

Northern Ireland Assembly
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Executive Committee Business
Commission for Victims and Survivors Bill

Final Stage

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The junior Minister (Office of the First Minister and deputy First Minister) (Mr G Kelly):

I beg to move That the Commission for Victims and Survivors Bill (NIA12/07) do now pass.

Go raibh maith agat, a LeasCheann Comhairle. On 28 January 2008, the First Minister and deputy First Minister announced their intention to appoint four victims' commissioners. Furthermore, they announced that the establishment of such a commission would require a change in the legislation. We have now reached the penultimate stage in the enactment of that legislation.

There was some intense debate in the Chamber during the various stages of the Bill; however, the very fact that such a sensitive and often difficult subject was debated shows how far we have come in recent times. That in itself sends a message to such people as the perpetrators of last night's attack that we are determined to forge ahead towards a new and better, peaceful, more prosperous future.

Everyone who contributed to the debate expressed support for the general thrust of what was being done to progress the Bill, although some Members did not always agree with the precise detail of it. There is a need to get the commission up and fully functioning, so that, at long last, victims and survivors can have a real, strong voice — a voice that, surely, they deserve. Therefore, I am pleased that we have reached this point, which is a milestone for victims and survivors. I hope that, at some stage, we can look back and realise that this was a defining moment for those in our society on whom the impact of the events of the past four decades has been greatest.

During the Bill's passage, we listened carefully to Members' concerns, and we gave due and careful consideration to the amendments that were tabled. The Bill, as it now stands, is a genuine effort to reflect, as far as is practicable, the wide-ranging debate that took place. During its various stages, the First Minister and deputy First Minister were criticised for delaying the progress of the Bill. Accelerated passage was sought, and the process took longer than desired. The issues involved, however, are important, and it would have been ill-advised not to give full consideration to the concerns that were raised. Therefore, I make no apology for taking time to get the Bill right.

This Administration is delivering for victims and survivors as promised, through the Bill and through the resources that have been secured for victims and survivors.

Ms J McCann: Go raibh maith agat, a LeasCheann Comhairle. I support the Bill, and I am grateful that the priority and focus of the debate has been on meeting the needs of victims and survivors. Over the past weeks, there has been much debate; I hope that we are closer to the establishment of the victims' commission, which will offer the wealth of experience, expertise and skills that are required to shape and deliver the important services that victims and survivors need.

The legislation will establish a commission to acknowledge and support ongoing efforts and to ensure that programmes are delivered directly to victims and survivors, either by individuals or victims' and survivors' groups. I hope that those groups will be guaranteed the secure funding that is required to continue their worthwhile programmes. Go raibh maith agat.

Mrs D Kelly: The SDLP is mindful that today's Final Stage will amend the existing legislation — the Victims and Survivors (Northern Ireland) Order 2006 — to create a commission. Legislation already exists for the creation and appointment of a Victims' Commissioner. The SDLP has stated on record that its preferred option was, in the first instance, the appointment of a single Victims' Commissioner. That, clearly, will not happen.

Along with other parties, we sought to amend the Commission for Victims and Survivors Bill. The amendments were rejected, and that remains a matter of concern for the SDLP. Therefore, we cannot support the Bill. However, we are mindful of the need to make progress and, therefore, we will not vote against the legislation today. It continues to be a matter of serious disappointment that the Bill has been handled with such hypocrisy and dishonesty. Despite the rhetoric, the additional appointments and the associated costs, the Assembly has missed the opportunity to give the commission the powers it requires to support victims effectively. That gives the lie to the self-righteous public grandstanding that we have witnessed.

During his contributions to the debate, junior Minister Jeffrey Donaldson challenged my colleague Mark Durkan for not seeking to amend the Bill at Westminster. That is further hypocrisy, because there was no Bill at Westminster — it was an Order in Council, which, as the junior Minister knows, cannot be amended. Also, Mark Durkan questioned the commission's authority at the Committee Stage of that Order on 1 November 2006. He said:

"It is one thing for the commissioner to be able to give advice, but there are issues about whether the victims commissioner will be able to get the quality of attention and response from Departments that the Commissioner for Children and Young People gets. We also need to address that in the future."

More importantly, during last week's debate on the proposed amendments, junior Minister Donaldson compared the victims' commission with the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission, in an attempt to defend his position on the number of commissioners. That highlighted other disparities that he does not want to rectify. The onus is on the junior Minister and the Office of the First Minister and deputy First Minister to explain why the victims' commission — despite the Victims' Commissioners' receiving an enormous salary, compared with other commissioners — should have such restricted powers.

The powers that the SDLP advocated would have given the commission a legal basis to pursue victims' interests with the vigour and authority, consistent with internationally defined standards. Without the inclusion of those principles, the commissioners' ability to make a difference will be limited. I expected it from the DUP, but the manner of the Bill's passage exposes a side of Sinn Féin that undermines that party's stated commitment to human rights and equality. It is my view — and that of the SDLP — that victims' interests remain prejudiced by the lack of consensus and failure of leadership in the Office of the First Minister and deputy First Minister.

Mr Ford: In moving the Final Stage of the Bill, Mr Kelly said that everyone who had participated in the debate agreed with the general thrust of the Bill. Where has Mr Kelly been during the past weeks? It is absolutely clear that a significant section of the House does not agree with the general thrust of the Bill.

Three parties in this House made it clear that an existing Order provided for the establishment of a commissioner. That was what should have happened, and it was what the junior Minister Mr Kelly and his colleagues were planning to do, until they failed to agree on an appointment. It was then that we had the back-pedalling, and the sad stories of the people who had missed their

Christmas pudding. They failed to fulfil their responsibility and their stated aim, which was to appoint a Victims' Commissioner before the summer recess of 2007. That was what they told us they would do, and now, virtually a year later, they are still desperately trying to cover their traces.

Let us not have any of that nonsense about Members of this House being in agreement on this issue. They may agree that we wish to ensure that the victims are properly provided for and cared for, and that the services that they need are made available. However, to suggest that there is any agreement on the thrust of the Bill is to misrepresent totally the view of the House, or, at least, a significant section of it.

The junior Minister Mr Kelly was rarely in the Chamber for the debates on the Bill. It is, at least, pleasant to see that three of the four Office of the First Minister and deputy First Minister (OFMDFM) Ministers have made it to the Chamber for the Bill's Final Stage. However, where were they during the serious discussions, when we rarely saw more than one of the four of them, except, of course, when they all arrived with their embarrassed colleagues who had remained outside the Chamber, to vote down any sensible amendments?

How can junior Minister Kelly say that OFMDFM gave its "full consideration" to the concerns that were raised? What he calls "full consideration" amounted to four weeks of discussions between the DUP and Sinn Féin to try to resolve the complete anomalies in their approach, which were exposed by the fact that reasonable amendments were tabled from this side of the House. Let us, at least, accept the reality that this is, and remains, a flawed Bill. It is the result of a flawed process. All that is happening in the Chamber is that the DUP/Sinn Féin steamroller is rolling over everyone else, though, in truth, it is more the case that Sinn Féin is steamrolling the DUP Back-Benchers into submission until they are required to come in and vote.

There has been an absence of participation. Can you imagine, Mr Deputy Speaker, during discussions about the needs of victims in this Chamber, circumstances in which DUP Back-Benchers would be as silent as they have been? That is an indication of their total embarrassment. However much junior Minister Donaldson may smile, the fact that not one of his colleagues is down to speak in this debate is a clear indication of that position.

Mr Shannon: I am going to speak.

Mr Ford: In that case I apologise. It is most unusual for an Alliance Party Member to be called before the first DUP contributor, Mr Deputy Speaker. The way in which you have routed today's proceedings is a clear indication of the quality of the speeches.

We are left with a defective Bill. Those who have insisted on steamrolling the Bill through in its current form must show that they are going to provide for the needs of victims, and demonstrate that the commission will work, not just with the current four incumbents, but with the structures which, by statute, they have established for the future. I remain extremely doubtful whether that will be the case, although I wish the commissioners, if not the Ministers, all the best in the difficult task that they have.

Mr Deputy Speaker: Despite your efforts to get me involved, Mr Ford, I remain entirely neutral, as a Speaker should. I now call Mr Francie Molloy.

Mr Ford: Will the DUP speak?

Mr Molloy: Go raibh maith agat, a LeasCheann Comhairle, I am certain that the DUP and the other parties will be able to arrange their speaking rotas without Mr Ford's help.

We have reached an important stage — the Final Stage of the Commission for Victims and Survivors Bill. It is an incentive to go ahead and provide for victims and survivors. I welcome

Dolores Kelly's comment that her party would not hold up the process any further and not vote against the Bill. It is an indication that, having debated the issues — [Interruption.]

Mr Ford: Is the Member saying specifically that Dolores Kelly was not going to hold up the process any further? That implies that, on some occasion, SDLP, Alliance Party or Ulster Unionist Members have held up the process so far. Perhaps the Member could elucidate when that was?

Mr Molloy: If the Member looks back two or three weeks, even he will realise what those parties have been up to. He should understand his own methods without the need for me to explain them to him.

It is important that we deal with the issue of victims and survivors today. We must take the opportunity to involve them in the process, so that they can begin to work with the commission and develop a strategy that will deal with their needs and the issues that they want to raise. The Assembly should not try to dictate to victims and survivors.

11.15 am

It is very important to move the process forward. Given the debate that Members have had and the various opinions expressed — which is fair enough; there is no problem with that — I hope that all parties will come together, support the commission, and give it the authority to deal with the issues and get on with its work without interfering too much in its development. I hope that no one will try to tie the commission down and impose conditions that it must meet. The issue is very important, and today the Bill has reached its Final Stage.

The division that has emerged during the debate should not be carried through to the way in which we deal with victims. There have been criticisms about who was, or was not, in the Chamber during the debates. Not all Alliance Party Members — few as they are — are here today. One would have thought that the party's Whip would have been able to summon all its MLAs if its leader were so concerned about attendance. It is typical of the way in which that party tries to tell everyone else what to do. Over the years, the Alliance Party has tried — or at least it proclaims that it has tried — to bring everybody together and get them to work together. It said that no matter what the situation was, everybody should co-operate and take more time to develop relationships. Now, the Alliance Party has become the party of division in the Chamber rather than the party of co-operation.

It is important that we, the majority of Members in the Chamber, move the process on, give the commission the authority to deal with the issues, and give the victims and survivors and their families the opportunity to become involved. Let the process be victim-led from now on. Go raibh maith agat.

Mr Kennedy: I am grateful for the opportunity to speak. The original desire to create a commissioner for victims and survivors of the Troubles was an honourable desire to compensate, in some way, those people who suffered innocently at the hands of terrorists. Therefore, an independent, neutral and respected figure was supposed to serve victims and help our society to move beyond its regrettably violent past. However, due to the joint actions of Sinn Féin and the DUP, that honourable intention has been slightly soiled by the grimy compromises that those two parties have cajoled from each other.

The blatant inability of the Office of the First Minister and deputy First Minister to agree on a single Victims' Commissioner has led to the fudge of having four commissioners. The First Minister and deputy First Minister appointed those people and paid them salaries — presumably at the taxpayers' expense — only to discover that they could not legally carry out their work. That has led us to the unfortunate Bill that we are completing today.

In an attempt to stifle debate and protect its compromising position, the Office of the First Minister and deputy First Minister forced the Bill through the Assembly by accelerated passage, albeit that acceleration was interrupted by self-made speed bumps. On 31 March, the deputy First Minister said:

“It was implicit in the case for accelerated passage in this instance that the First Minister and I do not wish to use that procedure as a matter of routine for legislation on victims and survivors, or more generally.” — [Official Report, Vol 29, No 1, p46, col 2]

The Ulster Unionist Party expects the Office of the First Minister and deputy First Minister to abide by that statement. We expect that no further victims’ legislation will be pushed through the House by means of accelerated passage.

My party has made it clear that it considers the current definition of the word “victim” to be morally wrong. It allows those who perpetrated acts of terrorism to be given the same status as those who suffered at their hands. Despite all its claims, the DUP has failed to address that issue, and the reason for that is that Sinn Féin would not let it do so.

We could not table an amendment on the issue for technical reasons. However, we endeavoured to protect innocent victims by ensuring that no commissioner or employee of a commissioner — who had a conflict-related conviction — would be employed by the commission. Our amendment would have protected innocent victims from being placed in the position in which they would have had to seek help from former terrorists and victim-makers. However, again, the DUP and Sinn Féin rejected our amendment.

Junior Minister Donaldson’s amendment is a laughable attempt to address this issue. Clearly most, if not all, DUP Members would have supported our amendment but were unable to do so. Why was that, Mr Deputy Speaker? Again, it was because Sinn Féin would not let them.

There was a general consensus on the need to have a chief commissioner, which would have given the commission direction and would have ensured that the existing commissioners would not act as independents, serving specific communities within their own remits. For the sake of innocent victims, it is crucial that the commission acts as a comprehensive entity. Regardless of every party supporting the idea of having a chief commissioner — including, I believe, the majority of DUP Members — that has been denied to victims. Why was that, Mr Deputy Speaker? Again, it was because Sinn Féin did not want it.

The deputy First Minister (Mr M McGuinness): Will the Member give way?

Mr Kennedy: Sorry, I am not giving way today.

We have seen a departmental fudge that gives the Office of the deputy First Minister and First Minister — and I use that term explicitly: deputy First Minister and First Minister — the power to introduce a chief commissioner and to appoint a chief commissioner in the future. However, having a power without the will to use it is the same as having no power at all.

Although this is a flawed piece of legislation and despite the unsatisfactory manner in which it has been pushed through the House — which, frankly, is a disgrace — the Ulster Unionist Party will support the work of the commission.

Mr Boylan: Will the Member give way?

Mr Kennedy: I am sorry, I will not give way. We will support the work of the commission because that is the right thing to do. However, let us not be under any illusion: this Bill has been a fudge, largely dictated by Sinn Féin, the only party in the Assembly with a violent history.

The DUP has gained very little movement from its position as a party hell-bent on promoting and protecting its own position at the expense of innocent victims in Northern Ireland. The DUP and Sinn Féin should reflect long and hard on what they have achieved today.

Dr Farry: This process has been a complete shambles since it was inherited by the Office of the First Minister and deputy First Minister. There have been repeated delays, and now a total fudge. The Assembly, as something that was supposed to be putting victims' needs first, has fallen well short of the mark.

The First Minister and deputy First Minister inherited a situation in which they were required to appoint a single commissioner for victims and survivors. They sat on that issue for a number of months and then decided to re-advertise for a single commissioner. Even at that stage, there was no talk of a commission. There was no mention of a commission until we had the situation in which four commissioners designate were announced by OFMDFM.

There was no emergence of the concept of a victims' commission through the normal policy-making processes that are now tried and tested in Northern Ireland, and there was no consultation on the idea of having a victims' commission. The concept of a victims' commission was very much an afterthought, designed to get around the inability of the First Minister and deputy First Minister to agree on the appointment of a single Victims' Commissioner who would be capable of representing the interests of victims across the spectrum in Northern Ireland.

We now have the bizarre situation in which four individuals have been appointed without the proper legal framework for them to do their job or the legal framework for the commission to exist. That has placed those individuals in a very invidious situation and, frankly, places Assembly Members in an extremely difficult situation, as inevitably personalities become part and parcel of the process. We should focus on implementing proper structures to fulfil the victims' legislation mandate. Personalities should not be drawn into that.

There have been opportunities to discuss this matter in detail. Clearly, it was not initially appreciated that legislation would be required. Indeed, it was only in March — long after the January announcement — that legislation was introduced in the Assembly. Given the situation in which we find ourselves, the Bill should have been given a Committee Stage, which takes only six weeks. If there had been a Committee Stage, we could have had a more constructive and less adversarial discussion on the issue. We would also have had the opportunity to fashion proper amendments to be thrashed out by Committee members and departmental officials. Perhaps a consensus would have been reached that would have corrected the flaws in the legislation.

Accelerated passage was sought, very controversially, but the brakes were then applied. That was a bizarre and totally unprecedented way for any piece of Government legislation in these islands to be handled. Parties have tabled amendments in good faith and in an attempt to improve the legislation. Indeed, one party from the Office of the First Minister and deputy First Minister made it known publicly that they had sympathy with those amendments. Another bizarre situation emerged when the DUP and Sinn Féin went back into a huddle to try to cobble together some sort of fudge in an effort to paper over the cracks.

The Alliance Party is here to address the needs of victims and to see that a robust solution is implemented to do so. However, we will not hand out blank cheques. We have worked over the past 40 years to deliver peace and stability in Northern Ireland. Other parties that are represented in the Chamber have joined that work rather late in the day, so we will take no lectures on our efforts. Having fought so hard to have devolution restored in Northern Ireland, we are not prepared to let the DUP and Sinn Féin to do as they please. We will not allow them to Balkanise Northern Ireland and merely manage the divisions in our society, rather than moving forward and building a proper shared future.

The Alliance Party wants to have proper, effective democratic institutions and a normalisation of democracy in Northern Ireland. That means establishing a situation in which issues are debated on the Floor of the Assembly, Government Ministers table Bills and motions, and other parties table amendments. That is the normal process of any democratic Chamber and one that we should celebrate, rather than criticise. Until such time as my party is in a position to take its place in Government, it will continue to play the role of a constructive opposition in the Chamber in the coming months and years.

There are deep concerns in the community about the nature of the victims' commission. I stress that those have nothing to do with the integrity of the individuals in question. Those concerns regard the structures of the commission, and whether they will last beyond the current four nominees for the body. People want a single, coherent strategy to deal with victims across the board. There are concerns that the commission will mean a Balkanised system whereby different groups in society, almost implicitly, identify more closely with one commissioner than another. Similarly, staff on the commission may work more closely with one commissioner than another.

We must move forward and overcome the deep divisions of the past that were created by events in Northern Ireland. Those divisions must not simply be set in stone but, rather, overcome. It should be realised that people share much common ground in suffering and in how they access the relevant services to address that suffering.

There is particular concern about the absence of a chief commissioner.

I stress that the Bill merely provides for the First Minister and the deputy First Minister to make such an appointment. That appointment will remain subject to veto by either party in the Office of the First Minister and deputy First Minister (OFMDFM). Bearing in mind that an amendment providing for appointment of a chief commissioner was rejected, major concerns exist over the prospect of the emergence of a chief commissioner at some time in the future.

11.30 am

The appointment of a chief commissioner is not about creating a hierarchy of victims or about asserting that one viewpoint is more important than any other. It is about setting in stone the normal structures expected in any public body, whether that be the Equality Commission or the Human Rights Commission. It is about ensuring adherence to proper structures, proper administrative procedures and, in particular, proper financial procedures, not least because public money is at stake. Equally, it is important that all staff operate coherently and cohesively, and report to a single individual on the body.

The party Whips will no doubt ensure that the Bill becomes law. The commission will become a legally constituted body, and the Alliance Party will work with it. However, we shall seek to overcome those flaws in the commission's constitution for which the Bill is responsible. We shall use our best endeavours to ensure that the commission delivers for victims in a single, coherent manner.

Mr Shannon: We are on the brink of legislative change that will deliver for victims. It is important to repeat what I said yesterday: the DUP has changed neither its mind nor its position on the Bill. Then, as now, we have victims' best interests at heart. The Bill provides the framework for good and proper delivery of help and support to victims and survivors. That help and support has been withheld for too long.

Dr Farry: The Member says that the DUP has been consistent and has not changed its position. Will he inform the House at what stage the DUP changed from supporting the appointment of a single commissioner to its current position, which is that the appointment of a commission is the best way forward for Northern Ireland?

Mr Shannon: I do not agree with the Member. The DUP's position has been consistent; we have delivered. Our focus is clear: we are working on behalf of the victims. An example of that may be found in the Budget, wherein £36 million is allocated directly to victims. Never before has that been done.

Mrs D Kelly: In the absence of any guidance from the First Minister or the deputy First Minister, the Member may be able to detail exactly how that £36 million will be spent. Will he confirm that the Health Service has already spent much of it in treating victims and survivors? How much control will individual commissioners have over allocation of those funds?

Mr Shannon: The Member is correct: £36 million has been set aside. The decision on how it is to be spent has yet to be taken. However, that will be decided, and our position is clear. The Member will have an opportunity to have input into that process, as will all Members.

We welcome statements from the SDLP, the Alliance Party and the Ulster Unionists that they will work with the commission. That is a step forward.

Never before has £36 million been set aside for victims alone; never before has a commission for victims been in place. Things have moved on. The money is in place, the commission is in place, and the legislation is a step in the right direction. This Assembly has awarded much more money from its Budget than any previous Westminster Government or any Government made up of Assembly parties ever allocated.

Let us deliver that money to those who need it most. Many victims are not members of victims' groups, and those people must be considered. Until now, they have borne their sorrow and burdens on their own. We have a duty to respond to them directly. The Commission for Victims and Survivors Bill gives us an opportunity to deliver for all victims, whether they be groups or individuals.

I urge Members to move on.

Mr Irwin: Although Members from several parties have been vocally opposed to the Bill, when it came to Divisions on the various stages of the Bill, very few of those Members — particularly from Mr Kennedy's party — actually voted. If those Members were as concerned as they said they were, they should have been turned up to vote.

Mr Shannon: I thank the Member for that intervention. As has been mentioned, the Hansard reports can be checked, and the names of those Members who were present and participated — as well as those who did not — will be clear for all to see. My friend is correct that there were absences on the part of the UUP. However, that party can answer for itself.

Mr B McCrea: I am somewhat confused. Is the DUP trying to build a consensus on this issue, or to stoke up division? [Laughter.]

There are guffaws from a sedentary position. [Interruption.]

Mr Deputy Speaker: Order. Members were reminded yesterday that all remarks must be made through the Chair. The rule has not changed overnight.

Mr B McCrea: The Ulster Unionist Party has made its position quite clear, and Mr Kennedy has set that out. We will support the victims' commission when it is established, but we do not like the way in which it has been created, nor do we like the political fudge and the machinations surrounding its creation. The UUP does not believe that that does justice to the real victims. Frankly, we believe that it is a disgrace. If we are being asked to vote for something that is a disgrace, I am afraid that certain parties are on a different planet.

Mr Shannon: The point that I made is that some Ulster Unionist Party Members were not present here to vote either for or against the Bill. According to the Hansard reports, the Member's party and its Members have not been present in the Chamber when they should have been to make their opinions clearly known.

We have moved forward. I hope that Basil McCrea can move forward as well. The debate is over and the discussions have concluded. Now is the time to move forward and deliver for the victims.

The DUP has been consistent and honest. We have delivered in the past, and we are about to do so again in respect of victims. The money that has been set aside and the creation of the commission is proof of that delivery. We are delivering for the people who have suffered through the Troubles in this Province.

The victims are our focus and our priority. I ask Members to support the legislative change before us to ensure that we can move forward. Let all the posturing and division from certain parties be left in the past. Let us go forward together and support the victims.

Mr S Wilson: Many people will be relieved that the Assembly has reached the stage at which the finalisation of the legislation is at hand and that some structure will be put in place to channel help towards victims and to represent them. However, some have used the legislative process and this debate to engage in point-scoring, nit-picking and finding excuses not to offer support.

I was not planning to speak in this debate until I heard the speech from Mr Kennedy on behalf of the Ulster Unionist Party. Although I have a lot of time for Mr Kennedy, I have never heard such a whingeing, self-justifying, hypocritical and political-point-scoring speech in my life. That was not becoming of him or of the serious issue that we are addressing.

Mr A Maginness: On a point of order, Mr Deputy Speaker. Is it not unparliamentarily to use the term "hypocritical" in respect of another Member of this House?

Mr S Wilson: I imagine that if it was unjustified, it would not be in order. However, since I think that it is probably justified —

Mr Deputy Speaker: Order. I ask the Member to withdraw his remark.

Mr S Wilson: I will withdraw the remark, but only in so far as other Members of —

The junior Minister (Office of the First Minister and deputy First Minister) (Mr Donaldson): On a point of order, Mr Deputy Speaker. I have been taking careful notes of the debate. Mrs Kelly described my position as being one of "hypocrisy and dishonesty". You did not ask her to withdraw those remarks, but you are asking my colleague to withdraw a remark that contained the word "hypocrite". Can we have some equity in the Chamber?

Mr Deputy Speaker: If there had been an objection, I would have asked Mrs Kelly to withdraw her remarks.

The junior Minister (Mr Donaldson): I formally object to the comments that were made by Mrs Kelly.

Mr Deputy Speaker: I hope that the Member will allow me to permit Mr Wilson to continue his speech.

Mr S Wilson: Many people would perceive what Mr Kennedy was involved in as hypocritical and as a display of double standards.

Mr B McCrea: On a point of order, Mr Deputy Speaker. Some time ago, did you not clarify, for the benefit of the Assembly, that, while it was not appropriate to refer to individuals as “hypocrites”, one could refer to a party as “a bunch of hypocrites”?

Mr S Wilson: That being the case —

Mr Deputy Speaker: Allow me to respond, Mr Wilson. That is correct, Mr McCrea.

Mr S Wilson: That being the case, the position of all of the people to my right could be perceived as being hypocritical in a number of ways. First, they were hypocritical in the words that were issued this morning, and secondly —

Mr Ford: Will the Member give way?

Mr S Wilson: No. Let me just finish this point.

Secondly, the record of the Assembly’s debate —

Mr McNarry: On a point of order, Mr Deputy Speaker. Have you or have you not asked the Member for East Antrim to withdraw his remark? Have you or have you not heard that withdrawal? Will you or will you not tell the House that you accept the Member’s withdrawal?

Mr Deputy Speaker: I am happy that the Member withdrew the remark.

Mr S Wilson: I have withdrawn the remark. Furthermore, I clarified it by saying that it was not only one person who was guilty of the accusation that I made, but a whole bunch. Let me give some justification for that. We have heard self-justification from Mr Kennedy today. However, so intensely did his party feel about the issues, so passionate was it about the changes that were required, and so deeply supportive of its position were its members, that half of them did not bother turning up to vote — and the record will show that.

Some Members: Shame.

Mr S Wilson: That is how deeply the Members on my right felt about the issue.

Mr Kennedy: Will the Member give way?

Mr S Wilson: I will give way to Mr Kennedy, and I hope that he will provide some explanation as to why his party colleagues did not turn up to vote on the amendments.

Mr Kennedy: When one thinks of shame, and when one thinks of people who will, and should, be ashamed of themselves when they examine the voting record, none should be more ashamed than Sammy Wilson and his party colleagues, who went into the same Lobby as provisional Sinn Féin.

Mr S Wilson: Let me come to that now — [Interruption.]

Mr Deputy Speaker: Order. I remind Members that this is a serious debate about a serious subject, and Members will not do credit to the House if they continue with this style of debate.

Mr Molloy: On a point of order, Mr Deputy Speaker. I ask Mr Kennedy to withdraw his remarks, because there is no party in this Chamber registered as provisional Sinn Féin.

Mr McNarry: He did not say that you were a party.

Mr Molloy: I did not raise that as a question; I was challenging what Mr Kennedy said. There is no party called provisional Sinn Féin. It must be made clear that the party is called Sinn Féin.

Mr Deputy Speaker: Will Mr Kennedy please clarify his remarks?

11.45 am

Mr Kennedy: I am happy to clarify that I did not actually list a party, but said “Members of provisional Sinn Féin”. If Mr Molloy claims that he is not or never has been a member of provisional Sinn Féin, that is news to most of us. However, I did not indicate a political party in my description.

Mr Molloy: The Member said that the DUP went into the Lobby along with provisional Sinn Féin. Given that there is no registered party in this Chamber called provisional Sinn Féin, I again ask the Member to withdraw his remark.

Mr Kennedy: To give perfect clarify: I said that Members of the DUP went into the same Lobby as Members of provisional Sinn Féin. That is an indisputable fact.

The junior Minister (Mr G Kelly): On a point of order, Mr Deputy Speaker. There is no organisation called provisional Sinn Féin — full stop. Therefore, there could not have been anyone going anywhere with members of provisional Sinn Féin because that organisation does not exist.

Mr Deputy Speaker: As Deputy Speaker, I clarify that there is no party called provisional Sinn Féin. If there is any further unhappiness about the matter, I suggest that Members refer to the Hansard report, and the matter can be raised at the next meeting. Are Members happy with that? Please continue, Mr Wilson.

Mr S Wilson: Thank you, Mr Deputy Speaker. The real shame is that Members of the Ulster Unionist Party have stood here today wringing their hands about this legislation and talking about the shame of it. However, when they tabled amendments to the Bill, they could not even get the support of half their own party, who were so indifferent that they did not bother turning up to vote. I feel absolutely no shame about what we, as a party, have done. We made a promise, and these are the promises — [Interruption.]

Mr Deputy Speaker: Order.

Mr S Wilson: I do not mind the chattering behind me, because I know that I am getting somewhere with the Members who are involved.

Mr Deputy Speaker: Order. For the last time, I ask Members to make all their remarks through the Chair. If they persist in interrupting, I will apply Standing Order 60, and Members know what that means.

Mr S Wilson: I do not mind a wee bit of chattering, because I know that if it is going on beside me, I probably have made the point that I wanted to.

Let me make something clear: we made a promise that, first, we would secure resources for victims. That has been done. People can question how those resources will be spent. Indeed, I even heard a derogatory comment, which I think came from a sedentary position on the SDLP Benches, that some of the resources would go to the Health Service to help victims. If that is the kind of help that victims require, is that not a good place for those funds to go? Some groups will benefit from the resources immediately, and some groups will benefit from a further dispersal of the funds through the victims' strategy. Securing those resources is the first promise that was made, and that has been done.

Mrs D Kelly: Will the Member give way?

Mr S Wilson: No, I will not give way — let me finish my point.

The second promise that we made was to seek a way of dealing with the issue of victims. There is a certain amount of embarrassment to the Benches on my right about that issue because, for the four years that the Ulster Unionist Party was in the lead position in the Assembly and had the opportunity to introduce legislation on the matter, it did not do so. Of course, therefore, that party is somewhat embarrassed. Its members will chip and chirp about the legislation, but at least we said that we would do something about the issue of victims, and we have sought to deliver on that promise.

Mrs D Kelly: I thank the Member for giving way; it will give him time to think. I want to make it clear that I did not make a remark from a sedentary position about expenditure on the Health Service; I was attempting to expose the fact that much of the £36 million involved is not new money and will be spent as was originally intended.

Mr S Wilson: Of course, some of the money will include old money; I never suggested that it was all new money. It will be an amalgamation of old and new money. The point is that £36 million has been allocated to victims, which is more than was available previously. How that will be spent will be determined by victims' needs. If those needs are health related, for example, surely it is right that the money is spent in that area.

There have been a number of complaints about the nature of what has been achieved through the Bill. I listened to what Alliance Party Members have said about the Balkanisation of politics in Northern Ireland, and the fact that Sinn Féin and the DUP must now have input into the process. Other parties have also had input. Such Balkanisation, whether they like it or not, is something that the Alliance Party has been preaching about for years — its Members have always argued of the need for inclusivity. The belief that inclusivity can be achieved at the same time as one particular party is getting its way illustrates the naivety of the Alliance Party and the Ulster Unionist Party.

The junior Minister (Mr Donaldson): Does the Member agree with me, as one who was present when the institutions that we are now operating were agreed on Good Friday 1998, that the architects of the current structures — and Mr McNarry talks about vetoes — were the Ulster Unionist Party, the SDLP and the Alliance Party? They created the system that is in place. When it comes to hypocrisy, all three parties are guilty.

Mr S Wilson: That is exactly the point: they did create the system. Whether parties like it or not, in finding a way forward when there are differences of opinions, no party is always going to get its own way.

Mr Kennedy: Can any party get a fair deal?

Mr S Wilson: Yes; we got a fair deal, which I will come to. [Interruption.]

Mr Deputy Speaker: Order. I am not sure how many more times I will have to advise Members to make their remarks through the Chair. At some stage, I will have to take action.

Mr S Wilson: Again, the discomfort on the Benches to my right is something that those Members have to account for.

At the end of the process, the victims have got a fair deal; additional money is available; and a commission has been set up that will be able to gather and channel the concerns of the victims,

consider a strategy for them and dispense the money. That is a better deal than that delivered by the Ulster Unionist Party, which is perhaps one of the reasons for its members' discomfort.

In order to achieve consensus in the House, Members have to work their way through party differences. The outcome has been that we now have a commission that will deal with victims, and legislation now exists that allows for the appointment of a chief commissioner. The four commissioners have said that they believe, from their work to date, that they can work together. For example, they have rotated the chairmanship of their meetings, and they believe that they can speak with one voice.

If the commissioners believe that they do not currently need a chief commissioner, and if there is uncertainty among some of the parties as to whether a chief commissioner is required, the best that we can do is to provide legislation that will allow a chief commissioner to be appointed if necessary. That is what politics is all about. Perhaps if the party to my right had understood what negotiations were about and how to get what they want in negotiations, they would have been able to demonstrate that flexibility.

The legislation will provide the flexibility to allow a chief commissioner to be appointed. However, if the commission feels that it can operate without a chief commissioner, the legislation will give it the freedom to do that. Why should the legislation fall on the basis that something should be imposed on the commission that it believes it does not need? If a chief commissioner is needed, this House, the Executive, and the Office of the First Minister and deputy First Minister have the ability to appoint one. That is a reasonable way out of the impasse that was reached.

In the future, if we decide that we no longer want to have the commission in its present form — or if we decide that we want a single commissioner instead of a commission — the legislation gives us the ability to make those changes. That is what the parties who are objecting to this Bill wanted.

Mr Kennedy talked about employment rights. The amendment that the DUP proposed stated that the commission could not employ anybody with a criminal conviction, and, legally, that is the most that can be done. Therefore, we addressed that point.

The definition of a victim is something that the DUP would like to see changed. The current definition is not acceptable.

Mr B McCrea: Why was nothing done about that?

Mr S Wilson: We have reached this stage because when the Ulster Unionist Party had the ability to deal with that issue, it dithered and procrastinated, and it failed. When direct rule —

Mr B McCrea: Will the Member give way?

Mr S Wilson: Let me finish the point first.

Some Members: It failed.

Mr Deputy Speaker: Order.

Mr B McCrea: The Member will not give way because he does not want to engage in debate.

Mr S Wilson: I will engage in debate —

[Interruption.]

Mr Deputy Speaker: Order. Two Members cannot stand up at the same time, and Members cannot shout at each other in the manner that has been happening. Before Standing Order 60 is applied, perhaps Members will give this debate the respect that it deserves.

Mr S Wilson: The issue was dealt with under direct rule because it was not dealt with when the opportunity existed previously. Under direct rule, a definition of a victim was produced that my party is not happy with. However, the competency did not exist at that point to make changes to the definition. I hope that we will produce a definition that is acceptable. That issue will be addressed through the forum that is being set up.

At least the DUP has sought to address that issue in a way that does not —

Mr B McCrea: Will the Member give way?

Mr S Wilson: I will give way in a minute or two, because I know that Mr Basil McCrea is keen to be heard once again.

There is no point in pretending that this issue could have been dealt with, at that stage, in the way in which the Ulster Unionist Party wanted. It is much better to consider a way in which we can address that issue properly. Had it been addressed in the previous Assembly, perhaps there would be a much better definition in law than the one that we currently have.

Mr B McCrea: I will attempt to deal with this issue with the respect that it demands. The Member made a point about dealing with the issue when the opportunity existed. As far as the Ulster Unionist Party is concerned, the definition of a victim cannot be changed unless the long title of the Bill is changed. We asked for the long title to be changed so that this issue could be confronted. The DUP had the opportunity to do that, but fudged it. The Member is now prevaricating and filibustering — talking at the top of his voice to try to avoid the issue.

People will not understand why we have not dealt with the matter of the definition of a victim — that is our job. We should have tackled that now; and the Member agrees.

Mr S Wilson: Of course I agree that the issue should be tackled, and a mechanism has been set up to try to deal with that. As far as the long title of the Bill is concerned, the legal advice — and the Member who made the intervention is well aware of this — indicated that the long title could not be changed.

I do not know the details of the legal advice. However, it was accepted that the long title could not be changed at that stage and, therefore, the issue of definition could not be dealt with.

12.00 noon

Mr B McCrea: I am happy to examine that matter in more detail. The Ulster Unionist Party's understanding was that the definition could not be changed unless the long title was changed. If there is another way of changing the definition of "victim", I would be pleased to explore how that most contentious of issues can be tackled. That is one of the most fundamental problems that the Ulster Unionist Party has with the Bill, and many other Members share that concern.

Mr S Wilson: That concern is shared by other Members. I have made it clear that that concern is shared by my party, the SDLP and the Alliance Party. The only party that has no difficulty with the definition of victims, as it stands, is Sinn Féin. We must look for ways of dealing with that issue. The DUP is happy to investigate whether that can be dealt with through a private Member's Bill, through consultation with the forum for victims and survivors, which may be able to reach agreement on that contentious issue, or in whatever other way is available. I accept that that is the one outstanding major issue that must be dealt with.

There has been criticism in respect of the ability of one individual on the commission to use the power of veto, and that has been dealt with through negotiation. The only other issues that will require consensus are matters that would have had to be dealt with — in the first instance — by the First Minister and the deputy First Minister anyhow and, therefore, if consensus were reached between them, it is unlikely that consensus would not have been reached in the commission. That issue was raised at the start of the process.

Mr Ford: I am grateful to the Member for eventually giving way on the issue of consensus, and for coming back to that. About 10 minutes ago in his rant, he said that no one party could have its way in a consensus situation. Six weeks ago, when the Alliance Party first tabled amendments in an effort to improve the workings of the commission in respect of the voting system and the appointment of a chief commissioner, four of the five parties agreed that there was merit in that.

Can the Member explain why one party has had its own way? He was not in the Chamber yesterday when I congratulated Ms Ní Chuilín on her ability to enforce her Whip on the DUP Back-Benchers. It is clear that that has happened.

Mr S Wilson: I cannot understand that approach. The Alliance Party appears to have the impression that only its amendments could have dealt with the issues about which Members had concerns, and that, if the issues were not dealt with in its preferred way, they were not being dealt with properly at all. The same outcome has been achieved by examining other ways in which those matters could be addressed — namely that there is not the power of veto, we have the potential for a chief commissioner, we have the ability to change the shape of the commission and the number of commissioners, and we can ensure that people with criminal records are not employed by the commission.

OFMDFM's amendments differed from the wording of the amendments that the Alliance Party proposed. Nevertheless, they achieved the same objective. It is a bit infantile of the Alliance Party to now say that, simply because the amendments that were accepted — although they were designed to reach exactly the same objective as those designed by the Alliance Party — did not have the Alliance Party's wording, that they had to be opposed.

Mr Ford: Perhaps the Member can explain why, if the amendments proposed by Mr Donaldson achieved exactly the same objectives and were exactly the same as the amendments tabled by Mrs Kelly and myself, among others, it was necessary to put forward amendments that differed from what had already been tabled.

Mr S Wilson: Of course the amendments were not exactly the same, although the outcome has been the same, namely that there is the potential, when required, for a chief commissioner.

The Alliance Party may, regardless of how the commissioners designate believe they can behave, wish to impose on them an arrangement that they say is not needed because they can work things out among themselves. If the Alliance Party is now involved in imposition of that nature, even though the commissioners designate have said that they have had no difficulty to date —

Dr Farry: The Member is making the argument that there is no need for a chief commissioner because the four current incumbents of the commission are capable of sorting things out between themselves. Is it good practice to design structures of governance around particular individuals who may be there at a particular time, or is it better to design them to be robust and able to deal with a number of different circumstances? I cannot think of any other precedent in which, because the current incumbents are said to be fine, there is no need to put in place the proper structures for accountability, particularly on issues regarding finance. I find that totally bizarre.

Mr S Wilson: That is not in fact what has been done, because the law allows, if there should be a change and the current arrangements are seen not to be working, for the First Minister and the deputy First Minister to appoint a chief commissioner. That flexibility is there.

We are coming to the end of the process of this legislation. As all of the other parties have accepted, it is important that, once the legislation goes through, we work to ensure that there is an effective mechanism for dealing with the issues surrounding victims. I hope that, despite the political points that have been made — perhaps necessarily made, in a Chamber such as this — once this Stage of the Bill has passed, all parties will work with the commissioners to ensure that there is effective delivery for victims.

Mr B McCrea: I wish to say at the outset, on behalf of the Ulster Unionist Party, that first and foremost the most important issue is the welfare of victims — genuine victims. We have fought, and continue to fight, for their well-being. I commend my colleague Mr Kennedy for his excellent speech, which I heard both on the television monitors and when I was in the Chamber. It obviously hit the nail on the head on a number of occasions, judging by the reaction of other Members in the Chamber.

A number of suggestions have been made. When Mr Shannon was speaking I asked him whether he was trying to build consensus or stir up division. Our party has made its point through all the Stages of this legislation. Our record is clear. We have identified the very real concerns and disappointments that we had, but it has become apparent that there is a cosy coalition between the two largest parties. There is a political fudge that is designed to get them through this particular issue, and no amount of interventions, debates or amendments will make any difference.

Even the combined votes of the Ulster Unionist Party, the Social Democratic and Labour Party, the Alliance Party and the Green Party would not be enough to overturn the decisions that have been made. The process of this legislation is a complete and utter sham, and when people look at this from outside this ivory tower, they will see, with some concern, that we did not address the issue of the definition of “victim”. We did not address the issue concerning the appointment of four commissioners, which many people think is a strange decision, nor did we address the issue concerning the possible compromise position of having a chief commissioner.

Despite all of that, having had our say, our party then resolved to support the generality of the Bill. We do want to have some sort of commission that will tackle the needs of the victims. People have pointed fingers and said that we were not in the Chamber yesterday to vote, as if in some way that meant that we do not care about victims, or we are not doing it in the right way. I see people nodding, and I am quite prepared to debate the point in public outside the Chamber with anybody here now that is prepared to take it on. How can anybody —

Mr S Wilson: Will the Member give way?

Mr B McCrea: I will of course give way in just a moment.

How can anybody not be in favour of supporting victims? It is ridiculous. Sammy Wilson is trying to argue that black is white and that good is bad. Nobody in their right mind could do anything other than support victims. The big question, of course, as Sammy Wilson has accepted, is how to define a victim.

Mr S Wilson: Perhaps the Member would explain why half of his own party felt so unconcerned about their amendment that they did not bother turning up to vote?

Mr Kennedy: Mr Basil McCrea will undoubtedly agree with me that the arithmetic of this place was the real reason why it was not possible for the Ulster Unionist Party to defeat Sinn Féin on the issue of victims: it was because the DUP supported Sinn Féin.

Some Members: Hear, hear.

Mr McNarry: It is a two-party coalition.

Mr Deputy Speaker: Order; the rules of this House apply to all Members, not just to some. The majority of Members have been extremely good and have taken the debate seriously. A few, unfortunately, have not, and that is to be regretted.

Mr B McCrea: Thank you, Mr Deputy Speaker. I thank Mr Kennedy for his erudite intervention, which clearly demonstrates the political reality. If this debate has achieved nothing else, it has shown quite clearly that when there is a DUP/Sinn Féin axis, there is nothing that the rest of the Members can do about it. It does not matter whether cross-community controls are in place, whether reason is on the side of their opponents, or whether people disagree with their argument — the DUP/Sinn Féin axis cannot be stopped.

Mr Storey: Will the Member give way?

Mr B McCrea: I will give way in just a moment, Mr Storey.

I cannot recall the DUP/Sinn Féin axis accepting an amendment to this Bill or any other Bill that has been proposed by other Members. That is not the way to proceed. If we are genuine about building consensus and about building a future for this place, it will not rest on a two-party, cosy coalition. This is supposed to be a mandatory coalition of all parties, and the DUP and Sinn Féin are not taking other points of views on board.

Mr Storey: I thank the Member for giving way. If he is so concerned about what he terms the “DUP/Sinn Féin axis”, and he and his party cannot turn up to vote when required to; when will the Ulster Unionist Party do what we know it does not have the capacity to do, which is to follow its own convictions, leave the Executive and ask its two Ministers to walk out with it?

Will he also explain — if he is as concerned about victims as he says his party is — why his party, while occupying a lead role in Government, allowed out of prison murderers and criminals who created victims? He has the bare-faced cheek to come into this House and accuse the DUP of not doing anything for victims.

Some Members: Hear, hear.

Mr McNarry: We did not go into power with them.

Mr Deputy Speaker: Order.

The junior Minister (Mr Donaldson): Yes you did.

Mr Deputy Speaker: Order. [Interruption.] Order; if the debate becomes any more unruly, I have the power to suspend it for an hour, which would be an absolute shame.

Mr B McCrea: Thank you, Mr Deputy Speaker. An issue has been raised about why parties in previous Administrations did not bring forward legislation to deal with victims. [Interruption.]

As far as I am aware, any party may bring forward legislation at any time. Therefore, when people ask the Ulster Unionist Party why it did not do so, our response is to ask them the same question — if it was such a big issue, why did they not bring forward legislation?

Mr Storey’s question about whether Ulster Unionists should be considering leaving the Assembly leads me to wonder whether that is what he wants us to do.

Does he prefer to be in a genuine cosy coalition with just “themselves alone” on the opposite Benches? Is that what he wants? The Assembly might as well accept —

12.15 pm

Ms D Kelly: Will the Member acknowledge that in 1998, the people of Ireland, North and South, agreed the terms of the Good Friday Agreement — the agreement under which the DUP now operates? One of the agreement’s accomplishments is that acts such as that which happened last night are now, thankfully, rare.

Mr B McCrea: I share Mrs Kelly’s sense that her party and mine did the heavy lifting for peace. Our parties tackled the hard issues head on. My party was honest and true. It did not say one thing to the electorate and do another — [Laughter.] It stood by its principles.

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

Mr B McCrea: I will give way in a moment. My party stood by its principles then, and it stands firm again. When it comes to the issue of victims, it does what it believes is best for them; it puts them at the very forefront of what it wants to achieve — not just because it is right, but because it is necessary for progress.

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

Mr B McCrea: I will have to now, because I said earlier that I would.

The junior Minister (Mr Donaldson): I thank the Member for giving way. He said that the Ulster Unionist Party was, at all times, honest with people and stood by its principles. Although it was before his time, I remind him that his party once had an election slogan: “No guns, no Government”. The Ulster Unionist Party said that it would not go into Government until paramilitary guns had been dealt with. Yet, that party went into Government without a single rusty bullet having been decommissioned. How did it stick to its principles then? [Interruption.]

Mr Deputy Speaker: Order. I ask Members to speak to the Bill, which is the subject of the debate. In doing so, perhaps they will be somewhat more restrained in their comments.

Mr B McCrea: I will, of course, speak to the Bill, Mr Deputy Speaker. Never, never, never, never has my party done anything other than defend victims. [Interruption.]

When ordinary people outside the Chamber look at what has happened in the debate, they will see the shenanigans that have taken place. They will point the finger and will ask which Members are genuine about the matter and want to sort it out. I agree with Mr Wilson on many issues, one of which is that the people who shout loudest usually have most to fear.

Let me say clearly that the Ulster Unionist Party will support the victims’ commission because it is the only show in town. Party Members do not like the way at which it was arrived. We do not like its constitution. However, we are willing to do what is right for the victims of conflict and the people of Northern Ireland. No amount of prevarication and muddying of the waters —

Mr Simpson: On a point of clarification, will the Member confirm that his former leader, Mr Trimble, and Mr Mallon launched a document in the Craigavon Civic Centre that related to the definition of a victim, and that that is where it all started?

Mr B McCrea: Mr Deputy Speaker — [Interruption.]

Mr Deputy Speaker: Order. The Member is entitled to be heard.

Mr B McCrea: Mr Deputy Speaker, you have, with considerable patience, asked that Members address the matter at hand.

Mr Elliott: Will the Member accept that when the DUP had an opportunity to change the definition of "victim" it failed to do so, because it could not get agreement from its partner in crime, Sinn Féin? Mr Wilson practically accepted that every party except Sinn Féin agreed that the definition of "victim" should be changed. The DUP is being held to ransom. [Interruption.]

Mr Deputy Speaker: Order. The definition of "victim" is not part of the Bill, which means that we have once again moved off the subject.

Mr Elliott: It should be part of the Bill.

Mr B McCrea: It is obvious — and regrettable — that there is not consensus on the issue. The Members to my left should have proceeded with this piece of legislation in a seemly way, but instead they chose to stir it up again. We have made our position clear. When people come to judge the DUP's actions, they will not accept that the party did this properly. Many members of the party to my left agree with the issues that we have raised. I know that because, like me, they will have constituents who say that they are unhappy about what has happened, that it is a political fudge, and that it is not the right way to proceed.

Lord Morrow: I thank the Member for giving way. Mr McCrea is vexed because there is going to be a victims Bill. Mr McCrea and his party built their hopes on the fact that there would not be a victims Bill; that would have pleased them immensely. Today, they hang their heads in shame, because something has been achieved that they never had the guts, will or determination to do.

Some Members: Hear, hear.

Mrs D Kelly: I thank the Member for giving way. Contrary to Lord Morrow's comments, a victims Bill has been in existence since 2006. What we are supposed to be discussing today is the establishment of a commission, because the DUP and Sinn Féin could not agree on the appointment of one commissioner.

Mr B McCrea: I want to conclude my speech, provided that there are no further —

Some Members: Hear, hear.

A Member: There is consensus on that.

Mr B McCrea: Had it not been for that comment — made from a sedentary position — I would have forgotten that Sinn Féin was here. It is amazing that it is not — [Interruption.]

When it gets to this point it is important that we send out the right message to those victims who have suffered so horrendously over the past 30 to 40 years. We, as a party, will work with the commission and we wish it well. However, we are disturbed that we were not able to deal with a number of important issues.

Nevertheless, the democratic process is such that the DUP and Sinn Féin have brought a Bill; we have highlighted certain deficiencies; a vote will be taken and the Bill will be carried. However, I hope that, if it does not work out in the way that they anticipate, they will have the good grace to acknowledge that the points made in the Chamber were not only right but helpful. I hope that they stop the party political bickering in a bid to win political points, because this is an important matter.

Mr Attwood: When Sammy Wilson, who has now left the Chamber, concluded his remarks — [Interruption.]

Mr Kennedy: He has moved position again.

Mr Attwood: I see that he has returned. [Interruption.]

I did not spot you in that suit, Sammy — it is not glaring enough.

When Sammy Wilson was in the Chamber, to which he has now returned, he said that all Members of the Assembly should:

“work to ensure that there is an effective mechanism for dealing with the issues surrounding victims.”

Mr Wilson went on to say that, after all the political points have been made and the legislative process completed, we should all work with the victims’ commission. Mr Basil McCrea has just expressed the same sentiments. As Dolores Kelly said, the SDLP will abstain from the vote. In doing so, our actions are consistent with those sentiments. We do that not to convey opposition to a victims’ commission per se but to indicate our lingering doubts about the powers that the victims’ commission might have and its role.

Although I do not often agree with Sammy Wilson, there are times — if for only a moment — when I do. I agree that work must be done to ensure that effective mechanisms are in place to deal with victims’ issues. On that theme, I shall make four or five points. The Bill will soon become law, and it is reasonable to expect that, in those circumstances, individual victims and groups will knock on the door, or doors, of the victims’ commission to advocate on behalf of their individual and broader needs. That is when the really big issues will emerge.

Over and above the issues that have been rightly and properly debated in the Chamber over the past few weeks, and over and above the powers and the moneys that the victims’ commission will have, issues concerning the victims’ commission will endure. The Chamber will not be able to deal with those issues, and that will lead to individual victims and victims’ groups having a level of expectation that will not be fulfilled.

There are three or four reasons for that. On a range of victims’ matters, Members are not masters of their own destiny. The British Government are masters of destiny on such matters; they have established the law that governs a number of victims’ issues. That law has been established not by us, but by the British Government. They have laid down constraints on what can happen with certain victims. One need only consider how the British Government have changed tribunal legislation in order to understand how they will introduce legislation to constrain what a victim or a victim’s family can do. The primary and particular purpose of the Inquiries Act 2005 was to restrict the Finucane family’s ability to get the truth about the murder of the solicitor Patrick Finucane. The Assembly does not have the power to amend any or all of that legislation.

However, the issue goes deeper than that. As the SDLP leader, Mark Durkan, said at the weekend, the British Government now propose legislation that could lead to the establishment of a special-cases coroner. That legislation may roll out in the North and affect the conduct of inquests here. As we know from European Court decisions, dozens of inquests around which there are serious issues are waiting to be convened. However, the British Government may be about to legislate in a way in which those inquests will be constrained in what they can and cannot do.

Mr Weir: On a point of order, Mr Deputy Speaker. I seek a ruling. I appreciate that legislation from Westminster may lead to serious issues, such as issues around coroners’ courts and inquests. However, I struggle to see how the Member is speaking to the Bill.

Mr Deputy Speaker: I ask the Member to stick closely to the Bill.

Mr Attwood: I appreciate that ruling, Mr Deputy Speaker. A great deal of flexibility has been shown in the Chamber, and I was exploiting that flexibility.

I move on to matters that affect the Bill, and that particularly affect the victims' commission. The SDLP tabled amendments to the Bill that were not accepted. If made, those amendments would have incorporated the Paris Principles into the workings of the victims' commission. The Paris Principles are established UN standards that govern the powers, or otherwise, of an independent commission to do its business.

12.30 pm

We know all about those powers, because when the Assembly established the position of Children's Commissioner, it legislated for the Paris principles to be embedded in that post's authority. That enables the Children's Commissioner to call for papers, summon witnesses and support applicants in matters relating to their cases.

From recent history, we know of the long and tedious battle that was fought with the British Government to ensure that some of the Paris principles were embedded in the Human Rights Commission's authority. However, the victims' commissioners will not have the power to call for papers, summon witnesses and subpoena evidence that might come to their attention through a victim or a victims' group. Consequently, in the near future, when people ask the commission for victims and survivors to act as their voice, the victims' commissioners — through no fault of their own — will only be able to reply that, although they may be those peoples' voice, they do not have the power and authority to act on victims' and survivors' wishes by compelling witnesses to appear and by gathering evidence.

If powers consistent with the Paris principles were good enough for the Children's Commissioner, the Human Rights Commissioner and other commissions in the North, the House should stretch itself to provide the same powers for the commission for victims and survivors, which, through no fault of its own, will be weaker without them.

Thirdly, many sensitive and important matters have been rightly addressed in the debate. However, based on my observations, there has been little discussion about what the commission will actually do. The SDLP wishes to put down some markers — not exclusively or exhaustively, but representatively — about matters that the commission should address immediately after the vote.

Through various structures and initiatives, the victims' commissioners should act as voices for victims and survivors. The commission should provide, as we heard earlier, the fullest possible range of welfare, financial and broader support for those in need; and, when the Eames/Bradley recommendations are forthcoming, the commission should be the custodian of, and responsible for, advancing those recommendations. In future, I hope that Assembly debates will be concerned with addressing those types of matters, rather than the other matters that were, rightly, raised in recent weeks.

My fourth point is about how the Eames/Bradley group will relate to the commission. If the Assembly is to send any message to the Northern Ireland people — especially to those who are still hurting and grieving — it should be that every individual deserves the right to the truth about what happened to their family member or loved one. However, I have not heard that message coming from the Chamber in a unified voice.

I shall provide two examples. First, in a question for written answer, I asked:

“the Office of the First Minister and deputy First Minister to confirm that (i) it will co-operate fully and in all matters with the Eames/Bradley Consultative Group on the Past and (ii) it will encourage all groups and individuals to co-operate also.”

Given that I asked the First Minister and deputy First Minister, or the junior Ministers, to address those questions, I wonder why was the following answer given:

“Both of us have met with the Consultative Group in January 2008. The Consultative Group is to present a report to the Secretary of State for Northern Ireland by summer 2008. We therefore have no direct responsibility for, or role in, this group. We await the outcome of this group.”

I asked the shared office of leadership in the North those simple questions: will it co-operate and will it encourage all others to co-operate as well? On both matters, the answer was silence.

What does it say to people in the North and to the victims' commission when the Department that sponsored the Bill is silent when it is asked a simple question about the principle of co-operation with Eames/Bradley? Is that the standard that will best inform the victims' commission on how to do its work and inform society as it tries to deal with the difficult issues of the past?

I have doubts about how the process will work if all organisations and parties do not co-operate fully with Eames/Bradley or with any other legitimate inquiry — police or otherwise — that is ongoing in the North. The Bloody Sunday Inquiry revealed that, at the time of the subject of its investigation, a Member of the House was bound to an illegal organisation by a code of honour that was greater than the obligation to co-operate and provide information. I would welcome hearing whether that is still the case.

I hope that we are moving beyond all that. However, in the day that is in it, given that the McCartney murder trial is due to commence today, telling the truth and co-operation will be essential in determining whether there are convictions.

Mr Deputy Speaker: Order. I ask the Member to restrict his remarks to the Bill.

Mr Attwood: The reason for OFMDFM's ambiguous response to a question in the House about co-operating fully on all matters and encouraging all groups and individuals to co-operate is — unfortunately — still unclear.

The junior Minister (Mr Donaldson): I thank all Members who contributed to the debate, and I will respond to some of their remarks. The victims' commission that the Bill will establish is a genuine attempt to do something better for the victims of the period in Northern Ireland that has become known as the Troubles and to ensure that they have the support and recognition that they deserve.

Members may debate whether the proposals in the Bill are flawed or ineffective, and they are entitled to their view. However, the DUP and the Office of the First Minister and deputy First Minister believe that the proposals are robust and capable of delivering for the innocent victims in Northern Ireland, the needs of whom are paramount in all discussions about the Bill.

Mrs Dolores Kelly said that the powers of the commission would be ineffective. At one stage, she referred to something that I said about the Victims and Survivors (Northern Ireland) Order 2006 in response to points that her party leader, Mr Durkan, made in the debate during the Bill's Consideration Stage. I have a copy of the Hansard report of that debate, and, in fact, I did not accuse Mr Durkan of failing to change the Order — I know that an Order cannot be amended once it has been presented and that it can only be accepted or rejected. The Hansard report is clear that I told Mr Durkan to re-read the Order because it contains many of the powers about which he spoke.

The Bill deals with the narrow issue of creating the corporate body that will be known as the victims' commission, the powers of which are already outlined in the Order, even though they were originally meant for one commissioner. After the interview process and further consideration of the matter, the First Minister and deputy First Minister felt that the requirements of the post were so great that it was wrong to put such a heavy burden on the shoulders of one person. That, in turn, created the need for a commission. That is why the Bill is before the House and why we are asking Members to support it — it is necessary to make progress on the huge amount of work that is required in the victims and survivors' sector.

The commission is only one part of that. A victims' strategy will be introduced shortly, and it will be issued for consultation. Despite the criticisms that have been made in this House and in this debate, the Office of the First Minister and deputy First Minister does not believe that it has a monopoly on all knowledge and wisdom on these issues. We want to hear from the people who matter most — those who have to live daily with the consequences of being a victim — and we want them to be involved in shaping the strategy.

OFMDFM will also be bringing forward proposals on funding. Mrs Kelly mentioned the funding of £36 million and suggested that it was simply old money being recycled; it is regrettable that she said that. It is unfortunate when Members try to score cheap points on what is a genuine attempt to ensure that victims' groups and individuals get the resources and support that they need. I say to Mrs Kelly that a lot of this is about healthcare. Of the proposed £36 million, £19.5 million is new money. Although the remainder has been allocated to the victims' sector, none of it is being taken from the healthcare budget — it is new, additional money that is specifically for the victims' sector. I hope that Mrs Kelly will at last recognise that this is a genuine attempt to provide resources for the victims and survivors' sector. It represents more money than has ever been made available under any previous Administration, including the one that was headed jointly by Mrs Kelly's party and the Ulster Unionist Party.

Whatever is being said about the amounts of money involved and about the intentions behind the establishment of the victims' commission, I know and recognise that we — and I mean all Members — will be judged on results and on how effective the commission proves to be over time. This is about building a partnership with the victims' sector to ensure that there is delivery, not just for the groups who work in the sector but for the individuals who are not associated with any group — they are often the people who are silent and who suffer in silence. Ways must be found to help those people, to identify their needs and to ensure that those needs are met.

Mr Attwood made similar points to those of Mrs Kelly on the powers of the commission — it really depends on what Members want the commission to do. It will have a role — but not an exclusive role — in looking at the past. Its role will be in partnership with that of the forum, which I know the SDLP has long called for. The commission will work in partnership with whatever emerges from the current discussions on how we are going to deal with the past. We recognise that the commission will have a role to play, but that it will not be the ultimate authority on how the past is dealt with. The way forward on that aspect has yet to be worked out.

Mr Ford described the Bill and the process as being flawed. He said that Sinn Féin had steamrollered the DUP. I assure Mr Ford that the DUP has not been steamrollered. I stand here of my own free will, as a Minister, with the full support of my colleagues, fully supporting this Bill and the amendments. Indeed, I moved the amendments. No-one steamrollers the DUP. The DUP has made up its own mind on the issues; as has Sinn Féin. However, a responsibility exists within the system that Mr Ford and his party supported at its establishment — the Office of the First Minister and deputy First Minister. I see Mr Ford shaking his head, but I recollect that he was one of the key proponents of the "Yes" campaign and the referendum that supported the institutions that we have today, albeit, thankfully, updated, improved and amended since St Andrews.

However, those arrangements are transitional, and I forward look to the day when we can have a proper functioning democratic system in Northern Ireland.

12.45 pm

Mr McNarry: Proper?

The junior Minister (Mr Donaldson): Yes, Mr McNarry, you supported this system, too. Your party created this system, and your party is responsible for what we have today at Stormont, so do not try to walk away from it now and act holier than thou —

Mr Deputy Speaker: Order. It is not normally necessary to ask the junior Minister to address his remarks through the Chair, but I ask him to do so.

The junior Minister (Mr Donaldson): I am simply responding to points that were made in the debate, and I will continue to do so. If Members wish to criticise the process, let them also remember that they fathered the process. They created the very process of which this Bill is a product, whether they like it or not. Therefore, we will not take any lectures on hypocrisy, double standards and how this process works. We are doing the best with what we inherited, and we are doing our best to make this process work for the people of Northern Ireland. We are doing our best to clear up the mess that others created in the first place. [Interruption.]

Mr Deputy Speaker: Order. Allow the Minister to be heard.

The junior Minister (Mr Donaldson): Thank you, Mr Deputy Speaker.

In his remarks, Mr Kennedy described the Bill as a grimy compromise. He would know all about grimy compromises, because he belongs to a party, the First Minister of which resigned and then, all of a sudden, “un-resigned”. Talk about a grimy compromise.

Mr B McCrea: On a point of order, Mr Deputy Speaker. You have mentioned several times that Members must keep to the business at hand. Is there any chance that we could keep to the business at hand now, rather than be subjected to a history lesson?

Mr Deputy Speaker: I agree that it would be useful to keep to the business at hand.

The junior Minister (Mr Donaldson): Since Mr McCrea wandered all over the place during his remarks — backwards and forwards, inside out and upside down — I will listen to no lectures from him about avoiding history lessons. Of course, Mr McCrea does not have much history when it comes to dealing with the victims of the Troubles in Northern Ireland. As I reminded him last week, Mr McCrea is a ceasefire politician. He put his head above the parapet when the fighting was over — when the battle was finished, up popped Mr McCrea. He may well have won the BBC ‘Politics Show’ newcomer of the year award, but, as far as we are concerned, he is the latecomer of the year when it comes to dealing with the victims of violence.

My party has been dealing with this issue for years, and it will continue to deal with it, because it puts the victims first. It is our party that is bringing forward this Bill. It is the Office of the First Minister and deputy First Minister that is delivering for victims, where others failed to do so when they held those positions. They failed, and miserably so.

I recall that, when I was a member of the Ulster Unionist Party, I presented the then First Minister and leader of the party, David Trimble, with a paper on the need for a victims’ commission. That paper was ignored, and Mr Trimble and the Ulster Unionist Party failed to deliver for the victims. Therefore, we will take no lectures from Mr Kennedy or Mr McCrea, because their record of dealing with this issue is, frankly, lamentable — [Interruption.]

Mr Kennedy: Join the Provos.

Mr Deputy Speaker: Mr Kennedy, I ask you to withdraw that remark.

Mr Kennedy: The remark is withdrawn.

The junior Minister (Mr Donaldson): Thank you very much, Mr Deputy Speaker. I remind Mr Kennedy that I put on the uniform of the Crown to fight the Provos, and that members of my family died in that fight. I am glad that we are in a better place today and that we have a relative degree of peace and stability. There was a dreadful incident last night in Tyrone, and we all pray that that young man — [Interruption.]

I regret that Mr Kennedy seems to want to interrupt my condemnation of acts of violence. Does he not at least have the decency to allow me to condemn an act of violence without interrupting me? We all condemn last night's act of violence, and we do not want any more victims to be created in Northern Ireland.

Mr McNarry: You have lost the plot, Jeffrey.

The junior Minister (Mr Donaldson): I have not lost the plot, Mr McNarry. The people who lost the plot in 1998 were the people who voted to open the gates of the Maze Prison and let the murderers out on to the streets. Do not lecture me about losing the plot. The people who lost the plot —

Mr Deputy Speaker: Order, please. I honestly believe that this has gone too far. We are not talking to the Bill at all, and that is to be highly regretted.

The junior Minister (Mr Donaldson): I take your point, Mr Deputy Speaker, but I note that the continuous interruptions and interventions from a sedentary position go unchecked, and, therefore, somebody has to deal with them.

Mr Deputy Speaker: If you check the Hansard report tomorrow, I think that you will see that I have had to intervene a record number of times.

Some Members: Hear, hear.

The junior Minister (Mr Donaldson): Well, Mr Deputy Speaker, I have been interrupted on a number of occasions, and it has been me who has been asked to come to order, not others.

Mrs D Kelly: On a point of order, Mr Deputy Speaker. Is it not the case that, when the junior Minister speaks, he is speaking on behalf of OFMDFM, and not on behalf of the DUP or, indeed, himself?

Mr Deputy Speaker: Will the junior Minister please continue?

The junior Minister (Mr Donaldson): I would not be a junior Minister if I were not a member of the Democratic Unionist Party — and I do not divorce myself from my party, except when it goes the wrong way. [Laughter.]

There is much more that I could say about the contributions that were made — some of which, quite frankly, are unworthy of comment. Mr Basil McCrea spoke of a cosy coalition. May I remind the Member that the Ulster Unionist Party is part of the coalition Government in Northern Ireland — a coalition Government that it helped to design. [Interruption.]

Mr Deputy Speaker: Order. Will Members please allow the Minister to speak?

The junior Minister (Mr Donaldson): The reality is that I am working in a joint office that was created by the Ulster Unionist Party, the SDLP and others. We do our best to try to reach a

consensus on very difficult issues, and I regret that we were not able to achieve a broader consensus in this Chamber on these issues. I assure Members that that was our objective in the amendments that we tabled, which were designed to address concerns that Members had raised, and to do so in a way that enabled us to move this legislation forward with the broadest possible consensus.

I welcome the fact that the Ulster Unionist Party has indicated that it will vote for the Bill; the SDLP will abstain; and I am not sure about the Alliance Party, which, I believe, indicated that it will vote against the Bill at this Stage. We have achieved at least some degree of consensus, even if it is not the broadest possible.

What matters now is to ensure that the commission can deliver for the victims of violence. However, this House, too, has a continuing role in addressing the needs and concerns of victims, as have the Executive, the Office of the First Minister and deputy First Minister, and other Ministers.

This has, at times, been a heated debate, but I recognise that this is an emotive issue that goes to the heart of where we have come from and how we deal with the past. I accept Mr Attwood's points. I say to him, in relation to the Eames/Bradley process, that my party will co-operate fully, as it has done. We have met the Eames/Bradley Consultative Group on the Past on several occasions. I understand that Sinn Féin has also had a number of meetings with the group.

What the First Minister and deputy First Minister cannot do at this stage is pre-empt the outcome of the group's report. We must wait for its recommendation and consider where we stand on them. The Eames/Bradley Consultative Group on the Past was established not by this House, not by the Executive, but by the Northern Ireland Office, and is, to a certain extent therefore, outwith the devolution process. Therefore, we have to see where that process goes in order to determine the role of the First Minister and deputy First Minister, and their Department, when it comes to implementing the group's recommendations.

Mr Attwood: I did not suggest that the junior Minister's Office should pre-empt the findings of the Eames/Bradley group. I asked the Office of the First Minister and deputy First Minister, in a question for written answer, AQW 4703/08:

“to confirm that (i) it will co-operate fully and in all matters with the Eames/Bradley Consultative Group on the Past and (ii) it will encourage all groups and individuals to co-operate also”.

There was silence in reply.

I was trying to probe whether that silence endured or whether Mr Donaldson's party, as opposed to OFMDFM, would now co-operate fully with the Eames/Bradley group. People are encouraged to co-operate with inquiries into criminal activity; therefore, does he not agree that it would be helpful if his party were to send out a clear message to the people by co-operating with the Eames/Bradley Consultative Group on the Past, without fear, favour or prejudice?

The junior Minister (Mr Donaldson): We are already doing that. I have nothing further to add on what we are already doing.

I thank the Committee for the Office of the First Minister and deputy First Minister for its involvement in the process. There were problems because some Committee members were opposed to accelerated passage and would have preferred a full Committee Stage. However, we have now reached the stage where it is to be hoped that the Bill will be passed by the House and enacted as law. That will enable the commission to get on with its work.

We support the commission in its work. Members stated clearly that they will assist the commission, and that is important. We all represent constituencies in which there are victims and

survivors, and people who are living with the legacy of more than three decades of violence. Dolores Kelly said that victims' interests remain prejudiced by a lack of consensus and failure of leadership. We may not have achieved the level of consensus that we would like, but at least we can now go forward, showing leadership.

I hope that we can end this debate on a positive note. Despite our differences about whether the commission is adequate, we should all resolve to do our best to make it work for the good of the people who need its help. It is to be hoped that the commission, the strategy and the other work that is yet to be done will deliver for those who have waited for a long time.

Question put and agreed to.

Resolved:

That the Commission for Victims and Survivors Bill (NIA 12/07) do now pass.

The sitting was suspended at 12.58 pm.

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

2.02 pm