happen because people cannot agree.

Amendment No 10 is specifically designed to remove OFMDFM directions that are mentioned in the Bill. I am not happy with that arrangement, because, having enquired about it, I think that the scope and purpose of such directions have not been clearly defined. Given the sensitivities, complexities and, in particular, politics about victims and survivors, subsequent to legislation, it would be better if the matter were removed as far from the political remit as possible. Directions from OFMDFM would not create confidence in the public mind that such matters are not subject to political interference. I must also say that, in all honesty, if I were involved in an intractable

dispute, OFMDFM is perhaps the last place on earth to which I would go in order to have that dispute resolved.

Amendment No 12 would ensure that if there are questions about the appointment of individuals, the commission cannot strike down their work.

That is potentially ultra vires, because a judge could, at any time, strike down any of the appointments, or any work that commissioners had done. If challenges to the commission and its work are deemed appropriate, their outcome will be decided in the courts. It looks foolish and defensive to try to preclude the courts from making such decisions when one does not have the power to do so. The wording in paragraph 10(b) looks like a pre-emptive strike, and it is unnecessary and unworkable. Amendment No 12 does not mean that the commission's work should be struck down. Deleting paragraph 10(b) reflects the reality that no Bill can prevent a judge from striking down the work of the commission. The wording in the Bill is unhelpful.

Although the Alliance Party prefers the mechanism that we have outlined in amendment Nos 9 and 10, amendment No 11, which the SDLP tabled, is a reasonable alternative. The SDLP, in approaching the Bill from the same position as the Alliance Party, has tried to make the best of a bad job. We have tried to be constructive in our approach.

Amendment No 8 was tabled by the junior Minister Mr Donaldson. I have read the amendment carefully and tried to see some merit in it, but there seems to be an element of smoke and mirrors to it. The amendment creates the illusion that it is responding to issues of concern in the Bill without promising to deliver. It is the same as talking about accelerated passage for a Bill but delaying and delaying its Consideration Stage — it creates the illusion of activity where there is stalemate. Those DUP Members who saw merit in our amendments may think that amendment No 8 will achieve the same outcome because it appears to be similar. However, there are key differences: under amendment No 8, the First Minister and the deputy First Minister will not “have to” appoint a chief commissioner. Instead, they “may” appoint one in the same way in which they “may” revoke that designation at any stage.

Given that part of the reason for the delay to the Bill's Consideration Stage was down to Sinn Féin's opposition to the appointment of a chief commissioner — that is in the public domain — does anyone believe that it will not use its veto in OFMDFM to prevent that happening? The provision in proposed new paragraph 9 exists to cover embarrassment, because, although subparagraph (6) states that the First Minister and the deputy First Minister

“(b) may—

(i) designate a member as Chief Commissioner”,

let us be honest, it is highly unlikely that they will. Therefore, if Members believe that the existence of a chief commissioner and a voting mechanism is sensible, the only way in which to achieve that — in real terms — is to support our amendments and not the alternative that the junior Minister Jeffrey Donaldson proposes.

**Mrs D Kelly:** Does the Member agree that some of the DUP Members who, we believe, were supportive of our amendments are missing from the Chamber? That speaks volumes about the turmoil in the DUP over the Bill.

**Mrs Long:** I cannot comment on other Members' whereabouts. However, after discussion with Members, their biggest concern with our amendments was that OFMDFM would be unable to appoint a chief commissioner. Therefore, the notion in amendment No 8 that the First Minister and the deputy First Minister may appoint a chief commissioner is a get-out clause for when they fail to do so.

Mr Molloy spoke about delays — I am amazed at the number of times that things must be repeated before Mr Molloy understands them. After devolution, OFMDFM had the rest of last year to appoint a commissioner, which required no legislation or delay. That appointment required only a decision — end of story.

OFMDFM then wanted to appoint a commission that had no legal basis, which caused delays because legislation was necessary to underpin it. It then held up accelerated passage, resulting in Consideration Stage not being moved on two occasions. If we are discussing delays, Sinn Féin is approaching the matter from an extraordinarily weak position.

The focus must be on a strong, clear and coherent voice for victims. Although amendment No 8 may dangle that tantalising prospect in front of people, they should not be deluded. It is not a reality; it is smoke and mirrors.

12.30 pm

**Ms J McCann:** Go raibh maith agat, a Cheann Comhairle. I support amendment No 8, and I oppose the other amendments in the group. I have listened intently to this issue being debated over the past few weeks, and it is important for Members to remember that we are speaking about people who lost their lives. Members have spoken about the relatives of people who lost their lives and of those who were injured — the survivors who live with the trauma of bereavement and injury every day of the week. Members must be sensitive to those issues.

The priority and focus should be to try to ensure that the needs of victims and survivors are met as a matter of urgency. The serious issue of victims should not be used for party-political point scoring. It is a sensitive issue.

**Mr B McCrea:** Will the Member tell the House which parties are using the issue for party-political point scoring? On what basis has she made that assertion?

**Ms J McCann:** I believe that the parties that are using the issue for party-political point scoring are those that keep proposing these silly amendments.

**Mrs Long:** Does the Member mean OFMDFM?

**Ms J McCann:** No, I do not. I am not talking about amendment No 8; I am talking about the amendments that have been proposed over the past few weeks. The Member knows exactly whom I am talking about.

I reiterate that we should not use the serious issue of victims for party-political point scoring. The Bill is about putting a commission for victims and survivors in place, and that should be the main focus. A panel of commissioners would bring a mixture of experience, expertise and skills. It would be more representative and would reflect the experience of all victims and survivors in the important stages of shaping and delivering the services that they need. An inclusive and meaningful process is necessary to address the various needs and demands of victims and survivors. Support for such a process, particularly through delivery programmes at local level, represents an important building block in developing a society that embodies, in a sustainable way, due regard for the need to promote equality and good relations. The focus must be on delivering those programmes to the victims and survivors, and on meeting their needs.

In addressing the legacy of the conflict through community-based initiatives that provide counselling and emotional support, and training and development opportunities, it is important that, when implementing any initiatives on behalf of victims and survivors, we take our lead from the victims and their families. A positive contribution must be made towards helping them to come to terms with their circumstances.

I urge Members to focus on the needs of victims and survivors. The commission for victims and survivors must be allowed to get on with its work and make a real difference. Go raibh maith agat.

**Mr Cree:** Amendment No 8 is an attempt to pull a cloak over some of the issues that have been raised by other parties throughout this protracted process.

Amendment No 8, which proposes replacing paragraph 9 to schedule 1, effectively reinstates the desire for unanimity among the commissioners about the fundamental workings of the commission. It also reinstates a veto of any member of the commission on his or her colleagues with the potential to obstruct the working and functionality of the commission.

Jumbling up the words does not change the fundamental message that one commissioner will be able to obstruct all of the others on the key issues in that process.

Equally, amendment No 8 proposes new paragraph 9(6), which is another Sinn Féin/DUP fudge. The paragraph states that the First Minister and deputy First Minister acting jointly may designate a member as chief commissioner and may, at any time, revoke that designation. I am not a betting man, but I am willing to wager that there will be no chief commissioner in the foreseeable future. If the Office of the First Minister and deputy First Minister really intended, or had the joint desire, to appoint a chief commissioner, it would have supported the Alliance Party's amendment. I reject amendment No 8 as I consider it to be something of an insult to the intelligence of Members and the innocent victims that the commission will seek to serve.

As has already been stated, it is paramount that the commission is able to proceed with purpose and direction. Amendment No 9, which has been tabled by the Alliance Party, seeks to ensure that a democratic procedure is enshrined in the process of changing standing orders. That amendment will ensure that no single commissioner will have the power to veto the democratic decisions and proceedings of the commission as a whole.

In order to deliver for innocent victims in Northern Ireland, the commission must act as a single entity. If one Member has a veto, there is a danger that the process will deteriorate into impasse, and moving beyond such an impasse may be extremely difficult and potentially destructive.

Commissioners must be impartial enough to live by the democratic decisions of other members. There has been, and will continue to be, political opposition to the amendment, but it makes practical sense and will better ensure delivery for innocent victims. Amendment No 9 will help to remove any fears, founded or not, that political influence will be able to obstruct the workings of the commission. I therefore support amendment No 9.

The Ulster Unionist Party Members are reserving judgement on amendment Nos 10, 11 and 12. We are open to being convinced, but certain areas must be properly explored and need further clarification.

In supporting amendment No 9, the Ulster Unionist Party hopes to ensure that the commission can function effectively. However, my interpretation of amendment No 10 is that it would effectively remove any political accountability from the commission. My understanding of the rationale behind such a proposal is that by granting the commission complete freedom of

direction, it would potentially move beyond some of the political ramifications that are coupled with the process, giving the commissioners freedom to carry out their duties without interference. Given the way in which the Office of the First Minister and deputy First Minister has handled the issue of the commission so far, I can understand the logic.

However, this matter is like a double-edged sword. Although the independence of the commission must be respected, political accountability is needed. Equally, although we all wish that political ideologies could be removed from the issue, unfortunately the political realities of Northern Ireland are such that nothing is ever black and white, even if it appears to be morally straightforward. There is always the danger that some people will seek to influence the workings of the commission, guided by political and ideological goals.

**Mr B McCrea:** Just before junior Minister Kelly leaves the Chamber; given the important ramifications of this important topic, would the Member not like to hear what junior Minister Kelly has to say about it?

**Mr Cree:** I thank the Member for his intervention. I do not know whether it is significant that junior Minister Kelly is not here for this part of the debate, but I would certainly like to hear his support for this matter.

The responsibilities of the Office of the First Minister and deputy First Minister, and the scrutiny of the Assembly, must act as a check to the commission. The UUP's main concern about amendment No 10 is that it would remove those checks. It is therefore necessary that the process has political answerability, and in linking the setting of standing orders to the Office of the First Minister and deputy First Minister, we will effectively link any decisions on the commission's remit to Assembly scrutiny. That will provide political accountability and responsibility. The problems and sufferings of innocent victims in Northern Ireland should, in part, be the responsibility of all parties in the Assembly. There is an issue as to whether it is correct in a democratic society to allow such a sensitive and important issue to be decoupled from the accountability and pluralism that this Executive and Assembly can give to it. I understand the reasoning behind the amendment, but I am not yet convinced by the soundness of those reasons. However, I am open to being convinced.

Amendment No 11, which has been proposed by the SDLP, is a better attempt at the same issue. However, again I am not convinced that it will sufficiently improve the Bill or change it in any meaningful way. My party and I are, however, still open to being convinced otherwise.

I am not convinced that amendment No 12 will be of benefit to any victims or victims' groups. It smacks slightly of throwing the baby out with the bath water. To start again, or to invalidate the work of the commission on behalf of the victims because of a defect in the appointment of any members, which could be technical, innocent and no fault of the commissioner, may not be the most constructive move.

**Mrs Long:** I, too, accept the concern that the Member has expressed with regard to amendment No 12. However, I said when I was going through the amendments that this would not automatically mean that the work of the commission was struck down. Nor would it mean that the appointments were struck down. It simply recognises the fact in law that it would be for a court to decide on what action to take, depending on the appointments process or any defect in that process. That would be the case, whether that line of text is included or taken out. It would be better for the House to reflect on the reality of the situation, which is that we cannot order a court how to proceed if defects are found in the appointments process. That is the reality whether that text is there or not.

**Mr Cree:** I thank the Member for that explanation, which certainly makes sense.

The Ulster Unionist Party supports amendment Nos 2 and 7.

**Mr Durkan:** I rise to support amendment Nos 2 and 7. The question of ensuring that there will be a chief commissioner is an important one. The SDLP wants a commission that has corporate coherence and cogency. Indeed, we want a commission that has real and serious powers, comparable to those of the Equality Commission, the Human Rights Commission and the Children's Commissioner; and equivalent to the requirements of the Paris Principles. That is necessary so that if someone wants to bring a case or a complaint, then the commission can receive and investigate them, and command any relevant evidence — something which, at present, it cannot do.

In order for the commission to do be able to do that, and to have those types of powers, it must have the same sort of cogency and coherence as other organisations. There must be someone who is clearly the chief, who takes the final decision when necessary and with whom the buck stops, and who can take the initiative and lead interventions in a positive and proactive way. That is what is needed.

If Members are serious when they say that they want the commission to be able to work for victims and to deal with issues in a proper manner, then they should want it to have powers equivalent to those of the other commissions to which those proposing this Bill refer constantly. We are told repeatedly about the comparison with the Human Rights Commission and the Equality Commission when discussing the number of commissioners. However, we also want the issues of power, structure and corporate governance to be addressed.

The commission would be better served with a chief commissioner who would be visible to people. Consequently, the commission would be taken more seriously, and that would also give us hope of its being awarded the sort of powers that are needed if it is to match the requirements of the Paris Principles. After all, the Paris Principles are about any Government-created body that deals with human-rights issues.

Of the various commissions that exist, the victims' commission does not satisfy human-rights standards. It is a terrible indictment of the Assembly that Members are producing a Bill to establish a victims' commission, but that that victims' commission does not adhere to the human-rights standards outlined in the Paris Principles. Those who beat their breasts and boast about their great work for victims, and claim that no one else has ever done anything for victims, must respond to that point. They will oppose the possibility of granting the commission further powers by insisting that it cannot even have a chief commissioner.

12.45 pm

Over the past number of weeks, debates have been cancelled. Other parties took to the airwaves and said that a chief commissioner could not be appointed because that would create a hierarchy of commissioners and, therefore, a hierarchy of victims. That seems to confirm many peoples' suspicions that appointing four separate commissioners implies that different commissioners have different victim constituencies, which would create difficulties.

We were told that it was wrong to project that suspicion. One party sponsoring the Bill and the idea of having four commissioners said that the appointment of a chief commissioner would give rise to a hierarchy of victims. How would the appointment of a chief commissioner give rise to a hierarchy of victims? We need an answer to that question.

I notice that Sinn Féin has not raised that specific argument in the Chamber today; they have gone quiet on it — but have not dropped it — in order to support the pretence of amendment No 8, which provides for the appointment of a chief commissioner in the future. During an earlier debate, the DUP outlined that there will be not only a chief commissioner, but also additional commissioners and, indeed, various part-time commissioners. Why is there concern about a hierarchy of commissioners? We heard from those on the opposite Benches that the part-time commissioners may have particular specialisms and interests. The arguments are contradictory and inconsistent.

**Mr Poots:** The Member said previously that there could not be a chief commissioner. However, his speech now seems to accept that there can be a chief commissioner. The Member will recognise that we are here today because ten years ago we had the Belfast Agreement, which his party supported and eulogised, and which allowed terrorists to run free from prison. There was a period when the SDLP were in Government when nothing was done to help victims, and during that period, hundreds of thousands of pounds were allocated to the victims' commission — as opposed to the tens of millions of pounds being allocated now. Since then, there has been an interim commissioner, and the victims' commission is progressing: compare that with the record of Mr Durkan and his colleagues.

**Mr Durkan:** I note that the Member barely addressed today's issue and was not checked on that point. The Member said that I changed my mind on whether a chief commissioner could be appointed. I did no such thing. I made the point that his party and Sinn Féin will vote against the

clear provision that there will be a chief commissioner — they are resisting such a provision. Instead, his party is trying to kid itself and everyone else with amendment No 8 — a cross between a fig leaf and a figment — which pretends that there could be a chief commissioner.

However, everybody knows that Sinn Féin's position has not changed. Although its Members might not repeat it in the Chamber, its position has not changed. Therefore, Mr Poots and others can pretend to have found an opening and an option, but the scenario is similar to that in the song 'There's a Hole in my Bucket', because Sinn Féin will not agree to the appointment of a chief commissioner.

**Mr B McCrea:** Does the Member agree that it is disappointing that, although he has made some fine points, the junior Minister to whom he addressed them is not in the Chamber for this important debate? Sinn Féin claims that this is an important matter; however, not too many of its Members are present.

**Mr Durkan:** I thank the Member for his point. I am sure that those Members have all sorts of other important business to carry out both here and elsewhere.

Amendment No 8 purports to address several of the concerns that have been expressed by those of us other than the junior Minister who tabled amendments. Are the issues that we raised important enough to be addressed in a valid amendment — which, we are told, amendment No 8 is — or are our issues so specious and spurious as simply to be — as we are also being told — nit-picking and wrecking amendments? Which is it to be? Both those propositions cannot be true. Yet, we are being told that amendment No 8 is an attempt to address issues in good faith. However, the rest of us are being attacked for raising in our amendments those very issues that amendment No 8 now pretends to deal with.

Amendment No 8, which we oppose, changes schedule 1, paragraph 9 to the Bill from a seven-line paragraph to a 27-line paragraph. It adds very little, other than to get the DUP off the hook about the position of a chief commissioner. Amendment No 8 also retains the provisions that were contained in the original paragraph 9 of schedule 1, which gave the First Minister and deputy First Minister powers to issue directions to the commission about its standing orders. Therefore, as well as dealing with the issue of a chief commissioner, amendment No 8 purports to deal with some of the issues that are connected to the commission's procedures, not least in respect of its standing orders. In the schedule to the Bill, there is provision for standing orders to be made unanimously only by the commission — there is no provision for gridlock. Of course, it also allows the First Minister and deputy First Minister to override directions to add to or change those standing orders, even when the commission has agreed them unanimously.

We tabled amendment No 11 in order to provide for a situation in which a clear majority of the commission may agree or amend standing orders. Rather than allowing an embarrassing gridlock to develop, that amendment allows for standing orders to be referred to the First Minister and deputy First Minister for approval on the basis of sufficient consensus. Those who have argued against our amendment say that they do not want to create a situation in which the commission's

standing orders are referred to OFMDFM. That is because they say that that office should not be involved in that sort of thing.

However, the Bill as it stands — and the proposed amendment — gives the First Minister and deputy First Minister the power of direction over the commission's standing orders at any time. It is nonsense to say that what is being suggested is an attempt to insulate OFMDFM from difficulties in the commission, or, indeed, vice versa. Furthermore, in addition to the provisions in the Bill that allow the First Minister and deputy First Minister to appoint or remove members of the commission, there are more than a dozen other cases in which the work of the commission and its limited powers are subject to approval from, or screening by, OFMDFM. Again, we are puncturing the pretence that the First Minister and deputy First Minister will not be immersed in some of the issues that affect the commission. They will be, and the Bill provides for that.

The arguments that have been given previously against what the SDLP has provided for in amendment No 11 — or what the Alliance Party, coming at the issue from a slightly different route, is providing for in amendment Nos 9 and 10 — do not stack up. Both the SDLP and the Alliance Party have tried to resolve the gridlocked situation in a fair and practical way. The amendment proposed by the Office of the First Minister and deputy First Minister simply threatens to recycle that gridlock in various ways.

We support amendment No 12. I note Mr Cree's concern that that amendment might allow the commission's good work to be struck down completely by any legal challenge. That would be unlikely. Court decisions are proportionate in their consequential requirements; we have seen that in other cases. However, it would be a dangerous precedent for the Assembly, in its first year of restored devolution, and given that it has not discharged much legislation, to pass legislation that deliberately tries to insulate the Government — as we are told that we should now call it — from the consequences of legal challenge. I have opposed such attempts in another place, as have some of the Members opposite.

I remember when the Northern Ireland (Offences) Bill went through Westminster. It contained provisions that allowed the Secretary of State to insulate himself and others from any possible legal challenges about the Bill's effects. Members objected strongly to that on a point of principle. We must have careful regard to that. I do not want to set a precedent that could result in legislation from any Department containing clauses or provisions to insulate that Department from legal challenges. As we go through this bundle of amendments, we must be careful and know the various issues that we are dealing with.

Several Members who have discussed the various amendments have again dragged up the claim that nothing was done for victims before. The Good Friday Agreement made clear promises to victims. I have always been upfront in saying that those promises were never fulfilled. As I recall, the SDLP and the Alliance Party tried to address the issue of victims at Weston Park, as on other occasions. We did not succeed; victims did not get a mention in the Government's declaration, and we complained about that at the time.

Similarly, during the negotiation of the joint declaration that was produced in the spring of 2003, we pressed for a victims' and survivors' forum, but we found only a very lukewarm reference in the declaration. We were told that that was because the forum was opposed by other parties. When the Office of the First Minister and deputy First Minister introduced and consulted on the victims' strategy, the DUP heckled, disrupted and undermined it on the issue of the definition of "victim". We must remember that there were two victims' units at that time. The NIO was handling several victims' issues, while in the devolved Administration —

**Mr Poots:** Excuses, excuses.

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

**Mr Durkan:** The First Minister and deputy First Minister took the initiative that there should be a victims liaison unit in the context of devolution as well. Moneys and various means were identified, although they were not enough. However, those who are telling us about the victims' strategy that is highlighted in the Programme for Government and those who tell us about funding for victims have still not told us what the victims' commission will do or say about the victims' strategy or about funding.

It is still the case that, if someone has a grievance or complaint about a decision on the allocation of funding for victims, he or she will have no mission of going to the victims' commission about it.

1.00 pm

The commission for victims and survivors is in no position to receive any complaint, or to pursue any complaint, enquiry or investigation. Earlier, we were told that something that comes from one Department, or its Minister, is deemed to have come from the Government as a whole, because that Department is part of the Government —

**Mr Speaker:** Order. I am sorry to interrupt the Member; he may return to his speech after lunchtime. 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 1.00 pm.

On resuming (Mr Speaker in the Chair) —

2.00 pm

**Mr Durkan:** Before the debate was suspended, I made the point that we had been told that an initiative from the Office of the First Minister and deputy First Minister amounted to an initiative from Government. Furthermore, it was argued from a sedentary position that an initiative made by a part of the Government is the same as one from the Government.

In the commission for victims and survivors, there will be no chief commissioner. At least one of the parties in the Office of the First Minister and deputy First Minister will not allow there to be a chief commissioner, now or in the future. Things may, or may not, be done in the name of the commission. Individual commissioners will engage with different people, and we have been told that different commissioners will have different specialisms. The question arises whether something said or done by a commissioner is said or done on behalf of the commission. That is a recipe for all sorts of confusion, misinterpretation and misrepresentation, which we could well do without. Misunderstandings might arise about communications or events in which individual commissioners are involved. Should the Office of the First Minister and deputy First Minister take those up with the individual commissioners or with the commission as a whole?

The kinds of issue that might arise, and the matters that should be ironed out or clarified, illustrate the good sense in having a chief commissioner, with whom any issue may be raised and addressed. That avoids the need to contact all the commissioners equally and at the same time. If some commissioners are contacted and others are not, a record is made of unequal contact, communication and engagement between the Office of the First Minister and deputy First Minister and the commissioners. Alternatively, real contact between that office and the commission might be through whoever is the chief officer of the commission, which, in turn, raises issues about the real standing of the commissioners.

Amendment No 8 provides for review, but we know that parties in the Office of the First Minister and deputy First Minister do not seriously intend to conduct such a review. Practice will show that those provisions need to be substantially reviewed. Later developments will show that the review should be held, and that significant changes in the legislation should be made, at this stage.

We should not simply pass on a direct rule Bill. No changes are made to the powers, functions or remit of the commission, even though the Bill creates a commission instead of a commissioner. The Assembly should not declare itself satisfied with the limited provision made by a direct rule Order in Council. That is not a good message for the Assembly to send out on any issue but, most importantly, not one involving victims and survivors.

**The junior Minister (Mr Donaldson):** I thank all the Members who have contributed to the debate. The amendments are complex and the issues bear detailed discussion which, I am glad to say, is taking place.

I wish to respond to points made by various contributors. Mrs Kelly a Member for Upper Bann, said that there was a lack of consensus and leadership on the part of the Office of the First Minister and deputy First Minister. Yet the amendments that we have tabled, including amendment No 8, represent a consensus in OFMDFM, and there is agreement on how those issues should be addressed. As to leadership, we have presented the Bill and, if it passes, we will proceed with the appointment of a commission, which will play a crucial role in addressing the multiplicity of issues that affect the victims' sector in Northern Ireland. When leadership is required, we seek to ensure that we are not found wanting.

Mrs Kelly also raised concerns about the lack of powers of investigation that the victims' commission will have. OFMDFM believes that the commission will have a clear role to play. That role will evolve over time and will develop in tandem with the victims' strategy that we hope to announce in the near future in consultation with the other key stakeholders in the victims' sector.

We are not seeking to dictate to people in how we are proceeding with these matters. We want to work in partnership with people so that we can develop an efficient and effective support infrastructure for the victims and survivors in Northern Ireland so that they can get the help that they need when they need it.

My friend the Member for South Belfast Mr Jimmy Spratt made an excellent contribution to the debate. He spoke, using his considerable experience as a former police officer and as chairman of the Police Federation. I know that Jimmy experienced at first-hand the tragedies of what became known as the Troubles, and he worked with many of his former colleagues and their families when they experienced grief and loss. Therefore, he is well qualified to speak about the needs of the victims' sector.

In contrast, Basil McCrea, who seems to be the resident expert on all matters in the Assembly, talked about amendment No 8 being a shoddy piece of work. Indeed, I note that he is absent from the Chamber. He indicated that some of us lacked experience in dealing with victims' issues, and he was clear about his own interpretation of how the Government operate.

I am not here today to discuss my own record. However, in over 25 years of active involvement in politics in Northern Ireland, I believe that I have accrued some experience of the feelings of victims. I have met many times with individual victims and groups, and I feel that I have a good sense of how they feel. Having spoken to some in that sector recently, I know that they want to see things move forward and that they want support mechanisms introduced that will help them to deal with the past

Basil McCrea tells us that we cannot dwell in the past and that we must move on. However, he then decries what we are trying to do through the victims' commission to heal the wounds of the past. I wish that he would make up his mind, instead of simply trying to engage in cheap point scoring.

I refuse to defer to him in any discussion of the DUP's experience of victims and their needs over the past three decades and more. My party makes that a priority, and we make no apology for doing so. That is why one of the first things that we have tried to do as a Government — and as the largest party in that Government — is to address the needs of victims and survivors. Therefore, when Basil McCrea accuses us of producing a shoddy piece of work, I simply say to him that our record on victims is longer and speaks louder than his.

**Mrs Long:** The junior Minister has just elucidated passionately the DUP's point of view on victims. However, is it not the case that he is here today to speak on behalf of the Office of the First Minister and deputy First Minister? Therefore, any statement that he makes should reflect the joint view of that Department, not simply the policy of one party in that Department.

**The junior Minister (Mr Donaldson):** That statement is a bit rich coming from that quarter. Parties have questioned whether OFMDFM is united on the amendments. Those same parties have also asked whether the fact that mine was the sole name on the Order Paper was an indication of division in OFMDFM. I assure the Member that that is not the case; I am speaking for the Department.

However, I am entitled to respond — and I will do so robustly — when my party is attacked and when specific reference is made to my role. I will not take lectures from the likes of Basil McCrea who, when victims were suffering most at the height of the Troubles, was nowhere to be seen. He was not involved in politics.

He is what I call a ceasefire politician; he put his head above the parapet when the trouble was over. Let us not take lectures from the likes of Basil McCrea about what we are doing for the victims. We worked for and alongside the victims when the gunfire and the bombs were going off, unlike some people who have come to the debate late and pretend that they know it all.

Danny Kennedy and Leslie Cree said that amendment No 8 offers the power of veto. I wish that Members would read the amendments closely. If they did, they would know that amendment No 8 does the opposite to what Mr Kennedy and Mr Cree state. It allows for most of the decisions of the commission to be taken by a simple majority. It is beyond me how anyone can say that that gives anyone the power to exercise a veto.

**Mr Kennedy:** I am grateful to the junior Minister for giving way. Can he clarify the position? In instances where there is not agreement and a matter comes to a vote in the commission, there will be deadlock unless one of the objectors abstains. Can the Minister confirm that there are scenarios in which a veto can be exercised, for good or for ill?

**The junior Minister (Mr Donaldson):** Mr Kennedy is dealing with one aspect of amendment No 8. The amendment requires unanimity in certain circumstances, which I will come to later. If a member does not support an issue and chooses to abstain or, perhaps, is not present for the meeting, unanimity will be required among those present and voting.

I remind the Member that amendment No 8 relates to a narrow band of the commission's work. It deals with the work plan and financial decisions relating to the commission's research work. The majority of the decisions on the commission's day-to-day work will be agreed by a simple majority, but Mr Kennedy chooses to ignore that crucial part of the amendment that makes an important change to the original Bill, which required unanimity on everything. In proposing amendment No 8, I am trying to reflect on and deal with the concerns that have been raised.

I hope that Members are clear. Far from wanting to create vetoes, amendment No 8 seeks to remove the prospect of deadlock and to allow for sensible decision-making by a simple majority on most of the issues that will come before the victims' commission.

Mrs Long spoke of the need for strong and coherent direction on the issue of victims and survivors. I agree with her on that, even if we disagree on the Bill and the amendments. However, she said that amendment No 8 was about smoke and mirrors. I know that I will not convince the Alliance Party, but the objectives of amendment No 8 are to improve the procedures of the commission and to help the commissioners to reach decisions. It is also about making provision for the appointment of a chief commissioner — should that be deemed to be in the interest of the future effective and efficient work of the commission.

It is our view that a chief commissioner is not required at present. We want to give the commission time to bed in, and we want to see how the four commissioners work and how effective and efficient the commission is with them. If, in the fullness of time, it becomes clear that the efficiency and effectiveness of the commission would be improved by appointing a chief commissioner, one can be appointed under the provisions of amendment No 8.

**Mr Ford:** When Mr Donaldson says "our view", is he giving the view of OFMDFM or that of the DUP — as was the case in his response to Basil McCrea?

**The junior Minister (Mr Donaldson):** When it comes to voting on that matter, it will become clear to the Member that it is the view of both.

2.15 pm

I am pleased that Mr Durkan conceded that his party and the UUP had failed to deliver for victims and that, although the Belfast Agreement mentioned dealing with those issues, unfortunately it

seems that they failed to deliver on that. At least one party is honest enough to admit that it fell short when it came to dealing with victims' and survivors' issues.

**Mr McClarty:** Was the Minister not a member of the Ulster Unionist delegation, which took part in the talks at Weston Park, at which the issue of victims was not mentioned?

**The junior Minister (Mr Donaldson):** Indeed I was; I was there to keep an eye on the Ulster Unionists and to ensure that they did not sell out Ulster any more. [Interruption.]

The amendments under discussion broadly deal with two issues; namely, the appointment of a chief commissioner and the voting arrangements for the commission that are to be provided in its standing orders. I will now outline why the Office of the First Minister and deputy First Minister has tabled an amendment that amalgamates those issues. I will deal with amendment No 12 at the end.

Amendment No 8, tabled by OFMDFM, provides that, at any time, the First Minister and deputy First Minister, acting jointly, may designate a chief commissioner. It also provides that, at any time, that designation can be revoked if it is not felt to be in the commission's best interests. The commission's standing orders will provide for matters such as a quorum, procedure at meetings and chairing arrangements. The legislation currently leaves it to the commissioners to decide on such matters. That is an appropriate arrangement, and one that is in line with practice in other established commissions. We have every confidence that the four commissioners designate are best placed to decide on those matters at this time.

The amendment allows flexibility to designate a chief commissioner. Again, that allows for the structure of the commission to be flexible, to meet the changing or emerging needs of victims and survivors and to ensure that its adequacy and effectiveness are underpinned. The amendment is sufficiently wide in order to allow the First Minister and deputy First Minister to appoint a chief commissioner from the existing commissioners, or, alternatively, to appoint a new commissioner who could then be designated as chief commissioner. That power is an enabling power, and there is, therefore, no need to outline the specific duties of the chief commissioner in the legislation.

**Mrs D Kelly:** Will the Minister state whether the DUP or Sinn Féin took on board the view of victims' groups as to whether there should be a commissioner or a commission, given the somewhat belated emphasis that they have placed on the feelings and views of victims' and survivors' groups?

**The junior Minister (Mr Donaldson):** I assure the Member that, prior to the appointment of a commission, several victims' groups have indicated their support for the establishment of a proper commission in Northern Ireland. I accept that that is not a unanimous view, but if Mrs Kelly is to

visit the websites of some of those groups, she will find that, in previous representations on the matter, those groups supported the concept of a commission.

OFMDFM believes strongly that its amendment strikes a good balance between allowing the commissioners — as currently envisaged — to work together and to decide their standing orders and chairing arrangements, and providing the power to designate a chief commissioner at any future time without the need for further legislation. I, therefore, urge Members to reject amendment No 2 and consequential amendment No 7.

The next issue that the second group of amendments raises is that of the commission's voting procedure. OFMDFM has proposed an amendment that would allow for decisions to be made on a majority basis in the commission, in normal circumstances. The legislation as drafted provides for the commissioners to decide between them when a majority vote would be sufficient. However, given the concerns that exist — as evidenced by what has been said in the House and by the amendments tabled — we have decided to make it clear that the commission's standing orders must allow for decisions on any matter to be made by a majority of those voting.

However, there are two exceptions to that. The first deals with the work plan for the commissioners and any amendment or revision to that work plan. Currently, the commissioners' work plan needs to be agreed in conjunction with OFMDFM. It was felt that that should have the support of all those who will vote on the matter. Amendment No 8 is drafted in such a way that any member can abstain or simply note the work plan, which would not prevent a decision from being taken. OFMDFM is content that that would provide the optimum buy-in and input to the work plan by all the commissioners and OFMDFM.

The second issue is the provision of financial assistance under article 7(1) of The Victims and Survivors (Northern Ireland) Order 2006, which deals with research and educational grants. It is not envisaged that the commission would have a significant budget for that. The Department decides on all financing to the commission. However, that provision is another safety mechanism on matters of expenditure.

It is not envisaged that the commission, or any commissioner, will play a role in the distribution of any funding to groups or individuals. The remit of the commission is clearly set out in article 7 of The Victims and Survivors (Northern Ireland) Order 2006, and does not include a funding role.

Amendment No 8 also provides that, when the commission is operating some of its responsibilities as set out in article 7(4) and article 6(2) of The Victims and Survivors (Northern Ireland) Order 2006, it must specify whether that decision was taken by a majority or all of those who voted. That will allow the flexibility for majority decisions to be taken on any issues, while making clear what level of endorsement a decision carries.

Amendment No 8 also places a statutory duty on the Department to keep the working arrangements of the commission under review. That will offer the strongest possible protection to ensure that any issues of working-arrangement problems or a lack of effectiveness can be addressed.

The amendment also provides that the First Minister and deputy First Minister, acting jointly, can give directions to the commission to regulate its procedure. It is not envisaged that that power will be used frequently. However, it provides an option that enables the First Minister and the deputy First Minister to intervene if it is clear that a problem has arisen in the agreed standing orders and in the working arrangements of the commission. That will also afford the First Minister and the deputy First Minister the ability to make a direction, if required, after the statutory review.

We urge all Members to support amendment No 8, and reject amendment Nos 9, 10 and 11.

**Mr Kennedy:** I thank the Minister for giving way. In his response, particularly when referring to Members' contributions on amendment No 8, he made an unfortunate attack on my colleague the Member for Lagan Valley Mr Basil McCrea. Although even Mr McCrea will accept that he is a comparative newcomer to representative politics, that is no cause or reason for the junior Minister to indulge in such a personal invective against the Member. Basil McCrea uses exclusively peaceful and democratic means to put forward his arguments, which has not always been the case with Ministers from OFMDFM.

**The junior Minister (Mr Donaldson):** Basil McCrea needs to learn that if he is going to go on the attack and make the type of statements that he made during his contribution, he must be prepared to take a little back in return. That is the rough and tumble of politics. My record was questioned by the Member for Lagan Valley Mr McCrea, and I make no apology for defending that record. I stood shoulder to shoulder with victims during the dark days of the Troubles. Certain people who now talk loudly were nowhere to be seen in those days. I make no apology for describing them as ceasefire politicians.

Amendment No 12 concerns the proceedings of the commission and the implications of any defect in the appointment of any of its members. The Bill provides that any proceedings of the commission would not be affected by any defect in the appointment of any of its members. The amendment seeks to delete that provision, which would serve only to create uncertainty about the validity of all the proceedings of the commission, should any defect in an appointment come to light.

**Mrs Long:** I thank the junior Minister for giving way. I recognise the sensitivity of this issue, because there have been previous cases in which courts have struck down pieces of work. In that particular case, the decision was very unfortunate.

Does the junior Minister not accept that removing line 40 from page 4 of the Bill does not change the fact that a court could choose to strike down this piece of legislation — regardless of what it states — because such decisions will ultimately be made by a court?

**The junior Minister (Mr Donaldson):** The courts will make decisions if there are challenges; and those decisions must be left to the courts. The commission is a body corporate, not a collection of individuals. I see no compelling reason why a defect in appointing one individual should render the decision of the commission in doubt. I, therefore, urge Members to reject amendment No 12.

**Mr Speaker:** Order. Mr Ford does not have sufficient time to wind up on amendment No 12 before 2.30 pm, when Question Time will commence. I, therefore, suggest that Members take their ease until 2.30 pm. The debate will resume at 4.00 pm, when Mr Ford will make his winding-up speech.

The debate stood suspended.

2.30 pm

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

Executive Committee Business

Commission for Victims and Survivors Bill

Consideration Stage

Debate resumed:

**Mr Ford:** The second group of amendments cover the kernel of the discussions that we have been having in this place — and over the airwaves and in corridors — over the past four and a half weeks. They cover two areas. Amendment Nos 2 and 7 relate to the issue of a chief commissioner and the staff reporting lines to that chief commissioner. Amendment Nos 9 and 10,

which were tabled by the Alliance Party, and the SDLP's alternative amendment — amendment No 11 — relate to the voting procedures within the commission, specifically the need to move away from unanimity to some type of weighted-majority voting system to reduce the deadlock that will ensue if each commissioner holds a veto on every aspect of business.

We did not table the amendments out of any malice towards the Bill, but because we sought to make the Bill better, and we believed that we were fulfilling our role as a constructive opposition. Our amendments have stood the test of the debate, unlike the late amendment in Mr Donaldson's name, which, it appears, has taken four weeks for OFMDFM to dream up. Mr Donaldson's comments suggest that he is not on a solo run as a Minister, but it is unusual that the amendment is tabled in his name only — especially when one considers how the procedures of the House work.

As Dolores Kelly eloquently and accurately described it, it is a fig leaf. OFMDFM could have reviewed the victims' commissioner legislation almost a year ago, but did not. The First Minister and the deputy First Minister went ahead with the process of appointing a commissioner, in line with the legislation as it stood, until they ran in to problems at that famous after-the-Christmas-pud-meeting, when they realised that they were incapable of appointing a commissioner, and then started along the road of appointing a commission.

It has taken them from January to May to establish how that commission should operate. The delay has happened because entirely reasonable amendments seeking to improve the legislation have been tabled from this end of the Chamber, which caused utter consternation when it became clear that a large number of DUP Members agreed with the amendments tabled by Mrs D Kelly, Mrs Long and me, and had serious concerns about the Bill as it was originally presented. That is why we are debating those amendments today, along with the fig leaf amendment No 8, which attempts to cover up the differences in opinion that exist.

Considering the failure of OFMDFM to deal with those issues, it is little wonder that many victims and victims' groups are sceptical of seeing anything ever being produced by OFMDFM, and, frankly, that contributes to some Members' reluctance to allow that Department powers to regulate the workings of the commission. The operation of OFMDFM in relation to this issue so far would not give anyone any confidence that it is competent to deal with the operation of the commission.

Amendment No 8 not only fails to deal with the concerns expressed privately by Members of the DUP — including some quite senior Members — to their colleagues and to me over the last month, it fails to deal with points that were made on the airwaves by quite senior DUP members during that time. That must raise all kinds of questions about what the procedures of this House really are.

As I have already said, Dolores Kelly made the point that amendment No 8 is a fig leaf. I believe that she used the term "grubby", which was the term that I originally used about this Bill. In fact, the proposed wording for paragraph 9 reads quite well — it is very eloquent in its phraseology,

but it is still a grubby amendment dealing with the fact that a grubby Bill with a grubby purpose has been produced. The purpose of amendment No 8 is to cover up the differences that exist between the two parties that think they run this place, and that are so lacking in confidence that they run away from even debating their proposals until they are finally forced into doing so.

Sadly, only a few of the Back-Bench Members who are concerned about the way that the Bill was originally drafted are in the House, and even fewer participated in the debate — at least Mr Spratt had the courage to stand on his feet during the debate. It makes one wonder exactly what has been happening in private and how many arms have been twisted by the party Whips. There does not seem to be any agreement on the issue on which DUP Members are likely to be voting on in the near future. That question has failed to be answered.

The only point on which I disagree with Dolores Kelly is that she thinks that amendment No 11 is better than amendment No 10, and I think that amendment No 10 is better than amendment No 11. However, both amendments serve the same purpose and seek to create a commission with standing orders that actually work, because what we have been presented with — initially by the Executive and subsequently by Mr Donaldson's amendment — is simply not workable. Those are the real issues that will have to be addressed when the commission gets down to work, if we do not pass sensible amendments to improve procedures.

As I said, Mr Spratt — the sole DUP Member to contribute, apart from junior Minister Donaldson — at least had the courage to stand on his feet and make his points. However, being described as opposition for opposition's sake for proposing a reasonable set of amendments — with which Mr Spratt's colleagues agree — does not sound to me like opposition for opposition's sake; it sounds like being a sensible, constructive and coherent opposition. It would be a significant improvement if we ever had a constructive and coherent Executive in this place.

Despite what Mr Spratt said, amendment No 8 does not make any improvements to the commission's standing orders. The issue of simple majority in some areas relates only to areas of virtually no consequence — the key issues continue to require unanimity and continue to be as potentially unworkable —

**The junior Minister (Mr Donaldson):** That is nonsense.

**Mr Ford:** As the junior Minister says that that is nonsense, I will give way to him.

**The junior Minister (Mr Donaldson):** I thank the Member for giving way. Amendment No 8 will enable the commission to make the most of its decisions using a simple majority vote. The Member is entitled to the view that the majority of the work of the commission for victims and survivors is irrelevant. My view is that all the work of the commission is important to those who matter most — the victims.

**Mr Ford:** Allowing the commissioners to decide by simple majority whether to have tea or coffee is inappropriate. Amendment No 8 seeks not only to make decisions on standing orders to require unanimity — as prescribed in the original Bill — it seeks to make a work programme and issues of financial assistance on which unanimity is required. The amendment seeks to make more issues require unanimity than were in the Bill as it was introduced. Therefore, the Minister is arguing against the very point that he put on paper.

**The junior Minister (Mr Donaldson):** Will the Member give way?

**Mr Ford:** No. We have heard enough from the Minister. Perhaps I will give way later.

The question should be about why Members of the DUP have changed their minds by adding to, rather than lessening, the powers for unanimity.

Mr Molloy — who again is not in his place in his customary way — accused us of playing party politics. He appears to think that the act of tabling amendments is responsible for delaying the establishment of the commission. The delay came when the junior Minister Donaldson twice stated that:

“The Consideration Stage of the Commission for Victims and Survivors Bill will not be moved today.” — [Official Report, Vol 29, No 4, p161, col 1; and Vol 29, No 8, p364, col 1].

The delay did not come as a result of Members tabling amendments that seek to make a bad Bill workable; it happened because those who insisted on accelerated passage failed to debate the Consideration Stage of the Bill. Many of us have been in the Chamber on three occasions to discuss the Bill reasonably and sensibly. For DUP or Sinn Féin Back-Benchers to accuse us of being responsible for the delay suggests, according to the biblical parable, something to do with naves and beams.

It is time that some Members accepted that this is a legislative Assembly and that it is our duty to take legislation seriously. It is our duty, as the opposition, to table amendments. We accept the notion that we may win some votes and lose some. That may not be the way it happens in the ardhomhairle, but it is the way it happens in democracies.

With the exception of Jennifer McCann, who managed to repeat most of Mr Molloy's points, the other Members who contributed largely agreed with the thrust of our amendments. Mr Basil McCrea gave his customary support, describing amendment No 8 as shoddy. I am unsure as to how shoddy and grubby compare —

**Mr B McCrea:** They are pretty close.

**Mr Ford:** Thank you. The support that was evident today shows how Members view the debate, the lack of debate, and the lack of willingness to engage by OFMDFM.

My colleague Naomi Long, in her usual way, managed to address the deficiencies in the structures of the proposed commission and the attempts that we have made to remedy those deficiencies. She drew attention, as did several other Members, to amendment No 12, and she made the serious point that MLAs cannot pretend to be above the rulings of the courts. There is no reason that we should pretend that we are; and it is simply meaningless to suggest that by removing that pretence we were somehow contributing to instability.

The courts will decide what they wish, and we can do nothing other than accept that. We are not in the Parliament of the United Kingdom, which makes laws that can overturn the decisions of the courts. We have to be careful to act according to those decisions. That is also why amendment No 12 should be supported.

Naomi Long described amendment No 8 as smoke and mirrors. Today's debate and the lack of substance in the arguments in support of amendment No 8 prove her assertion. That amendment seeks to give the illusion to DUP Back-Benchers that the concerns that were raised through our amendments a few weeks ago, which they supported, were being taken on board. However, that is not the case.

Ms McCann said that we needed a commission with a range of experience. We do not. We need a commissioner, or as it now stands, a commission, that empathises with victims, that understands their concerns and that can deal with the needs of all victims from all backgrounds. We do not need some kind of Balkanised system in which some victims go to one commissioner and some go to another. What Ms McCann said was the opposite of the concept that issues progress inclusively so that problems are dealt with and society can move on. What she outlined will continue to prolong the agony by maintaining the divisions in society through the commission for victims and survivors, and that has to be objected to.

4.15 pm

Mr Cree made the point that amendment No 8 would require a greater degree of unanimity within the commission, and he accepted the points that we made about that. I was slightly worried when Mr Cree said that he did not particularly like amendment No 10 because it would remove the powers of direction from the First Minister and deputy First Minister. He seemed to think that we

do not trust the First Minister and deputy First Minister — I cannot imagine how he got that impression.

Mr Cree accepted that there is a serious issue with maintaining the situation whereby the victims' commission would be distinct from, and not immediately subservient to, the internal machinations of OFMDFM. That is a fundamental point, because that would give the commission the same level of independence as other similar commissions.

Mark Durkan also made that point in a further supporting speech. He said that if the commission is to have real independence, the commissioners cannot be subjected — even on standing orders — to directions from a Department whose ability to produce coherent directions on anything is sadly being tested at the moment.

Mark Durkan also made the key point that having a chief commissioner will not create a hierarchy of victims — something that has often been argued by Sinn Féin. Having a chief commissioner would ensure that the organisation is coherent, as one person could speak for it. That would also allow the entire team of staff to report to one individual, and it would ensure that progress could be made in an inclusive way.

Appointing a chief commissioner would prevent a situation in which individual commissioners could look after different sets of victims, with no progress being made. That has nothing to do with hierarchies — it is about practical working, and ensuring that progress is made. In order to ensure that the commission is coherent, the inclusivity that applies to Government must also apply to the commission.

In his response to the debate, Mr Donaldson said that everything that was previously mentioned in the Bill would require unanimity, and highlighted the issues that could be dealt with by a simple majority. However, the Bill, as presented, only refers to the requirement for unanimity on standing orders. As was said earlier, his amendment enhances the need for unanimity. That is a response to DUP concerns that unanimity would not be required to make any decisions. In fact, that issue has been pushed down the road, further away from what those Members argued for in recent weeks, and towards the position of Sinn Féin. I am not sure where that leaves DUP Members on the basis of what they said publicly. I congratulate Sinn Féin on its ability to persuade the DUP to see its point of view — even though no DUP Member is prepared to explain why they now accept the complete opposite of what they said less than one month ago.

**The junior Minister (Mr Donaldson):** Nonsense.

**Mr Ford:** The junior Minister can say that that is nonsense, but not one of those who raised their concerns — including those who gave radio interviews — is in this Chamber to explain why they changed their minds. All day, they have drifted in to cast their votes. Aside from those occasions, the junior Minister has been left with a troop of loyal Back-Benchers who — with the exception of

Mr Spratt — sit and say nothing. The fact that those Members do not explain why they changed their minds says a great deal about the strength of the arguments that were advanced. It also raises questions about how this procedure works.

Mr Donaldson used the terms “our” and “we” on a number of occasions. At times, it was difficult to tell when he was referring to the DUP, and when he was referring to OFMDFM. He made a very specific point, and responded graciously to an intervention of mine, when he said that it was “our view” that a chief commissioner is not required at present, and that that is the view of OFMDFM.

Amendment No 8 makes provision for a chief commissioner, and yet the junior Minister, when he proposed the amendment, told us that OFMDFM believes that a chief commissioner might not be needed. That raises all kinds of questions about whether there is anything genuine in that amendment. Perhaps that is smoke and mirrors being used by a magician that is not very good, or perhaps it is a compromise between the DUP and Sinn Féin — the DUP gets the power to say that there may be a chief commissioner, and Sinn Féin gets to ensure that one will never be appointed.

Amendment No 8 states that if any member votes against the standing orders, the provision of financial assistance or the work programme, those will fall. Mr Donaldson quite accurately pointed out that members who are in a minority may choose not to exercise that vote, but they may also choose to do so.

Nothing in amendment No 8 — or new paragraph 9 — will stop crises from arising if one Member refuses to go along with any aspect of those matters. The voting mechanism is crucial. Our amendments make provision for a weighted-majority voting system on all key issues, whereas the OFMDFM proposals have reinforced the requirement for unanimity on all of those. There is nothing in the OFMDFM amendment on how to deal with what happens if there is a problem. A decision on “any other matter” may be decided by a simple majority — that is fair enough, and the junior Minister has made that point. However, once the key issues have been dealt with — the financial assistance, the work programme and the standing orders — the easy bits will have been dealt with. That is assuming that they can be dealt with, because the requirement for unanimity makes it extremely doubtful whether the commission will always manage to deal with those issues.

Proposed sub-paragraph (5) of new paragraph 9 refers to the reporting of the mechanism and how each representation or recommendation was made. That is probably about the only element that is unexceptional. However, proposed sub-paragraph (6) of new paragraph 9 states that the Commission “may” designate a member as chief commissioner, and not that it “shall”. The commission may revoke that designation and it need not give any decisions as to how or why that is done. It seems that that provision is entirely illusory, and it is to give the impression that the DUP has listened to its own Back-Benchers, and that it has noted the amendments that were tabled a month ago. In practice, however, it amounts to absolutely nothing. Nothing of substance has been changed on the issues that DUP Back-Benchers were expressing concerns on a month ago. If anything, it has gone in the other direction. Why is the DUP making that pretence?

I am surprised that, having said what it did, the DUP has now reached the point where it is back to reinforcing points that we were told it did not like. The continuing absence of so many DUP Members suggests that at least some of them are embarrassed, but no doubt we will see them arriving to cast their votes.

Amendment No 8 does nothing whatsoever to address the concerns that have been expressed by the DUP. There “may” be a chief commissioner, and not “shall”, only if the First Minister and the deputy First Minister both agree — and Mr Donaldson said that we do not need one anyway. That is not a step forward.

At this point, it seems clear that Sinn Féin deserves to be congratulated for wiping the eye of the DUP Ministers and, by proxy, the DUP Back-Benchers. Sinn Féin may have persuaded the DUP, but it has not persuaded Members at this end of the Chamber. There is no reason why amendment Nos 2, 7, 9, 10 and 12 should not be made, or, if some of my colleagues to my right prefer it, amendment No 11 in place of amendment No 10. Amendment No 8 should be rejected entirely by anybody in the House who wishes to see a commission that will work.

Question put, That amendment No 2 be made.

The Assembly divided: Ayes 36; Noes 54.

AYES

Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Burnside, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Dallat, Mr Durkan, Mr Elliott, Mr Ford, Mr Gallagher, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Ms Lo, Mrs Long, Mr Lunn, Mr A Maginness, Mr McCarthy, Mr B McCrea, Dr McDonnell, Mr McFarland, Mr McGlone, Mr McNarry, Mr Neeson, Mr O’Loan, Mr P Ramsey, Mr K Robinson, Mr Savage, Mr B Wilson.

Tellers for the Ayes: Mrs M Bradley and Mr McCarthy.

NOES

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

McCrea, Mr McElduff, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Lord Morrow, Mr Moutray, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Poots, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Noes: Mr T Clarke and Mr G Robinson.

Question accordingly negatived.

**Mr Speaker:** We now come to the third group of amendments for debate. It will be convenient to debate amendment Nos 4, 5 and 6 with amendment No 3. These amendments prevent the appointment, as members of the commission or employees of the commission, of any person who has been convicted of a criminal offence. I remind Members that amendment Nos 5 and 6 are mutually exclusive.

I call Mr Danny Kennedy to move amendment No 3 and to explain the other amendments in the group.

**Mr Kennedy:** I beg to move amendment No 3: In page 2, line 29, at end insert

“( ) The First Minister and deputy First Minister acting jointly shall not appoint as a member anyone convicted of a criminal offence arising out of a conflict-related incident.”

The following amendments stood on the Marshalled List:

No 4: In page 3, line 17, at end insert

“(6A) The First Minister and deputy First Minister acting jointly shall remove from office as a member anyone convicted of a criminal offence arising out of a conflict-related incident.

(6B) For the purposes of this paragraph the definition of ‘conflict-related incident’ shall have effect as if for the word ‘Commission’ there were substituted ‘First Minister and deputy First Minister acting jointly’.” — [Mr Kennedy.]

No 5: In page 3, line 35, at end insert

“(2) If it appears to the Commission that a person it proposes to appoint as an employee has at any time been convicted of a criminal offence, the Commission may only make the appointment if it has obtained the approval of the First Minister and deputy First Minister to the appointment.” — [The junior Minister (Office of the First Minister and deputy First Minister) (Mr Donaldson).]

No 6: In page 3, line 35, at end insert

“(2) The Commission shall not appoint as an employee anyone convicted of a criminal offence arising out of a conflict-related incident.” — [Mr Kennedy.]

I am grateful for the opportunity to contribute to this third group of important amendments.

**Mr Speaker:** Order, order. Members are conducting private conversations in the Chamber. Order.

**Mr Kennedy:** It is hard to compete with that, Mr Speaker, but I shall do my best.

There is a saying:

“The past is a foreign country”.

I doubt whether any of us believes that Northern Ireland’s recent past is a “foreign country”. Our collective memory as a society has been scarred by more than three decades of violence and bloodshed. To a greater or lesser extent, that memory has shaped all who lived through those years.

It is tragic and sad that a total of 3,634 people were murdered in the decades leading to 1998. It is also sad that other lives have been lost since 1998. All the bereaved families have endured the ongoing pain of losing a loved one, in many cases to a brutal and violent death.

In creating a commission for victims and survivors, we must approach with respect the pains, memories and ongoing grief of victims. We must seek to establish for our entire society a framework for approaching our past in a manner that promotes healing and reconciliation.

It is on that basis, therefore, that the Ulster Unionist Party offers its three amendments. Amendment No 3 would prohibit OFMDFM from appointing as a commissioner:

“anyone convicted of a criminal offence arising out of a conflict-related incident.”

The terminology is drawn from the Victims and Survivors (Northern Ireland) Order 2006. It is already the established terminology employed in existing legislation, which recognises that criminal offences arising out of a conflict-related incident have a particular significance and meaning in our society.

Random individual crimes scar lives and undermine our social fabric. Criminal offences arising out of a conflict-related incident carry an additional significance. They point to acts, events and organisations that conducted ongoing campaigns of violence and inflicted great suffering and human rights abuses on our society.

Amendment No 3 recognises that, and it acknowledges that people with criminal convictions for such actions cannot reasonably be considered appropriate persons to work with victims, address victims' concerns or build positive relationships with victims.

Can we seriously or reasonably expect victims of violence or human rights abuses to accept as a commissioner a person convicted by the courts of violence and human rights abuses? Can we seriously or reasonably expect a victim of terror to accept as a commissioner a person convicted by the courts of acts of terror?

It should be noted that amendment No 3 does not discriminate between those who have been convicted of criminal offences arising out of a conflict-related incident. Amendment No 3 prohibits republicans, loyalists or anyone else convicted of taking the law into his or her own hands from being appointed a victims' commissioner.

A principled pragmatism is at work here. People convicted of conflict-related crimes must be prohibited from being appointed a commissioner if we want the commission to succeed in building confidence among victims, establish its own integrity and be acknowledged by wider society as meaningfully addressing the legacy of our conflict.

**Mr Spratt:** Will the Member clarify for the House why he refers only to people who have been convicted of crimes that are related to the Troubles, and not to paedophiles and every other type of criminal, as my party has?

**Mr Kennedy:** Surely, the Member understands that the legislation that is being created for a victims' commissioner is aimed principally at those who have suffered as a result of the Troubles — [Interruption.]

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

**Mr Kennedy:** Mr Speaker, it is a pity that junior Minister Donaldson continues to interrupt from a seated position. He will have the opportunity to deal with the issue in his own comments.

**Mrs Long:** Will the Member give way?

**Mr Kennedy:** I will in a moment.

Everyone knows that the legislation's intention is aimed principally at victims of the so-called conflict in Northern Ireland.

**The junior Minister (Mr Donaldson):** Will the Member give way?

**Mr Kennedy:** I must give way to Mrs Long first.

**Mrs Long:** I thank the Member for giving way. He referred to the comments that were made from a sedentary position. Will he agree that it is rather silly for anyone to draw a parallel between the statement that he was making and the notion that he means that paedophiles are OK?

**Mr Kennedy:** Absolutely. I accept that entirely. I am glad that Mrs Long understands the argument that is being made. It is a pity that neither the junior Minister nor, indeed, Mr Spratt understood the point that I was making.

**The junior Minister (Mr Donaldson):** I thank the Member for giving way. Surely the point is that it is inappropriate for someone who has a serious criminal offence to be a victims' commissioner, whether that person's crime is conflict-related or otherwise. My honourable friend made the point that the Member's amendment does not extend to cover other criminals and crimes. Therefore, it is not unreasonable to ask why not.

**Mr Kennedy:** I accept part of the logic that the junior Minister has put forward. However, I must say that he and others have failed to deal properly with the legislation's definition of a victim. I urge him and others to re-examine its inability in that regard.

**The junior Minister (Mr Donaldson):** Will the Member give way?

**Mr Kennedy:** I am sorry, I must continue. The junior Minister will have an opportunity to address the House on the matter. Members will look forward to hearing the view that he shares with his colleague the Member for North Belfast junior Minister Kelly.

Some opponents of amendment No 3 may suggest that it is drafted too precisely; that there are people in society who are guilty of acts of violence and terror, but have never faced the courts. That is true. However, with regard to drafting legislation, what objective criteria could be applied other than criminal convictions? There are, of course, people who would simply ignore the courts. However, for those who, throughout the conflict, adhered to the rule of law, what objective criteria could be applied other than convictions that are handed down by the courts?

As for people who say that amendment No 3 ignores the progress that has been made during the past 10 years, I suggest that they misinterpret, perhaps deliberately, the amendment's intention. People who have had a certain past can have a different future. Some of those who sit in the Executive testify to that. The legislation is not concerned with electoral mandates or about creating a power-sharing Executive that will allow Northern Ireland to move from conflict to peace. It is about dealing with victims' needs, winning victims' confidence, and creating a commission that is recognised as having integrity by victims. For that to happen, the Assembly cannot pass legislation that will humiliate victims by requiring them to approach a commission amongst whose number, as a commissioner, is a person who has been found guilty by the courts of acts of terror, violence and human rights abuses.

4.45 pm

It is for the same reasons that we have brought amendment No 6 — proposing:

“The Commission shall not appoint as an employee anyone convicted of a criminal offence arising out of a conflict-related incident”

— before the House. The same considerations apply to the post of commissioner. The commissioners will be the public face of the commission, and, therefore, it is incumbent on us to

ensure that they have the confidence of victims. However, it is the commission's staff who will interact with victims on a daily basis. Therefore, to ensure the confidence of victims, the recognition of the commission's integrity and the confidence of wider society that the commission can meaningfully address the legacy of our conflict, it is vital that its staff have not been judged by the courts to be guilty of the very acts that created the victims in the first place.

In that regard, as I said earlier, we would be humiliating victims if we required them to approach commission staff found guilty by the courts of acts of terror, violence and human rights abuses. A victims' commission that included in its staff perpetrators who had created victims could not reasonably be expected to have the confidence of victims. Amendment Nos 3 and 6 are required for the commission to function effectively and to authentically serve and address the needs of victims.

Amendment No 4 introduces two new sub-paragraphs, 6A and 6B. Sub-paragraph 6B merely removes any uncertainty and ambiguity from the grounds on which the First Minister and deputy First Minister can remove a commissioner from office. The amendment does not seek to undermine the necessary flexibility granted by the Bill with regard to the First Minister and deputy First Minister's acting in light of a commissioner's receiving a criminal conviction while in office. The Bill states that the First Minister and the deputy First Minister may remove from office a person who has been "convicted of a criminal offence". I recognise that such flexibility is required and is normal procedure in similar legislation.

However, I return to the point about the status of criminal convictions arising out of a conflict-related incident. Under the Victims and Survivors (Northern Ireland) Order 2006, article 2(2) states:

"'conflict-related incident' means ... a violent incident occurring in or after 1966 in connection with the affairs of Northern Ireland".

Therefore, proposed sub-paragraph 6A addresses two, perhaps unlikely, prospects: that of a commissioner being appointed who has a criminal conviction arising out of a conflict-related incident, which only becomes public knowledge after appointment, and that of a commissioner who, subsequent to appointment, receives such a conviction. In legislating on a matter of such great sensitivity, there is a strong case for considering such eventualities — and for promoting the confidence of victims' groups in the new commission.

Finally, proposed sub-paragraph 6B is a technicality to provide OFMDFM with the power to define "conflict-related incident" when considering the appointment of a commissioner. Once again, the wording of the 2006 Order should be recalled:

"'conflict-related incident' means an incident appearing ... to be a violent incident occurring in or after 1966 in connection with the affairs of Northern Ireland".

**Mrs D Kelly:** I thank the Member for giving way. Will he clarify whether that would apply to any jurisdiction, whether the North of Ireland or the Republic of Ireland?

**Mr Kennedy:** The jurisdiction of Great Britain and Northern Ireland would be the prime consideration; whether that could be extended to other jurisdictions remains to be seen.

Although some people in OFMDFM may have particular interpretations — [Interruption.]

Does the junior Minister want me to give way? He is being particularly disruptive. If he wants to be the naughty boy, I will be happy to give way and to hear from him at any stage. After all, he is a former Ulster Unionist.

**The junior Minister (Mr Donaldson):** I simply pose a question as a follow up to Mrs Kelly's fair question. Are we to presume that the people who bombed Dublin and Monaghan would be eligible to be commissioners because their offence was not committed in the United Kingdom of Great Britain and Northern Ireland?

**Mr Kennedy:** Clearly not; but we are subject to international law — [Interruption.] I see that Mr Donaldson is not the only child in the Assembly today.

The Ulster Unionist Party would be open to ensuring that anyone with a criminal conviction should not be eligible for appointment as a commissioner.

Although some people in OFMDFM have a particular interpretation of the decades since 1969, that aspect of the 2006 Act and the power that would be granted by this amendment are based on objective criteria. Criminal convictions for acts of terror, violence or human rights abuses associated with the conflict cannot easily be explained away — they are objective facts. Therefore, I commend amendment Nos 3, 4 and 6 to the House.

Those amendments seek to secure the confidence of victims in the commissioners and in the commission, and to secure wider public confidence in the integrity of the commission. The amendment that was put forward in Mr Donaldson's name on behalf of OFMDFM appears to treat all criminal convictions equally, when it is obvious that conflict-related offences have a particular significance for the workings of the victims' commission.

It would be helpful —

**The junior Minister (Mr Donaldson):** Will the Member give way?

**Mr Kennedy:** I will give way in a second.

It would be helpful if the junior Minister would give the House an explicit guarantee that his amendment will prevent someone with a conflict-related conviction being appointed as a victims' commissioner.

**The junior Minister (Mr Donaldson):** I am glad that the Ulster Unionist Party is consistent in seeking to create a distinction between crimes because I recollect that, in 1998, that party signed up to an agreement that resulted in the early release from prison of those criminals whom he is now seeking to exclude from office on the basis that their crimes were conflict-related.

According to Mr Kennedy, it does not matter whether an ordinary criminal is a commissioner; what really matters to him is that the people whom he and his party released early from prison do not have the opportunity to become commissioners. I am astounded.

**Mr Kennedy:** I thank the Minister for being astounded, but I remind him that, given that his party is sharing power, he is not in a strong position to lecture on the issue.

**The junior Minister (Mr Donaldson):** You are also sharing power.

**Mr Speaker:** Order.

**Mr Kennedy:** The DUP is intent on imposing power to the exclusion of others in the House, and there is evidence for that today. Furthermore, the junior Minister's party has placed Sinn Féin representatives not only at the heart of Government, but at the heart of policing. He despised the Ulster Unionist Party for sharing power, but, when we first did that, the largest party opposite was not Sinn Féin; our principal partner in Government was the SDLP. The DUP allowed Sinn Féin to take the ascendancy and is now clearly in partnership Government with Sinn Féin. The DUP continues to vote with Sinn Féin, as we have seen today.

**Mr Storey:** Will the Member give way?

**Mr Kennedy:** I am sorry, I am almost finished.

Given the voting patterns that have emerged today, it is unlikely that the Ulster Unionist Party's amendments will be accepted. I regret that because they have been offered as a sensible contribution to an important debate.

Those are the actions of the two largest parties that are in Government together, and they are not exercising any significant degree of collective responsibility. That is the continuation of a coalition that was forged through political necessity and I have no doubt that, when the votes are cast later, further evidence of that will be demonstrated. Nevertheless, I commend the amendments to the House.

**Mr Moutray:** I welcome the Commission for Victims and Survivors Bill. In common with other Members, I wish to place on record my and my colleagues' wholehearted support for ensuring that society's innocent victims have a voice through the newly appointed commission. The debate is important and, ultimately, it will enable Members — as a body of elected representatives — to get the Bill right and to champion the needs of those in society who have suffered alone for too long.

**Mrs D Kelly:** Will the Member give way?

**Mr Moutray:** No. As I said on a previous occasion, I hear quite a lot from Mrs Kelly in another place.

I welcome the fact that we have before us several rational, logical and sensible amendments that have been tabled by the Office of the First Minister and deputy First Minister. My honourable friends have spoken about those in respect of the first two groups of amendments. As for the third group of amendments, I support amendment No 5 and oppose amendment Nos 3, 4 and 6.

In comparison to the amendments tabled by Mr Kennedy, the scope of amendment No 5, which was tabled by OFMDFM, is broader and more inclusive, and it would disallow a person whom the commission proposed to appoint as an employee who has, at any time, been convicted of a criminal offence. Furthermore, the insertion in schedule 1, page 3, line 35 includes the provision that the commission may make an appointment only if it has obtained the approval of the First Minister and the deputy First Minister.

The problem with amendment Nos 3, 4 and 6 is the phrase "conflict-related incident", as mentioned by Mr Kennedy. Such a phrase includes only individuals who have a criminal

conviction related to the 30 years of the Troubles. That simply does not include individuals who have a criminal conviction that is not related to the Troubles. Ultimately, such a statement would create a limiter and exclude people in society who have committed a serious offence.

**Mr B McCrea:** Will the Member give way?

**Mr Moutray:** No. I have listened to the Member all day, and it is my turn to speak.

A paedophile, a non-sectarian murderer, a convicted thief, a rapist or a fraudster might apply for and obtain a position. I for one would not appreciate such people dealing with the affairs and needs of society's victims. If Members support amendment Nos 3, 4 and 6, such a scenario could be possible, thus increasing the chance of innocent victims being demeaned and the commission's being susceptible to failure.

Amendment No 5 would ensure that both the commissioners and their employees, with whom innocent victims will deal, have been approved by the Office of the First Minister and deputy First Minister, and Members and victims could take heart from that. The commission would be able to make an appointment only with the approval of OFMDFM. Amendment No 5 would instil Members with the confidence that victims' needs would be put to the fore. Ultimately, such an addition to the Bill would provide a safeguard and protection for those in society who have suffered for too long at the hands of the direct rule Administration. In addition, it would reduce those people's vulnerability and ensure the appointment of high-calibre commissioners and employees.

Members know the importance of matters relating to victims and survivors and that a commission for victims and survivors must be established on firm foundations as quickly as possible in order that work in that area can progress. I acknowledge that fine-tuning took some time; however, the DUP was adamant about getting it right and addressing the prevailing and potential problems facing the proposed commission. I assure the House that, unlike many others who have attempted to undermine the process, the DUP is committed to innocent victims' needs and to those people who have suffered great personal loss and been forgotten for too long.

Following a priority bid from OFMDFM, the Minister of Finance and Personnel, Mr Peter Robinson, secured and allocated approximately £36 million for this sector.

Therefore, the resources are in place for the proposals to work. Ultimately, progress has been made and the wheels are in motion to champion the needs of innocent victims. Amendment No 5 protects that band of people in society. Although the definition of a victim should include the perpetrators, the Bill does not allow for that. The DUP will not fail the electorate on its pledge to the innocent victims and survivors of the Province.

5.00 pm

**Mr Molloy:** Go raibh maith agat, a Cheann Comhairle. I support amendment No 5 and oppose amendment Nos 3, 4 and 6. Like amendment No 8 this morning, amendment No 5 takes into account the issues raised by the other amendments. The purpose of an amendment is to make some changes to the Bill that satisfy the concerns of Members, which amendment No 5 does. It is up to the Assembly to give the commission the power to get on with its work, which amendment No 5 provides for.

Ulster Unionist Party Members oppose that because they have not decided if they are part of the Government — some days they are in it, some days they are not. They want a Minister, but they do not want to adhere to collective responsibility. The SDLP also has a Minister in the Executive: collective decision-making seems to affect its Members on all other issues, and they lecture the rest of us about collective decision-making.

**Mr B McCrea:** I am not sure where the Member is coming from. Surely, he welcomes interventions from other parties, even if they just put forward a reasonable point of view — not everybody gets everything right the first time. It is good for democracy — and I trust that the Member is a democrat — that other Members table amendments, try to win people over, listen to other viewpoints and try to build a consensus. What is the problem with that? Why should we not table amendments?

**Mr Molloy:** I began by saying that amendment No 5 takes previous amendments into account and has tried to accommodate them. All the Member's contributions in the debate have been interventions, incidentally. Other Members' opinions have influenced the decision-makers, who have tabled an amendment that is a compromise. I thought that the Member would be happy that amendment No 5 takes his concerns into account and that he would support it. Instead, there will, most likely, be more divisions. Therefore, it is difficult to find a way forward that will allow the commission to do its job.

**Mrs D Kelly:** Will the Member acknowledge that the junior Minister Mr Donaldson stated that the amendments were not put to the Executive and that there was no discussion with either the SDLP Minister or, presumably, the two Ulster Unionist Party Ministers?

**Mr Molloy:** The Member will also recall that the junior Minister Mr Donaldson said that the original proposal for the commission was agreed by the Executive. Therefore, every amendment does not have to go back to the Executive — surely, we want decision-making, not amendments going back and forth continuously. We want the commission to have the power to get on with its work. It is important that Members focus on the needs of victims and survivors and avoid the party-political point scoring that has, unfortunately, happened in the Chamber today.

We must give the commission the power to deal with the situation and have the flexibility to accommodate victims and families on proposals that they may have rather than dictating what they should be doing. The commission must be allowed to get on with its work, and Members should give it the necessary support.

**Mrs D Kelly:** The subtle difference in the language used by Mr Moutray and Mr Molloy is interesting. Mr Moutray referred to the “innocent victims”, for which there is no definition, and Mr Molloy referred to the “victims”.

It has been agreed that this is a sensitive piece of legislation, which must deal with a very brutal past — one in which more than 3,000 people lost their lives, and many more thousands were injured. It is because of the sensitive nature of this legislation that the SDLP recognises amendment Nos 3 and 4, which were put tabled by Mr Kennedy, and which concern public appointments. The SDLP will be supporting amendment Nos 3 and 4. There is a very clear demarcation between the public appointment of commissioners to the victims’ commission and any other public appointments. This matter warrants special consideration. It would be an obscenity if commissioners had been the perpetrators of some of the most brutal crimes of the past.

The SDLP will not be supporting amendment Nos 5 or 6 because there has to be a clear differentiation between the employees of the commission and the commissioners. Mr Donaldson has said that OFMDFM will potentially step in if the tea lady for the commission did not pay her TV licence fine, but they would not touch at all on the more difficult appointment of a commissioner.

**The junior Minister (Mr Donaldson):** In paragraph 3(6)(a) of schedule 1 to the Bill, provision has already been made for the First Minister and the deputy First Minister to remove a commissioner if that person is convicted of a criminal offence. There is an even-handed approach. The powers of the First Minister and the deputy First Minister apply to commissioners and employees.

**Mrs D Kelly:** I thank the Minister for his intervention, but that does not deal with past convictions, and in particular, conflict-related convictions. Mr Molloy has made great play —

**The junior Minister (Mr Donaldson):** Will the Member give way?

**Mrs D Kelly:** Yes.

**The junior Minister (Mr Donaldson):** I am grateful to the Member for giving way, as it allows me to provide clarification on the amendments. The commissioners will be appointed by the First Minister and the deputy First Minister. If the First Minister and the deputy First Minister wish to

appoint a commissioner who had committed a criminal offence, that decision would be made at the appointment stage, so situations would not be dealt with only after commissioners are in post. The First Minister and the deputy First Minister also have the power to block the appointment of anyone who has a criminal conviction in the first place.

**Mrs D Kelly:** The junior Minister might note that we are not afraid to take interventions from the other side of the House, unlike some of his colleagues.

If that is an assurance that the First Minister and the deputy First Minister will not appoint someone who has a conflict-related criminal record, I welcome that. The legislation, as currently drafted, does not prevent that and does not offer an overall guarantee. Mr Molloy made comments about political footballs, political interference and political comments — although they were made in a political Chamber. One would wonder what Members would be here for if we did not make political comments.

On 22 April 2008, Sinn Féin played to the media and said that it had consulted and been in touch with other parties. In fact, a written answer that I received on 2 May stated that junior Minister Kelly contacted party leaders only on the morning of 22 April. There was no consultation on the amendments prior to 22 April, and no way for people to have dialogue with the other parties, or with OFMDFM — we were denied that opportunity at Committee because of the so-called accelerated passage of this legislation.

I do not wish to prolong what is going to be a very long day. Our party will be supporting amendment Nos 3 and 4, but opposing amendment Nos 5 and 6.

**Mr Lunn:** The Alliance Party will, regrettably, oppose all of the amendments in this group, even though some of them come from the unofficial opposition, and some from the Government.

The Alliance Party's reservations concern whether these amendments are needed in the first place and the way in which they appear to cut across existing legislation — I am talking about legislation that deals with limitation of offences and the rehabilitation of offenders — natural justice and the rules governing public appointments in general.

Amendment No 3 states that the First Minister and deputy First Minister:

“shall not appoint as a member anyone convicted of a criminal offence arising out of a conflict-related incident.”

There is no mention or obvious indication of how serious a criminal offence is being referred to. I imagine that the amendment refers to a crime that is fairly serious and violent, but a criminal offence could be pushing over a policeman at Drumcree 20 years ago.

**Mr Spratt:** That is still an offence.

**Mr Lunn:** Is that really a reason for an offence to be held against somebody for all time? Is the amendment necessary? There is already legislation in place to cover those matters.

**Mr Molloy:** Is the Member saying that the provision about criminal offences should be removed? Does he believe that being convicted of pushing over a policeman should not be any barrier to a person being appointed to the commission?

**Mr Lunn:** Normal legislation would take care of such situations. Furthermore, the First Minister and deputy First Minister would first have to agree about the matter. To date, they have not agreed on too much as far as this issue is concerned. Built-in safeguards are already in place.

Mr Kennedy mentioned that a definition of a conflict-related incident exists in some other piece of legislation. However, none of the amendments makes reference to that legislation. Thus, we are left with the wide general term, "conflict-related incident".

Moreover, no time limit is mentioned. People talk about the 30 years of the Troubles, but it is actually 40 years now. Are we really going to hold such offences against people all that time? I am thinking of employees rather than commission members. The rules governing employment are more stringent and clear-cut. Therefore, as has already been mentioned, somebody who has committed a serious criminal offence that is non-conflict-related would, in certain circumstances, not have to declare their conviction. They could have a very serious conviction that falls outside the 10- or 12-year period or whatever. However, under this proposal, if individuals have committed an offence that is conflict-related but utterly trivial, they have to declare it — at least, I think that is the case; again, it is not very clear. They would not have to declare it under the terms of the existing legislation.

I presume that proposed paragraph 6A in amendment No 4 refers to a post-appointment situation. That is not stated, and, again, confusion reigns. It states:

"shall remove from office as a member anyone convicted of a criminal offence arising out of conflict-related incident."

There would already have been an opportunity at the outset not to appoint an individual who is guilty of such an offence. Does the amendment refer to an offence that happened after the appointment was made or a previous offence that came to light after the appointment was made?

**Mr B McCrea:** Will the Member give way?

**Mr Lunn:** Absolutely, seeing as it is Mr McCrea.

**Mr B McCrea:** It is quite clear that the amendment refers to a post-appointment situation, whereby a commissioner is convicted of an offence. Obviously, one cannot hold something against somebody until they are convicted. The meaning is as one would guess, and that is the only way in which we could table the amendment.

**Mr Lunn:** I thank Mr McCrea for his intervention. The problem is that we should not have to guess in those matters. Even if the amendment refers to a post-appointment situation, it is still not clear. I read proposed paragraph 6B a few times today. The party gave its best brains the task of figuring out what it means. I even asked Mr Kennedy what it meant this morning. I am none the wiser.

[Laughter.]

It is a pity that Mr Kennedy is not in the Chamber now, because I would love him to intervene and tell me what it means. The amendment just does not appear to bear any relationship to the Bill that it is trying to amend.

On the grounds of total confusion, the Alliance party will not be supporting amendment No 4; and I have a feeling that we would not support it even if we did understand it. [Laughter.]

5.15 pm

Amendment No 5 — the Government amendment — does not mention “conflict-related incident”; rather, it inserts “criminal offence”. Frankly, that is overkill. There is a level of appointment and a level of responsibility in these matters. There is also existing legislation, and we do not need to include that amendment at all. We should trust the commission to make its own appointments, and to make them wisely.

Amendment No 6 is the same. It refers to the commission's appointment of an employee; however, its wording again states "conflict-related incident" instead of a general conviction. Legislation exists to cover those matters. Sensitivities surround this particular organisation, but sensitivities also surround the appointment of employees to the Northern Ireland Policing Board and various other organisations. Prospective employees could pose a security risk, or what might be loosely described as "sensitivities" could be a factor. We do not need separate, draconic rules introduced for this particular body. For all those reasons, the Alliance Party must oppose all the amendments in the third group.

**Mr B McCrea:** I chose not to intervene too much during Mr Lunn's contribution, because I hope to answer much of what he was questioning. At the core of the debate is whether there is a need to define something as conflict-related or simply criminal. I agree with what I believe was Mr Lunn's main point concerning the statute of limitations. Legislation exists that covers all areas of criminal activity. Some Members mentioned paedophiles, as if that equated with this issue. A problem with the criminal-justice system is that no mechanism exists to deal with people who have committed a crime, served their entire sentence, yet still present a risk to society, because people cannot be tried for something that they may or may not do. That issue was raised and explained to us at length on the Policing Board, of which I am a member, and I believe that it was to that issue that Mr Lunn was referring.

What is to be done about people who have served their time? There are specific reasons why particular requirements are necessary for the victims' commission. It is unreasonable to expect victims of crime to have to humiliate themselves by applying to a commission, some of whose members may have been involved in making them victims. To avoid putting them in that extremely serious position, it is worth introducing clarifying amendments. Therefore, it is on the specific issue of conflict-related incidents that we wish to amend the Bill, although I accept Mr Lunn's point about general convictions.

The debate appears to be Alice in Wonderland stuff. We are talking about asking victims of crime to come forward to people who made them victims. I do not know how people can sleep in their beds at night over this issue. It is another political fudge. It is a back-room deal taking place in this ivory tower in which we try to convince people that black is white; that wrong is right; that good is bad. That is not correct: people outside who listen to, or read the text of, this debate, and who look at people in the Chamber as potential leaders, do not want us to fudge such issues. They want us to debate them honestly.

They want us to resolve the situation. Several comments, frankly, smack of hypocrisy and cant. My friend Mrs Kelly thought, quite appropriately, that we were having two debates. Mr Moutray talked about "innocent victims" but offered no definition of the term, while Mr Molloy mentioned "victims" — there seems to be some dichotomy.

We must resolve the situation to assist "innocent victims". Although definitions of the phrase may vary, to me they are passive, innocent bystanders who were affected through no fault of their own. We must help those people. Not only are they being lumped together with all sorts of other victims, they must make representations to those who caused them to be victims. It is

outrageous. Mr Molloy said that he is disappointed that some of us would put forward amendments —

**The junior Minister (Mr Donaldson):** Is it in order for a Member to infer that victims must make representations to potential perpetrators when there is no evidence that any of the four commissioners have been convicted of criminal offences? Do those comments not impugn the commissioners' integrity? I accept that there is privilege in the House, but the matter must be clarified. If the Member has evidence of any of the four commissioners having criminal convictions, he should say so. Otherwise, I hope, Mr Speaker, that you will ask him to withdraw his remark.

**Mr Speaker:** The Minister has made his point clearly.

**Mr B McCrea:** That intervention demonstrates, once again, that some people will argue that black is white. They are concerned about how the legislation will be applied in the future. However, that is not for the Assembly to judge, it is for the courts to do so. If a commissioner were someone convicted of a criminal offence related to the Troubles; that would put innocent victims in a difficult situation.

I hear the junior Minister, once again, speaking from a sedentary position. If he wants to intervene, he should ask; he does not need to mutter from the sidelines.

**The junior Minister (Mr Donaldson):** Members are allowed to have quiet conversations with colleagues. If the Member believes that power is needed to remove people who are convicted of a criminal offence from the commission, why is he restricting that power to criminal offences that are related to the conflict? Why does he not support our amendment, which would incorporate all criminal offences?

**Mr B McCrea:** It is worth having the debate. Is it right to appoint people with criminal convictions to the district policing partnerships or to the Policing Board? As Mr Lunn explained, there are sensitivities around many of the issues. This is a wholly exceptional case in which we are dealing with innocent victims of 30 to 40 years of terrorist atrocities. It is, therefore, not appropriate to appoint individuals with convictions relating to the Troubles as victims' commissioners, and an amendment must spell that out clearly.

However, if we are to dismiss commissioners who have been convicted of any criminal offence, the situation could get extremely absurd. Paedophilia is a criminal offence — but so is on-street parking. Would on-street parking be considered an offence that would merit a commissioner's dismissal? Such an offence would be not relevant.

Some Members have tried to prevent a reasoned debate on sensitive issues taking place. Some have resorted to personal attacks and others quoted statements that were not made, simply to deflect attention from their failure to deal properly with this sensitive issue.

It is my party's belief that conflict-related criminal activity creates serious issues. The Bill should have the power to deal with those properly. Some people have made allegations about "ceasefire unionists". Let me remind those people that the bulk of the Troubles occurred before 1972, and at that age — [Interruption.]

Do I hear a "what?"

The authors of 'Lost Lives' state that:

"The statistics reveal the intensity of the conflict in the early 1970s, with just over half of all troubles victims dying prior to 1977. More people were killed in 1972" — [Interruption.]

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

**Mr B McCrea:**

"More people were killed in 1972, the worst year of the troubles, than in the years 1991-99."

Anyone who was born in 1962 would have been 10 years of age at that time. I went to school at Belfast Royal Academy, which was in the heart of the murder triangle. Gunshots were fired through the school, and we were aware of all the incidents that were happening at that time. Those of us who kept going gave as much support to this country as anyone else. It is not just offensive, but strange, that people should try to show up those who made their contribution through commerce.

This situation is heading for a train wreck. We can have as many debates as we please. If the victims' commission does not address fully the needs of the victims, and if it is seen to fail, people will ask what the Assembly is for other than political fudge and backroom deals. That is unacceptable, because it does not lead to the future for Northern Ireland.

**Mrs Long:** I have listened very carefully to the debate on this group of amendments and the motivations for and against them, even though they were not tabled by my party. I find myself in

the unusual situation of defending the original legislation on this particular point. I am not convinced that any of these amendments add anything to this particular aspect of the Bill.

Our amendments have always been aimed at making the commission more workable and allowing a strong and coherent voice to be heard. I am not convinced that these amendments will achieve that. However, I will examine them in two separate sections. First, amendments No 3 and No 4 deal specifically with the commissioners designate. I accept Danny Kennedy's argument about the difficulties and sensitivities that surround those appointments. The appointment of a convicted bomber or gunman to such a post would clearly cause serious concern among those people who would have to seek their advice, particularly if they were a victim or a survivor of an incident in which the appointee was involved. That is a sensitive issue.

I also listened carefully to Dolores Kelly, who explained how the differences between the commissioners designate should be approached. She also spoke about staffing the commission. However, paragraph 3, sub-paragraph 6(a) of schedule 1 to the original Bill permits criminal offences of all kinds to be taken into account in the appointment of the commissioners designate. That would include, by definition, conflict-related offences. Therefore, from that perspective, we are no further forward if we are simply saying that the First Minister and deputy First Minister, acting jointly, have to examine a subset of convictions when making an appointment, as opposed to taking all kinds of convictions into account. Essentially, the same people will be making the decision at the end of such a deliberation.

We must be honest and admit that the appointments processes for the very persons who appoint the commissioner designate, direct the workings of the commission, develop the victims' strategy and award a budget are not so constrained by such important sensitivities that a conviction for a conflict-related offence would bar them from office. There are difficulties surrounding those who structure and direct the commission being given a degree of freedom that the commission itself would not be afforded.

Paragraph 3(6)(a) of schedule 1 specifically deals with the issue of the commissioners and criminal offences in a more comprehensive way than the alternatives that have been proposed.

5.30 pm

I accept that there are specific differences. I hope that no one in the Chamber would equate a person who fails to pay a fine and ends up with a criminal conviction with a person who took a life during the Troubles. However, we must be realistic and accept that those who took lives during the Troubles are a subset of those who have criminal offences, and they will be dealt with under paragraph 3(6)(a) of the original Bill. Although I agree with the purpose and thrust of amendment Nos 3 and 4, they do not add to the delivery of that aim and objective, and, therefore, we cannot support them.

Amendment Nos 5 and 6 deal with staff members. That issue is already dealt with in employment legislation. Trevor Lunn pointed out, rightly, that The Rehabilitation of Offenders (Northern Ireland) Order 1978 deals with the expiry of criminal convictions and spent convictions and the way in which they should be handled. We will be entering very murky waters if we say that the Commission for Victims and Survivors Bill will provide for different norms to those provided for by that Order.

That brings me to the crux of the debate, which is the definition of “conflict-related incident”. Danny Kennedy may correct me if I did not pick up on each element of his argument, but he provided a wide definition that included any violent incident since 1966 that was related to the Troubles. That was a type of working definition. Although I do not wish to minimize the importance of lawful behaviour, it is possible that a person who was involved in a relatively minor or peripheral way as a teenager, for example, could be barred from playing a full role as a member of staff.

When examining such matters, we must be careful about proportionality. We should not bar people who have put their pasts behind them and are willing to move forward, especially if their roles in conflict-related incidents — although they broke the law — might not have been extreme breaches of the types that other Members have described. Trevor Lunn used the examples of a person who had pushed another over, or of someone who, as a teenager, had thrown a brick at a bus. No one is saying that such activities do not breach the law or that they are not wrong — clearly they are wrong. Nevertheless, should they bar a person who is now in his or her 30s or 40s from undertaking an administrative role in the commission? Frankly, I am not sure that that should be the case.

**Mr Lunn:** Does the Member agree that it is not only a question of proportionality, but also whether the so-called offender would have to declare such a conviction at all? If the legislation on the rehabilitation of offenders states that a person does not have to declare such a conviction, it will not be on his or her record, as far as I know. Therefore, why should that person have to declare such a conviction for a particular job in a particular Department? Does the Member agree that that does not make sense?

**Mrs Long:** I agree entirely that that does not make sense. Part of the difficulty is that the legislation was drafted with a certain category of criminal offence in mind. That is part of the problem with having such a wide definition of a conflict-related incident.

It has also been suggested that power would be given to OFMDFM to define a conflict-related incident and what effect it might have. To be honest, I do not believe that OFMDFM, as it stands at present, is capable of agreeing a conclusion. There are clear differences of opinion, both in the Chamber and outside on the street, as to what constitutes a conflict-related incident or criminal activity in respect of the Troubles. All of those matters could become a barrier to our being able to deliver for victims, if we allowed them to. My party proposed amendments in an attempt to make the commission function better for the benefit of victims, but I am not sure that opening that Pandora’s box will do so, and that is why we have concerns about it.

I suspect that the definition of a conflict-related incident will be similar to the definition of a victim, which remains contested. If we wait until we have agreement on that, we will not actually deliver for those victims and survivors who are ageing and are seeking help and assistance.

From that perspective, I have doubts about those amendments. Amendment No 5 is at least clear in its mention of employees who have:

“at any time been convicted of a criminal offence”.

In that sense, the test is similar to that for the appointment of the commission. In those circumstances, as my colleague Trevor Lunn said, spent convictions and so on have to be the primary driver in any decisions about employment of staff. That was the case before these amendments and, frankly, that will be the case after these amendments. These amendments do not add anything substantive to the Bill, and I would prefer that they not be made.

**The junior Minister (Mr Donaldson):** I thank all Members who have contributed to the debate on this batch of amendments. Mr Kennedy opened the debate with the reasons why he felt that the Ulster Unionist amendments should be accepted. We have difficulty in accepting those amendments because of the narrow range of crimes that they cover. I accept his point that, given the specific role of the victims' commission, criminal offences committed in the context of the conflict — if we may call it that — are, perhaps, of greater relevance than other crimes.

Nevertheless, I am sure that Mr Kennedy would agree that people have been victims of other crimes, not just conflict-related crimes. Those people would find it equally difficult to deal with persons who have been convicted of such crimes. It would be absurd to disqualify an individual who had committed a paramilitary murder from membership of — or employment in — the commission but not disqualify a serial killer, simply because their murders were not carried out on behalf of a paramilitary organisation. The public simply would not understand that distinction.

**Mr Kennedy:** The intention is that all such people would be excluded, and that relevant legislation would be amended or enacted to ensure that.

**The junior Minister (Mr Donaldson):** I welcome Mr Kennedy's intervention but I urge him, therefore, to withdraw his amendments and support amendment No 5. Amendment No 5 treats all crimes the same, and grants the First Minister and the deputy First Minister the discretion to remove from office anyone who is convicted of a crime. Indeed, they already have the power to prevent such an individual from being appointed.

I hope that the Ulster Unionists will reflect on the confusion that has arisen following today's debate. Mr Lunn confessed to being confused by the inconsistencies in the Ulster Unionist Members' arguments in support of their amendments. Amendment No 5 provides clarity and adequately addresses the concerns that they have rightly raised. I do not object to the basis or the motivation for the Ulster Unionist amendments. However, they are simply not wide enough, and do not adequately cover all the scenarios that the Ulster Unionists want to cover; our amendment does. I hope that the Ulster Unionist Party will support our amendment and consider withdrawing its own amendments, even at this late stage.

I hope that I dealt with the issues referred to by Mrs Kelly in my interventions in the discussion on whether the First Minister and deputy First Minister would have a certain role to play in the process of appointments.

**Mrs D Kelly:** If paragraph 6A was so strong in the original legislation, what is the necessity for amendment No 5?

**The junior Minister (Mr Donaldson):** The reason is that paragraph 6 relates to appointments to the commission and does not cover the staff. Amendment No 5 is required to cover employees of the commission as well as the commissioners themselves. That is why we did not need to amend the Bill's provisions relating to appointments to the commission.

Mr Lunn raised valid issues about legislation relating to rehabilitation of offenders, which confers certain rights on offenders. We are mindful of that, and we have consulted our legal advisers. We are assured that our amendment complies with current employment law, and I am satisfied with that.

Mr Basil McCrea, like Mr Kennedy, sought to distinguish between crimes that were committed during the conflict and other crimes. I understand the point: the victims' commission will deal specifically with victims of the Troubles, and I accept that it is a particularly sensitive issue. However, I have mentioned several types of convicted criminals who could qualify for membership of the commission or for employment by the commission, if we did not have a wider definition. We believe that amendment No 5 more adequately covers the Member's point, and affords the protection to those who do not want to come into contact with "perpetrators", as he put it.

Mr Basil McCrea also said that we do not want amendment No 5 to exclude people who have incurred, for example, a parking offence. The amendment gives a degree of discretion. It states that the commission may only appoint a person convicted of a criminal offence if it has obtained the approval of the First Minister and deputy First Minister. That clearly implies that there is a degree of discretion. For a minor offence that has no bearing on the work of the commission, discretion can be exercised. Mr Lunn made a similar point. I hope that that clarification allays their concerns. We are not in the business of debaring everyone who has run across the law in the past, no matter how minor the misdemeanour, from holding this type of office.

**Mrs Long:** Will the Member give way?

**Mr Lunn:** Will the Member give way?

**The junior Minister (Mr Donaldson):** I give way to Mrs Long first.

**Mrs Long:** I hope that, in his answer to my question, the junior Minister will answer my colleague's question as well.

The junior Minister has mentioned that minor infractions of the law would not necessarily debar someone from serving as a member of the commission's staff, and he has mentioned the discretion available to the First Minister and deputy First Minister in approving someone's employment. He has said that this has been checked and is compatible with current legal and employment rights. Where does it sit with, for example, expiry of conviction? Is it fair for someone who has committed a relatively minor offence in the past to have to go through additional scrutiny? Would that match up with current legal employment norms?

**The junior Minister (Mr Donaldson):** It would be open to the First Minister and deputy First Minister to agree a protocol with the commission to deal with the points that Mrs Long makes. That is something we will look at. Mrs Long asks whether it is necessary, on each and every occasion, for the commission to refer, for this additional scrutiny, an employee if he or she has had any criminal conviction. We can look at how that might be dealt with in practical terms. A degree of discretion might be exercised. It is nevertheless important to have the safeguard built in, and that is why we have introduced amendment No 5.

**Mr Lunn:** Under the Rehabilitation of Offenders (Northern Ireland) Order 1978, there is no obligation on the applicant to declare a conviction.

OFMDFM seems to be introducing, by way of implication, a new requirement to declare such convictions, no matter how old or how trivial, simply because a person may be applying for that position.

5.45 pm

**The junior Minister (Mr Donaldson):** As the Member will know, very often, when people apply for a public position, there is a question on the pro forma relating to convictions. I was recently

appointed to the board of governors of a school in Lisburn, and I neglected to make a return about having a conviction. I was gently reminded by the board that it was a requirement to complete that section of the form. [Interruption.] I have a conviction from 1985 for a public order offence for taking part in a parade opposing the Anglo-Irish Agreement. I wear it as a badge of pride, I can assure you. [Interruption.]

Many employers today still ask for disclosure on criminal convictions. I take Mr Lunn's point, but he will note that amendment No 5 states:

"If it appears to the Commission that a person it proposes to appoint as an employee has at any time been convicted of a criminal offence".

There could be a scenario where someone does not disclose a criminal conviction. However, if it subsequently becomes clear that a person has a criminal conviction and that it is a matter of concern, that can be dealt with under this amendment. Nevertheless, I take Mr Lunn's point about spent convictions and about the requirement to disclose. If disclosure is required on the application form and an applicant fails to do that, it may result in consequences further down the line.

I take Basil McCrea's point about the bulk of the Troubles occurring before 1977. However, I am sure that he would agree that someone who died in 1977, 1987 or 1997 as a result of terrorist violence is still a victim. I know that he was not using the point to suggest that there is a hierarchy; nevertheless, it is important that we treat people with respect and deal with victims' needs. Often, it is the victims who have lived the longest with their grief and pain who most need help and support, because little help was available in the past.

Mrs Long raised some issues of concern about the legal implications of the various amendments. Her view is that we need proportionality in our approach. I hope that my earlier remarks allayed some of her concerns.

I have sought to address the UUP amendments and argued why I do not feel that the amendments are necessarily the right way forward. I have also pointed out that, under paragraph 3(6) to schedule 1, the First Minister and deputy First Minister already have the power to remove someone from office as a member of the commission if they have been "convicted of a criminal offence." Furthermore, anyone applying for an appointment is already required to provide details of convictions.

In the future, circumstances may arise in which it would be inappropriate for an individual to be appointed as a member of the commission because he or she had committed an offence that was not conflict-related. Therefore, it is not considered that amendment No 3 adds any additional safeguards to those already contained in the Bill.

Amendment No 6 raises the issue of employees of the commission. I wish to put on record that we do not consider that the commission will employ a large number of staff. OFMDFM has tabled an amendment that will mean that the commission will not be able to employ anyone with any criminal convictions unless he or she has obtained the agreement of the First Minister and deputy First Minister acting jointly. That is wider than the amendment tabled by the UUP, and the Department believes that its amendment covers the types of offences specified in the previously tabled amendment but goes further and offers better protection.

I ask Members to reject amendment Nos 3, 4 and 6 and to support amendment No 5.

**Mr Elliott:** I thank the Members who participated in the debate for what were, in the main, measured comments and submissions. I am pleased that junior Minister Donaldson came out in the open and reminded Members about his criminal record — although it was a long time ago and under different circumstances.

Mr Kennedy moved amendment Nos 3, 4 and 6 with graphic details of issues relating to the three and a half or four decades of the terrorist campaign in Northern Ireland. That campaign attempted to destroy the Province. Unfortunately, it was successful in destroying many families and creating havoc and division among the communities in Northern Ireland.

I was disappointed that an amendment on the definition of a victim, which was tabled in the names of myself and my colleague Danny Kennedy, was not accepted by the Business Office. The differences in Members' interpretation of a victim have been highlighted today. That was, for instance, highlighted by Mrs Kelly when she mentioned what Mr Moutray said about the innocent victims. My interpretation of a victim is close to that of Mr Moutray.

Mr Molloy also talked plainly about a victim. However, I am sure that Mr Molloy's definition of a victim is different to mine. It is unfortunate that there is still such division in today's society, but that has not happened by accident — it is a result of the three and a half or four decades of violence. Many Members and people outside the Chamber have first-hand experience of what it is to be a victim. Many were the innocent victims of the Troubles, and some were the perpetrators. Those people cannot be classified in the same definition of a victim.

My constituents in Fermanagh and South Tyrone are well aware of many incidents during the Troubles, not least the Enniskillen bomb in 1987, which sent many victims to their graves. Members will be aware of the recent media suggestions and inferences about who played a part in that atrocity.

Mr Kennedy detailed the reasons why the Ulster Unionist Party tabled the amendments and he explained the detail of them.

Junior Minister Donaldson said that his amendment deals with part of what our amendments seek to do. Paragraph 3(6) of schedule 1 to the Bill states that the Office of the First Minister and deputy First Minister has the power to remove from office a commissioner who has been convicted of a criminal offence. Amendment No 3, which was tabled by the Ulster Unionist Party, states that the situation should not even get that far — a person who has been convicted of a conflict-related offence should not be appointed as a commissioner.

**The junior Minister (Mr Donaldson):** The Member may recollect that I covered that very point in my comments earlier. I indicated that, since it is the First Minister and deputy First Minister who appoint the commissioners, they already have the power to decide not to appoint someone with a criminal conviction, and I can certainly say that they would not. Therefore, that point has already been well covered.

**Mr Elliott:** I thank the junior Minister for that clarification. That brings me to the next subject, which is the strange state of affairs in which OFMDFM has produced guidance for employers about recruiting people with conflict-related convictions. Employers must rule out any pre-1998 conflict-related convictions from their deliberations. I am concerned that that guidance will also be relevant to the appointment of victims' commissioners and staff in the commission. The impetus behind the UUP amendments is our concern that OFMDFM can disregard any pre-1998 conflict-related convictions in making those appointments.

**The junior Minister (Mr Donaldson):** For the life of me, I cannot understand where the Member is coming from on this matter. I am certainly not aware of any guidance, provision or anything else that the Member has indicated exists that would allow that to happen. The only thing that I can think of is the Belfast Agreement 1998, which distinguished between pre-1998 offences and those committed post-1998, for the purposes of releasing people convicted of such offences from prison. I am not aware of any guidance, any issue or any document from our Department that indicates the kind of situation or scenario that the Member has raised.

**Mr Elliott:** I am happy to provide the junior Minister with a copy of the document if he does not already have one; it comes from the Office of the First Minister and deputy First Minister so I am assuming that he has it. The document quite clearly indicates that pre-1998 conflict-related convictions should not be taken into account when recruiting people, unless the conviction is materially relevant to the employment that is being sought. Obviously, therefore, my concern and that of the Ulster Unionist Party is that, due to this guidance, we may end up with people who are appointed either as commissioners or as members of commission staff who could actually be in — [Interruption.] I will give way.

**Mr B McCrea:** I thank the Member for giving way. Paragraph 1.5 of the document concerned states, in summary:

“any conviction for a conflict-related offence that pre-dates the Good Friday Agreement (April 1998) should not be taken into account unless it is materially relevant to the employment being sought.”

Therefore, the Member is concerned that that provision may allow those with criminal convictions to obtain such positions; hence the need for our amendment.

**Mr Elliott:** That is exactly my reasoning, and that is the reasoning behind the Ulster Unionist Party proposing this amendment.

**The junior Minister (Mr Donaldson):** Members are at a disadvantage because no one has told us yet what document the Members are quoting from or whether it has any relevance to the victims’ commission. However, I draw the Member’s attention to amendment No 5, which states — and remember, if it is passed the amendment will become law and is therefore relevant to the victims’ commission — that:

“If it appears to the Commission that a person it proposes to appoint as an employee has at any time been convicted”,

I repeat, it states: “at any time”. I would have thought that that amendment adequately covers the Member’s concern, and therefore I do not see the relevance of his point.

**Mr Elliott:** For clarification, the document is dated 1 May 2007 and was produced by the good relations and reconciliation division of OFMDFM.

**Mrs Long:** I thank the Member for giving way, and I realise that he is being very patient about the number of interventions that are being made during his speech. I want to refer to the Member’s point about the document that states that the only case in which pre-1998 convictions can be taken into account is when that conviction is materially relevant to the job that is sought.

Surely under the Rehabilitation of Offenders (Northern Ireland) Order 1978, the only circumstances in which any convictions can be considered is when they are materially relevant to the job for which an individual has applied. For example, current employment legislation means that a convicted paedophile is permitted to work, but not with children. Someone convicted of theft or embezzlement is permitted to work, but not with money. Surely the issue is always one of material relevance, which would apply whether the offences were committed pre-1998 or post-1998.

6.00 pm

**Mr Elliott:** I thank the Member for her intervention. Getting back to what junior Minister Donaldson said, it is clear that we have concerns — as he highlighted earlier — about OFMDFM having the power to be flexible in the appointment of commissioners or members of staff of the commission. If OFMDFM is working to its own employers' guidance, it has the powers to be flexible in appointing people who were convicted for terrorist-related or conflicted-related incidents pre-1998.

**The junior Minister (Mr Donaldson):** This is like something from 'Alice in Wonderland'.

**Mr Elliott:** That may be junior Minister Donaldson's perception, but we are making our case, which is why we tabled the amendments.

I already mentioned that Mrs Kelly highlighted the difference between the assertions of Mr Moutray and Mr Molloy. Mr Lunn was clear when he said that there was total confusion. I assume that he was talking about himself being totally confused. Perhaps that is nothing new, but that is an issue for him.

Mr Basil McCrea dealt in detail with his concerns about what an innocent victim may be subjected to if someone with a terrorist-related or conflict-related conviction were to become a victims' commissioner or a member of staff of the commission. That is an issue that the UUP has been trying to highlight throughout this process.

Mrs Long stated that she was not convinced that there is a requirement to stop a convicted terrorist from becoming a commissioner or a member of staff of the commission. I thank Mr Donaldson for his summing up and for some of his clarifications.

**Mrs Long:** I thank the Member for giving way. He has completely misunderstood what I said. I said that I understood why someone would not want an individual who was convicted of terrorist offences serving on, or working for, the commission. I also said that I believed that the proposed legislation — unamended — and other pieces of legislation already allow such sensitivities to be addressed, because they are a subset of criminal convictions.

**Mr Elliott:** I thank the Member for her assertion. Finally, on junior Minister Donaldson's summing up, I am pleased that he at least had the courage to table an amendment. It is unfortunate that such issues were not included in the Bill originally. Obviously, to some degree, people in OFMDFM are coming round to our way of thinking; perhaps, however, they still have some way to go.

Question put, That amendment No 3 be made.

The Assembly divided: Ayes 23; Noes 58.

AYES

Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Cree, Mr Dallat, Mr Durkan, Mr Elliott, Mr Gallagher, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Mr A Maginness, Mr B McCrea, Dr McDonnell, Mr McGlone, Mr McNarry, Mr O'Loan, Mr P Ramsey.

Tellers for the Ayes: Mr Elliott and Mr Kennedy.

NOES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Mr Buchanan, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Doherty, Mr Donaldson, Mr Easton, Dr Farry, Mr Ford, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Ms Lo, Mrs Long, Mr Lunn, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCarthy, Mr McCartney, Mr McCausland, Mr I McCrea, Mr McElduff, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Mr Moutray, Mr Neeson, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Mr Poots, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr B Wilson.

Tellers for the Noes: Mr T Clarke and Mr G Robinson.

Question accordingly negatived.

Amendment No 4 negatived.

Question put, That amendment No 5 be made.

The Assembly divided: Ayes 50; Noes 30.

AYES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Mr Buchanan, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Doherty, Mr Donaldson, Mr Easton, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Mr McElduff, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Mr Moutray, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Mr Poots, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Ayes: Mr T Clarke and Mr G Robinson.

NOES

Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Cree, Mr Dallat, Mr Durkan, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Ms Lo, Mrs Long, Mr Lunn, Mr A Maginness, Mr McCarthy, Mr B McCrea, Dr McDonnell, Mr McGlone, Mr McNarry, Mr O'Loan, Mr P Ramsey, Mr B Wilson.

Tellers for the Noes: Mr Kennedy and Mrs Long.

Question accordingly agreed to.

**Mr Speaker:** Amendment No 6 and amendment No 5 are mutually exclusive. As amendment No 5 has been made, I will not call amendment No 6. Amendment No 7 is dependent on amendment No 2 being made. Amendment No 2 has not been made, so I will not call amendment No 7.

**Mr Ford:** On a point of order, Mr Speaker. I accept, bearing in mind the order in which amendments occurred, that it was correct to make amendment No 7 dependent on the passage of amendment No 2. However, should amendment No 8 be made, the issue of a chief commissioner is reinstated. Does that mean that it would be acceptable to submit the wording of amendment No 7 for the Further Consideration Stage?

**Mr Speaker:** Mr Ford may consider submitting another amendment if he wishes. [Laughter.]

Amendment No 8 has already been debated as part of the debate on the second group of amendments.

Question put, That amendment No 8 be made.

The Assembly divided: Ayes 49; Noes 30.

AYES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Mr Buchanan, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Doherty, Mr Donaldson, Mr Easton, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Mr McElduff, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Mr Moutray, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Poots, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Ayes: Mr T Clarke and Mr G Robinson.

NOES

Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Cree, Mr Dallat, Mr Durkan, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Ms Lo, Mrs Long, Mr Lunn, Mr A Maginness, Mr McCarthy, Mr B McCrea, Dr McDonnell, Mr McGlone, Mr McNarry, Mr O'Loan, Mr P Ramsey, Mr B Wilson.

Tellers for the Noes: Mr Kennedy and Mrs Long.

Question accordingly agreed to.

Amendment No 8 made: In page 4, line 30, leave out paragraph 9 and insert

"9. — (1) The Commission may by standing orders make such provision as it thinks fit to regulate its own proceedings (including quorum).

(2) Standing orders may be made or amended by the Commission only with the agreement of all the members who vote on the matter.

(3) Standing orders shall provide for a decision on any of the following matters to be taken by the Commission only with the agreement of all the members who vote on the matter—

(a) the provision of financial assistance under Article 7(1);

(b) the preparation and submission under Article 8 of—

(i) a work programme;

(ii) a revised work programme; or

(iii) an amendment to an existing work programme.

(4) Standing orders shall provide for a decision on any other matter to be taken by the Commission on a simple majority of the members who vote on the matter.

(5) In making representations or recommendations under Article 7(4) in connection with a review under Article 6(2), the Commission shall in relation to each representation or recommendation specify whether it is made—

(a) with the agreement of all the members who voted on the matter; or

(b) on a simple majority of the members who voted on the matter.

(6) The First Minister and deputy First Minister acting jointly—

(a) shall keep under review the working arrangements of the Commission;

(b) may—

(i) designate a member as Chief Commissioner;

(ii) at any time revoke that designation;

(c) may give directions to the Commission regulating its procedure (including directions supplementing or amending any standing orders of the Commission).” — [The junior Minister (Office of the First Minister and deputy First Minister) (Mr Donaldson).]

**Mr Speaker:** Amendment Nos 9 and 10 are mutually exclusive to amendment No 8, and as amendment No 8 has been made, I will not call amendment Nos 9 and 10.

Amendment No 11 can apply only if amendment Nos 8, 9 and 10 are not made. As that is not the case, I will not call amendment No 11.

Question put, That amendment No 12 be made.

The Assembly divided: Ayes 22; Noes 49.

AYES

Mr Attwood, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Dallat, Mr Durkan, Dr Farry, Mr Ford, Mr Gallagher, Mrs Hanna, Mrs D Kelly, Ms Lo, Mrs Long, Mr Lunn, Mr A Maginness, Mr McCarthy, Dr McDonnell, Mr McGlone, Mr O’Loan, Mr P Ramsey, Mr B Wilson.

Tellers for the Ayes: Mrs D Kelly and Mr Lunn.

NOES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Mr Buchanan, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Doherty, Mr Donaldson, Mr Easton, Mrs Foster, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Mr McElduff, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Mr Molloy, Mr Moutray, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Poots, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Noes: Mr T Clarke and Mr G Robinson.

The following Members voted in both Lobbies and are therefore not counted in the result: Mr Armstrong, Mr Beggs, Mr Elliott, Mr Kennedy, Mr B McCrea, Mr McNarry.

Question accordingly negatived.

Schedule 1, as amended, agreed to.

Schedule 2 agreed to.

Long title agreed to.

**Mr Speaker:** That concludes the consideration stage of the Commission for Victims and Survivors Bill. The Bill stands referred to the Speaker.

