

**BRITISH-IRISH PARLIAMENTARY
ASSEMBLY**

Forty-third Plenary Session

23 - 25 October 2011, Brighton

Contents

**MEMBERSHIP OF THE
BRITISH-IRISH PARLIAMENTARY ASSOCIATION
Steering Committee**

Co-Chairmen

Rt Hon Lord COPE
Mr Joe McHUGH TD

Vice-Chairmen

Rt Hon Paul MURPHY MP
Mr Laurence ROBERTSON MP

A representative from the National Assemblies of Scotland, Wales, Isle of Man and the Channel Islands.

Members in Attendance

Professor Lord BEW	Senator Cáit KEANE
Baroness May BLOOD MBE	Rt Hon Lord MAWHINNEY
Senator Alan BRECKON	Mr John McCALLISTER MLA
Mr Willie COFFEY MSP	Mr David McCLARTY MLA
Senator Paul COGHLAN	Mr Mattie McGRATH TD
Mr Seán CONLAN TD	Mr Michael McMAHON MSP
Mr Noel COONAN TD	Mr David MELDING AM
Senator John CROWN	Mr Patrick O'DONOVAN TD
Senator Maurice CUMMINS	Ms Ann PHELAN TD
Mr Jim DOBBIN MP	Mr John Paul PHELAN TD
Lord DUBS	Mr William POWELL AM
Mr Frank FEIGHAN TD	Mr John ROBERTSON MP
Mr Paul FLYNN MP	Ms Mary SCANLON MSP
Lord GLENTORAN CBE	Mr John SCOTT MSP
Baroness HARRIS of Richmond	Mr Arthur SPRING TD
Senator Jimmy HARTE	Deputy Jane STEPHENS
Senator Imelda HENRY	Mr Jack WALL TD
Mr Martin HEYDON TD	Mr Robert WALTER MP
Ms Bethan JENKINS AM	Mr Jim WELLS MLA

Others Present

Mr David Ford MLA Mr Martin HOWE QC	Mrs Sally SCUTT Lord SHUTT
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Associate Members

Viscount BRIDGEMAN	Mr Jim McGOVERN MP
Senator Terry BRENNAN	Mr Andrew ROSINDELL MP
Lord GERMAN OBE	Mr Jim SHERIDAN MP
Mr Dominic HANNIGAN TD	Rt Hon Baroness SMITH OF BASILDON
Mrs Dolores KELLY MLA	Mrs Joyce WATSON AM
Mr Barry McELDUFF MLA	

Officials

Joint Clerks to the Body Dr Robin James Mr Paul Kelly	Officials of the Devolved Institutions Mr Steven Bell Ms Pamela Carson Ms Emer Deane Mr Ronan Farren Mr Robert Lloyd-Williams
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Committee Clerks to the Assembly

Committee A: Sovereign Matters Mr Niall Brady Mr Adrian Jenner	Committee B: European Affairs Mr Eliot Wilson Ms Orlaith Fitzmaurice
Committee C: Economic Ms Jullee Clarke Ms Tracey Jessop	Committee D: Environmental and Social Mr Nicolas Besly Ms Jullee Clarke
Irish and British Secretariats Ms Jullee Clarke Mrs Amanda Healy	Official Reporters Ms Portia Dadley Mr Murdo MacLeod Ms Aislinn McCabe Mr Rhys Morgan Dr Gail Nicholl Mr Gareth Wigmore

Monday 24 October 2011

The Assembly met at 9.09 am.

**ADOPTION OF PROPOSED PROGRAMME OF BUSINESS AND BRIEF
INTRODUCTORY COMMENTS BY CO-CHAIRMEN**

The Co-Chairman (Lord Cope of Berkeley):

My lords, ladies and gentlemen, first of all, on behalf of Joe McHugh, my Co-Chair, and myself, I welcome you to the forty-third plenary session of the British-Irish Parliamentary Assembly, which is now in public session. Please ensure that you have switched off or switched to silent mode all your telephones, pagers and so on. If you have all done that, we can proceed.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Co-Chair. Before continuing further with today's work, it is fitting that we pause to recall that the Grand Hotel, in which we are meeting today, was bombed by the Provisional IRA 27 years ago during the Conservative Party conference. Five people lost their lives in that attack, including colleagues of some of those present today—including colleagues of my Co-Chair. I propose that we observe a minute's silence to remember all those who were

killed, injured or bereaved as a result of the conflict in Northern Ireland, not just the people who were killed 27 years ago in this hotel. Therefore, I propose a minute's silence, if that is agreed by the Assembly. I see that it is. Please stand.

A minute's silence was observed.

The Co-Chairman (Lord Cope of Berkeley):

Thank you all very much, and thank you, Joe.

I remind Members that the proceedings of this Assembly do not attract parliamentary privilege. We point that out at the beginning of each session.

We have a number of new Members since the last plenary session. I do not propose to read out the names, but you all have a note of those present in your briefing pack. However, I have to inform the Assembly, in accordance with rule 2A, that various Associate Members have accepted the invitation of the Steering Committee to assume the powers and responsibilities of Members for the whole of this session. They are Senator Terry Brennan, Dominic

Hannigan TD, the Viscount Bridgeman, Lord German, Jim McGovern MP, Andrew Rosindell MP, Jim Sheridan MP, the Baroness Smith of Basildon, Dolores Kelly MLA, Barry McElduff MLA and Joyce Watson AM. They are all Members for the whole of this session.

I beg to move the adoption of the draft programme of business, which has changed slightly since we arrived, as I will outline. We had a very successful meeting, and a very enjoyable meeting, if I may say so, in Cork in the summer. The idea is to build on the ideas and relationships that began there. With little more than four months, and some of them holiday months, since our last plenary and with the changes resulting from the general elections, there has not been as much Committee work as normal in the intervening period. I believe that a great deal of the most important work that we do in the Assembly is done through the Committees and the follow-up of the Committee reports afterwards. For that reason, in advance of the plenary, the Co-Chair and I wrote to the Committee chairs, the Clerks and so on to say that a chief aim of this plenary over the next day and a half is to reinvigorate the work of the Committees following the changes in membership of all the Committees.

9.15 am

However, we also have some interesting and topical speakers on a range of issues of

interest. David Shutt—Lord Shutt—the Minister who speaks for the Northern Ireland Office in the Lords is coming, as you know. Martin Howe QC, a distinguished lawyer in his own right, but, in particular, one of the commissioners appointed to consider a new UK bill of rights, is coming to talk to us. We also have a lady who, it seems to me, has a very difficult job in the middle of the euro crisis: Sally Scutt of the British Bankers' Association is coming to tell us about a fast-moving scene and, I hope, to give us some perspective on what is happening in Europe. Lastly, we have David Ford MLA, who took over responsibility, with devolution to the Northern Ireland Assembly, for justice and related matters. He is coming to talk to us about that.

We want to round off this plenary with a discussion about the role of the Assembly itself. The discussion will be opened by one of our most senior Members, Paul Murphy, who you will know is a former Co-Chair of the Assembly and a former Secretary of State for Northern Ireland; he has held other offices as well. The fact is that there have been general elections in all of the legislatures that we represent in the past 18 months, except for Guernsey—I believe that Guernsey has elections next year. In Jersey, the elections were held last Wednesday. Obviously, you know about all the others. So, there has been a great change in membership. In addition to that, I think that it is right to rethink the role of the Assembly a bit and to see

where we are going, in a general sense. That is what we propose to do at the end, in the last part of this session tomorrow morning.

I said that there were some changes to the original programme, the one in your little yellow book. You will find the revised programme on the sheet in front of you. We have had to move the session relating to the work of Committee A because of a problem that the Committee's Chair, Frank Feighan, had. We have moved it to first thing tomorrow morning. The Assembly will convene half an hour earlier than previously notified tomorrow morning, at 9.30 am, so as to do that before we move on to the session with David Ford. The corresponding benefit is that we are not going to meet until 3.45 pm today, so there will be a longer break, at that time, for lunch but also for a Committee meeting that is going on simultaneously. When we come back at 3.45 pm, we will consider briefly the various replies that have been received to the motions passed by this Assembly in the past from the relevant Governments. So, we will do that at 3.45 pm, before we move back to the programme as originally set out in the little yellow book.

By the way, there is one item that we thought of putting on the programme, but which, fortunately, we do not need to. A few weeks ago, we were thinking of having at least a short

debate about the demise of ‘The Irish Post’. However, fortunately, ‘The Irish Post’ has arrived back on our news stands just in time, so we do not need to. It restarted all by itself without our encouragement—or at least without our encouragement through this Body. That is the programme that we have set out for you. I beg to move that the programme be adopted. Is the programme of business agreed?

Programme of business agreed.

The Co-Chairman (Lord Cope of Berkeley):

Thank you. That was agreed unanimously. There is one further item, which is not strictly a matter of the programme. At 2.15 pm, we want to take a team photo—we always like to have a team photo—which will be taken on the grand staircase in the foyer of the hotel. Please be ready with your best smiles.

THE WORK OF COMMITTEE D (ENVIRONMENT AND SOCIAL)

The Co-Chairman (Mr Joe McHugh TD):

I will shortly call Alf Dubs, the chair of Committee D, to speak about his reconstituted

Committee. Senator Maurice Cummins has been appointed Vice-Chair of this Committee. I am aware that you met this morning. This will be an opportunity for Alf to outline progress to date and what action has been taken on the work that you have been involved in. It will also involve consideration of future work. This is an opportunity for the newer Members to have an input to this particular Committee on environmental protection, sustainability and social issues.

We had a discussion at yesterday's Steering Committee meeting about what we want to do. The Co-Chair and I—as agreed by the Steering Committee—want to bring a bit of relevancy to the Committees. There is no point coming to the Assembly twice a year not to have an input to our own Assemblies. We believe that the mechanism for doing that is the Committees. The reconstituted Committees provide an opportunity to do that. Alf will outline his work to date. This will be an opportunity to focus specifically on the Committee. As the Co-Chair announced, there will be an opportunity at a later date to discuss the overall role of the Assembly. That discussion will be chaired by Paul Murphy. That will be a different opportunity to talk about the overall work. If we can keep our questions following Alf's contribution to the specifics of the Committee, it would be appreciated.

Lord Dubs:

Thank you, Co-Chair. It is a privilege to have been asked to be the Chair of Committee D again. I have found my time on Committee D in the recent past to be one of the most satisfying things that I have done in politics. Also, socially, it is great to have such a mixture of people on the Committee. The outgoing Committee was a pretty good one. My thanks to the Members. Only one of them has survived the cull of elections, retirements and so on. So, Committee D started as a new enterprise this morning. I am grateful for the work that the outgoing Committee D did. To give you a flavour of it, three of the most recent studies that we carried out were on: climate change and renewables, covering the various jurisdictions; getting the unemployed back to work; and the Irish community in Britain. I will not go through the whole list of other things that we did. We had debates in the British Parliament on two of those issues; they were short debates. Chris Ruane MP, who, alas, is not here today although he is still on Committee D, did one on the Irish community in Britain, and I did one on climate change and renewables.

It may well be that, in your own Parliaments, Assemblies and jurisdictions, there has also been some work done. Perhaps I am not quite up to date with whether some of these issues were also debated in those places. However, I know that, in Dublin, you have been pretty

good at debating some of the issues that the various Committees have dealt with. I make a plea to members of Committee D—although it applies to all—to use your influence, which is pretty significant, to get debates going in your Parliaments and Assemblies on these issues.

If the Committees do quite a bit of work, it is a pity that that is lost in terms of not putting pressure on the Governments in the various Parliaments and Assemblies to take the work further. That is where we were in the past. We have had some good studies: the one on the Irish community in Britain was very topical of course. You mentioned, Co-Chair, that ‘The Irish Post’ has survived, although it was touch and go, and we are still fighting to save the Hammersmith Irish cultural centre and there are various other aspects of support for the Irish community in Britain, where we are working hard with the Irish community to try to help it to save the day. I pay tribute to the Irish Government, which has been generous, even in very difficult financial times, to the various projects that the Irish community has in Britain, particularly the Federation of Irish Societies, which does great work, and with whom we have co-operated immensely on the study of the Irish community. So, that was the work that we have done in the past.

We had a very interesting discussion with the new Committee. It is a great Committee and

my thanks to all of those who are on it; it augurs well for what we have to do. I will just give you a flavour of the things that we have on our agenda. The most immediate study—and we have dates going for it—is to consider people trafficking across the jurisdictions. I know a lot of work has been done in some of the Parliaments and Assemblies on people trafficking as an issue within the jurisdiction, but we are concerned with trafficking across jurisdictions, of which there appears to be quite a lot. We want to pin that down by having meetings with the Parliaments and Governments, the police and border people, non-governmental organisations, local authorities, and so on. So, there is quite a programme of work there and we intend to start with some dates in January, February and March. As we could not manage to get in a start date before Christmas, we will go full speed ahead then. I am particularly grateful to colleagues from the various jurisdictions, from Wales, Dublin and Belfast, for the help that they have offered in setting up the various meetings and evidence sessions that we shall be having.

As regards looking further ahead, we took a look at the future and what we might do, which is always useful. We have more or less reached agreement that we will look at Travellers across the jurisdictions next. Obviously, because of Dale Farm, that has been a particularly big issue in England for a while. Dale Farm used to be in the parliamentary

constituency of one of our Members, Baroness Smith, so she has direct experience of the situation there. We thought we would look at the position as regards Travellers across the jurisdictions. It is a hot potato and it is quite a difficult one, but the Committee felt that we should bite the bullet, to mix my metaphors, and have a look at this. It is something that is talked about a lot in various communities all over the jurisdictions that we represent, and we felt that we should have a look at it to see what we can do. Not much work seems to have been done on it at a parliamentary level, so that is that.

After that, we thought that energy prices and energy security would be a good subject, wearing the environmental aspect of Committee D's hat. We are all affected by the very large increase in energy prices at the moment and problems about energy security, and so we felt that that would be one to have a look at as well. We have a programme of work lasting the next two years at least, and I am grateful to the Committee for its willingness to get on with it and to do the work.

Finally, I will repeat something I said a bit earlier. It is important that when any Committee does some work, we follow it up clearly with the various jurisdictions and write to the Governments and Ministers responsible. Normally, we get some sort of response:

sometimes, it is a pretty full one, sometimes it is less full, but we do get responses. It is also important that these things should be debated widely not just in the plenary here, but also when we go back to our Parliaments and Assemblies. The co-operation of all of you, in terms of pushing this forward, would be much appreciated. Finally, I repeat my thanks to Committee D for the work that it is going to do and the energy with which it will do it.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Alf. I take this opportunity to welcome both the British and Irish Ambassadors, Julian King and Bobby McDonagh. You are very welcome, and thank you for coming. I will take questions from the floor and it has also been agreed that we will do away with writing the questions on notepapers. So, we have moved on as an Assembly; we will take them from the floor in groups if necessary.

The Co-Chairman (Lord Cope of Berkeley):

If no-one else has a question at this moment, I encourage the Committee, particularly for example when thinking about energy prices, to work closely with the British-Irish Council and consider the work that it has done. It is giving a lot of attention to energy matters, the grid infrastructure and co-operation and co-ordination between the various jurisdictions. It is

important that this Assembly tracks the work of the British-Irish Council, particularly when it is doing something that is relevant to something that we are looking at, and energy would be one example of that.

Lord Dubs:

All I can say is, ‘Thank you very much; that is a good point.’ As you know, we have tried for a long time to get this plenary closer to the British-Irish Council, and we have had varying degrees of success in doing that. Certainly, I take your point and that is a useful suggestion.

Mr John Scott MSP:

Are we talking about joint working with it—I am a new boy to this organisation—or is that a step too far, or is that not something that could be considered in this regard where the work overlaps?

The Co-Chairman (Mr Joe McHugh TD):

If you do not mind, Alf, I will take that. At the Steering Committee meeting yesterday, we discussed the British-Irish Council, and the secretariat is not set up yet; it has not been

formalised. We are hoping that once that happens, there will be a better mechanism between this Assembly and the British-Irish Council, so in agreement with the Co-Chair, the environmental issue would be one that we could progress through that mechanism. It has not been set up, but it is something that we could maybe do to try to advance that.

9.30 am

Mr Jim Wells MLA:

I will just say that that is an absolute disgrace. I was going to raise this issue later on: I have sat on this body for three years, the Anglo-Irish Agreement was signed in 1998, and, 13 years on, we still have the ridiculous situation that there is no secretariat for the British-Irish Council. Meanwhile, of course, the North/South bodies are motoring on at great speed with their fabulous offices and their huge cadre of staff. We, as a party, from a unionist perspective, see the east-west links as being as important as the North/South links, and certainly as desperately symbolic. If you can pour millions into the secretariats of North/South bodies and you have not even got around to establishing any form of headquarters or secretariat for the east-west links, I find that extremely worrying. I was hoping that, at this conference, we would get a report as to when the ribbon would be cut. Clearly, that is not going to happen, and I know that our grouping at Stormont will be very

concerned about that.

The Co-Chairman (Mr Joe McHugh TD):

That is certainly noted.

The Co-Chairman (Lord Cope of Berkeley):

I was just going to say that, at the June meeting of the British-Irish Council, a target date of 1 January was set for the beginning of the operation of the standing secretariat of the British-Irish Council. They are obviously working to put that into effect now; therefore, with any luck, we shall not have too long to wait before there is a standing secretariat. In any case, the various working groups of the BIC have been progressing; for instance, the group on electricity grid infrastructure and so on, which is part of what I thought would be relevant to the Committee's consideration of energy prices and security.

The Co-Chairman (Mr Joe McHugh TD):

I will take it back to observations on Committee D, if there are any specific questions on that.

Rt Hon Paul Murphy MP:

I thank Alf for a very interesting report on fascinating subjects, as indeed will be the next report that the Committee issues. However, in general, in terms of what happens to his Committee's reports, and anybody else's for that matter, I think that that is something that should be a theme throughout these two days, that is, that a great deal of time and effort is put in to producing these very important reports by Members of this Assembly and officials, but the problem is what happens to them after that. I certainly think that one good suggestion was that the British-Irish Council, particularly if it is working on the same issues, should receive those reports and come back to us as a council on what it thinks of them. However, so far as the individual jurisdictions are concerned, our general approach has been that we would write a covering letter to the relevant Minister of the jurisdiction, including the report and asking for the comments of the relevant Government. The responses vary a great deal: I have seen some that have been just one sentence—'Thank you very much for the report, which has been noted'—and I have seen much more detailed responses. It is a bit like a Select Committee in the British Parliament producing a report for the Government—I am not making a party political point, because this applies to all parties in Government. I think that we need to take that further. As well as the formal, written response from the Government, we should, as individual Members within our own legislatures, take every opportunity that presents itself to raise the issue that the report deals with, either by way of written or oral questions, or the

equivalent of what are called early day motions in the House of Commons, or debates on the floor of the relevant legislatures, such as Adjournment debates. Opportunities do arise and certainly in Alf's case there was a very important Adjournment debate on the Irish in Britain in Westminster Hall that produced a great deal of interest and coverage. In many ways, that is a model for how the report can be taken further than simply having a civil servant writing the Minister a letter saying, 'We have noted it', and that is it. We need to take that further, and Alf's Committee has led the way in many ways, in producing those sorts of responses.

Senator Cáit Keane:

To continue on from that, the only way that we will have a result is if we benchmark ourselves and, at the end of every report, put forward four or five recommendations and the date by which we would like, theoretically, to see them implemented. Then, at the end of maybe two or three years, we could see how far we had got and whether we had achieved our results. Without that, we are going to be a talking shop.

The Co-Chairman (Mr Joe McHugh TD):

For the benefit of Members who are not on Committee D, Alf has raised a few very interesting topics. I suppose that energy and sustainability is one that we always go at as

politicians, but he also raised human trafficking and Travellers, and if anyone outside Committee D has an opinion on those, that would be valuable from Alf's point of view.

Baroness Blood:

I am delighted to hear that Committee D will take on these very hot subjects. I would like to ask Alf whether, in doing this work, the Committee will consult people who are already on the ground. I know a lot of charities that work on people trafficking—some tremendous work is being done on that at the moment—as well as with Travellers. I would like to see that incorporated into the report, so that it is not just a parliamentary report, because people on the ground who are doing this work are getting nowhere and are working with very limited money. I think that Committee D could raise the whole profile of these issues, particularly people trafficking.

Ms Ann Phelan TD:

Just as a synergy with the reports, there are possibly Members here who sit on other Committees. I am referring particularly to the Organization for Security and Co-operation in Europe Committee; a lot of its work is on trafficking, which is a major problem in Europe. Perhaps the reports could be made available to that Committee—I am a member of it, and if I

could have that report, that would be very beneficial to me.

Lord Dubs:

There are some very helpful suggestions coming forward. Certainly as Cáit Keane said, in the light of all this, we will be more diligent in our following up. I will now share just a little anecdote: some time ago, I asked a question in the British Parliament as to how many reports the various Committees of this Assembly had produced and what had been the British Government's responses. There was monumental embarrassment.

I was consulted on what possible answer there could be to my own question, which I thought was slightly bizarre, and eventually the answer was, in British terms, a monumental fudge. In other words, the British Government had responded to two out of six or eight reports that we mentioned, and not just from Committee D. That was a shot across their bows, if I can mix my metaphors, and I think that the British Government will do better next time because they got embarrassed. Embarrassing Governments is a legitimate tactic that we can all use. As regards May Blood's suggestion, she has already been very helpful with previous studies: I remember when we were looking at various things in Belfast, she took us round to non-governmental organisations and various community projects, introduced us, and really

facilitated the work of the Committee on that occasion, for which we are enormously grateful.

Yes, we have got down on our target list the need to work with NGOs and voluntary groups that are working with people who have been trafficked, and any suggestions as to particular ones we should meet will always be helpful. I would like to have a word with you sometime about it anyway, May. Jim Wells and I can talk to you about the situation in Belfast. Any suggestions from any Members of plenary that would help us on our way would be much appreciated. It makes it easier. You may know on-the-ground things that we do not always know, although I am bound to say that we have had very helpful offers of doing this on the ground for us from David Melding in Wales, and from Dublin and Belfast. We do rely upon Members of the Committee to help us in setting these things up and pointing us in the right direction, and we also rely upon Members of plenary to do the same thing. Thank you for any help.

Ms Bethan Jenkins AM:

I just wanted to say, on the issue of people trafficking, that the National Assembly for Wales held an investigation into migrant workers a few years ago, and I just wanted to give a word of warning, really, because lots of agencies are in denial of the fact that this problem even exists, in many quarters. For example, the consulates did not really want to acknowledge that

migrant workers were treated any differently to other types of workers. So, if you are going to be taking evidence, you have to make sure that you are talking to the right people—the people who will give you answers as opposed to trying to float over the issue and make it seem that everything is okay when, in fact, it is not.

With regard to Travellers, I think that we need to be looking at how the different jurisdictions are treating this issue in terms of capital investment and so forth. We know that there are cuts happening across the board, so how is that affecting Travellers on the ground?

Mr Robert Walter MP:

First, I congratulate Alf and his Committee on undertaking this report on human trafficking. I think that it is a most important area to look at. It has been evident from some of the other contributions that a number of bodies are looking at this issue, and one of the interesting aspects that may be uncovered in the report is about people who are not just trafficked into these islands but trafficked between the islands. This may be a unique aspect of the report that others may not have looked at. It is not just a case of people arriving here from other European countries or from outside the European Union. Once they have arrived, it is a case of where they are moved to within the islands.

On the question of follow up and raising the profile on this, we have talked about parliamentary questions, and we might try to get into a more routine aspect of asking our Governments when we can expect an answer to a report that has been tabled. We do, in the House of Commons, have a Backbench Business Committee that has allocated to it some 35 days a year of parliamentary debate, and, regarding this particular report on trafficking, one of the most vociferous members of that Committee, Mr Peter Bone, is also the chairman of the all-party group on human trafficking, so he might think kindly if there were a request for a debate on this topic, particularly in relation to the report that is on the way from Committee D.

Lord Dubs:

Thank you, Robert, for that very helpful suggestion. You are right—we do not want to reinvent the wheel. Where work has been done on people trafficking, we do not want to duplicate it. As Robert said, we are looking at trafficking between the jurisdictions not people arriving in London from eastern Europe. That has been partly covered. What we are interested in is what happens in movements across the jurisdictions, and there is plenty of evidence that we have picked up so far that people trafficking is going on between Wales and Ireland,

between Ireland North and South, and so on, and it is that that we want to pick up on, to throw some light on it, get the information, and engage with the policies that are being used to help the people who are being trafficked. Thank you very much indeed for these helpful suggestions.

9.45 am

The Co-Chairman (Mr Joe McHugh TD):

My Co-Chair might want to say a few words in summing up. I would just say at this stage, Alf, and as your Vice-Chair tomorrow, I suppose that you are tasked with the responsibility of leading this exercise, but the onus is on all of us to help you to drive it, and to provide you with the energy to drive it, as well. The issues that you have chosen are significant ones, and I think that we all have to be conscious, as Members of this Assembly, that we will be asked the same question once we go back to our various jurisdictions: what did you achieve in Brighton? We have to be conscious of that, and we have to drive a comprehensive and concrete agenda. I know, Alf, that you will certainly do that, and I wish you well in your work.

The Co-Chairman (Lord Cope of Berkeley):

If there is nothing else that anyone wants to contribute on the question of Committee D's programme of work, then we will now suspend the sitting until 10 am, and then we start our discussion on human rights. The sitting is now suspended for a few minutes.

The sitting was suspended at 9.46 am.

The sitting was resumed at 10 am.

BILL OF RIGHTS COMMISSION

The Co-Chairman (Lord Cope of Berkeley):

We turn now to human rights, which is a subject that we have discussed before. It is an extremely complex scene, with treaty obligations, domestic legislation and a particular relevance in the context of Northern Irish history. As I am sure that many, if not all of you, are aware, the UK Government set up a commission to advise on the possibility and design of a UK-wide bill of rights, which would build on the European Convention on Human Rights.

We are fortunate to have with us today one of the commissioners, Martin Howe QC, to talk to us, but also to listen to us, because they are at a fairly early stage of their work. They are at the consultative stage of their work on the design of a possible bill, although they have presented some recommendations already on the future organisation of the European Court of

Human Rights. As you know, there is a huge backlog there.

Martin Howe is a distinguished lawyer in his own right, on the human rights front as well as on intellectual property. He has practical legal experience of handling human rights cases, right up to and including the Strasbourg court, and has also written extensively on the subject, and on intellectual property and other matters. I find it reassuring that he has not only a degree in law from Cambridge but a degree in engineering as well, which seems to me to augur well. The commission has published the interim advice on the reform of the European Court and it is now involved in a wide consultation. I am delighted to invite Mr Howe to talk to us on the commission's remit and its work to date.

Mr Martin Howe QC:

Thank you, Lord Cope, for that introduction and thank you, ladies and gentlemen, for inviting me here today in order to say something about the current and forthcoming work of the commission of which I am a member. The commission was established by the Coalition Government to investigate a potential bill of rights in the United Kingdom. First, I will explain the terms of reference under which we are collectively established. We are instructed to investigate the creation of a UK bill of rights that incorporates and builds on all our

obligations under the European Convention on Human Rights, that ensures that these rights continue to be enshrined in UK law, and that protects and extends our liberties. We are to examine the operation and implementation of these obligations and consider ways to promote a better understanding of the true scope of these obligations and liberties. We have been instructed to provide, and we have done so, interim advice to the Government on the ongoing Interlaken process to reform the Strasbourg court ahead of the UK's chairmanship of the Council of Europe, which begins, I think, in November. We are also instructed to give a further tranche of advice on that subject after the end of that chairmanship. We are instructed to consult, including with the public, judiciary and devolved administrations and legislatures, and aim to report no later than by the end of 2012.

As I think has been foreshadowed in Lord Cope's introduction, what I can say about the possibly controversial subjects that the commission is addressing is necessarily limited at this stage, first because the commission has been constructed or nominated, deliberately by the coalition Government, to encompass a number of members who have a range of different views on how well or badly the current dispensation under the Human Rights Act 1998 is working. Secondly, expressing my own views might be a little bit difficult, because they would not necessarily express the collective views of the commission. Thirdly, we are in a

phase of formal consultation, having issued a discussion paper just before the summer. We are awaiting responses to that by mid-November, and we are about to embark on a series of visits to Cardiff, Belfast and Edinburgh to address the part of our remit relating to the devolved legislatures and Assemblies. I am here to listen on behalf of the commission, and I am grateful that these proceedings will be transcribed and a transcript can be made available to the commission collectively, so that other members of the commission will be able to read it and see the points made during the course of the discussion this morning.

Turning to the interim advice, that is a subject that we have already reported upon, because, although it is early in the life of the commission, the international timetable rendered it essential that we should report some views on the subject as a matter of urgency in order to feed into the United Kingdom's position at the Council of Europe during the presidency. It is an opportunity—perhaps a once-in-many-years opportunity—to move forward the necessary reform process of that court. We reported on a number of quite important procedural and structural matters where we think that there should be a reform of the court and where we also think that there is a reasonable amount of support in other states across Europe for such steps to be taken.

Our first and perhaps most radical suggestion is that the court changes what it does. At present, it has to take every individual petition presented to it and process it. If the petition satisfies the formal tests of admissibility—many do not, of course—it must proceed with that petition and take it on as a case. That is different from the way in which the UK Supreme Court and other higher courts around the world operate. They tend not to take every case that comes across their threshold; instead, they select the cases that raise particularly important issues. Our recommendation is that the Strasbourg court, which at the moment has a backlog of around 150,000 pending individual petitions to deal with, should no longer be obliged to take and try every case that comes across its doorstep. Instead, it should concentrate, as a Europe-wide court, on dealing with only the cases that are particularly serious or raise particularly important principles that a court of that level should be addressing. Other means should be found for dealing with the large level of backlog that is concentrated among some newer contracting states from eastern and central Europe that have problems, shall I say, with their legal systems that really cannot be addressed by flooding the Strasbourg court with individual petitions.

Secondly, we recommended a number of steps to seek to enhance the quality of the judiciary at the Strasbourg court. Those are important measures upon which we were able to

reach agreement and recommend to the United Kingdom Government. We also indicated that there were other matters that we are looking at but were not yet in a position to make recommendations upon. There is a view, in some quarters, that the Strasbourg court has interpreted the European Convention on Human Rights—“interpreted it” is one view, “extended it” is another—in ways that intrude far too deeply into the internal affairs of the contracting states, and that that has, effectively, diminished the margin of appreciation of the legislatures and judiciary within those states as to how they should interpret and apply the basic rights contained in the convention.

A serious problem that arises if that view is sound, and if, indeed, the Strasbourg court has gone further in this direction than was perhaps envisaged when the convention was signed, is that the judges in the Strasbourg court are becoming legislators, to an extent, rather than mere judicial interpreters of the convention. That calls the democratic legitimacy of the way in which those decisions are reached, and the qualifications of those involved for reaching them, into question. The problem is that there is simply no mechanism, at the moment, for any form of review of, or democratic accountability of, the Strasbourg judges and the decisions that that court may reach with regard to how extensively and in what ways they interpret the convention. This is a difficult and potentially controversial issue that, as I say, we as a

commission have indicated that we intend to look into, but have not yet reached any views or conclusions upon.

With regard to the United Kingdom bill of rights, or what could potentially be done with it, or how it would be different, potentially, from the current system, whereby the Human Rights Act 1998 enshrines the European convention in the law of the United Kingdom, there are a number of aspects where it could differ. First, it could contain additional rights or extensions to existing rights under the convention. Secondly, it could express those rights in ways that relate more closely to the historical way in which those rights have been reflected in our own internal, constitutional, traditions. Thirdly, it could perhaps express those rights with greater clarity and precision, thereby allowing them to be enforced more effectively in circumstances where they ought to be enforced, making it easier for mistaken or false claims to rely on those rights to be rejected. Fourthly, it could lead to a rebalancing in certain areas, within the scope of the margin of appreciation that the European convention gives to the contracting states, between different rights.

One area of particular concern is the issue of privacy versus freedom of the press. The effect of the Human Rights Act 1998 has been to entrust to the judiciary the task of balancing

two very broadly and vaguely defined rights, which are the right to freedom of expression and the right to respect private and family life, without any more clear guidance from the legislature as to how that balance should be struck. There are arguments in some quarters that the balance has gone excessively against the freedom of the press.

Those are matters that we will be looking at in the course of our work. We will be looking at the evidence presented to us in response to our discussion papers. We need to reflect carefully on how these different issues would impact on parts of the United Kingdom where there are devolved legislatures or Assemblies. On that score, the commission itself is assisted by an advisory panel, which is intended to consist of two representatives from each of the devolved legislatures and Assemblies. We have been informed of the nominations of the Welsh and Scottish Members, although not yet of the members to be nominated from Northern Ireland. As I have already said, as a commission we will be collectively making visits to Belfast, Cardiff and Edinburgh over the course of the next two months, visiting all before Christmas, in order to look more closely into the way in which our UK Bill of rights would mesh into, or possibly not mesh into, the legal systems there. We are fully conscious in that regard that there are legal, historical and political issues that we will need to look at carefully as a commission before we report on these subjects. So, with that slightly

uninformative introduction, I am afraid, thank you very much. *[Applause.]*

10.15 am

The Co-Chairman (Lord Cope of Berkeley):

Thank you very much. Who would like to open the discussion?

Mr David Melding AM:

I notice that some of this debate is being used by people like me or people from my tradition—although I have not used this argument myself—as a way of emphasising what it is to be a British citizen, with civic rights and a bill of rights being at the heart of that. It was very much Pierre Trudeau’s strategy in the 1970s in Canada to head off Quebec separatism. What influence will the Scottish referendum, as that looms, have on your work and have you found any resistance to that side of your work from those who feel that it will be used as part of the unionist message?

Mr Martin Howe QC:

That is a nice political googly to start with. I will have to be somewhat cautious in answering.

We have not yet, as I said, made our visit to Edinburgh, nor have we yet been able to consult

with the Scottish members of the advisory panel. Scotland differs from Wales in the sense that it has a historically separate legal system, whereas in Wales the legal system is integrated with that of England. That raises issues that we have to look at regarding how a bill of rights for the United Kingdom would or could operate in Scotland and, if it did operate there, the extent to which specific differences would have to be contained in it to deal with those issues. That is before we get to the political issues of the kind that you have raised, such as the extent to which it might be seen symbolically—rather than being treated on its merits as a purely legal issue—as a pro or anti-unionist flag, if I may put it that way. I would rather put that point on the back burner, if I may.

Rt Hon Paul Murphy MP:

I have two points: one is purely factual and the other is an issue that you will face. On the factual point, you touched on advisory panels from the different devolved administrations. Perhaps you could let the Assembly know what type of people is being nominated. Are they Members of the Assembly? Are they civil servants from the various bodies or are they people from outside who live in Scotland, Wales or wherever?

The second point is the issue of the bill of rights for Northern Ireland, which is hugely

important but also quite controversial. When we drew up the Good Friday Agreement in 1997, it included a commitment to have a separate bill of rights for Northern Ireland. That does not necessarily have universal support in Northern Ireland; there are different views on it. Nevertheless, it is a significant issue, and I wonder whether you are as a commission will put your toe into the water on this, or will you leave it to other people?

Mr Martin Howe QC:

First of all, to deal with the purely factual question that you asked, the two members of the advisory panel for Scotland are Professor Alan Miller, who is the chair of the Scottish Human Rights Commission, and James Mure QC. The members nominated for Wales are Clive Lewis QC, who is a practising barrister and also First Counsel to the Welsh Government, and the Reverend Aled Edwards.

The Co-Chairman (Lord Cope of Berkeley):

By whom were they nominated?

Mr Martin Howe QC:

In the case of Scotland, they were nominated by the Scottish First Minister and, in the case of Wales, by the Welsh Government. As I have said, at present, as far as I am aware, the Northern Ireland members have not been nominated—if they have, it has not reached my ears.

Turning to Northern Ireland, I can only say that the Good Friday Agreement and the commitment for a separate bill of rights for Northern Ireland is an issue that we will have to look at carefully. I am afraid that I am unable to go further today, but we are aware of it and we will look at it carefully.

Mr Paul Flynn MP:

The genesis of this inquiry is a worrying one, in that it is based on a hysterical campaign by the tabloids. It is not based on evidence of interference in the United Kingdom, but on the tabloid perception of it. Unfortunately, by going ahead on a question of prisoners' rights, which is of staggering insignificance as far as prison reform is concerned, when we have huge challenges in Britain, where recidivism has not been improved in the past 40 years and where every jail in the United Kingdom is awash with illegal drugs, we are taking on an issue that,

certainly in my 40 years as an elected representative, no prisoner has ever raised with me. However, we have also done great damage to the possibility of using our presidency to reform existing conditions throughout the 47 countries of Europe. By insisting that we should not have our rules and traditions interfered with, we are inviting some of the 47 countries of the Council of Europe to continue with their traditional ways of treating prisoners—some abuse and torture them, and others even have a tradition of killing them. I believe that we have greatly damaged the possibility, in our presidency, of reforming not only the Council of Europe and the backlog, but also of raising standards, because, after all, the point of human rights legislation was not to raise standards in the United Kingdom, but throughout the whole continent of Europe. We have damaged that case, and it is unfortunate that the coalition has gone ahead, particularly on this day, and built itself an elephant trap, into which it is now jumping. If we need reform, let us do it to improve the situation and not to take some little Englander, nationalistic and anti-European route.

The Co-Chairman (Lord Cope of Berkley):

I think that you are in listening mode.

Mr Martin Howe QC:

I am in listening mode. If I can put it this way, the issues that you have raised deal with the extent to which introducing a bill of rights for the United Kingdom might undermine the United Kingdom's ability to persuade other contracting states in the Council of Europe to respect human rights in their own countries. Perhaps one thing that we should be aware of is that many contracting states within the Council of Europe have their own traditions of fundamental rights—Germany in its basic law and so forth—and while they all respect the principles in the convention, they do not necessarily do so in quite the same way internally. So, if we go down the line of having a bill of rights of our own, which expresses the convention rights in a somewhat different way, it does not necessarily follow that we lose moral authority in seeking to persuade some member states to abstain from gross violations of basic human rights. However, that is an issue that we will have to consider carefully.

Lord Mawhinney:

You made reference, Mr Howe, to articles 8 and 10, on freedom of expression and privacy. Most of us would agree with you that, on the whole, the court has appeared to come down on the side of privacy over freedom of expression. The British Parliament made clear what it wanted and has gone towards freedom of expression, but that has had no legal influence

whatsoever.

For the record, I have just chaired the Joint Committee of the Lords and the Commons on a new defamation Bill, and this issue was raised during our discussions, as Lord Bew, who was a distinguished member of that Committee, can testify. We took some fairly high-powered legal evidence. Whatever you decide—personally, I hope that you will decide in the way that has been indicated by the British Parliament—would you do us all a great favour and explain to us in simple language that even we thickies, who have not been blessed with a legal education, can understand why, when faced with freedom of speech and privacy in the same piece of legislation, the courts overwhelmingly tend towards privacy rather than freedom of speech? Until there is a level playing field and unless and until we all understand why the balance moves in one direction so much more frequently than the other, we will not be able to analyse whether the recommendations that you make are good or not so good.

Mr Martin Howe QC:

Thank you. First, with regard to your comment about what we will decide, we will not decide anything; we will look at the issues and we will make recommendations. Decisions have to be made by Parliament rather than by us as a commission.

Lord Mawhinney:

You will decide what your recommendations will be.

Mr Martin Howe QC:

Indeed, we have to decide what our recommendations will be. However, with regard to the issue of freedom of expression, it is interesting to note that, when the Human Rights Act 1998 went through, Parliament added to the convention rights set out in the Schedule specific provisions designed to enhance, or at least protect, freedom of expression. One issue of concern that we have to look at is the degree to which those specific protections have worked.

One issue that may be of interest, although I do not know whether it was dealt with in the course of looking into defamation law, is the provision relating to the use of interim injunctions, because it was felt—in my view, quite rightly—that interim injunctions could be obtained very easily on potentially flimsy grounds to prevent allegedly libellous or defamatory matters or allegedly private matters from being circulated. However, these could last for months or years while the legal process went on. That was very damaging to freedom

of expression. If we look, for example, across the Atlantic at the Bill of Rights of the United States, we will see that it does not allow prior restraints of this kind at all—or only in the very clearest of cases. Parliament provided that the courts should not grant interim injunctions unless it was likely that the case would succeed at trial. However, that provision was interpreted by the House of Lords, which said that “likely” does not mean “more likely than not”, but that it means that there is some likelihood, and you then have to balance the harm done by publication against the damage of freedom of speech.

To turn to your final point, which you expressed as the question of why the judiciary always chooses privacy or the rights of allegedly defamed people against freedom of expression, that may be over-simplifying the picture. However, to express a personal view, there is a tendency with regard to the behaviour of courts and judges when dealing with a party—that is, a human being, a specific person who is claiming a specific breach of his or her rights—that, when they are trying to balance the claims of that person against a more abstract concept of freedom of the press or freedom of expression, I am not sure that the abstract concept always gets the priority that it deserves in the balance that the court strikes.

10.30 am

Lord Mawhinney:

Are you willing to press for that last paragraph to be included in your report?

Mr Martin Howe QC:

I have expressed a personal view; I do not know the extent to which that view will be shared by the commission as a whole. We shall see where we go as regards the final report of the commission.

Baroness Blood:

I am aware that you are coming to Belfast on 9 and 10 November. You have already answered part of my question in your response to Paul Murphy, but I am going to ask it anyway. What consideration will the commission give to how any proposed bill of rights will cover Northern Ireland and meet the requirements of the internationally recognised Belfast/Good Friday Agreement, which promotes the incorporation of the European convention on human rights and provides supplementary rights to any particular circumstances in Northern Ireland?

The second question is this: what consideration will the United Kingdom commission give to the process that has already taken place, and to the 36,492 responses submitted to the 2010 NIO consultation, 'A Bill of Rights for Northern Ireland: Next Steps', which details the views of the people of Northern Ireland, who have been debating this Bill of rights, as promised in the Belfast/Good Friday Agreement, since 1998?

Mr Martin Howe QC:

I think that I can briefly say that your first point will obviously be central to our examination of the way in which a UK Bill of rights could relate to Northern Ireland. We also intend to look closely at the process of consideration of the bill of rights in Northern Ireland.

Lord Dubs:

Mr Howe, I am delighted that you have given us this presentation. Some of us had serious misgivings about the political pressure that led to the creation of your commission. I am rather relieved that many of the members, including you, are much more enlightened than the political pressures would suggest, so thank you very much indeed. You do not have to

comment on that.

You are, of course, doing your work in an atmosphere of incredible media distortion, as has been mentioned. I am on the Joint Committee on Human Rights at Westminster, so I have been involved in this for some time. It is rather depressing that the media environment to which you have referred is so misleading with regard to the European Court of Human Rights and the Human Rights Act 1998, in that most of the things said against the Human Rights Act have no basis in fact, but have influenced public opinion. You are working against that, so good luck in what you are doing.

I have two or three specific points to make. The Joint Committee on Human Rights went to Strasbourg and we met people there. Of course, their concern, as you will know, was that, because the British had been the good guys in implementing decisions of the European courts, we had now rather besmirched our reputation on the issue of prisoner rights—an issue that, though not that important in itself, is crucial in terms of the principle. What they said in Strasbourg was that, because Britain had reneged on a decision—or had so far not implemented it, my Government, the last Labour Government, had a chance to do it over many years and failed to do so—it meant that those countries that abuse human rights in a big

way now have every excuse not to implement the decisions of the courts, because they can say, ‘If the Brits do not implement it, why should we bother?’ The knock-on effect of that has been much more serious than just the merits of the issue of prisoners’ rights, as my colleague Paul Flynn has said. It is symptomatic of something that is very important, added to which it is a trivial issue—why do we not just give them the right to vote? It will not make a blind bit of difference to anything other than the hysteria that has been generated on the subject.

On another specific point, when we went to the European Court of Human Rights in Strasbourg, one suggestion that was made and subsequently picked up was that it would significantly reduce the backlog if the European Court of Human Rights were to merge a lot of separate issues on the same point into class actions. At the moment, the European Court of Human Rights, as I understand it, cannot go in for class actions. It must, therefore, deal with a lot of individual cases—and there are lawyers working to ensure that there are plenty of individual cases. So, class actions would help.

Another thing is more cash: the contrast between the lack of money for the European Court of Human Rights and the generosity that has endowed the Parliamentary Assembly of the Council of Europe is quite remarkable. I would have hoped that your report would say

something about that. Lastly, on Northern Ireland, you have been asked the question, and you have answered it, so please assume that I have asked the question and you have answered it as well.

Mr Martin Howe QC:

Thank you very much. Just on the latter, rather more technical point that you raised about class actions, the Strasbourg court has developed a procedure called pilot actions under which it takes forward cases that are, if you like, test cases, which represent a potentially large number of other, similar cases. I am not sure of the extent to which having a formal procedure for class actions would necessarily gain much advantage compared with the pilot action procedure.

On the other point that you raised, I am flattered to be called 'enlightened', but we shall see. The broader point that you raised is of considerable interest, and my own perception of what goes on at Strasbourg, if I may express a thought here, is that the Strasbourg court has to deal with a large number of contracting states across Europe, from those who have been signatories to the European convention on human rights for the longest time, and have the most developed systems for applying and enforcing it, to other states, which I will not name

in this public forum, that have joined comparatively recently, and which may have internal mechanisms for the protection of human rights specifically, or the enforcement of laws in general, that could be argued to leave much to be desired. One thing that we as a country, in my personal view, would like to see is the European court at Strasbourg using a lighter touch when it comes to the enforcement of convention rights, in the sense that those rights are meant to be fundamental, and the convention is meant to prescribe fundamental standards below which countries are meant not to fall. It was not envisaged as being a detailed charter for the application of each of those rights. It is meant to leave a large margin of appreciation.

Almost all of the rights, apart from the absolute right in article 3 on torture and human degrading treatment, are qualified rights, and they leave contracting states free to make exceptions that are, in broad terms, compatible with the kind of exceptions that a democratic legislature will make. When one says to the judges in Strasbourg, ‘Well, you should leave us alone more’, their answer—perhaps not in public, but in substance—is, ‘If we do that, if we allow the western European countries to have a broader margin of appreciation, and we pay greater respect to the decisions of their legislatures and courts, then we will have to give the same margin of appreciation to the newer countries that have joined the convention.’ It therefore feels inhibited in doing so. I regard this as an extremely serious political problem

because you may be right that we should buckle under to what could be regarded as an extremely intrusive application and interpretation of the convention in order to have moral force in persuading certain regimes in eastern Europe to pay more attention to the convention than they do. A contrary view might be that such an exercise would perhaps not achieve much anyway. So, with those thoughts, I will leave your question.

The Co-Chairman (Lord Cope of Berkeley):

Thank you very much. I call Robert Walter, after whom I shall call Jim Dobbin.

Mr Robert Walter MP:

Thank you very much, Co-Chairman. I want to follow up on the last point a little. I have had the benefit—as a number of us might have done—as the leader of the United Kingdom delegation to the Parliamentary Assembly of the Council of Europe, of meeting with the members of the commission, particularly on their interim advice with regard to the European convention and the upcoming British chairmanship. Perhaps I can bring Martin Howe slightly up to date. The figure that I got from the Secretary General of the Council of Europe at the beginning of this month was that the backlog has now reached 162,000 cases and is increasing at the rate of 2,000 a month. That is, of course, worrying. It seems to me that the

problem—if I may sum it up as a layman because I am not a lawyer—is that it is being regarded as a final court of appeal by citizens in various member states, which is not what it was originally intended to be. You have touched on this point. I do not want to get into the details or the merits of the prisoner voting case, but I think that it highlights the question about the balance between the will of the national Parliament, the will of a country's Supreme Court and the jurisdiction of the European Court of Human Rights.

If we take that particular case, it is clearly the will of the national Parliament that, if someone has transgressed a criminal law, they should be denied their liberties. In this particular case, one of the liberties is the right to vote. It does not in any way transgress article 3, which you have just referred to, on inhumane and degrading treatment to be denied the right to vote, and neither does it transgress the right to life or some of the other fundamentals of the convention. It might transgress the freedom of expression. However, if we are, in some way, to limit people's liberties while they are in prison, it is surely a matter for the national Parliament and the national courts to decide the scale of denial of those rights in particular cases. What specific advice would you give to the British Government on dealing with that balance?

I want to pick up on one point that Alf Dubs made. If I understood him, he was talking about the generosity of the Parliamentary Assembly. The only body in the human rights field that is overly provided for is the European Union Agency for Fundamental Rights, which receives taxpayers' money that far outweighs the amount of money provided for any of the activities of the Council of Europe or the European Court of Human Rights.

The Co-Chairman (Lord Cope of Berkeley):

I would just like to ask a question, if I may. Robert, you updated us that the backlog is 162,000, but what is the throughput, as it were? How many cases does it settle each year or each month, roughly speaking?

10.45 am

Mr Robert Walter MP:

Martin might be more up-to-date than I am, but I think that it is quite a small number. It runs into the hundreds as far as I understand it.

Mr Martin Howe QC:

On that final point, it throws out as inadmissible a far larger number of cases than the number it actually admits and decides. Even taking those into account, it is still running way behind. I am very grateful for being updated, as my figures are out-of-date, and I shall now use the revised, up-to-date figure when I speak on the subject. I would rather not comment on the budgetary issues; I think I will leave those aside for the august members of the Parliamentary Assembly to debate as a political matter. The size of the budget of the European Union Agency for Fundamental Rights was certainly a point made by the officials at the Council of Europe when they visited. It is significantly larger than their budget for dealing with the whole of the membership of the Council of Europe. It may be that there is some way of moving the funds around, but I do not know.

Should the Strasbourg court act as a final court of appeal? The problem in the case of some states is even more fundamental than that, in that it is not acting as a final court of appeal, but as a court of first instance. That is because, rightly or wrongly, citizens of those countries feel that their own legal systems do not provide them with an effective access to remedies for breaches of their rights. It is not as if they go through their domestic courts and then appeal by an individual petition to Strasbourg; they tend to fire off a petition to Strasbourg as the first

step. This is a serious problem. In a way, it cannot be addressed by reforms to the court itself; it requires serious political steps to be taken in the countries concerned in order to make their own domestic legal systems more effective in dealing with the rights of their citizens. It is an extremely difficult issue to address from an international perspective, and I tend to think that it is more of a political issue than, necessarily, a legal one.

Mr Jim Dobbin MP:

A number of colleagues have touched on this issue. I have absolutely no legal training whatsoever; I am just Joe public, although I am part of the legislative process. You made a comment at the beginning that the EU courts were perceived to be encroaching on the legislative process, especially by the media. The same can be said of the courts and the Government in this country. How do you explain to Joe public where the splits are? How are you going to define this as part of the commission's report and recommendations?

Mr Martin Howe QC:

You are quite right that the degree of complexity of the legal system is a major obstacle to public understanding in this area. It is actually even more complex than your question implies because the remarks that I made were in relation to the European Court of Human Rights at

Strasbourg, established under the convention, which is not a European Union court. There is a separate Court of Justice of the European Union in Luxembourg, which deals with issues relating to European Union treaties and to EU legislation. The capacity of the press to distinguish between these two courts in their reports is limited, and the capacity of members of the public, unless they have a law degree, to distinguish between them is very limited indeed. A serious problem in this whole area is that the way in which laws are made, implemented and enforced has gone beyond the understanding of ordinary citizens and voters.

We look at a classic model of a democracy in which the voter votes for a legislator, which is you. You approve laws on behalf of your electors. Those laws are then interpreted and enforced by a system of courts, which although independent in the decisions it has taken, is ultimately responsible to the legislature in terms of the whole functioning of the system and the appointment of the judiciary. We then engrafted onto this not a single international system but two distinct international systems: one under the European Union, and the other under the Council of Europe and the Strasbourg court. Both systems have their own areas of jurisdiction, and the extent to which voters can understand what is happening, who is deciding what, and how and why, is extremely limited. The ability of individual electors to influence the laws that effectively affect them and bind them in their lives then becomes even more

diffuse.

Baroness Harris of Richmond:

I wonder if I could press you a little. We keep being told by past and present Governments that it is up to the politicians in the Northern Ireland Assembly to decide if the work on a separate bill of rights for Northern Ireland, which has been so slow to act on the Belfast Agreement, will come into force. How are you going to balance that against the clear will of the communities and the number of people who have signed the petition in Northern Ireland, as expressed by Baroness Blood? So, it is the politicians on one side versus the clear view of the communities.

Mr Martin Howe QC:

Having you pressing me again on a point, I become even more reluctant to be drawn into it at this stage. It is essential that, whatever settlement may be reached in Northern Ireland, a sufficient level of agreement is reached on it and how it works. I am not sure that we, as a United Kingdom commission, are tasked with trampling in with big boots and imposing solutions on Northern Ireland. As I say, we will have to look at this issue extremely carefully before we can reach recommendations and report on how it could work.

Mr Jim Sheridan MP:

Martin, you will be aware of the current inquiries in the UK into telephone hacking by News International. There is evidence evolving that it extended to computer hacking. You will also be aware that the major newspaper editors are hysterically calling this an attack on the freedom of the press. While freedom is a fundamental right, in terms of the freedom of the press, the individual's freedom should be respected as well. As I understand it, under article 8 of the Human Rights Act 1998, people should have the right to have a private telephone conversation or to be involved in activities on their computer without it being hacked. Therefore, does the commission have any views, opinions or proposals to deal with situations such as this, where individuals' lives can be ruined, either by their telephones being hacked or simply by untruths being told in the press?

Mr Martin Howe QC:

To be clear, I can only express my own view on this. The 'News of the World' allegations seem to me to be areas where existing laws, which are quite clear, appear to have been broken. The interception of communications is a criminal offence under the Regulation of Investigatory Powers Act 2000, and hacking into computers without the authority of the

owner of the computer system is an offence under the Computer Misuse Act 1990. Therefore, on the face of it, it does not seem to be an area in which there is a problem with either the content of the law or its clarity. The issue would perhaps be on the way in which the law is enforced. I am not sure that I am suggesting some expansion of freedom of expression that would allow people to go around committing criminal offences of this kind. What we are looking at, in terms of freedom of expression, is the area of law where legal restraints, which did not previously exist under law, have been imposed as a result of the interpretation and application of the Human Rights Act 1998.

The issue of people who are damaged by false statements in the press is a matter for the law of defamation. Again, having a law of defamation is entirely compatible with the European Convention on Human Rights. This is an express exemption from the provisions of article 10. The issue is how that law of defamation should be enforced, and its procedures for enforcement are perhaps more a matter for Lord Mawhinney's Committee than for us.

Mr Jim Sheridan MP:

I am just talking about the ordinary citizen. The defamation law is fine if you are a millionaire footballer or someone like that, but if you are a labourer on a building site, it is not much

good to you.

Mr Martin Howe QC:

You have raised a very valid point across the whole field of defamation and privacy law. One aspect of these laws, as the Human Rights Act 1998 is interpreted and applied, is that the right of privacy is enforced by means of a private action, effectively, in the High Court in England—I am talking about English procedure. That private action needs money, and it is said that the doors of the law courts, like the Ritz, are open to everyone, but you perhaps need a bit of money.

Mr Andrew Rosindell MP:

It has been an enlightening discussion today, and I thank Martin Howe for his presentation. We have heard a huge amount today about human rights, because that is the debate that we are engaging in. The word that has not been said by anybody so far is ‘responsibilities’. In your work through the commission, will there be an emphasis on responsibilities upon citizens as well as rights? That is why so many people are disgruntled with the idea of human rights—there is no emphasis on the duties and responsibilities of citizens to the country and to society in general. That is my first question.

Secondly, we have had a discussion about the impact on the Human Rights Act 1998 and any possible changes with the potential British bill of rights in terms of Northern Ireland and the United Kingdom overall. Could you comment on any possible impact that any new bill of rights might have on the 21 overseas territories and Crown dependencies? They are ultimately under the sovereignty of the Crown and would potentially be affected by any new legislation.

Mr Martin Howe QC:

To deal with those two distinct points, first, the issue of responsibilities is certainly one that we will be looking at. What is said is that the convention, and the Human Rights Act 1998, at least in the way that it is enforced and interpreted, emphasises the protection of the rights of individuals without regard to their responsibilities towards society. There are certain areas where it is obvious that the exercise of rights under the convention cannot be dependent upon responsibilities; for example, the right to a fair trial must apply to someone who is accused of an offence, however heinous or serious the allegation against him or her. Certain rights, like the right to protection against torture and inhuman, degrading punishment are absolute rights, and are not subject to that. However, there are many areas in the convention where the rights are not absolute, but are so-called qualified rights, and, in those areas, one issue to look at is the extent to which it is appropriate for the courts, or other bodies that are considering

whether or not someone is entitled to exercise a particular right, to properly have regard to the way in which that person has behaved as part of the exercise of looking at whether or not a qualified right should be involved in a particular circumstance. It is something that we will be looking at.

Secondly, on the other territories, the terms of reference that we have been given by the Government oblige us to look at the position within England and the position within each of the devolved parts of the United Kingdom. That itself is a significant exercise, if I can put it that way, in terms of understanding the different legal systems, traditions, and the political context. We have not been given the task of examining how a bill of rights would interfit with any of the other territories—the Channel Islands, the Isle of Man or the overseas territories in respect of which the United Kingdom retains responsibilities

11.00 am

It is nice of you to suggest it, but I suspect that that itself is a significant exercise and that we will have to wait to see how we go with the task we have been entrusted with before embarking on the very interesting further exercise of looking at how any bill of rights adopted

in the United Kingdom might relate to or apply in those other territories and what democratic processes and political issues would be involved.

The Co-Chairman (Mr Joe McHugh TD):

Martin, thank you. It was certainly a very thought-provoking session, and I think that you have to be congratulated on your efforts in giving your personal perspective and achieving the delicate balancing act that you did. It was a very worthwhile session, and we are certainly appreciative of you giving of your time and coming here this morning. Members, could we show our appreciation for Martin? *[Applause.]*

**NORTHERN IRELAND OFFICE
LORD SHUTT OF GREETLAND**

The Co-Chairman (Mr Joe McHugh TD):

I am going to introduce Lord David Shutt, who is with us now. David is a member of the Liberal Democrat party, and speaks for the Northern Ireland Office and is Deputy Chief Whip in the House of Lords. We are looking forward, David, to your perspective on the current work and priorities of the Northern Ireland Office. Like my Co-Chair, you were a chartered accountant in a former life. You are very welcome.

Lord Shutt of Greetland:

Good morning to you all. I am very happy to be here with you today, my first time at a meeting of this Assembly. I am looking forward to learning a lot in this session, and over lunch; after that I am afraid I have to return to London for House of Lords business.

First, let me say that we are sorry that Owen Paterson is to be missing from your proceedings here today. As you know, he has been an assiduous attendee in the past. He had long-laid plans for a trip this week to the United States—and reflecting his absence the Irish Government have not sent a Minister either. He hopes very much to be at your next meeting, and we will see that he gets a full account of what is said here.

That means you have to put up with me. And who is this fellow from Yorkshire? Well, I am a wartime baby, and my parents went to the Isle of Man just before the war. When the war was over, they thought that they would go again—and again and again. So it was that that was where we took our annual holidays. I think it must have been in 1950 that, having a fortnight in the Isle of Man, we took an excursion first to Belfast on the steamer, and secondly to

Dublin. So I have been associated, as it were, with the island of Ireland this past 60 years. Twenty-five years on from 1950, I was asked to be a director of the Joseph Rowntree Reform Trust and, a few years later, the Joseph Rowntree Charitable Trust, and this meant making two or three visits a year both to the North and to the South.

Of course, that went with the rest of my hinterland on entering government on 13 May 2010. So, for the first time, you have a representative of the Government drawn from the other side of the coalition. I bring you that perspective—and that of the House of Lords, where a lively interest in Northern Ireland issues has always subsisted, and continues today. As the Government's Northern Ireland spokesman there, following a period before the election when I spoke for the Liberal Democrats on certain matters on Northern Ireland, I am kept busy, as some here will well know.

We meet in a time of great concern in all parts of these islands about the economy, and I will talk about that. In many ways, though, as regards those issues that this body has traditionally dealt with, matters look much better than a few years ago. Relations in many fields have never been better. Intergovernmental relations are extremely close. Let me make clear that this British Government value enormously the close co-operative relationship that

has developed between London and Dublin. It has delivered immeasurable benefits in Northern Ireland. Of course, at times, we may have differences of view at government level. The relationship is strong enough that it will not be disrupted by a single disagreement. We greatly value our partnership with the Irish Government and will continue to work in the closest co-operation for the greater good. It is a relationship that we value greatly at the European level. Sometimes our interests there will differ, but often we share the same outlook and can work productively together.

We have also seen much greater co-operation between the two parts of the island of Ireland, between the two Administrations and between public services, to the greater benefit of both. There is a developing appreciation that such co-operation can bring still greater benefits, harming the interests of no one. Much of this is in the devolved domain in Northern Ireland, and it is for the Executive to make their judgments on what to do. But where the benefits can be demonstrated, such co-operation makes excellent sense, particularly in a time of restraint in public expenditure, and we will support it wherever we can.

Quite apart from relations of governmental level, interaction and mutual understanding in all sorts of domains between the different parts of these islands is now far greater, and far

healthier, than has been the case in the past. Economically, culturally and socially, we are now much better connected, and much happier for it. All these advances were splendidly and movingly summed up in the truly historic visit of Her Majesty the Queen to the Republic earlier this year. It was a remarkable success for our two countries. Her Majesty's delight in being there was clear; the warmth of the Irish welcome that greeted her was no less so. The visit demonstrated perfectly how we can deal with some of the most contentious issues of our past in a spirit of mutual respect and in a way which enables us to move forward.

All in all there is, as those who have been around these islands for a long time will tell you, an utterly new atmosphere—a transformed relationship—compared with a few decades ago. Many people can claim a part of the credit for the development, some of them among us today. I would like to draw attention to one individual who deserves an enormous amount of the credit, and who sadly is not here. He left us earlier this year—poignantly, he died in the week of the Queen's visit. That of course was Garret FitzGerald. I happened to sit at his feet back in 1972 at a fringe meeting at the Liberal conference in Margate. I had to sit at his feet because there was no room to get a chair. I again met him as a JRCT trustee in Dublin just a few years ago. He applied enormous patience, energy and imagination to the problems of Northern Ireland, which bore a great deal of fruit in the decades following his period as

Taoiseach. But he also left a lasting legacy in improved relations, and improved understanding, between the two Governments. Among many people on this side of the water there was a deep respect, affection and indeed admiration for him, and his death caused much sadness here.

I would also like to acknowledge a rather unsung group of people to whom great gratitude is due for their contribution over the years to the improved relations and understanding we now enjoy, and that is this Assembly. At its origins at the end of the 1980s, it brought together parliamentarians, at that stage drawn from the Oireachtas and the British Parliament alone, who often had strikingly different outlooks and in the ordinary course of events might well not have met. Through many hours of debate, and no doubt many hours in bars and on seaside walks, they did a great deal to inform the attitudes of themselves, but also of their colleagues back in their home assemblies, about each other's perspectives on the questions we face. The benefit of that, though by no means easily quantifiable, has been very significant, I believe. That is why the Government very much value this Assembly, now happily extended in scope to take in representatives of other legislatures across these islands, and believe that it has an important continuing role as we face a new set of challenges together.

I should add that another body that does much useful work between us is the British-Irish Council, which my party leader Nick Clegg co-chairs on the British side. He will be in Dublin for the British-Irish Council plenary, and a range of other meetings, next month.

I now want to turn to Northern Ireland matters, and will talk first about the recent announcement of a review of the circumstances surrounding the murder of Patrick Finucane in 1989. Judge Cory and Lord Stevens both investigated this appalling murder and there have been long-standing calls for a public inquiry into the case. After a prolonged impasse on progress under the last Government, during which no effective resolution could be found, the Secretary of State announced earlier this month a way forward. For the first time, the Government acknowledged plainly that there was state collusion in the murder of Patrick Finucane. Also for the first time, the Prime Minister apologised in person to Mr Finucane's family for the terrible loss that they suffered on that day, almost 23 years ago. The Secretary of State reiterated the apology in the House of Commons, as I did in the House of Lords.

We announced an independent review into the case, led by Sir Desmond de Silva QC. It is the Government's firm belief that this is the quickest and most effective means of getting to the truth about what happened and of providing a full public account of the facts. I hope

people will bear in mind that Sir Desmond de Silva is an experienced, highly respected and utterly independent figure, with a long record of telling truth to power, so he may surprise those who have doubts about his review. It will be completed quickly; he has been asked to report by the end of next year. It is better we avoid a lengthy and costly inquiry to get to the truth about what happened and why, if we do not need it. Sir Desmond will have access to the million documents assembled by Lord Stevens in the course of his work, and he will have unrestricted access to any other government papers which he needs, including those belonging to the Security Service, the Ministry of Defence, the Cabinet Office, the Home Office and the Northern Ireland Office. In short, many of the answers that the family and others who have campaigned about this case have been seeking may not be far away. I hope they will give the review a chance.

More widely, since coming into office, the Government have been listening to a wide range of people who were affected by the Troubles and who have views on how best Northern Ireland can deal with the past. We are acutely aware of the need to handle legacy issues in a measured and sensitive way and have already demonstrated this in our approach to the Saville inquiry, to the Billy Wright and Rosemary Nelson inquiries and in the case of Majella O'Hare, among others. Where there is evidence of wrongdoing by the state, the Government will

apologise. As the Prime Minister has said:

“We do not honour all those who have served with distinction in keeping the peace and upholding the rule of law in Northern Ireland by hiding from the truth”.

We have not shied away from difficult issues of the past and will continue to deal with each case on its own merits. And we will continue to work very closely with the Irish Government as we seek to address those difficult and sensitive issues. However, as the Government have made clear, they do not “own” the past. It is the people and politicians of Northern Ireland who are best placed to decide how to come to terms with the events of the Troubles. But we do want to make a contribution and to facilitate in whatever way we can.

11.15 am

The past is going to be very much with us across the island of Ireland in the decade to come. There will be commemorations of a great number of anniversaries, each of which is replete with significance for a large number of people in Ireland. We start next year with the Ulster Covenant, and move on through the anniversary of the Easter Rising in 2016, then those of the conflicts later on in the decade, the establishment of devolved government in Northern Ireland, and the treaty of 1921.

“A nation that keeps one eye on the past is wise. A nation that keeps two eyes on the past is blind.”

That is written up on the wall at the side of the Garrick bar in the centre of Belfast. It should be, I think, our guiding principle. We need to develop—all of us involved in government across these islands—as far as possible a shared approach to the past. We have to acknowledge the strong feelings that some will have about each of these events, both in favour and against, and respect that. Equally, those leading the commemorations need also to act with sensitivity and with regard to others in the community.

We should all acknowledge that we have something to learn from studying these events. We can perhaps all recognise that there was injustice perpetrated on all sides. I have no difficulty acknowledging that at times British Governments have behaved unjustly or unwisely. But we have come through a very profound, very prolonged, and at times very painful process of readjustment since these events. We now have a wholly new approach to government and community relations within Northern Ireland, within the island of Ireland, and between the different parts of these two islands. Almost everyone now acknowledges that, whatever may have been the justification for various steps in the past, aspirations must be pursued by wholly peaceful and constitutional means, and in full recognition of the rights, and respect for the aspirations, of all communities within the island of Ireland. Where we were previously drawn apart in conflict, we can now go forward together. I believe that needs

to be in the forefront of public consciousness as we approach the anniversaries of coming years.

There are some, of course—a very few—who seek to drag us back to the past. Their mentality is well summed up in the attack a couple of weeks ago at the Derry City of Culture offices. Where some in the past reached for revolvers at the mention of culture, these people—for what they tragically believe to be noble reasons—manufactured a bomb. Happily, they caused no injury on this occasion.

The Good Friday Agreement now provides a framework that accommodates constitutional aspirations on the basis of consent. There are powerful mechanisms to give effect to the precept of parity of esteem for the two identities, and they have profoundly changed the nature of society in both parts of the island. The mechanisms provided by the agreement are the way forward. It is not in sabotaging cultural celebrations—and it is certainly not in the murder of police officers. The murder of Ronan Kerr earlier this year is still fresh in many minds, as is the moving dignity of his mother in her reaction to his killing, and as is the overwhelming manifestation of public feeling against terrorism that arose on all sides of the community. The murder of that brave constable undoubtedly strengthened the political

settlement established by the Good Friday Agreement, and strengthened the will on all sides to resist any return to violence. That will is clear across the island, and there are now unprecedented levels of co-operation in the anti-terrorist effort between the two sides of the border. I congratulate the Garda Síochána on the many successful operations that it has led recently. They have had a very serious impact on the ability of terrorists to carry on their pointless and barbarous campaign.

There are, of course, people in both communities who are wedded to the tradition of violence. Within Loyalism, there are those who seek to follow in the footsteps of David Ervine by moving away from violence and trying to improve the lives of people in some of the most deprived areas of Northern Ireland; however, there are also those who use Loyalism as a cloak for criminality and violence. These remnants of the past on both sides of the community do not just fear democracy. They fear consensus. They fear understanding. They fear mutual respect. These are our greatest weapons against violence. Using them requires vision and leadership. But we are not short of vision and leadership in Northern Ireland. We are where we are today thanks to the vision and leadership of a great many people who dared to think that things could be different.

Leadership is vital in areas where there is potential for division, not least parading. Violence around parades causes fear and anguish for those living in areas affected and does nothing to promote the good name of Northern Ireland. All those with influence need to encourage moderate language and behaviour and ensure that we avoid a repeat of the scenes that have been beamed across the world in recent years. Progress is possible. The recent history of Northern Ireland clearly shows us that. Agreement and compromise can be reached on issues where we were told that there was no room for manoeuvre. The Government still favour the devolution of parading in line with the Hillsborough Agreement of last year, but the Executive are yet to find a locally agreed solution that will allow the Parades Commission to be replaced. This is disappointing. We are still committed to the devolution of parading and, when the Assembly is ready to enact a Bill to establish a new body, we will strongly support this. In the absence of a replacement body, Ministers had no choice but to make new appointments to the commission earlier this year. It has a tremendously difficult job to do. We encourage all interested parties to engage with the commission so that progress can be made.

Let me move on to the politics of Northern Ireland. In many ways there is a record of great success. We have a stability in the institutions of Northern Ireland that has not been seen for

very many years. The Executive, and the Assembly, have achieved much since the devolution of policing and justice in April last year. Those who brought us to this point—that includes a number of people in this room—deserve all our congratulations. The thought that we would one day have politics in Northern Ireland operating on so constructive basis as we now see would have seemed, at many times in recent history, a forlorn hope. But as we resolve the old challenges, new ones become apparent. There is a great deal to be done in Northern Ireland to assure the future peace and prosperity of people who live there. Institutions need to deliver ever improving and ever more efficient public services. That is the aspiration of people in Northern Ireland, just as it is elsewhere in these islands.

At the same time, a great deal needs to be done, not least because of the legacy of the last 40 years, to ensure the social well-being of Northern Ireland. Such is the extent of devolution in Northern Ireland that most of these challenges now fall to the Northern Ireland Executive and Assembly. The Government are committed to working closely with the Northern Ireland institutions. The Secretary of State has repeatedly laid stress on the importance of teamwork between the two Administrations. We have given clear proof of our willingness to meet the needs of Northern Ireland. Two hundred million pounds of additional funding has been made available over the next four years to deal with terrorism. This comes when public expenditure

everywhere is under very heavy downward pressure.

The Government also made clear their commitment to Northern Ireland in resolving the Presbyterian Mutual Society issue. The funding and the borrowing authority that we provided have permitted the small investors in the PMS to recover all their money. We worked very closely on this with the Executive. I pay tribute to them—and to our Treasury colleagues, who, in the nature of their job, are not given to gratuitous generosity, for the way in which they were ready to acknowledge the problems that had arisen in Northern Ireland and rise to the challenge. That was demonstrated again most recently in the announcement that the rate of air passenger duty on long-haul flights from Northern Ireland was to be reduced and that the responsibility for setting the rate was to be devolved as soon as possible to Northern Ireland. The Chancellor of the Exchequer himself, with the Executive and with the Secretary of State, devoted enormous energy to resolving this issue. It is thanks to him and them that Northern Ireland has retained its flight to New York, which is vital in the pursuit of further inward investment.

But economic problems in Northern Ireland run very deep. Its private sector is very small. There is a key objective, shared between the Government and Executive, of rebalancing the

economy in Northern Ireland. This is going to require much work and may require painful decisions, but it is essential to underpin the fundamental well-being and prosperity of Northern Ireland after so many years of violence.

The Government believe that devolving the power to set the rate of corporation tax to Northern Ireland may have an important part to play in this process. We held a consultation earlier this year, and the Treasury will announce the results in the autumn. Meanwhile, the Secretary of State announced a few weeks ago the establishment of a working group, bringing together the Treasury, the Executive and the Northern Ireland Office. It will seek to establish with absolute clarity the costs, the administrative changes and the potential legislative vehicle for transferring these powers to Stormont. Some people are disappointed that we cannot move immediately towards changing the rate. I understand that, but in reality there is widespread acknowledgement that we have to work out the detail of how such a change would be carried forward, and all the implications of that, most notably the cost, before anyone can rationally make a decision on whether this is in fact the way forward.

I know there is a lot of concern among colleagues here about the protection of human rights in Northern Ireland. We have, of course, now a panoply of measures to safeguard rights

in particular areas; and we have a Human Rights Commission, whose membership has just been renewed with some very wise and distinguished people. Northern Ireland is, meanwhile, fully plugged into the deliberations of the commission that we have set up to consider rights protection at the UK level.

Many people are disappointed we could not have made greater progress with a Bill of Rights in Northern Ireland. A great deal of work has been done. We would like to see that result in a constructive outcome but, as with other changes in the fundamental constitutional machinery in Northern Ireland, we have to proceed by agreement. Anything else would be destabilising, and ultimately would not work for both practical and legal reasons. The way forward is to design systems of rights protection that are acknowledged on both sides of the community to be beneficial. We recently asked the Executive and political parties in Northern Ireland if they saw a way forward with the possibility of transferring to the Assembly some powers in this field, to carry forward a home-grown solution. We will continue to pursue an agreed way forward on rights, but it is incumbent on everyone involved to make clear the real-world benefits of further measures.

I am happy to answer any questions if I can, or respond to comments that you may have.

However, I stress that I am—as someone who knows less about Northern Ireland than many here—very much here to learn, listen and take back thoughts.

There are some very serious issues to be dealt with in looking to the future of Northern Ireland. Some of them have to do with the history of Northern Ireland, distant and recent, while some of them are the same problems that are being addressed elsewhere across the world. But it is a comfort—and a significant part of the responsibility for that lies with this Assembly and its predecessors—that in facing them we have very much more of a shared outlook than would have been the case a couple of decades ago. For that, I give thanks to all who have been involved, and to those who have suffered in the process, including the people in this room today.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, David, for your comprehensive analysis. Maybe from a clarification point of view for the newer Members, I should comment on your reference to the absence of an Irish Minister. It is common practice for Irish Ministers to go to an Irish plenary. Obviously we have had the Taoiseach attending on occasions at Irish plenaries—he has been a regular attendee—so I use this opportunity to impress on the British Members that, at some time in

the not too distant future, it would be great to have the British Prime Minister at a plenary.

You have referenced the fact that you may not be in the position to answer all the specific questions that may be out there, but I have a few speakers who want to ask questions, starting with Baroness Harris of Richmond. If you are not able to answer, it will be important to make a contribution and comment, which will be recorded. I will take Baroness Harris of Richmond and then Senator Paul Coghlan.

11.30 am

Baroness Harris of Richmond:

Thank you very much, Co-Chair. Welcome, David. This might be a difficult session for you, but I welcome you and thank you for your comprehensive report to the Assembly. You will know that the main work of this body is its Committee work; that is really what we are all about. We produce some significant reports that have taken a lot of work and thought. What do you consider the best way for our respective Governments to take forward and act on the reports? Will you undertake, personally, to ensure that that is progressed in future?

The Co-Chairman (Mr Joe McHugh TD):

Thanks. I will take three questions at a time and we will group them. I call Senator Paul Coghlan, followed by Jim Sheridan MP.

Senator Paul Coghlan:

Go raibh maith agat, a Chomh-Chathaoirligh. I am heartened to hear what Lord Shutt has said. Overall, he was wide-ranging and very interesting. Specifically, in regard to the British Government's acknowledgement of the state collusion in the murder of that eminent legal man Pat Finucane, I appreciate what you say about the review—that it will establish a public account of the facts—but I still say: why not an inquiry? As you are aware, our Taoiseach, Enda Kenny, and the Irish Government have been very strong in seeking an inquiry. I appreciate your difficulty, of course, but would you give us a personal view in regard to why there is not a tight and limited inquiry, which could satisfy all concerned?

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Paul. I call Jim Sheridan MP.

Mr Jim Sheridan MP:

Thank you, Co-Chair. Minister, I ask you to expand on your comments about the air passenger duty tax. I am sure that there are compelling reasons for taking this action for the good people of Northern Ireland, but you will be aware that the tax impacts on those of us who have constituencies north of the Watford gap as well. Sometimes we have to use the London hub airports if we want to travel further afield. Almost all our constituents have to pay this tax twice; they pay it from Manchester, Glasgow or wherever it may be to London and from London onwards again. It is a significant increase in the cost not only to the travelling public, but to local businesses as well. It would be helpful if you could share with us why Northern Ireland has been treated differently from the rest of the UK.

Lord Shutt of Greetland:

Thanks for your welcome, Angie. Certainly as far as I am concerned, there is no point in anybody writing a report unless somebody reads it. Therefore, the reports will be read and considered. I cannot say any more than that. I did say that I had come here to listen. From what you said, perhaps there is a feeling that work has been done and there has not been a response; well, there should be. That is simple and straightforward. However, I cannot promise that whatever you say in a report will then be immediately delivered; I cannot say

that at all. This body is a quasi-parliament of what some people say is the British Isles and some say is the Atlantic archipelago. It is an abridged parliament of the lot. If that body produces reports and they are not looked at, it is a poor do. You have my word on that.

The Pat Finucane issue has obviously troubled people for a long time. It troubled the previous Government for 12 years and they could not bottom it. One reason they could not do so was that the family were not happy with what had been said. In the Lords, I had the job of speaking in a debate on the Bloody Sunday report; I read it, and there is a lot of it to read. It says, “This is what we believe happened, and we tried to speak to this chap but of course he’s dead. This other chap, he’s forgotten; his memory’s no good any more”. Pat Finucane died nearly 23 years ago. If you had that sort of inquiry and it lasted that sort of time, those are the problems that you would get. To me, it seemed that what really mattered at the end of the Bloody Sunday inquiry was the apology. There are a million sheets of paper, of which someone has prévised 19—there is a lot to be delved into—so the eminent QC has until 31 December 2012 to produce the report. I do not know whether people will feel satisfied, but at least it is a way forward and gives a chance for something to happen in terms of finding out what happened. Surely that is what people want. I understand the concerns that some may have, but I say, “Give it a chance”.

As far as air passenger duty is concerned, Northern Ireland was in fear of losing a direct flight to America, mainly because if you hop down the road to Dublin and get on a plane, you have only €3 to pay in duty, whereas the duty in the North was a great deal more. Therefore, this special decision was made about one plane going to and from America. However, the thinking is—this is being discussed at the moment—that it may be far better to devolve the lot: that the laying of air passenger duty should be devolved to the Northern Ireland Assembly rather than being a central government matter. Whether that could happen for Scotland, I know not. Do not forget that a feature of Northern Ireland is the land border with the Republic, as you all know, so there are two different regimes of air traffic taxation. That—and keeping this particular plane—is what has concentrated minds. However, there are other transport reasons for thinking that there may be good reason for devolving that duty. Then it would be up to the Northern Ireland Executive to decide what to do. As with other matters, they do not have to do anything—they can leave them as they are—but if it is devolved to them they have the chance to do something different.

The Co-Chairman (Mr Joe McHugh TD):

David, thank you. I think everyone will agree that you are making a fair effort at this; you are

certainly not shying away from answering the questions. I will call Dolores Kelly MLA, followed by Barry McElduff MLA.

Ms Dolores Kelly MLA:

Thank you, Co-Chair. I thank Lord Shutt for a comprehensive report. He touched on many of the major issues and challenges facing the Northern Ireland Assembly; I think he might be somewhat more optimistic than I would be in terms of reaching agreement on a number of those political hot potatoes.

In relation to the Finucane family, Lord Shutt, surely you can appreciate the humiliation they felt when they were brought across to Downing Street only to be told that what was being given to them was much less than what was promised to them under the Weston Park Agreement, going back a number of years, and the fact that yet again the goal posts had changed in relation to the promised inquiry into the murder of Pat Finucane.

On a broader front, the British and Irish Governments are guarantors of the implementation of the Good Friday Agreement, and Eames/Bradley has been lying with the

British Government for the past two to three years. Dealing with the past and victims in general will continue to hold us all back on a wide range of fronts until those matters are properly scrutinised and dealt with. What pressure can this organisation and can you, in your role in the House of Lords, bring to bear on the British and Irish Governments to ensure that we move on? If we are waiting on the Northern Ireland Assembly to deal with these matters, we will be waiting a very long time.

Mr Barry McElduff MLA:

Go raibh maith agat, a Chomh-Chathaoirligh. I follow on from Senator Paul Coghlan and Dolores Kelly. I think that we are reflecting grave dissatisfaction, anger and disappointment at the denial of a public inquiry into the murder of Pat Finucane. I suppose people want to know how high up the chain of the British establishment Pat Finucane's murder was authorised. I reiterate the word "humiliation" there. They are very dignified people, the Finucane family, and they were humiliated by being invited to Downing Street to hear the denial of a public inquiry. Finally, where do the British Government stand on an international, independent truth commission, which does not have to be costly if people come to the table to tell the truth?

The Co-Chairman (Mr Joe McHugh TD):

Barry, thank you. I will take Lord Bew, followed by Baroness Blood.

Lord Bew:

Thank you, Co-Chairman. David, in your remarks on Finucane, there was a sentence that I do not recall being in your statement in the House of Lords, which I took some hope from today: that you actually think a resolution—the truth about many of these issues, the production of knowledge—may not be as far away as many people believe. Could you comment on that? You have already made the point that documents are particularly important when so many players are dead—in respect of the Finucane case, relatively speaking and oddly enough, more key people are dead than was the case in relation to Bloody Sunday. As a historical adviser to the Bloody Sunday inquiry, I comment that a very large part of the truth and satisfaction produced by it was a function of the release of and availability of documents. What the Government are promising and doing to build on Lord Stevens's work for the Finucane inquiry is broader in scope—more documents, more material, more revelation than was the case, and certainly not less—than for Bloody Sunday. Would you like to comment on the significance of the documentary release that you are going to make to the review?

The Co-Chairman (Mr Joe McHugh TD):

I call Baroness Blood, and then David will reply.

Baroness Blood:

I am not going to ask David a question; I am sure he will be rather pleased about that. He is right—a number of people in this room probably have all the answers to what you were speaking about. One of the things that you did not mention was a shared future. That is one of the most critical things that Northern Ireland has not dealt with, and still seems reluctant to deal with. We still have very high sectarianism in Northern Ireland. Yes, we had a document produced a couple of years ago; I could have written it, which shows you how low down it would have been done. We do not seem to be moving forward. I wish I could generate the energy that has gone into corporation tax around a shared future; that would take us a lot further in Northern Ireland.

11.45 am

Lord Shutt of Greetland:

Three of the questions related to the Pat Finucane issue. Reference has been made to what has been promised. Of course, there was a concern that something was done. For 12 years, the

previous Government tried to get somewhere. Twelve years elapsed and they did not get anywhere. A new Government come in and think, “How can we break into this?” This idea seems sensible, because Lord Stevens spent years going through a million documents. Desmond de Silva QC is no patsy. He has the job of looking at anything he can find in any British government department, and then of producing a report. He has 14 months to do it. A million sheets of paper is a lot to go through; no doubt there will be one or two helpers. It is worth giving that a try, bearing in mind that nothing happened in 12 years. He has a free hand; no one is saying “If it’s a bit embarrassing, don’t bring it up” to the chap. He is a distinguished QC and we should give him the chance and see what he can produce.

I am very much at one with May’s point about the shared future, as she knows. The first time I met May was in the Falls Road and in the Shankill, looking at various opportunities for funding. So often when I was doing that in that previous life, we were looking at whether this community needed a nudge or whether that community did, and vary rarely was it a united community. That has to be addressed. I do not think that this UK Government are best placed to address that when we have the Assembly in Stormont, with all those opportunities. I do not know who coined the phrase “a shared future” rather than “a shared-out future”. It is a very good one because a shared future is what is required in Northern Ireland, where everybody

feels that there is something for them—that it is not just shared out: “Your lot can have this, so our lot had better have that”. I very much empathise with what May has to say on that.

The Co-Chairman (Mr Joe McHugh TD):

Thanks, David. We will hear Baroness Angela Smith, followed by John Scott.

Baroness Smith of Basildon:

Thank you. David, I think everyone appreciates your coming along today and standing in for Owen Paterson and Hugo Swire; thank you for your comments and introduction.

I do not want to dwell on Finucane—we debated it in the House of Lords and you are well aware of my views on it, and I shall ask you about corporation tax as my main question—but I had not picked up before on something that you said today, and I would like you to clarify it. I do not think anyone questions Desmond de Silva’s ability or commitment to do the job, but you said, “Let’s give it a try”. Does that mean that there is a plan B? If there remains dissatisfaction at the end of the process, do the Government have something else in mind? I only ask because of your expression, “Give him a chance”.

You rightly made a point about public services needing to be more efficient in Northern Ireland, and how important they are to the social well-being of the whole of Northern Ireland. This is where corporation tax comes in. I know that you have been looking into this issue. What strikes me is that we do not yet know the cut that will be made to the block grant to facilitate Northern Ireland being able to make its own decisions on corporation tax, and to reduce it. You referred to painful decisions having to be made as a result. Have the Government yet been able to quantify the amounts, or are they working on quantifying them, to see what they think a corporation tax reduction would bring in to Northern Ireland, and the amounts of the block grant being reduced? To me, that is the key question: what is the price that is to be paid for it?

The Co-Chairman (Mr Joe McHugh TD):

Thanks, Angela. John?

Mr John Scott MSP:

Thank you very much. Lord Shutt, I would like to take you back to air passenger duty. You

mentioned the prospect of it being devolved to the Scottish Government. If that is actively being considered, could it be included in the Scotland Bill, even at this late stage?

The Co-Chairman (Mr Joe McHugh TD):

Thanks, John. Lastly in this batch, let us hear from Dominic Hannigan. Just for everybody's information, I point out that Dominic is the chair of the Joint Committee on the Good Friday/Belfast Agreement.

Mr Dominic Hannigan TD:

Thanks, Co-Chair. Thank you, Lord Shutt, for your presentation this morning. I have two questions for you. The first is in relation to linkages between this forum and the British-Irish Council. There have been suggestions in the past that we could have observer status there for our Co-Chairs. I wonder whether that could be progressed and whether it is something that you could take back.

The second is in relation to the implementation of the Good Friday Agreement. As Joe mentioned, I chair the implementation Committee in the Houses of the Oireachtas. We had a

meeting a couple of weeks ago when we talked about outstanding matters in relation to the agreement. We have talked about one of them in detail this morning—the Bill of Rights—but there are three others on which I would like your thoughts in relation to progress. The first is the languages Act; the second is the North South Parliamentary Forum; and the third is the North-South consultative civic forum. I wonder if you would give us your thoughts on the current status of those, and how they can be moved along.

Lord Shutt of Greetland:

Thank you. Angela, this is one of the dangers of coming here and speaking as an individual; then you have to think, “Just a minute: what is the government position?” I am not aware of a plan B—I put it in those terms. If 12 years have passed and something has not been resolved, there is a window of opportunity. A fellow has been set on this for 14 months. I say, “Give it a chance”. That is not saying that there is a plan B after 14 months have passed. It is something that is on the agenda, whereas there was nothing on the agenda before.

We had a debate on corporation tax in the House of Lords—as you are well aware—and many things were discussed there. In simple terms, although I use the word “painful”, you could of course devolve things once they are all established. Let us say that corporation tax

brings in £300 million. You could take that off the grant and let Northern Ireland collect the £300 million so that there is absolute parity. It is when you start reducing the rate that things change. A judgment has to be made by the folk in Northern Ireland on whether they go in one go or gradually. They might say, “We will do it but not for a year or two yet”, to encourage others and so forth. There are several different ways of doing that but, in the first instance, if it were to be agreed, there is nothing to stop Northern Ireland from saying, “We will defer this a while and keep the show on the road as it was”. You would start off with that sort of parity. It is when you move from that that there would be a change.

The Scotland Bill is coming to our House—I am not certain when; it might be before Christmas or just after. Strictly speaking, amendments could be made to that Bill. I am not aware of any government policy so to do but in theory there is nothing to stop that happening. There is a Bill and there is nothing to stop people coming up with amendments on that, so obviously it could happen. I am not sighted on the government line on that. All I know is this concern about Northern Ireland on the issue.

On linkage, as I endeavoured to say earlier, this is an abridged parliament of the people in these islands. The BIC is an abridged cabinet of the people in these islands. We do not get

observers in the British Cabinet and I do not suppose that you get observers in the Irish Cabinet. If you think of it in those terms, you can then think what the normal interactions are, and what you ask seems unlikely. Other people may well think differently but that is that way that it seems to me. There may be opportunities but I do not know—I am not sighted on that at all. It seems to me that the simple way of thinking is in terms of parliament and cabinet.

I understand about outstanding issues. You referred to the Bill of Rights, which is clearly an outstanding issue. We see languages as being devolved, so what happens on languages will be up to the devolved authority. I am not certain about the forums. May, was there not a community forum set up under the Belfast Agreement? Nothing has happened about that either. I remember meeting it some years ago, in the very early days. Then the forum just vanished. To throw it back and go back to Angie's point, perhaps there is an opportunity for this body and one of its Committees to do a bit of an audit on the Belfast Agreement and see where these cabinets and the BIC could do with pushing a bit.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, David. There are five people offering, so I will take them as a block, starting with Bethan Jenkins and followed by Paul Murphy.

Ms Bethan Jenkins AM:

Most of what I was going to ask has been covered. I know that your responsibility is the North of Ireland but it seems that, in some of the discussions we have had here over air passenger duty and so forth, there needs to be more streamlined thinking across the devolved nations. How are you speaking, for example, to the Welsh Secretary on these issues? Are you thinking about perhaps pooling resources in thinking more strategically about what should be devolved? We have individual commissions looking at, for example, different parts of Wales's funding for the future. How does that then play into what is happening in Scotland and the North of Ireland?

To put it on record, I support those who have said that we need an inquiry into the murder of Pat Finucane. As somebody who has family from Belfast, I have seen the perception of that in the press, especially in places outside the North of Ireland. We do not get the news all the time. We do not get the reality on the ground as much as you would do in those communities. The Government need to play a much more active role in terms of how they send out those messages. An inquiry would send out the most positive message from your Government.

The Co-Chairman (Mr Joe McHugh TD):

Thank you. Paul, followed by Cáit Keane.

Rt Hon Paul Murphy MP:

Thank you. It was interesting to hear David on a host of issues but I want to touch again briefly on the Finucane issue. I made the promise in 2004 of a public inquiry to the Pat Finucane family. We gave inquiries for Nelson, Wright and Hamill. I then said to the Finucane family, “Do you want an inquiry under the 2005 Act?”, and they said no. As the Prime Minister said the other day in the House of Commons, it is not like the Saville inquiry. That was under a totally different Act of Parliament—and much bigger and more expensive. It seemed to me that there was no point in going on with the inquiry in 2004 unless the family agreed with it and there was a consensus—one including the Irish Government—that it should happen. I have no doubt at all that the Government are sincere in wanting to get through this issue but, unless there is agreement by both the Irish Government and the family itself, my fear is that this semi-inquiry will not work and that £1.5 million—which is what it will cost—will be wasted.

The Co-Chairman (Mr Joe McHugh TD):

Thanks, Paul. Cáit Keane?

Senator Cáit Keane:

Thank you. I just want to go back to the linkages issue. We have the linkages here at the national level but we should have a discussion on the linkages at local level—local government linkages. We have talked about community fora, but we have good community representation at local level. We could have the same type of body, or one maybe not as big to start with. We had an unofficial North-South body and then at local level had the Confederation of European Councillors or CEC, but that is now defunct. You will probably not answer this today but maybe you would take it back to the House of Lords, get it on the agenda there, let us get it on the agenda here and see what we can do, or throw out the idea to see what can be done. Would it be possible to put it on the agenda?

12 noon

The Co-Chairman (Mr Joe McHugh TD):

Thanks, Cáit. Jim Wells?

Mr Jim Wells MLA:

The Unionist community is extremely lukewarm about any further public inquiries. We take it somewhat ill that those who perpetuated mass carnage in our country are those who are now calling for inquiries into situations which they largely created. We saw £190 million wasted in the Saville Londonderry inquiry. That could have built us a new hospital. We certainly do not want to go down the route of further very expensive, long-term inquiries which do nothing except give our barristers and solicitors a substantial income. On this occasion, the Government have got it right as far as the Pat Finucane issue is concerned. This hotel was bombed and five people were killed; there was no public inquiry called for and none was given. There are hundreds of similar instances where terrorists have wreaked carnage yet those victims have no public inquiry whatever. Therefore, we think it is time to draw a halt to this completely. The Unionist community is told to move on and forget those who have suffered so grievously, yet those who have perpetuated the crimes are demanding inquiry after inquiry into terrorist incidents in their community. It just does not add up.

Finally, it is absolutely right that the language issue is a devolved matter. It has been devolved to the Northern Ireland Assembly. The Irish language is an extremely controversial

issue in Northern Ireland. One leading Sinn Féin activist said that every word of Irish that is spoken is another bullet in the struggle for Irish liberation. That is why we will not support an Irish language Act. Simply, the Irish language has been manipulated by sinister forces for their own devious ends. We blocked an Irish language Act when we had the Minister. I am absolutely certain that we would block an Irish language Act at the Executive or the Assembly in future.

The Co-Chairman (Mr Joe McHugh TD):

Okay, Jim. Our last contributor should be Senator Paul Coghlan.

Senator Paul Coghlan:

Go raibh maith agat arís. What Jim was talking about in those cases obviously did not involve state collusion. We accept that no two cases are comparable.

David, following on from your response to Angela—Baroness Smith—you talked about giving the trial a chance. Now that the Government have made a decision about the report by de Silva QC, would there be a possibility or probability that it could serve as a book of

evidence, leading to a parliamentary investigation? That could be quick and efficient. In view of so many people now being dead, and maybe people with faulty memories, it would have very few people to call. That then might be much more definitive. We have had some of those—as you know, Co-Chairman—in our parliamentary democracy. Now you are on the road that you are on, that could be useful.

The Co-Chairman (Mr Joe McHugh TD):

Sorry, David; there are two more: Patrick O'Donovan followed by Dolores Kelly.

Mr Patrick O'Donovan TD:

Thanks, Co-Chair. I was not going to contribute but I have been prompted by some of the remarks made by a previous speaker. Reference was made to the Finucane inquiry, the Saville inquiry and wastage of money. The difference between those two inquiries versus the inquiries that could be looked at by a truth commission is that there are suggestions or accusations that the state colluded. There is a big difference when a sovereign Government have an accusation of collusion levelled against them. In that case, there is an obligation to investigate and prove whether or not there was collusion. I think that that is what the Finucane family is looking for, as are the people in Dublin and Monaghan; they have not been referred

to here today. When you see the British Prime Minister give an unequivocal apology on behalf of the British state to the people in Derry for the Bloody Sunday murders, it is regrettable that somebody would draw up the costs associated with the inquiry. For the families that have lost loved ones, and particularly lost them at the hands of the state, you cannot put a cost on those people's lives—or on anyone's life. The other thing I find regrettable, as somebody who is an Irish speaker, agus tá an-suim agam i gcúrsaí teanga, go háirithe cúrsaí teanga maidir leis an nGaeilge. Is mór an díomá orm a chloisteáil go bhfuil mo theanga dhúchasach ceangailte le heachtraí uafásacha a tharla i dtuaisceart na hÉireann.

I take offence at anybody suggesting that the promotion of the Irish language, whether in the Republic or in the North of Ireland, would in any way be associated with violence or sectarianism. To be perfectly honest, Co-Chair, that remark is, in the words of a former Taoiseach of Ireland, beyond the pale.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Patrick. Dolores Kelly is our final contributor.

Ms Dolores Kelly MLA:

Thank you, Co-Chair, for allowing me to come back. I am sure fellow delegates who are also from the Celtic regions of these islands will have some sympathy with Patrick's comments and his distaste for those made by an earlier delegate.

Lord Shutt said that people in Northern Ireland were not short of vision and leadership. I would have to question whether that was a universal assessment of all leaders within the North. There is a lack of vision and leadership at the highest echelons in the North. That is why we have not moved on or delivered. Yes, we have stability, but we are a long way from delivering on the economy, prosperity, shared future, rights and needs of victims, and dealing with our past.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Dolores. Our last speaker is John Paul Phelan. Please be brief, John Paul. I am definitely pulling the pin after this.

Mr John Paul Phelan TD:

Thank you, Co-Chairman. I want to comment on the part of Lord Shutt's address which dealt with the decade of commemorations. Following on from the last discussion, I should say that I cannot speak a word of Irish but I would love to be able to speak a lot of it. The decade we are facing might present an opportunity for us to understand a lot about other traditions, particularly on the island of Ireland; I do not know much about the Ulster Covenant either. I would be interested in your views as to how the Government in the UK themselves would see that decade playing out, which has other events like commemorating those who fought in the First World War and the Easter Rising, which you mentioned yourself.

Lord Shutt of Greetland:

Right, I have one or two points to have a go at now. First, our friend from Wales asked about the air passenger duty. One of the amazing things about devolution is its asymmetrical nature. All I am here for is to talk about Northern Ireland and the brief I have on that. You may well be right. On another hand, I might well ask about the north of England too: what about Leeds-Bradford and Manchester as far as airports are concerned? We all have our position, but clearly there is something rather special about Northern Ireland with its land border and the prospect of people being able to hop to Dublin and get a much cheaper aeroplane ride. I think

we have to be concerned about this.

Several people mentioned the lack of an inquiry on Pat Finucane. I understand that and the dilemmas that Paul had when he was Secretary of State. I respect that and pay tribute to him on his time there. All I say is that the Government have come up with this idea. They have mulled and mulled over it since coming into office, and this is what has come forward. I hope it works.

I heard a reference to linkages at the local level, and local level linkages are of course best done at local level. But again, this is a good body to give such things a little push. You have an opportunity and you can have a local linkages sub-Committee that can talk about how to press forward.

Our friend Jim Wells spoke about the Irish language and put a different perspective on it. Of course, as we well know, this is part of the problem. But one thing this Government have done in collaboration with the Irish Government is to ensure that the Irish language television channel, TG4, will be available throughout Northern Ireland after the digital switchover.

Television has a tremendous power, and this provides opportunities that perhaps were not there before. For some people, the Irish language is clearly the cause of fear. Many of us would ask why it should be feared, but we have to respect the fact that that is some people's view. Others think it is a splendid thing.

A colleague on the left spoke about a parliamentary investigation. The amazing thing about Mr de Silva's inquiry is that he has a free hand and we do not know what he is going to write. Who knows if at the end of it he will suggest that something else should happen, because he could do that. On the other hand he might say, "It's all here. I have done a good job and I found out these things. Among the million pieces of paper, these are very salient points. Now that you have this, I think you will find that it is very much to your satisfaction". But because he has a free hand, he might say, "I have looked at this lot and it is a bit of a fog. I genuinely do not know, and no one knows". He has the job of doing this and we hope it works for him. Let us hope that it can be concluded, but the jury is out in terms of whether other things take place.

It is very difficult to talk about leadership in Northern Ireland. In my 35 years blowing in to Northern Ireland three times a year, I met a lot of people who could offer what in my view

was splendid leadership, so it is whether they are allowed to. There were some people of whom I thought, “Well, that isn’t leadership at all”. So there is caution in this, but there is plenty of leadership if it is used properly.

Reference was made to the commemorations. I think that it is a very tricky affair because what is important is how commemorations are dealt with. We are talking about historical facts—what happened 100 years ago. Perhaps it is a case of there being a fuller understanding of those facts and of why this happened and not that. To me, that seems very sensible. But for this to be cheerleading—“Good old So-and-So; I wish they’d do it again now”—is not good news at all. The way forward on how we deal with commemorations is very tricky. There are commemorations in all sorts of directions, so it behoves us all—certainly people here, who have all sorts of influences—to make certain that the best comes out of commemoration, not the worst.

Reference has also been made to a truth commission, but that has not so far been seen as a way forward in Northern Ireland. Speaking personally and not giving the government line, I have always thought that it was a possible way forward, but that has not been the Government’s position up to now, and I think that the jury is out on it.

I hope that I have covered the questions that were put to me. I think we have got to noon—
high noon.

12.15 pm

The Co-Chairman (Lord Cope of Berkeley):

Absolutely. On your behalf, I thank David Shutt very much not only for coming to talk to us and giving us a wide-ranging speech, but also for doing his best to respond to the points and questions raised. They ranged widely as well.

On the question of the British-Irish Council, it is also partly for us as an Assembly, and particularly for our Committees, to observe the various work streams going on in the council and to see whether we can tailor some of our Committee work to follow them and monitor those activities.

I hope that I may be allowed a frivolous reminiscence on what is obviously a serious matter. I was Minister of State in Northern Ireland when Chief Constable Stevens, now Lord Stevens, was first appointed to look into these questions—not into that particular murder, but into an earlier stage. I remember that one of the newspapers asked Deputy Chief Constable Stalker, who had previously conducted an inquiry, what his advice was to John Stevens on taking up his appointment. Stalker said, “My advice to him is: ‘Go sick’”. You can see what he meant because it is a complicated and difficult matter into which to inquire and of course a very sensitive one.

Once more, I am grateful on your behalf to David Shutt for coming to us and responding to our questions as well and as widely as he has done. Thank you very much. [*Applause.*]

COMMITTEE B—EUROPEAN AFFAIRS

ROBERT WALTER MP

12.15 pm

The Co-Chairman (Lord Cope of Berkeley):

We will now return to the work of our Committees, particularly Committee B, whose chair is Robert Walter MP. As you know, Committee B considers matters arising from our common membership of the European Union. I ask Robert to start off the discussion.

Mr Robert Walter MP:

Thank you very much indeed, Co-Chairman. I am conscious that this session is all that stands between you and lunch. Committee B is the Committee on European affairs and is a genuine reflection of the east-west dimension, looking at our common interests in these islands on European policy. If I can correct you slightly, Co-Chairman, it is about not just the EU but the wider commitments in Europe, including many aspects of the European Convention on

Human Rights, which we talked about earlier this morning and which I will come on to in a second.

Certainly over the last couple of years, or at least over the past 18 months, the work of all the Committees has been upset by the onset of elections in various jurisdictions. However, I thought I might reflect on what has happened in that period with regard to the Committee's reports. At Cavan we agreed a report on European security and defence policy. This had been on the Committee's agenda for some considerable time. At Cavan we said that it was the interim report on this subject, but I think the Committee has agreed that it was probably our final report on the subject because we needed to move on to other matters.

When we met in Douglas in the autumn of 2010, we agreed a report on regional economic spaces in the European Union, looking particularly at the British and Irish isles as a regional economic space. We are very continental in our Committee in that we have rapporteurs. The rapporteur on this report was Mike German but sadly, when we were in Douglas, he was in his interregnum between being a representative of the Welsh Assembly on this body and his then reincarnation as Lord German. He is now on the Westminster delegation and, if you look at his full title, I note that he is also Torfaen's second representative in this body. I thought

that it was a very good report, doing the sort of work that this body should be doing and reflecting our relationship with the British-Irish Council, which we felt should also look at this concept within the context of our joint membership of the European Union.

Sadly, when we met in Cork we were fairly devoid of any members and therefore did not have a Committee meeting. But we had previously agreed a report to go forward: the report on the recession and EU migrant workers. We discussed the report at our Committee meeting this morning. Baroness Harris is the rapporteur on that report. A little bit of statistical updating is needed, but it looked at the whole question of the effect of the economic recession on EU migrant workers; that is, workers from one EU member state who had moved to another member state for reasons of employment. Certainly the deepening global downturn and the ongoing recession not merely here in the UK and in Ireland but across Europe has, I think, created a greater focus on the problems faced by EU migrant workers within our islands. Co-Chairman, I suggest that Baroness Harris might want to say a little more on that in the discussion that follows.

This morning we also agreed the terms of reference of an inquiry that we agreed in outline a year ago, which is very relevant to what we have been talking about this morning. We

agreed to have an inquiry into human rights legislation in the European context, and to look specifically at the European Convention on Human Rights and its application in each jurisdiction, including in the Crown dependencies, where there are different aspects which we believe need to be looked at. We wanted to look at the implementation of human rights legislation across the various jurisdictions in these islands and at the operation of the Human Rights Act 1998 in the United Kingdom, as well as the proposed introduction of a British Bill of Rights, which of course we were talking about this morning. We wanted to look at the work of the Northern Ireland Human Rights Commission and the Irish Human Rights Commission, as well as the whole question of the reform of the European Court of Human Rights and the particular attitudes taken by the United Kingdom Government and the Irish Government—the United Kingdom Government, of course, being in the driving seat on that over the next six months as they hold the chairmanship of the Committee of Ministers in the Council of Europe.

That is basically an update on where we are. I take this opportunity to thank some of the past members of the Committee who are sadly not here. I want to single out one, who had been the rapporteur with Angela Harris on our report on the recession and EU migrant workers, and that is Charlie O'Connor. He put in a lot of work on the report, but Charlie is the

victim of democracy and the voters' will, and is therefore no longer here.

The new team met this morning and we plan to meet probably in both London and Dublin over the next few months. We will get on with the work of closing off the report on the recession and EU migrant workers, and will open up our report on human rights. Thank you, Co-Chairman.

The Co-Chairman (Lord Cope of Berkeley):

Thank you very much. Would anyone like to make a comment on or ask questions about that comprehensive report? I do not see anybody catching my eye. Oh, I beg your pardon.

Baroness Harris of Richmond:

Thank you. Robert has outlined very fully what our work has been, but I also acknowledge the work of former TD Charlie O'Connor. This is essentially his work and he really was very keen that we stuck to it. I think that the recession and EU migrant workers should more properly be referred to as the "continuing recession and EU migrant workers". It is clear that

the report does need a final update before we bring it to the next plenary. We recognise that the issues raised are very sensitive and important. As I say, we have some more work to do. We wanted to examine the experience of economic migrants and how they would fare in economic downturns. It is quite clear, as the report indicates, that there is virtually no statistical record-keeping of patterns of migration, and we make a number of very strong recommendations for this to be addressed.

This has been a brief introduction to the report, and our work will continue throughout the winter so that we are ready to debate the report properly when we come together at our next plenary. If there are any questions arising from it that Members wish us to address before the conclusion of our report, I am happy to try to incorporate them into the final version.

The Co-Chairman (Lord Cope of Berkeley):

Thank you very much. Lord Dubs?

Lord Dubs:

Briefly, I thank Robert Walter for his report. I am particularly interested in the work that the

Committee intends to do on the European Convention on Human Rights and related matters.

It makes me almost envious that I am not on his Committee, but that would be disloyal to the members of Committee D. Maybe you would like to have a word with some of the members of the Joint Committee on Human Rights because there is a bit of an overlap and it might be helpful. Good luck.

The Co-Chairman (Lord Cope of Berkeley):

Thank you. Does anyone else want to make a contribution?

Deputy Jane Stephens:

Thank you. Could I respond to the information that the Crown dependencies are to be included in the interest in the application of the European Convention on Human Rights in the outer jurisdictions? I welcome that interest and wish you well with the report.

The Co-Chairman (Lord Cope of Berkeley):

That was Deputy Jane Stephens, who joins us from Guernsey. Does anybody else want to make a contribution? Thank you all very much.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Co-Chair. I thank Robert for his comprehensive overview of the work of Committee B. I will not reiterate what I said earlier, but the Committees do important work. Talking about them at this stage of the session—at the beginning of the plenary, which is not usual since we normally have them on a Tuesday morning—gives people time to discuss their different points of view outside the plenary session.

There will be a photo after lunch, but we have to go to a buffet lunch out here to the right. After lunch, we will go for a photograph. I am told we should be back here at 3.45 sharp, so obviously that means 3.45. Thank you very much.

Sitting suspended at 12.28 pm.

Sitting resumed at 3.45 pm.

THE ECONOMY—THE VIEW FROM THE BANKS

The Co-Chairman (Lord Cope of Berkeley):

The economy is the most important question hanging over all of us, and to a great degree, our eyes and interest are focused on Brussels and the negotiations under way at the various summits. Halfway through last week, I thought that we would be discussing the agreement that was supposed to be reached at the weekend, but it turns out that that is not the case, and the crisis continues.

The economic problems of the past few months and years have been dominated by banking problems. Every day more or less, we read in our newspapers articles by people trying to tell the banks what to do: the banks should clearly lend more but, on the other hand, they have to improve their capital ratios and, for that matter, they should take fewer risks, and so on. How they are supposed to do all those things at once is not always explained very clearly. We also hear continuously about the uncertainties of the financial markets and the latest fluctuations in indices and so on.

We are fortunate to have someone with great experience in the banking sector to help us to understand the view from the banks—Mrs Sally Scutt. She is deputy chief executive of the British Bankers Association, about which I hope she will tell us a little more, and

managing director of the International Bankers Federation, so I think that there is nobody better to give us the view from the banks, and I invite her to address the Assembly.

Mrs Sally Scutt:

Good afternoon. I thank Lord Cope, Joe McHugh and Members of the Assembly for inviting me here. It is a privilege and a pleasure to be here. I have not been to Brighton for more than 30 years. I was a school matron along the coast in Eastbourne many years ago, and I used to come to Brighton on my day off. It has changed a bit since then, but it is still very nice, particularly in this weather.

As Lord Cope said, I am deputy chief executive of the British Bankers Association. I am not the one who is usually out and about—our leader usually does that, and speaks to everyone—but I speak occasionally and I tend to look at the economic issues and the broader economic climate, and how it makes us, particularly the UK, fit in Europe and international business.

The BBA is a traditional trade association: we represent our members and we do a great

deal of work on regulatory proposals. The International Banking Federation, which I run, was set up about seven years ago by the banking associations of the major economies—the whole of Europe, the United States, Canada, Japan and Australia—and I have managed to persuade China, India, Russia, South Korea and South Africa to join. It was perfect timing, because early warnings of the crisis came in early 2007, so we were already on the case in stressing the importance of getting international regulation right and aligning it with regional and national measures. Financial services are a global industry and, as we have seen in each wave of the crisis—the initial banking crisis, the economic crisis and now the sovereign crisis—this is a global problem, and we need to work on these things together.

Earlier this year, I was asked to address a group of 60 bank chief executive officers about what I saw as the banking issues facing us. I split my presentation into three areas: regulation; a level playing field—and there is probably a better phrase for it, perhaps international competitiveness; and the economy. That is all against the backdrop of intense regulatory change at whatever level, whether domestic, regional or international. When I was asked to speak today, I looked back and thought, “What did I say back then?” The issues that were difficult for the banks 10 months ago are still here, and possibly even more difficult, because of the changes that have occurred in economies around the world.

Rather than give you lots of statistics I was going to recommend that you look at a document recently published by TheCityUK—we will send you a link—that gives some key facts about UK financial and professional services. Whatever changes are going on in the industry, it is still a significant contributor to the UK's economic livelihood, and we need to get some of these things right. If I take the economy first, banks have an important role in lending into the economy, helping to create jobs, and bringing about stability and economic growth. I shall look at three things in particular including, first, the euro zone crisis. In the UK, we are in a particular position, because we are not in the euro, but Europe is important to us as one of our biggest trading partners at 40% of our trade. If things go wrong, that will not be helpful for the UK and there could be a significant economic impact.

Secondly, I shall say a bit about what banks mean to economic growth and about their role; and thirdly, I shall say a little about stability. At the moment, and over the past three years, the focus of regulatory change has been on improving stability. Yes, stability is a good thing, but there is a trade-off at some point with growth: if you have too much stability, you can completely strangle growth, and we need to get that balance right.

4.00 pm

Every day in the newspapers, we watch what is happening in the euro zone crisis and how the debates are going. This is not a banking crisis—it is a sovereign crisis, as it is about countries that have been overwhelmed by debt. In 2008, sovereigns bailed out the banks, but now we face the question of who is going to bail out the sovereigns. While sovereigns can bail out banks, banks simply cannot bail out sovereigns. The solutions to those issues in the euro zone are difficult and complex, and are made more complex as a result of the legalities of the treaty. Essentially, however, there are three things on which to reach agreement: first, how to solve Greece, which is bankrupt. I am sure that it is close to what is known technically as a credit event, or a default. It cannot pay its debts, so Greece has to be resolved. Across the euro zone, the reality is that we can resolve Greece, but the difficulty is not in the first-order default but in the secondary impact of what that might mean. The real problems are not around Greece, and possibly Portugal and Ireland, but arise from the effect of a credit event in Greece, even if Greece's problems are solved, as Italy and Spain are close behind. If the euro zone is expected to bail out Italy and Spain, there does not appear to be quite enough money.

There are disagreements. The German Government would like countries to take on much more responsibility, and they would not mind an insurance policy to cope with all those defaulting sovereigns. The French, on the other hand, want the European Central Bank to be the lender of last resort and provide unlimited liquidity to all those banks and sovereigns that

get into difficulty. Whatever we say, and whichever solution emerges as the favourite, the numbers are very large indeed, which is something to which we have become inured over the past few years. The numbers become bigger and bigger in each crisis, so the solutions become much more difficult.

Changes to the treaty may be required—that will not happen soon—but Greece needs to be resolved, and the private sector may be required to take a much bigger portion of debt write-down. The consequences will be serious for some banks in Europe, although less so in the UK. Across Europe, some banks have not faced the regulatory change that, I would argue, regulators in the UK have imposed. I shall come on to discuss the proposed changes to capital and liquidity, but the reality in the UK is that the Financial Services Authority has demanded that UK banks increase their capital. Whereas it was something like 100 billion of capital in the UK banks in 2000, that number is already 300 billion. In a sense, the preparatory work to be properly capitalised and have a new liquidity regime has already taken place in the UK.

The UK will probably be less affected by the first wave of problems that come with a Greek default or solving that problem—and perhaps in Portugal and Ireland, too—but should the agreements in the euro zone debate not be reached and a firewall is constructed to prevent

contagion, who knows what the secondary wave might be and what the impact will be on financial institutions that have been made stronger? The impact will be high on certain European countries in which regulators have not yet acted, accounting standards have not been met and so on. That is one reason why the markets have reacted to the long drawn-out process that has characterised the sovereign crisis, because they are not convinced that actions have been taken. There is a great deal of debate about recapitalising the banks in continental Europe. In my view, that will have to be done, because if there is a default, they will be in a great deal of difficulty and will either have to be nationalised or be recapitalised. However, in my mind, that is the third and least important thing that needs to be done: the first is to solve Greece, and the second is to find the mechanism for the firewall.

All that we can do is wait. A difficulty for everyone is the slow process in Europe of reaching political agreement. We are used to that, in a sense, in the regulatory debate that goes on and in the directives that go through, but that slow, political process, which is important for consensus building, leaves the rest of the world asking, "Why don't you do something?" I am sure that at the G20 on 4 and 5 November, there will be a little bit of encouragement to reach a reasonable agreement.

As I have said, the FSA has implemented a great deal of banking regulation—capital and liquidities have been discussed most often, but the biggest programme comes from the G20. An important distinction needs to be made regarding the fact that capital and liquidity are a good regime. It is a good thing to do, but it focuses on an institution-by-institution approach, which is not enough. We need a great deal more to find the right regulation and supervision of the system as a whole, so that when an institution fails, it does not bring down the whole system. A great deal of work on resolution and the orderly wind-up of firms is important if we are to try to reduce the risk of contagion.

The focus of a great deal of regulatory change is on bringing about stability, because it was thought that the original banking crisis caused terrible instability. The key is increased quality of capital and amount; better liquidity management; and the orderly resolution of firms should they get into difficulty. That has been the case in the UK, where the authorities have done a great deal, and all those things are still being debated in Europe, and we are waiting for the final regulatory proposals.

All of that is a consequence of the severity of the early part of the crisis, and banks are very accepting of the fact that that is the right way to go and the right thing to do. The moves

on capital and liquidity and so on are important, but so are initiatives on corporate governance, accounting standards, market infrastructures and the like. I spent many years as a merchant banker covering business in Italy, and on my first visit to banks in Italy I was told, “Remember, Sally, they have three sets of accounts. There’s one for the taxman, one for you, and one for the shareholders, and they bear no resemblance to one another.”

It was not a surprise at the beginning of the crisis that the Italian authorities suspended the accounting rules for banks, and they have not been re-established. Two weeks ago, there was a tiny article in the *Financial Times* that said that the Italian authorities had suspended the use of the accounting rules for insurance companies. I make that point to identify the fact that there is a raft of regulatory reforms in this space, but they work only if there is consistent implementation and international co-ordination to ensure that they are put in place and they are followed, otherwise we will not achieve very much, and when we hit a crisis—as we have at the moment—it is a crisis of confidence, not only because of indebtedness, but because we know that people have not followed rules that have been well established for a number of years. Ultimately, markets will decide where they will put their investors’ money. That is important, because pension funds are big investors, and ultimately those are our pensions so, again, we must be careful lest the taxpayer ends up paying by a different route—not a bailout, but as a result of the fact that we have not got the balance right.

Another important area is derivatives. I have spoken to many people over the past few years. A couple of years ago, I went to see the head of the securities industry regulator, a Dutch politician called Hans Hoogervorst, who is now chairman of the International Accounting Standards Board. He said. “Just look at the number of credit default swaps. As a politician, I know that no one can solve a problem with those sorts of numbers, so we must do something.” A great deal of work is under way, and Paul Tucker, deputy governor of the Bank of England, made a speech today about how to put some of those derivatives through central clearing counter-parties, which is a good form of regulation. Those products need to be capitalised—the members fund and manage them—and while it is all very well reducing risk in the banks by doing that type of transaction, it does not work if you simply move the risk elsewhere and create a new entity that is too big to fail, rather than having that risk.

It is about managing risk better, not simply moving it to another place in the hope that it will not be so bad. In his speech, Paul said that if one of those market infrastructure things collapses, the consequences are catastrophic and difficult to manage. We have to be careful about the amount of regulation. It has always been the case that if we over-regulate in one area business simply migrates elsewhere, and the issue of shadow banking is important. The Financial Stability Board—the part of the Basel Committee that is managing much of the

global change—is looking hard at mapping the movement of risk. That is something that was missed last time round: it was great to manage risk and portion it out, but no one really knew where it sat. When the markets froze in 2008, it was because no one knew where it had gone, and they could not identify it, so banks stopped lending to one another, as they were not sure who was holding what.

4.15 pm

The conditions in the market today are worse than they were in 2008. Banks are nervous, and they are reliant on wholesale funding. In some cases, no one knows what assets they hold and whether they have enough capital. That freezing up of the markets means that banks cannot go about their job of lending into the economy, which is what causes a crisis. Unless those things are resolved, we cannot do much about it. Shadow banking is important. Some of you will have read about Glencore, a large trading company that has just gone to the market, and it and similar companies have been taking over what banks do. Glencore lends to its clients, and helps them to pay for the goods that they buy. However, it is not regulated like banks, so who knows what goes on? It is important that those things are mapped—the regulators are looking at it—but such companies operate outside the regulatory framework. I am not saying that they

should be within it, but we need a mechanism to map that activity.

There is a desire to map macro-prudential matters, including macro-economic risk. In the UK, in the Bill that is going through Parliament, there is a great deal about the Financial Policy Committee. For us at the BBA, that is very important, because we think that it is right to look at the macro-economic consequences of many of those things. The Monetary Policy Committee appears to have worked quite well, and that is all about managing the price of credit into the economy. In our view, the FPC's role is about managing supply. When the tools that the FPC will use are decided, that will send a signal to the prudential regulator to say, "Hmm, we have a bit of overheating in the mortgage market. You should look at loan-to-value ratios, which should come down." It is important to watch those stresses and strains in the economy.

A social question emerges from that. The FPC will make clear observations and recommendations for the FSA or the Prudential Regulation Authority, as it will become when the Bill is enacted. In effect, it will make judgments about who can have a mortgage. Ultimately, that will affect individuals' ability to secure mortgages and funding for their small businesses in a very different way, and we need to have a think about that and how it is

communicated to people who want mortgages. How do we balance doing what is right for the economy as a whole and an individual's right to buy a house or become an entrepreneur and so on?

To develop a point that I made earlier, capital and liquidity proposals have been made by the Basel Committee and the Bank for International Settlements. That is where all the prudential regulators meet and discuss their ideas for improving regulation. Basel III was passed in December last year—time flies, it may even have been the year before—but the framework was finally agreed last summer. The question is: will everyone implement Basel III? In Europe, we are busy working on the fourth version of the capital requirements directive—CRD 4—which brings all of that into law, but it is not at all clear that the authorities in the US will implement it, or the authorities in China. Some of them may do so, but others will not. The Canadians and Australians are nearly always first, but it is not clear that others will do so. There is an important point to be made about differential implementation. If someone runs a global firm, and the rules here are very different from those in the States or in China, it will be very difficult indeed for them.

Data management also presents difficulties. The Office of Financial Research, which is

part of the American mechanism for doing what the FPC will do, has said that it wants something that identifies every firm around the world. That is a good thing. In Asia, there is a great deal of resistance on data protection legislation, which is used as a protectionist measure. They claim that data protection does not allow the transfer of data, so they can position themselves in a rather more robust way and protect the interests of their own firms. We have to think about the fact that a rise in regulation may well encourage protectionism, which will defeat the purpose of the regulation. We need to think about that carefully. The US has passed a Bill starting a trade war with China on tariffs, and that sort of thing is a natural consequence of economic difficulty, differences in implementation and so on. We must be wary of that, because it will prevent the economic recovery that everyone needs around the world, rather than achieving the benefits of better regulation and better international co-ordination.

Finally, we must not forget that, alongside protectionism there are things like super-equivalence and extra-territoriality. Everyone is tempted. As I said, the UK authorities have chosen to be super-equivalent, as they have implemented many of those things, which are not different in substance, but they have done so years earlier than others. That may be good for the UK system, and it will stand us in good stead, I hope, over the next few years, when the crisis will probably turn very nasty indeed, and it will protect our institutions.

The other side of that is extra-territoriality. At the moment, I am dealing with FATCA—the Foreign Account Tax Compliance Act—that has gone through in the US, and is about collecting the tax that US citizens are supposed to pay throughout the world. Unfortunately for us, the way in which it is drafted—and there is little that we can do about it—means that it will be immensely expensive for the whole world to return information to the US authorities on what their citizens are doing with their money. While we support collecting tax in the right way, the industry faces hundreds of billions of changes in the way in which it does those things to manage things for US citizens. It is about being proportionate, but that extra-territorial reach is a problem.

My final point is about growth. A bank's job is to lend into the economy and help economic growth. It is very different in the EU, where the vast majority of financing comes from the banks—it does not come from capital markets, as in the UK. Here, we have capital markets that are good providers of money for large corporates, but they do not have that in the EU. The issue for us is that we need to be able to lend into the economy. As Lord Cope pointed out, we face a difficult problem. The increased standards in capital and liquidity mean that a bank must hold much more capital. To get where to they have been and lift their capital level, they must lend much less. The process of adjusting their balance sheets is deleveraging,

and banks have had to shed much of their lending to meet those requirements.

At what point do we get it right? We need capital for stability but, at the same time, we must allow banks to lend into the economy and stimulate the growth that it needs. We cannot do all those things at once, and it is about how we get the timing right. Deleveraging, however, is a critical issue for those European banks during the crisis. They have to deleverage at a significant rate, and shed their loans at negligible prices, which means that if they are to recover, they will have to be recapitalised, which will have a huge economic impact for them.

In conclusion, policy statements and regulatory change are great, but we cannot do such things isolated from economic reality. It is about getting these things right, so we must resolve the euro zone crisis, which is causing huge uncertainty, making many things economic unviable. It has paralysed the markets and has done serious economic damage. When I go to Brussels, I ask, "How's it going? Have you reached a decision?" On the outside, it looks as if they are in complete and utter denial about the seriousness of the situation. We must stand up and try to use our influence to resolve the crisis.

On the regulatory front, it is important to stabilise the system. What we have done so far is good for individual institutions, but both the industry and regulators need to go much further to deal with the system as a whole, including shadow banking. All those changes need to be implemented in a way that is sustainable. There should be an appropriate glide path to ensure that we do not destroy the benefits that have been achieved or affect the ability to grow as we go along. Economic growth comes from liberalisation, and not protectionism, whether it is disguised as a type of regulation or whether it is undertaken in the name of stability.

There is much to be done, and the banks face a range of issues. Somehow, we have to work our way through this, because growth is important. It is about getting young people into jobs so that banks can be in a position to do what they do best.

The Co-Chairman (Lord Cope of Berkeley):

Thank you very much, Mrs Scutt. Before I open the discussion, may I say that we do not usually recognise people in the Public Gallery apart from distinguished guests such as our ambassadors, Julian King and Bobby McDonagh, who are here today? However, I am going to make an exception, because many delegates will know that for many years, one of the most active and energetic Assembly Members was Andrew MacKinlay, the former Member of

Parliament. I am glad to say that he is keen to join us today, even in the Public Gallery.

However, we must get on with the discussion before he begins to make a speech. The first person to ask a question is Senator Paul Coghlan.

Senator Paul Coghlan:

I would like to thank you, Sally, for giving a comprehensive overview of the situation. As you rightly said, this is more than a banking crisis: it is a sovereign crisis. We are totally dependent on Europe, as you said, and we have a vested and vital interest in the future of the euro zone. I am talking about Britain—coming from Ireland, I am in the euro. Would you say that the so-called eurosceptics are protectionists, who do not understand the nature of the dependency that you have described so well? They do not understand the extent of the interlocking involved. Would you comment on that, as it is topical at the moment?

Mrs Sally Scutt:

I am not really in a position to say whether they understand or not. The situation is complex. The rest of Europe represents 40% of our trading, so it is an important trading partner. As I said, the first wave of the crisis will be difficult, but who knows what the second shock is? We have to explore many more interlocking issues before we make a judgment about what is

right for us, or what is wrong. It is complex; Europe is a big trading partner, and we are part of Europe—we always have been—so we have to work this thing through, and ensure that we are part of the debate.

The Co-Chairman (Lord Cope of Berkeley):

I call Jim Dobbin, followed by Jim Sheridan.

Mr Jim Dobbin MP:

The UK bailed out Northern Rock and other UK banks. Do you think the Americans should have done the same with Lehman Brothers?

Mrs Sally Scutt:

That is an interesting question. I doubt it, actually. Northern Rock was a small, deposit-taking bank with a particular model. It took most of its funding from the wholesale markets. All the banks with that model that had previously been building societies and converted—that includes Alliance and Leicester, Bradford and Bingley, and Halifax—found that that model did not work when the crisis came. That is something very different—it is about protecting depositors and what they had—which is why that was the right decision for Northern Rock.

4.30 pm

Lehman Brothers was slightly different. It was a private partnership of experts in the financial field. Fortunately, it was not our responsibility so, in a sense, the question is academic. However, when in crisis, we must all acknowledge that there is a limit to human capacity. Over that weekend, when Lehman Brothers failed, the US authorities faced the prospect of AIG and Washington Mutual failing. If there are only 20 people in a Department who can resolve that, ultimately other priorities have to come first. In that sense, if we had been in the same position, we would not have been able to rescue Lehman Brothers if we faced two or three such incidents over one weekend. As it was, the US authorities had to judge the second-order effects of collapse which, for AIG, would have been catastrophic. Sometimes you have to make a choice.

The Co-Chairman (Lord Cope of Berkeley):

Thank you. I call Jim Sheridan MP, who will be followed by Lord Bridgeman.

Mr Jim Sheridan MP:

Mrs Scutt, you seem to suggest, if I understood you correctly, that the crisis in the euro zone is not the responsibility of the banks but is a sovereign problem. Does that therefore suggest that the crisis would have arisen regardless of the behaviour of the global banks? You also appear to be arguing that if Britain takes a unilateral approach to the regulation of the banks, they will take their markets elsewhere. That is a tired old argument that seems to come along every time there is a crisis: if you interfere with the banks, you will lose your pension and the world will come to an end. Is it morally right for banks to behave like that and say, "If you dare regulate us or interfere with our massive bonuses, we will take our markets elsewhere"? How long do we live under that kind of threat?

Mrs Sally Scutt:

I will take the first part, about the sovereign crisis, first. If you look at the banking crisis in 2008, you will find that the financial difficulties were partly the result of activities by many banks, together with the fact that credit had been made available far too cheaply for far too long. Everyone benefited from that, whether it was people buying a mortgage or Governments building hospitals. That was the action of the banks.

What is different about Greece is that it is a sovereign defaulter. The country has not managed itself, it has become indebted and allowed people to retire at 50, and there is no money. That will trigger the banks to fail, and because of the exposure of other banks from France, Germany, Italy and so on to lending, either to Greek banks or to the Greek Government, they in turn will take losses that are very, very large. The Greek Government especially, but also the Italian Government, have managed their financial affairs very differently, and it is the prospect of countries going bust that would force through another wave of bank failures.

Mr Jim Sheridan MP:

Is that the same for Portugal, Spain and Ireland? Did all those Governments behave irresponsibly as well?

Mrs Sally Scutt:

As I have said, Governments and individuals benefited from the fact that credit was too cheap for too long, and they took advantage of it. Ultimately, Governments are responsible for managing the debt of the country, and every country has taken on more debt than perhaps was manageable. When economic growth is not present, those debts cannot be paid off. In Ireland,

it was a question of the banks and their exposure that caused that, but the Irish Government were in a position to take advantage of borrowing which we now see is economically unsustainable around the world. I do not think that there is much difference in terms of those.

As for the second point about banks' behaviour, I know that I did not say what you suggested I said, because I do not agree with it, so I would not have mentioned that in my speech in those terms. The banks have understood, and accept, the importance of regulatory change. Something needs to be done about that, and it has happened here. I said that the UK authorities have chosen to be super-equivalent, not in content but in timing, which is a judgment for the UK authorities. They believe that that is the correct thing to do, because they believe in the priority of stability, and that is how they think it will be achieved.

The UK banks have done what is required of them in that sense, in terms of that super-equivalence in timing. The other aspect is that markets make the decision. However much Government and regulatory authorities say, "We are going to make these improvements to capital and liquidity. You need to do this bit by 2015, and that bit by 2017," it is irrelevant, because the markets take a view on what the institution is like. If they know that something is coming, they take a long, hard look, and that is what is going on at the moment. People are

taking a long, hard look at banks in Europe and saying, “Well, they haven’t done their liquidity. Where are they going to get €100 billion in the next three months? That is not a good investment.”

I believe in the work that is being done on orderly resolution so that we can wind down firms in a way that enables them to go bust. My only slight worry is that if we invent a whole new raft of capital instruments, the pension funds will invest in them. What I said was that we need to get that right: how we design those instruments, and who takes the loss. If we are not careful, and the pension funds buy those products, the taxpayer—it will be your pension and my pension—will take the loss if that design and the way in which the market works are not right.

The Co-Chairman (Lord Cope of Berkeley):

Thank you. I call Lord Bridgeman, followed by Jim McGovern MP.

Viscount Bridgeman:

There was an editorial in *The Sunday Times* yesterday suggesting that the euro zone might fall into two groupings, with the core countries of Germany, France, the Netherlands and possibly

Finland in the first group, and the remainder, including Ireland, in the second. It suggested that the second grouping might be of interest to the United Kingdom. Do you have any comments?

Mrs Sally Scutt:

No, I do not, because I have never really thought about it in those terms. Six months ago, it was unthinkable to talk about anybody dropping out of the euro and thus the euro zone. In all the debates on Greece, it was assumed that Greece, Portugal, Ireland, Spain and Italy would be a group. There has been a debate about whether Germany comes out at the top and, perhaps with the Netherlands and Austria, being in a different group. It is not in the interests of certain European Governments for such a break-up to happen. It is an interesting academic debate, but I am not sure that that is how it will pan out.

There is a very good article in *The New Times* that shows all the interlinkages—the amounts of money involved, which countries are indebted and how—and the sheer web of that means that it would be extraordinarily difficult to unpick and remove. That would be difficult for Europe, and it would be difficult for the UK, too. In all my visits, the important thing is to focus on the single market: that is what brings the benefits, and we must hope that

the politicians can manage that so we keep those benefits without paying for the debt of others.

The Co-Chairman (Lord Cope of Berkeley):

I call Jim McGovern MP, followed by Brian Mawhinney.

Mr Jim McGovern MP:

I was elected in 2005 to represent the people of my constituency of Dundee West, and I have held a surgery every week on a Friday. For the first four years, no one from the business community came to my surgery, but over the past two years, an ever-increasing number of people involved in small to medium enterprises have come to see me, saying that their relationship with the banks has changed for the worse. I have had meetings with local bank managers, and I have also had a meeting with Stephen Hester, the chief executive of the Royal Bank of Scotland, and they contend that they are lending as much now as they have ever done. If I understand you correctly, you seem to be saying the opposite—they are not lending as much as they did before—so would it be fair for me to quote you the next time I meet local bankers?

Mrs Sally Scutt:

I do not think so, because I do not think that that is what I said. What I said was that banks' capacity to lend has been constrained. There is a joint target for the banks and Government to lend, particularly to small businesses, and those numbers are announced every quarter. The banks are not very far from meeting the targets set by the Government.

The difficulty is twofold. In this environment, small business people and particularly mid-sized companies tend to become conservative, so they do not borrow, and they do not do so because they do not invest. That is the problem for the economy. We established the better business task force, which consists of about 17 initiatives, to help small business people by mentoring and offering advice on how to produce a business plan, and managing funding proposals to help them to achieve what they want.

In a recession, it is always difficult, and this recession is no different from any other. I was lending to small businesses in 1992 and 1987, and it is always difficult. We have to make a quantum leap and address the quality of proposals, making sure that all the avenues for accessing finance are available and that everyone knows about them. There are other sources of funding—the Government have made a suggestion about credit easing—that are simply

sitting there and are ready to be used for small, local finance initiatives and so on. Helping people to ask for the money in the right way is a good way of doing it, but the banks are pretty close to the targets set by the Government, so I would not say that they are not doing it—they are.

The Co-Chairman (Lord Cope of Berkeley):

I call Lord Mawhinney, who will be followed by Arthur Spring TD.

Lord Mawhinney:

I hope you will forgive me if I am being thick, but I did not get your answer to Jim Sheridan's first question, so I should like to try again. The question was, "Did you think that, if there had not been a banking crisis in 2008, there would still be a sovereign crisis in 2011?" Let me rephrase it, but I think that I am asking the same question. Almost certainly in 2007 and 2008, there was a sovereign crisis in Ireland, Greece, Italy and Spain, except no one focused on it or discussed it. It was not an issue, but now it is a big issue. What has made it a big issue in the past 12 or 24 months, and was that related to the banking crisis in 2008?

4.45 pm

Mrs Sally Scutt:

If you go back to the run-up to the great depression, you find that the crisis comes in waves. I am not an economist—I am an ex-banker—but if you talk to the people in the European Commission who have witnessed a number of crises over the past 20 years, you will learn that it does come in waves: it is banking; it is economic; and then, inevitably, the last wave of any crisis is to do with the currency. We have seen that in Latin America, in the far east and so on.

I agree that the Greek crisis was definitely a sovereign crisis: it was the mismanagement of the public sector that has brought Greece to the position in which it finds itself. As for Ireland and the others, from my conversations with the Irish Banking Federation, the crisis was deemed to be much more associated with the activities of the banks and their overreaching, and their inability to manage that, so that when there was a crisis in the banking sector around structured products, they found that they had taken on risk and so on, which became unmanageable.

Everyone's view of the first wave is that the banks were in crisis, and it was their

Governments who bailed them out. In the third wave, Greece is leading the way, because Greece was always a sovereign debt crisis first, and it will bring about a banking crisis. The reason it has become so serious is that other European countries—perhaps not Greece, Portugal and Ireland, which were probably manageable for the other euro zone countries—such as Italy and Spain are not manageable. It has always been the case that Italy and Spain have had serious economic difficulties, and they have been helped over the past six months by decisions to use the European Central Bank to buy their bonds and so on to try to stave off a sovereign crisis on that scale. Everyone always knew that those countries had too much debt. Confidence in those sovereigns has reached a crisis point where no one is prepared to buy their debt.

The Co-Chairman (Lord Cope of Berkeley):

The next speaker is Arthur Spring from the Dáil, who will be followed by Senator John Crown.

Mr Arthur Spring TD:

First, I must admit to being a little frustrated with your presentation. To answer the question from the last speaker, the sovereign debt crisis was undoubtedly caused by the banking crisis

and the over-extension of capitalisation, caused by a market that was not regulated correctly.

I am frustrated, too, that you said that there is a generation and a set of Governments who benefited from cheap credit. Thirty per cent. of the Irish mortgage market is in a stressed situation. People have restructured their loans, but 10% of the market is in arrears of more than 90 days, and 5% of the market is in arrears of more than 180 days. To take it one step further, we have an estate agency called MABS—Money Advice and Budgeting Service—and 49% of the people who come to see it with mortgage problems are solely in receipt of social welfare. To say that they benefited from cheap credit is nothing shy of an abysmal removal from reality, because those people are stressed beyond belief.

That is going on in Portugal, Italy and Spain and, to some extent, in the UK, too. It is a generation that has been jinxed by the reckless actions of banks. I am a former banker, and I have seen that it was only short-term gains for individual purposes with which they were preoccupied. For me, regulation is one of two options that we face. On the one hand, we may end up in a situation such as that in, for example, the UK, which is inextricably linked to the euro zone countries. On the other, in the EU, we will end up either with fiscal policy being united or in a situation where there is a common regulation policy document. Banks can

never, ever breach those again, because loan-to-deposit ratios and the capitalisation of the banks is where it all fell apart, together with the inability to look at it from both a micro and macro-perspective.

All bankers should be aware that they are only providing a service under licence from the Governments under whom they exist, so there must be a social dividend for everyone involved in banking. There must be more regulation, and bankers should embrace it, otherwise we will end up with fiscal policy, and that is not exactly what we signed up to in the European Union.

That brings me to my next point. I should like to know whether you, and anyone else here, are frustrated that the euro zone countries are suddenly being led by Angela Merkel and Sarkozy. I am not a eurosceptic, but I am not sure what piece of legislation, amendment or Bill to which I signed up said that they would make the decisions on our currency, as well as our continent and our economic union.

Finally, credit institutions in the UK have looked at quantitative easing as a solution. I should like to know whether that is going to make your country more competitive. If so, if we

do not get QE in euro zone countries, does that not mean that Ireland is going to lose competitiveness against competitors and allies alike? It must be restated that there is a whole generation of people across the continent who have been emburdened by the reckless actions of banks.

Mrs Sally Scutt:

If I take mortgages, I think you make an important point. It is important that Governments think about how they set and meet policy objectives. Care needs to be taken not to set conflicting objectives. If the objective is that you want everyone to buy their own property, and that provision should be made available, there are consequences if you choose to do it by borrowing and buying, rather than by providing social housing. The conflict of policy objectives became much clearer in the crisis, because there were different ways of doing those things, and individuals were encouraged to borrow and buy their own house, rather than find housing in any other way.

I know, both from the IBF and in the UK, that banks are doing a great deal to help people. The authorities in the UK have encouraged banks to show forbearance to ensure that people can stay in their property. In Hungary, Hungarian banks were encouraged to lend in Swiss

francs, because it was a better bet than the euro, and individuals in Hungary are now in a much worse position. We have to balance our approach to various policy directives, and not set conflicting priorities. If the Financial Policy Committee says, “Right, no UK bank lends more than 60% loan to value”, we must consider the consequences of that policy decision.

Who is going to tell people who are not in a position to save for a deposit? In London, the average age of someone securing their first mortgage is 37, and they have to save 25%. How many people are in that position? It is about getting those policy positions aligned and understanding the impact. It is not a matter for the banks if the FPC sets a policy of loan-to-value ratios because of the macroeconomic effects and the desire not to have a housing bubble and, as a result, someone is not given a mortgage. Their choice as an individual about where and how they live will be different—that policy is different from the one adopted in the 1990s.

Mr Arthur Spring TD:

Would you mind answering the question in relation to QE, Europe and competitiveness?

Mrs Sally Scutt:

As I said, I am not an economist. QE is a decision for the Government, and the Bank of England will decide what needs to be done to encourage the economy to grow. Every individual country will contemplate that choice. In the US today, they are talking about a third round, because they have similar economic difficulties. In Europe, they have to deal with the crisis first and, when they have sorted it out and sorted out and recapitalised the banks, they can address the economic impact in the euro zone.

The Co-Chairman (Lord Cope of Berkeley):

There are four more Members wanting to ask a question: Senator John Crown; John Paul Phelan; Joyce Watson; and Patrick O'Donovan.

Senator John Crown:

The Irish are funny. A few years ago, we thought we were a nation of real estate experts and unique entrepreneurs. Now we have become a nation of economists. It is just about the only place in the world where you will find taxi drivers talking about credit default swaps. Pub talk is no longer about Manchester United—I know that that is a sore point for some people today—and is frequently about credit events and the European Central Bank. I am a poor,

humble doctor in cancer research, and I will tell you what I think and ask you a question in the process.

Developing the theme that has been mentioned, what is really going on? Is it a sovereign crisis or a banking crisis? The explanation of what is happening in the world economy that regards it as a banking, sovereign debt, or fiscal credit crisis is missing point, as something much more profound has happened. Trying to fix the world economy by fixing the banking system is a little bit like going down to the seabed with lifeboats and tying them on to the rotting hulk of the Titanic.

The reality is that awfully profound changes have occurred in the world economy that have worked to the detriment of the western societies in which we live. I am not saying that they are unfair: we must take into account the presence of an extra 3 billion people who joined the work force from the developing countries, and accept that pretty much every year for the past 30 years, the United States, which was once the mighty industrial powerhouse of the western world, has had a balance-of-trade deficit. Basically, you will find hardly any American manufactured goods. Even in the United Kingdom which, historically, was a great industrial powerhouse, there is far less manufacturing.

As a result, we have had an illusion of wealth creation in our societies, based on a bloated financial services sector that was taking money from people who were creating the wealth in China, in the oil-producing countries, and in Germany, shuffling that money around, creaming off some commission, inventing various derivatives and casino-like instruments, which somehow gave the impression that we were doing something that was adding value. Unless we fundamentally readdress the issue of the imbalances in our economy, it is going to be very difficult. Anything that we do to try to fix the economy by fixing the banking sector, necessary as that is, is a Band-Aid, and I suggest that large chunks of the activities that have taken place in the past few years in the financial services sector should be switched from banking regulators to the people who regulate horse races and casinos, leaving the core banking activities with the bankers.

Mrs Sally Scutt:

I think that your analysis of the fundamental problem being the imbalances is absolutely correct. That is the only thing that keeps the G20 meetings going, and without it, everyone would have lost interest in them.

The west is hugely over-indebted. It is not building much, and it is not making enough

money. Asia is the place to be, and it is where there is significant growth in those terms. Even in China this year, growth will be 9% to 10%, but that will not come from trade. It will all be internally generated by encouraging locals to spend some of their savings. It will not come from the west buying Chinese goods or anything like that. The imbalances are huge, and it is that issue that needs to be solved.

That is why I made the point that it would not be helpful for the US to introduce trade tariffs with China, as that will just give rise to protectionism, which will not help to solve that problem. I agree with you totally about that.

The Co-Chairman (Lord Cope of Berkeley):

I call John Paul Phelan from the Dáil.

Mr John Paul Phelan TD:

First, I am a bit alarmed by some of the terminology and language that have been used in the presentation by Sally. It is unfortunate that you referred a great deal to the IBF which, for the past couple of years, has not been a highly esteemed group in Ireland. You referred several times to the need to secure a resolution for Greece. Two or three times, you mentioned the

need to build a firewall around Greece. That is the language that was being used in Ireland 18 months to two years ago. Surely, we have realised that we cannot just capture the contagion in Greece. Whatever solution the EU reaches, if it reaches one, must be a European one, and not just something that firewalls Greece: if it doesn't resolve Greece, it will be Ireland, Portugal, Spain and Italy next—and potentially France after that.

I am surprised to be listening to words that I heard in debates in the Oireachtas 18 months about where we were at that juncture, and the realisation does not seem to help. I agree with Arthur Spring about the Irish situation. We had a banking crisis, for sure, and we nationalised banking a couple of years ago. It began largely as a banking crisis in Ireland, and it became a sovereign crisis, because a political decision was made to nationalise the banks. In Greece, it seems as if there was not so much banking difficulty, but it was a sovereign crisis from the beginning.

I agree with Arthur, too, on something else. What are your views, Sally, on the direction of the EU? It is certainly not part of the EU of which I am proud to be a member that we should see these little gatherings by the German Chancellor and the French President every so often to dictate to the rest of us the direction that the Union should take. The EU with which I grew

up was all about a collegiate atmosphere in which decisions were made together. We did not see what are more or less diktats being produced by the larger countries.

Mrs Sally Scutt:

If I address your point about the firewall, I used that image in the context of the way in which the situation has been described by the French and Germans in the press with regard to efforts to deal with the risk of contagion and stop the crisis spreading. The points that you made are absolutely correct. One difficulty that we face arose because the European Banking Authority undertook stress tests. A couple of years ago, everyone passed them, but the Irish banks were in serious difficulties within months and the markets thought, "This is ridiculous: it's not worth the paper it's written on." The question of credibility and so on therefore arises. Even the EBA tried to step up to the plate a week ago and said, "Right, we will do this," but it knows that this is an intensely political issue. It is not about economics: it is about politics. If you bring about monetary union without fiscal union or proper governance, you can find yourself in that sort of position, and that is precisely what happened.

The political solution has to play out, and the reality is that Germany has the funding that can help, so everyone else in the euro zone has to have that debate among themselves. I spend

a lot of time in Brussels, and it is intensely frustrating because of the way in which Europe works: it is extremely consultative, and it takes a long time to reach any conclusions. There are some real dangers. The euro zone countries have to resolve their currency and sovereign crises, but for the rest of us in Europe the implications of some their decisions will be far-reaching, because of the loss that we could face and would have to fund and because of the way forward. That is why I made the point that it is important that the benefits of the single market, including movement across borders, are preserved.

The Co-Chairman (Lord Cope of Berkeley):

I call Joyce Watson from the Welsh Assembly.

5.00 pm

Mrs Joyce Watson AM:

I am going to raise two issues, and they return to the illusion of wealth creation and moral banking.

We have heard an awful lot about banks needing regulation, and about governance regulating the way in which things are spent. I want to focus on the belief that the markets

will decide. At the moment, the market is deciding to trade in food and fuel, and the implications for everyone in this room are enormous, as it has the potential to create real poverty. I should like to hear your comments on that. Is it the case—and I think that it should be—that there should be regulation that does not allow that to continue, and stops it almost immediately? The word “market” is a great mask behind which other people hide, but I think morality has to be put back into trading.

Many people have discussed mortgages. You said that if mortgage lenders decide that borrowers need a deposit of 25% or more, and you discussed moving the problem into the future for the pensioner. What safeguards are we going to put in place to prevent people from becoming poor in old age as a result of remortgaging the house for which they have paid to help the next generation buy their own house? It is clear that the UK Government are not going to build any social housing to fill that void. The natural instinct of any parent is to try to help their children, and they could be vastly aided by banks in that desire, which would create a poor future for them in which everyone fails.

Mrs Sally Scutt:

If I deal with your final point first, I was in Korea last week talking to regulators and Korean

banks. Interestingly, Korean banks are about to announce their biggest profits ever and they, too, are facing demonstrations about the banks being wealthy. However, the point that you made about the older generation getting into difficulty to ensure that there is property for their children is relevant, because that is precisely what is happening in Korea. There is a big problem looming, because the tradition is that the parents—and if not the parents, the family or the clan—club together to buy the married couple a property. What you described is precisely what has happened, and there is no protection other than reliance on family loyalty. In the past, there were products that enabled older people to release the equity from their home, but they were stopped.

The crisis is about an intergenerational shift. It is about those who have been afforded the ability to borrow and gear themselves up, but we are now going through a shift, and that will not be possible or affordable for the next generation. There is a risk that people in the UK will be squeezed in two different ways: they will be squeezed both by helping their children and in what they will receive in their pension, and how that works. I agree with you. It is for the banks to provide those solutions, but that intergenerational shift is a serious consequence of the crisis. Mortgages will be more expensive, and people will have to adjust.

That is difficult, as people have become used to having two cars, going on holiday and being able to secure a mortgage. That will become more expensive, as it will be more expensive for banks to obtain funding. That is about social policy, in my view, but everyone can see those things moving in that direction, and the Government focus will be on the social side.

The Co-Chairman (Lord Cope of Berkeley):

I call Patrick O'Donovan TD.

Mr Patrick O'Donovan TD:

Go raibh maith agat. First, I want to develop what the previous speaker, Jim Sheridan and Jim McGovern all said about the moral aspect of this problem. From an Irish perspective—I do not know whether the UK has the same problem or not—there appears to be a blinkered view among bankers that this was all of someone else's making. The crisis was started by someone else: there was an unknown force out there that created the problem, and the bankers were merely passengers. That is certainly the attitude recently displayed by some Irish bankers.

The issue of morality has been totally lost. Whether it was a sovereign crisis or a banking

crisis, one crisis has never been mentioned: a crisis of greed on behalf of sovereign states, which was driven by a crisis of greed in banks. Banks acted quite recklessly. There was no regulation and no oversight, and they destroyed a generation in Ireland. I am sure that the same is true in parts of Britain, too. On their way out, after they destroyed a generation, they stripped us of our sovereignty and have left us an economic basket case. The Irish state now bears the entire debts of three or four banks that acted without any regard for anyone or anything other than lining their own pockets.

The bonus culture and the culture of greed that were endemic in the banking sector have crippled our economy, and not one single person, from a banking point of view, has been held responsible. Some people have walked into the sunset with a golden handshake. Some are still working for what are now semi-state-owned companies, but not one of them has faced any form of prosecution. As someone of the generation that are going to be wound up—and the generation after me will pay for this for a long time—it is scandalous that the economy of any country, whether Ireland, Greece, Portugal or wherever—could be wrecked as ours has been, and not a single person is in jail. If it was a medical or legal scandal, coachloads of people would be pulled up on the forecourt ready to be taken to Mountjoy prison. The fact that no one has been held responsible for what has happened to the Irish banks shows that it is more regulation that we need, not less.

I agree with what Arthur Spring said about a two-speed Europe. The Irish tricolour is flying outside the hotel as an equal. There are pre and post-meetings at the fringes of the European summit between Angela Merkel and Nicolas Sarkozy, who must both bear some responsibility for what has happened in the euro zone. If they decide the policy and shove it down other countries' throats, that certainly does not suggest a Europe of equals, and it is certainly not the Europe that we all have campaigned for in referendum after referendum.

I would like to ask Sally, and do not take this personally, when you meet bankers—and you said that you meet them regularly—do any of them ever feel any personal responsibility for what they have done to families, businesses, individuals and the state? Do any of them ever have any regrets that they played any role in destroying our economy? *[Applause.]*

Mrs Sally Scutt:

I have read some of the testimony that the UK bank chairmen and chief executives gave before the Treasury Committee in the House of Commons. All of them at some point over the past four years have apologised and accepted that they had a role in what happened. One reason why our association is undertaking 17 initiatives on banking better finance is because

we need to provide new resources and access to finance for small businesses. The UK banks have apologised—that is on our website, and it is in the transcripts of those Committee meetings.

5.15 pm

The Co-Chairman (Lord Cope of Berkeley):

I was going to stop the questioning, but we have not heard from the Scottish Parliament, and Mary Scanlon has caught my eye, so we will hear from her.

Ms Mary Scanlon MSP:

It is all very well looking at what should be done today but, as an economist, I believe that we should learn lessons from history. Spain, Greece and Italy did not fulfil the Maastricht economic criteria for joining the single currency, so there was a flawed model from the start. They should never have been in from the beginning—that does not apply to the Irish—and if someone breaks the rules on day one, there is an accident, a crisis or a disaster waiting to happen. My colleague, Andrew Rosindell, and I made speeches in Brighton in 1992 about that. I do not like to say, “I told you so”, but many of the things that we predicted are happening now. I am sorry to say that, but we ought to learn from history, particularly as we

are looking at extending the euro zone and the single currency.

Mrs Sally Scutt:

I agree. One of the weaknesses of the euro zone and the EU is that there is an enforcement mechanism for making sure that countries do what is required, but regulation has been weak or non-existent in many areas. I accept the point that you made about Italy and Greece in particular never meeting the criteria, but were still allowed in. That is because it was a political project: it was not an economic project, and that had consequences, as you said. If people do not get the fiscal and governance bits right as well, they end up in a difficult situation, which the politicians have been left to resolve. Picking up the point about the democratic deficit—I am sorry, I cannot remember who made it—and the fact that it appears that Angela Merkel and Nicolas Sarkozy are the ones who need to push that, that is the consequence of a political project without the underpinning economic governance and fiscal discipline that are needed. Inevitably, that is what needs to happen.

The Co-Chairman (Mr Joe McHugh TD):

Sally, thank you. This has been an interesting and enlightening session, with thought-provoking and sometimes passionate contributions, so I thank all the Members for their

participation. I thank you, too, Sally and, as Patrick O'Donovan qualified his contribution, may I say that it is nothing personal? The definition of "Teachta Dála" is "messenger of the people", and as politicians we took a specific, angry message from the people. It is important that that is fed back to your members. There is a feeling in parts of the banking sector—obviously, it is not a global thing—that things are going on as was, so it is important that we get the message across from the people whom we represent.

In conclusion, we really appreciate your being here, Sally. Sometimes politicians and bankers are banded into the same grouping, but today's debate allowed for a wee line in the sand. We thank you for giving up your time and for being here today. *[Applause.]*

THE WORK OF COMMITTEE C (ECONOMIC)

The Co-Chairman (Mr Joe McHugh TD):

Our final item is a contribution from Deputy Jack Wall, the chairperson of the newly-formed Committee C. Deputy Wall will elaborate on a few of the ideas which came up at his meeting. If there are any questions, I will him ask to come in afterwards.

Mr Jack Wall TD:

Thank you, Chairman. Unfortunately, as there was no quorum for the Committee, due to the Westminster vote, we had an informal meeting of the members. We had a number of discussions on how we could advance or complete previous work done by the Committee.

Special mention was made of the SMEs, because much had been done on this area. The shadow clerk from the UK informed us that she has all the reports on it. It would be the intention of the Committee to bring that to fruition and to bring the final report to the plenary session in Dublin in April.

The Committee was also informed that the Library and Research Service of the Houses of the Oireachtas have agreed to work with us in preparing position papers on subjects that we select. We see this as a major move towards having proper reports and to reduce the amount of time it takes to complete a report before it comes before plenary sessions. The Committee feels that because it is so difficult to have meetings, due to the responsibilities of members in their own parliaments and institutions, we may seek to appoint a *rapporteur* to ensure that the

report can be finished, and to reduce the time factor. The longer the report goes on, the more difficult it becomes and it loses its momentum for being effective.

Many issues were discussed in respect of what we would put on the programme, but having listened to the last debate, it is urgent to determine what we actually should examine, given that this is an economic Committee. We spoke about tourism, the repatriation of Committees, common interests of activities and employment opportunities between the UK and Ireland, as well as many other aspects that are of interest to all those who attend this Assembly. We must put a programme in place that will be reflective of the contribution the Committee wants to make to BIPA. With that in mind, it is our intention that on 29 and 30 January, we will have a full meeting of the Committee to determine a working programme. We will forward all the details on the SMEs, as well as all our other reports.

Special mention was made of the renewable energy report completed by the Committee. We will follow that up to see what effectiveness it had, whether any work was carried out by the individual assemblies, and to see if we can learn from it. That was mentioned this morning by Paul Murphy, MP, and we have to do it to determine if it is effective or if it is something that will be left on the shelf to gather dust.

The Committee was also informed that sadly, the shadow clerk of the Committee, Ms Tracey Jessop, is going to retire. We offer her our congratulations and thanks for all the work she has done over the five years of her involvement with the Committee. I am sure we would all like to wish her well in the future. Thank you.

The Co-Chairman (Mr Joe McHugh TD):

Thank you Deputy Wall. Are there any questions or observations? No.

The Co-Chairman (Lord Cope of Berkeley):

I thank Deputy Wall very much for answering everybody's questions before they even asked them. That brings today's business to a close, except for some announcements. There is a drinks reception at 7 p.m. before dinner at 7.45 p.m. I would like to remind members of Committee A that their meeting has been rescheduled to 8.30 a.m. tomorrow. I am not sure of the location, but the clerk will no doubt inform you of that. For everybody else, tomorrow's session will begin at 9.30 a.m. with a discussion of Committee A's business which they will have been discussing from 8.30 a.m. Thank you all very much. Today's session is closed.

The sitting was suspended at 5.25 pm.

Tuesday 25 October 2011

The Assembly met at 9.30 am.

THE WORK OF COMMITTEE A (SOVEREIGN MATTERS)

The Co-Chairman (Lord Cope of Berkeley):

I welcome members to the second day of our session. I have one announcement to make, that is, to remind members that if they have not checked out of the hotel already, which I know many have, they are supposed to do so by 11 am.

The Co-Chairman (Mr Joe McHugh TD):

Before starting, I extend a special welcome to the Minister of Justice for Northern Ireland, David Ford, who will be speaking at a later stage.

I introduce Deputy Frank Feighan who was recently appointed chairman of Committee A at our plenary session in Cork. The Committee met this morning. What we have been trying to achieve, including through Committee A, is not just the delivery of reports but the addition of value. We want outcomes. I know there is a keenness within Committee A to push a few issues, on which Deputy Feighan will elaborate now. If anybody has any suggestions to make or questions to ask following his contribution, please feel free to get involved.

Mr Frank Feighan TD:

In our meeting a few minutes ago we outlined what the last Committee had done. The Committee met on three occasions during 2010, twice during the plenary session and once on a working visit to Dublin and Belfast. According to its report, it met Matt Baggott, Chief Constable of the PSNI, and Fachtna Murphy, the Garda Commissioner in the Republic, and many things were discussed regarding cross-Border co-operation and security. In addition, they were very aware of the upcoming centenaries in the next ten years, including those of the Ulster Covenant, the 1916 Rising and the Battle of the Somme, which they have addressed. We are hoping to continue the commemorations in the next few years. We must ensure we commemorate the various events in a sensitive way and that no trouble breaks out. I am aware that many Committees from various Departments in each Government are working on

them also and we hope to meet them.

In the next 18 months the Committee hopes to meet again the Garda Commissioner and the Chief Constable of the PSNI to obtain an up-to-date report on what is happening with regard to such things as trafficking and fuel smuggling or laundering. Also, a suggestion was made that we could meet the Chief of Staff of the Irish Army and whoever was in command in Northern Ireland or the UK to see what co-operation was taking place between the two armies. Much of this co-operation takes place through the police, but that is something else we want to examine. We have set up a meeting in London on 30 January to further our ideas, after which we hope to brief members again.

Like most Committees, we have a lot of new members. Baroness Blood and Jim Sheridan, MP, are the only two members who have continued in the Committee. We have a lot of work to do.

We thank Michael Mates, MP, for the huge contribution he has made. His speech last night outlined to many of the younger and newer members the importance of this Body and

the work we can do in the future. We have a meeting at the end of January in London.

The Co-Chairman (Mr Joe McHugh TD):

I would like to add that there is a new clerk to Committee A, Niall Brady. I acknowledge his presence and wish him well.

Ms Ann Phelan TD:

I have just been talking to someone in Ireland and it seems a national emergency is developing at home because of the heavy rain and flooding that has taken place in the last few days, with further heavy rain forecast for today. I believe this island has also experienced flooding in the last day or two. Lord Dubs is the chairman of the Committee which deals with environmental issues. Flooding seems to be becoming a regular occurrence and this may have to do with climate change. Through that Committee, we urgently need to come up with measures to deal with this issue in the future because it costs our Governments considerable amounts of money - money that the Irish Government does not really have. I hope we can use our experience and knowledge of best practice to deal with the issues involved.

Senator Cáit Keane:

On the report of Committee A, Deputy Feighan said the Committee intended to meet the PSNI and the Garda to discuss the issue of human trafficking. Committee D is also working on this issue. Perhaps we can co-operate in this regard, as we do not want duplication. I ask that anything produced by the Committees be circulated to both to ensure we will not be at cross-purposes. It would not be good to have two Committees from the same organisation meeting the same people.

On the issue of flooding, Lord Dubs informed us yesterday that one of the last reports Committee D had done was on climate change. Perhaps therefore he might comment on it.

The Co-Chairman (Mr Joe McHugh TD):

Good point.

Lord Mawhinney:

I am sure it would be useful if Committee A continued to wrap up some of the activities in which it has been engaged recently, but I would like to see us break out and do something

entirely new. Both of our countries are in deficit-reduction mode, some of it voluntary, some of it less so. Public expenditure will be noticeably reduced both in Ireland and the UK and that will have effects. What we do in the UK will have knock-on effects in Ireland and what happens in Ireland will have knock-on effects in the UK, particularly Northern Ireland. I would very much like to see us undertake a major investigation, the relevance of which everyone can recognise, including the Governments. I do not think this clashes with the remit of Committee C, which is more about jobs and growth and so on. I hope this idea was floated this morning - I suppose we will return to it at our January meeting - and if there was feedback from the larger Assembly, it would be interesting to hear it. That seems to be of a level of significance that would engage the attention and support of the two Governments.

The Co-Chairman (Mr Joe McHugh TD):

Does Lord Dubs wish to comment on the intervention on the issue of climate change?

Lord Dubs:

I personally take the problem of flooding very seriously. When we set out a programme of work for Committee D, we did not have knowledge of the flooding. We must be flexible as a Committee; otherwise, we will not be up to date. What I propose to do is to consult the

members of Committee D by e-mail to see whether we can, as a matter of urgency, do something about flooding before we get to the issue of people trafficking. The suggestion is helpful. I am sure all Committee chairs would welcome suggestions from members of the plenary on how to proceed.

When I was a Minister in Northern Ireland ten or 11 years ago, when we looked at our expenditure I always agonised over how much we were spending on flood prevention. When there are no floods, it is money that could be used for other things, and when there are floods, one wishes one had spent more. It is a very difficult decision for a Minister as to how much to spend on it. I sympathise with those responsible for dealing with this in Dublin and elsewhere. I have a home in the Lake District, just south of Cockermouth, where we had dreadful flooding two years ago. I know at first hand the damage flooding can do. The bridge at the bottom of my village was washed away, among other things. It took Cockermouth two years to begin to recover from what happened. I assure members of the plenary that I take this issue very seriously.

As regards duplication, it is most important that we keep in touch with Committee A so we do not duplicate its work. Likewise, we must be careful not to duplicate any work done in

national parliaments or assemblies which cover a similar area. We must keep abreast of that.

I have one question for the Co-Chairman. When I was on Committee A some time ago, we wondered about how it would move in the future. At that time we agreed that until policing and criminal justice were devolved, we had a very clear remit and would not reconsider our position. I am asking in a sympathetic way how Committee A sees its future, given that there is now a North-South parliamentary body coming into action.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Baron Dubs, for your helpful contribution. Deputy Feighan may wish to take the other two questions, together with that of Baron Dubs.

Mr Frank Feighan TD:

I am certainly of the view that we may have to look at the financial situation as between the two parliaments. It is certainly worth noting and it was mentioned at the meeting. We will raise it again in London.

Regarding co-operation with the police forces, my view – I believe it is the view of the Committee – is that we cannot have enough of involvement with the Garda Commissioner and the PSNI. We also discussed the mainland police forces: I understand there are 43 different jurisdictions. It is always helpful to acquaint ourselves with the Garda Commissioner and with Matt Baggott to see exactly what is going on. I am certainly of the view that we cannot have enough duplication in that very serious matter, because there will also be issues such as fuel laundering, for example. Senator Keane referred to human trafficking and other matters of general co-operation. It is important to bear in mind how far we have come. I went to Stormont four weeks ago with two members of the Irish Parliament who had never been to Northern Ireland, let alone Stormont. It is important that we engage with the police forces in both jurisdictions.

Mr John Scott MSP:

In regard to flooding, we in Scotland have just produced a completely new piece of legislation around the very problem raised by Ann. This legislation, which has just been put on our Statute Book, might be helpful to Lord Dubs's Committee in terms of giving a starting point for discussion. It was very much developed with a view to climate change and the circumstances surrounding climate change. As colleagues are aware, Scotland, and the west

of the British Isles in particular, is likely to suffer significantly from increased bursts of rainfall in the future. That was part of the reason for us bringing forward this legislation.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Mr. Scott. Do you wish to respond to that, Mr. Feighan? It is more in the form of an observation. If nobody else is offering, I will take Deputy Martin Heydon followed by Lord Bew.

Lord Bew:

Very briefly, I thank Deputy Feighan for his very fine account of our discussion this morning. I add my support to Baron Mawhinney's view that it would be an original piece of work for us to look at these economic difficulties. It is a very interesting idea.

Mr Martin Heydon TD:

As a new Member attending only my second Assembly meeting and having had our first meeting of Committee A, I am very excited about the work the Committees can do. There is an opportunity to engage in some in-depth work. Colleagues have mentioned the flooding

that has taken place in Dublin. I am aware from looking on news websites that the Government has had to put in place an emergency plan. In this regard, the point that has been made about co-operation between our Defence Forces and the British army is very relevant. The cross-Border arrangements respecting the police forces have been given a good deal of attention, but I am not sure whether the same is the case in regard to the military. If the flooding in Dublin had happened in a Border area, the question is whether we would have the level of co-operation in place to enact emergency plans on a joint basis.

On the issue of commemorations, the point was made yesterday that given the number of commemorations coming up in the next ten years, there is potential to strengthen relations between us all following on from the positive impact of the Queen's visit. However, if handled insensitively, these commemorations also have the potential to be divisive and to cause hurt. I am aware that the Governments are working on these issues. There is a body of work Committee A can do to complement that. It is something I would like to be involved in, making sure we get the maximum benefit out of the commemorations in terms of getting to understand more about each other, our culture and history.

Finally, as a relatively new member of the Assembly, I was very taken with the words of

Mr. Michael Mates, MP, last night after our meal. I have a very strong sense that we, as newer members, have a responsibility in this regard. Somebody said that when the Assembly has reached 21 years, it has come of age. We have an opportunity now to drive on with the work and see it grow. I am very excited to be part of that.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Deputy Heydon. Does Deputy Feighan wish to respond?

Mr Frank Feighan TD:

Thank you, Chairman. I certainly think that Committee A should take on board Baron Mawhinney's proposal regarding the financial implications of the current crisis and the opportunity for closer co-operation between the two jurisdictions. Perhaps we could prepare a paper for the meeting in January and work from there. It is a proposal that should be put at the top of the agenda, along with the issue of upcoming commemorations.

Regarding the flooding, I am not sure what jurisdiction we have in this regard. However, if we have co-operation between all the various bodies in Dublin - the local authorities, the

Army and the Garda - perhaps that co-operation could be extended at a cross-Border level.

We will draw up a paper for the Committee in January in order to explore the opportunities of both jurisdictions working together regarding the financial crisis.

Mr Patrick O'Donovan TD:

Last night an off-duty member of An Garda Síochána was helping out in the flooding in Dublin when he was washed into the River Liffey. This morning search teams have recovered a body. We should all remember that people working for the emergency services put their lives on the line every day in order to protect the rest of us. This was an off-duty garda who stood on a bridge to prevent motorists from driving into a flood, only to be swept away himself. We should remember him today.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, Deputy O'Donovan, for that intervention. When we have more detail, we will be in a position to acknowledge that event.

Before passing over to my Co-Chairman, I wish to make some general comment. There is

a new-found enthusiasm within the Committees and no shortage of ideas or of a willingness to get involved with those ideas. However, it is important for the clerks to the Committees to sit down with the Chairmen to ensure there are boundaries. While there will be some overlap - there always is in politics - we still need to ensure there are boundaries between the Committees. We have had discussions at steering Committee level regarding the fact that there may be certain issues absent from the four Committees. There may be a possibility of examining devolved issues under a different umbrella.

10.00 am

Let us continue the communication to ensure we get it right. It is open to us under the rules to set up a further Committee. That is not to say we are trying to create another so-called talking shop, but there are certain issues which merit discussion that could come within the realm of a further Committee. As I said, it is important that Chairmen and clerks ensure there are boundaries. There will be a degree of overlap, but we should ensure there are specific work programmes. If we look at the specifics, there is a greater chance of attaining specific outcomes.

I thank Deputy Feighan and wish him well with his Committee. We will continue to make the Committees the backbone of this Assembly.

The Co-Chairman (Lord Cope of Berkeley):

I repeat the thanks to Deputy Feighan and everybody who has contributed to the discussion. I now invite Mr. David Ford, Northern Ireland Justice Minister, to join us on the podium.

Law and Order in Northern Ireland

The Co-Chairman (Mr Joe McHugh TD):

David, you are very welcome. David Ford is in his second term as Minister of Justice in Northern Ireland. He was reappointed on 16 May 2011. As you are all aware, he is a member of the Alliance Party. Last night, he told me that the party had a few gains in the recent local elections. Although he is leader of the Alliance Party, he is, obviously, here in his role as Minister of Justice. I think that we will have a good discussion about the good work that is ongoing. He tells me that he is very busy. I think that that is a given, considering his portfolio. Last night, he shared with me that he empathises with the likes of our Minister for Justice, Equality and Defence, Alan Shatter, on his workload. We look forward to your contribution, David. We know that you are doing good work in Northern Ireland. We look forward to your presentation. Thank you very much.

Mr David Ford MLA:

Thank you very much, Co-Chair. I must say that being referred to as being in my second term, when it has barely been 18 months, makes me seem like something more of a veteran.

As colleagues will know, justice powers were devolved to the Assembly on 12 April 2010.

The issue that was too difficult to be dealt with under the Good Friday Agreement led to a cross-community vote in the Assembly. I was elected as the first local Minister of Justice in Northern Ireland — I am conscious that I have to use the word “local” when I look around this particular gathering — in 38 years.

I was elected in the Assembly Chamber in Parliament Buildings. I trooped off down the hill to speak to Department of Justice staff in block B of Castle Buildings. Some of you have served as Ministers in that particular building. It was made famous as the setting for the Good Friday Agreement negotiations. You may not all be aware that it was, subsequently, referred to by Jonathan Powell in his memoirs, when he described how, sitting in some dreadful conditions in a desert in Afghanistan or Iraq, he would look at Tony Blair and say, “Well, at least, it is not Castle Buildings.” *[Laughter.]* The building might not be to everybody’s taste. There are, certainly, some fairly funny memories of it from that time, 13

years ago. As my base, it is good enough for me. It has become the base from which we are seeing significant change occur in Northern Ireland.

At the beginning of June 2010, a few weeks after I was elected as Minister, I went back into that conference room. I was able to deliver a speech that set out what I believed devolution of justice could mean for the people of Northern Ireland; a re-shaped justice system and the building of a safer, shared community with lower levels of crime and justice for all. It was described by one commentator as a “vaulting ambition”. I am not quite sure what a vaulting ambition is. However, I certainly believe that it was ambitious. I hope that, in the past 18 months, we have seen significant movement in that direction. We needed to have ambition to see that justice was able to deliver.

We focused the agenda and, indeed, we now focus the Department around three simple, but absolutely fundamental, themes: safer, shared communities; faster, fairer justice; and a reformed prison and youth justice system. We will deliver on all of those themes through a tough work programme in difficult economic circumstances. I would like to touch on some of those points.

Fundamentally, we have to recognise that delivery of justice really was totemic. It was the issue that was too difficult to even merit a mention on Good Friday. Yet, it is now seen as almost a natural thing. The question is whether we have, as an Assembly collectively, an Executive collectively and a Department of Justice collectively, managed to pass the test to show that we make a difference. If I am being honest, I suppose that I would give one of those standard reports, which would, probably, have to be written collectively, rather than individually, and would be something along the lines of, "The class has made some progress, but if it could work more effectively, it would see real progress start to happen." We have had some significant achievements. I will refer to them. However, some issues are still ahead of us.

First, I want to repeat the observation that, alongside all of the history and symbolism, the powers that were deemed to be too controversial to be considered in 1998 have almost immediately become normal in our operation. Now, we do not have headlines that hail every decision that is taken that relates to the justice system or commentators who marvel on the fact that the powers remain. Much of what we do is just seen as the ordinary, day-to-day, run-of-the-mill business of running of the justice system. It passes without comment. I suppose

that we should savour the fact that the relatively routine business of Assembly debates and questions, endless meetings, and piles of correspondence are just what you do in a normal functioning Department. That demonstrates democracy at work. It is delivering for the community.

Yet, the exercise of justice powers in Northern Ireland is, if not quite normal, almost as normal as other things. Remember that, at present, I am the only Minister in Northern Ireland who could be said to be in post because I have been elected by the Assembly. Others hold power on the basis of nomination by their party's nominating officer as result of the application of what I persist in calling the d'Hondt lucky-dip system. Some of you will know that I am no particular fan of that system. It is not particularly proportional — certainly, not in small numbers. In the same way, I am not a fan of some other aspects of our Government system, such as the insidious communal designations which require Assembly Members to, effectively, on the day that they take their seats, adopt a split around the old divisions; a system which means that, in every circumstance, my vote counts once, whereas, in some circumstances, other Members' votes count twice.

The fact that the arrangements are different, with the election of the Justice Minister —

incidentally, that is something that my party proposed at St Andrews should happen for all Ministers — shows that the Department is not seen as being quite as normal as others. Reflecting that, some of the constitutional experts will be aware that arrangements for the Department of Justice and for the appointment/election of the Minister are subject to a sunset clause, which means that the model has to be reviewed and permanent arrangements put in place by 1 May 2012. Therefore, Co-Chair, perhaps, it is just as well that you got me here for this meeting, because it is possible that the Department could collapse in the absence of agreement before you meet again.

As the Co-Chair said, I have been elected twice in the past 18 months. There is absolutely no certainty as to what the future will be from May 2012 onwards. I am fully aware that everybody in the room knows how little tenure Ministers have. However, I am fairly certain that there is less security of tenure in my post than in most others. I took the view early on that there is no point in worrying about that, because the decision as to what happens to the post and to me is in the hands of others. I took the view that what we had to do was start to institute some of the fundamental reforms that were needed to make a difference and show that devolution of justice could deliver.

It is not easy to achieve the significant reforms that we need in a limited space of time. It would have been easier to go for some minimal, short-term wins. However, I took the view that we needed fundamental reforms and to catch up on the 38 years of lost time. Therefore, in the first few months of devolution, I instituted a number of reforms. Three key reforms have come back to me in recent weeks: the reviews on access to justice, youth justice and, as I reported yesterday, prisons.

A lot of work has also been done in the short term that did not require the lengthy research and detailed consideration that those three areas required. In primary legislation, the Justice Act 2011 was historic. It is one of the most important pieces of legislation that has been taken through the Assembly since 1998. It was certainly the most complex legislation that was taken through the Assembly during its previous term. From a standing start, and in little over a year, we were able to agree on a Bill becoming an Act which made a number of early starts in the reform process. The fact that, on a subject as controversial as justice, the Department, the Justice Committee and the Assembly as a whole ended up agreeing on about 96% of it, is a tribute to the good work being done on all sides.

10.15 am

I will mention secondary legislation. It probably comes as little surprise that the reform of

the payment of legal fees for criminal defence work attracted a certain amount of controversy among the legal profession, though relatively little among the wider public. The changes were absolutely necessary to ensure that we could live within the budget that was set by the pre-devolution agreement between the Prime Minister and the First Minister and deputy First Minister. They drew significant criticism from the legal profession, which said that it was apparent that the reforms were unworkable and unreasonable, and the majority of solicitors who do criminal defence work went off record and refused to represent clients. There was a real risk that the whole system could have fallen down, but we stood firm on the basis of overwhelming support from the public and the Assembly, and the lawyers had to accept that, when we said there was no money and that we all live in difficult economic times, we meant it. The episode demonstrated significant authority on the part of the Assembly and the very constructive work being done on a collective and joint basis.

One other area that has given me the greatest pleasure to have achieved a little progress on in recent months has been in dealing with interface structures, the so-called, inaccurately described peace walls that beset Belfast and a number of provincial towns. Given my political background, I suspect that it is no great surprise that one key bit of work that I wanted to do was to start the process of removing some of them. The process of dealing with

interfaces will be a major pillar of the community safety strategy that we will launch early in the new year. They are, basically, symbols of sectarianism and the past. If we are seeking to change Northern Ireland and build a different society, we have to do something about the physical symbols of division. I want to ensure that we continue to work, as my officials are doing, with communities across the city to make communities safer in the long-term rather than merely provide divisions. So, we need to see how we can modify structures and eventually bring them down.

We have had some recent successes. I was recently able to announce two positive developments regarding security barriers in north Belfast, where good work by government agencies, organisations such as Groundwork and the local communities on either side of the divide has enabled a move to at least partial opening of structures. One scheme was to open a gate in a wall across the middle of a public park. Just think about that. It is nonsense that we had that sort division. Consider the symbolism of me, accompanied by primary school children from either side of the divide, cutting a tape and allowing the gate to swing open for the first time in 20 years. That shows significant community investment in seeking to make those things move forward.

I do not want to see any more so-called security structures being built. I want priority to be given to the forms of investment that make appropriate levels of safety come about through investment in people, practices and places and that enable us to dismantle the architecture of those divisions. The real issue is community engagement: working with and supporting those communities that see the opportunity to move in their area and encouraging people to move in that direction.

That community engagement is one key thing that we need, and it is a vital ingredient of the new normal politics. One disadvantage of direct rule was that the justice system and the Department were seen to be extremely remote from work on the ground. So, it is fundamental that we move to a situation where the Department of Justice is seen to be closer, accountable and responsive, because, if devolution is to mean anything, we must have that level of community engagement as part of the fabric of structures.

That has been seen to have come about. I have received about 3,500 letters in the past 18 months, many of which have asked me to do things that I cannot do because they are the responsibility of other people in the justice agency. However, others have been from people who simply want to engage with the work that is ongoing. Last week, I hosted the Justice in

the Community awards. I cannot remember exactly how many nominations we received from community organisations for it; I should ask May Blood, because she helped me judge it. There were about 60 nominations, with local champions from the voluntary sector working alongside justice agencies to make a difference through saying, "This is justice for all".

There is also a key role in that work for the Committee for Justice of the Assembly. The Committee's approach has been frequently extremely robust, but it has also been constructive and has ensured the positive level of scrutiny that can be delivered by devolution to the work and plans of the Department. Sometimes, the Committee presses me to go back and look at different ways of doing things; at other times it has been fully supportive of the work we have been doing. I do believe that the Department, Committee and wider community have ensured that we have been able to get the real local solutions we need to local problems.

I talked a little at the beginning about how the political class is not achieving all that it might. That comes from the somewhat disjointed nature of the Executive. When I was elected Minister and joined the Executive last year, my party colleagues and I took the view that if you were in the Executive, you had to operate collectively and be part of the ongoing work rather than criticising from within. Since the May elections of this year, I have been

joined at the Executive table by my colleague Stephen Farry, now Minister for Employment and Learning. We have continued to do that, but I find intensely frustrating the way in which the Executive is not really capable of the full joined-up working that we would wish to see.

I am certainly not going to try to lecture anybody from Dublin about the difficulties of coalition Government, nor even those from Edinburgh or Cardiff. Indeed, people in Westminster know what that is all about. However, just take the challenges of a two- or three-party voluntary coalition and turn them into a five-party mandatory coalition led by two parties from diametrically opposed positions, throw into the mix the fact that four Ministers at the Executive table owe no loyalty to either of those parties, and the majority owe loyalty to only one or other of those two parties, and you begin to see the problems we have. However, it is critical for justice issues that we get joined-up working at the Executive table. We have no joined-up approach at the moment to issues such as parading, which costs several million pounds every summer to deal with, never mention the financial cost of lost opportunities, lost inward investment, lost tourism or the social damage to community relations. However, when I tried to initiate a discussion around the Executive table, in the early part of this summer, about parading, there was no sense of urgency among the Executive that it was a joint issue. That is what I mean when I say we are simply not fulfilling our potential.

Justice under direct rule was seen as something other, especially when other matters were devolved. Devolution should have changed that. We should now see justice as part of a joined-up arrangement, but we have yet to see the collectivity that I want to see around the place.

Yesterday, I published the fundamental review of the reform of the prison system. It is clear that the Prison Service in Northern Ireland has to change from the conditions that it dealt with 20 years ago — largely of keeping paramilitary prisoners in — to a condition whereby the Prison Service is exercising reforms, rehabilitating prisoners and re-integrating them into society. One comment that was made by the review team about that sort of work was that there is virtually no Department in Northern Ireland not touched by that work.

I can press on with the internal dynamics of prison reform, but, unless we get joined-up working around the Executive table, we will still end up with some matters being left in the “too-difficult tray”. If we are really to alter the way in which prisons work, reduce the numbers who come to prison and ensure better outcomes for those who have been in prison,

we will need full co-operation with Departments such as Health, Social Development and Employment and Learning.

There are some signs of that happening. Indeed, I will be at Maghaberry jail to open new facilities next month in conjunction with the Ministers of health and employment and learning. However, we need a long-term commitment to much wider joint working than we have seen.

I need to recruit other Ministers to what we are calling the safer society strategy — the interdepartmental approach to reducing offending and re-offending. It will be a real challenge to see the Executive work together on that. We have seen some positive work, for example, flowing from what the Executive have called, until now, their north Belfast group, which means their summer problems group. Collaborative working is now operating, which is bringing together officials from the Department of Justice and the Department for Social Development along with the Community Relations Council, Belfast City Council and others to determine how such working can be done better in disadvantaged areas, ensure that we get maximum value for the interventions on which we spend money and map the system to identify gaps and overlaps. That work is being done at a level involving two or three

Departments, but not particularly at a fully joined-up Executive level.

That feeds back into the wider issues of the security situation as a whole. We all know about the difficulties that we are experiencing with the upsurge in dissident terrorism, but we have also seen very significant progress in recent weeks. The Assembly was able to debate a DUP motion condemning terrorist attacks on the Police Service, which, with a Sinn Féin amendment, was accepted by the entire House. I believe that the symbolism of the House uniting around a Sinn Féin amendment in support of the police should not be underrated.

The threats, nonetheless, remain real. This year, there have been 23 significant terrorist attacks, compared with 40 in the whole of last year. Perhaps that is a slight downward movement, but we should not underestimate the continuing and ongoing threat. That threat is being tackled with very strong North/South partnership, and the PSNI and the Garda Síochána have had significant successes. I know from the regular meetings that I have on a North/South basis with the police, and with the Northern Ireland Office and the police, that that continued good work is making a difference and is starting to bear down on the terrorists. The strength of the relationship between the two police services, in which, I know, this Assembly has taken a keen interest, will be a key element of that work.

Much of the focus of that cross-border work has to be on terrorism. The PSNI and an Garda Síochána must work hand in hand to frustrate the efforts of those who seek to drag us into the past. We should not, however, let that obscure the importance of working together on a range of cross-border issues. The cross-border policing strategy, which was published last year — I was, unfortunately, unable to attend the launch in Dundalk because I was caught in the middle of a snowstorm — shows the breadth of co-operation that exists and the determination of both police services to use all the tools available to them to ensure that those who seek to use the border for criminal purposes will simply not succeed.

I am aware of the report that this Assembly made two years ago. I will update Members on some of the outstanding issues from that report. I will not go through all the instances where procedures have been changed and progress has been made. That report referred to a procedural manual, which is now at an advanced stage. There are operational issues to be addressed around disclosure and so on, but we hope that the organised crime cross-border seminar in November will help to finalise that manual.

Concerns have been expressed about delays in the serving of summonses and the transfer of evidence between the two jurisdictions. Progress has been made, but there is still much to do in order to deal with the issuing of summonses between the jurisdictions. Last year, our Public Prosecution Service (PPS), the police and the Home Office reviewed the process for seeking service of summonses in the Republic. The PPS carried out a further review this year and is now trying to use the international signed-for post system before it seeks personal service through the Department of Justice and Equality (DJE) in Dublin. In the same matter, the Irish authorities dispatch the vast majority of summonses by post to Northern Ireland, negating the requirement for PSNI officers to action service. Those matters are currently under review. Progress is also being achieved on the issue of transfer of evidence, but there is certainly a need for continuing improvement, and my officials are working on that with justice officials in Dublin to determine how the process can be further refined and streamlined.

In relation to offences currently covered under the relevant criminal jurisdiction Acts in both jurisdictions, I share the view expressed in that two-year-old report that the current legislation is out of date and no longer fit for purpose. Discussions are taking place to address that.

A number of impediments to the transfer of personnel between an Garda Síochána and the PSNI have also been noted. The key issue is the transferability of pensions. Regular meetings have been taking place to look at that matter, but the unfortunate reality is that it is, as yet, not possible to transfer pension accrued in the public service on one side of the border to the other side. That is not unique to the police services; it applies right across the public sector. Unfortunately, it has not been possible to resolve that at this stage, but there has been significant development of secondment opportunities. The PSNI is ready to advertise for secondment at inspector level. At this stage, as I understand it, it is still awaiting confirmation from an Garda Síochána, but that is likely to proceed in the near future.

10.30 am

Although the 2009 report recommended efforts to incentivise the secondment process, my understanding is that there is no need to incentivise that from the PSNI point of view. There are significant numbers of people who are keen to engage in exchange programmes whenever the opportunity arises. That co-operation is strong. The mutual support and solidarity between the two forces has never been stronger. We saw that clearly on display in April this year, following the awful murder of Constable Ronan Kerr. We should not underestimate the symbolism of the Chief Constable of the PSNI and the Commissioner of the Garda Síochána

walking into the chapel in Beragh in the company of the Secretary of State, the Taoiseach, the First Minister, the deputy First Minister and the two Justice Ministers of the island as a clear statement of the unity of purpose that existed. However, we clearly have to keep up that level in day-to-day work and not just confine it to the symbolism of such dreadful events as Ronan Kerr's funeral.

While the security situation remains challenging, I am determined that we will continue to proceed with the ordinary business of government. There are so many other areas of reform that need attention. One of the key ones has been the issue of speeding up justice. The problem of delay in criminal courts has long been recognised. It is a waste of public resources, it prolongs the ordeal of victims and witnesses, and it reduces public confidence in the system. We are working on reforms to improve existing processes and procedures. We have seen significant improvement in joint working between the PSNI and the PPS. We are now seeing active case management by members of the judiciary. One recommendation that was made in the youth justice review and the prison review is the introduction of statutory time limits. That is not something that the system could cope with very easily, but it needs to be kept under review as we look ahead.

Having sketched some general pictures, let me draw a few broad conclusions as to where we are at the moment. First, we are seeing benefits from justice being devolved, and there is public recognition of that. We have had a few quick wins, unless you happen to be a criminal defence solicitor, and we have also seen the beginning of potential benefits from long-term reviews. The message of 18 months is that, when we come to next May, it is unlikely that there will be anything other than the continued devolution of justice powers, which is, of course, not to say that there will be continued agreement on the method of electing the Minister, or even on the Minister.

Secondly, in many areas, the people are ahead of the politicians as we look forward. On issues such as addressing parading, we have a key demand from across the community that work should be done, but politicians have been unable to resolve that as yet. Similarly, we see actions on the ground in building a shared community and a demand for joining up government. Thirdly, we have still to go rather further in ensuring that justice is fully embedded in the working of the Executive. One of my fellow Ministers referred to justice as being “semi-devolved”. Our budget is ring-fenced, but there is a greater need for the Executive to accept that justice is fully embedded in the system of devolution.

Fourthly, community support remains strong for the institutions, the devolution of justice powers and strong in support for the police and opposition to those who would seek to drag us backwards. Fifthly, it is absolutely clear that the PSNI and Garda Síochána are working extremely well together; probably better than they have ever done.

The fact that justice issues tend to highlight political fault lines is obviously not unique to Northern Ireland. However, there are sensitivities and perspectives that give us a unique dimension, and that is just part of our political reality. The past 18 months have shown us that although justice issues are sometimes divisive, they also have the potential to be unifying. During the recent Assembly debate on terrorism, I said that we were not unanimous but we were united. The fact that we were not unanimous because we came from so many different backgrounds, and yet we were united in our current approach, is a very significant strength. We have to continue to work together across the Executive to embed and strengthen that new normal, where the past does not overshadow the future, where we build connections among communities rather than barriers and where justice is not contested space.

I am alive to the political realities of the current arrangements, including the fact that I will not be Justice Minister indefinitely. Indeed, for all I know, there could be a motion of no

confidence to dismiss me before the Assembly at the moment. I am also alive to the potential that we have shown. The devolution of justice has brought us real change, and I am determined to continue to realise that as long as I am in office. I am determined to achieve the ambition of strategic long-term reform that is designed to deliver a world-class justice system for Northern Ireland. We have started to make good steps in that regard. Thanks very much, Chair. *[Applause.]*

The Co-Chairman (Mr Joe McHugh TD):

Thank you very much, David. That was certainly a good analysis. There was a lot of food for thought.

Mr Jim Wells MLA:

Minister, I am not saying that you are dull — you are far from it — but you have achieved a lot to make policing and justice a humdrum, dull Department. It has settled down quite remarkably to dealing with bread-and-butter issues. I suppose that many people out there are wondering what all the fuss was about, which is quite an achievement.

You are absolutely right in your stand on reducing the legal aid bill to high-paid QCs and solicitors. I serve on the Committee for Justice, and we had the Bar Council before us, telling us that, as a result of the savage cuts that were implemented by Mr Ford, one of its members was getting by on £680,000 a year and having to supplement his income with private work. The handkerchiefs were out at that stage all around the Committee when we saw the huge amounts of money that were being dished out to a select number of QCs. Indeed, every day that I sit on the Committee, I realise that I did the wrong course at Queen's University: I should have done law. Well done on that. I think that the entire Assembly was behind you, and we welcome the fact that the profession stood down.

There would be considerable support for you to further reduce the amount of payments, particularly when we discover that one leading solicitor pocketed £16.4 million in four years from the legal aid budget. When we see those cricket-score-type numbers, we really worry about what went on before the devolution of justice, when, clearly, the gravy train was running extremely quickly.

I want to raise a slightly discordant issue. There was a debate recently on an issue that affects everyone in this room and has a cross-border element. That is, of course, diesel

smuggling. Depending on which way we look at it, diesel smuggling is costing the Exchequer either £90 million or £200 million a year. Both those figures are scandalous, given that most of that money ends up in the pockets of gangsters and even more insidious characters in paramilitary organisations. I was told recently of a new development, whereby an irremovable tracer element that can be put in all diesel fuel. In other words, no amount of extraction of the dye or use of acid can render that tracer undetectable. I urge you, as Minister of Justice, in conjunction with you colleagues in the Irish Republic and the other jurisdictions, to consider some failsafe way of stopping the illicit practice of diesel smuggling.

Secondly, we are disappointed that, up until your appointment, only four custodial sentences had been imposed for diesel smuggling. I made the point that were I to rob a bank in South Down, I would be jailed for a long time. However, were I to launder fuel and accrue vast amounts of money illicitly, the chances are that I would get a suspended sentence or a rap on the knuckles. Again, it is incumbent on you to try to ensure that sentencing reflects the crime here. Equally, it is one of those cross-border issues on which sensible co-operation would ensure that we drive this nasty element out of business, and everyone would be the better for it.

Lord Mawhinney:

Minister, that was very good and very encouraging. I am guessing that we all appreciated the mixture of aspiration and realism which characterised what you told us.

I turn to that bit of your speech which dealt with what you called interfaces but most everybody else calls peace walls. I am sure that we all agreed with your analysis and welcomed the positive news that you shared. However, some of us have been told that, when the Good Friday Agreement was signed, there were 29 peace walls in Belfast and today there are 88 peace walls. Are those numbers approximately right? If so, what should this Assembly deduce from the huge increase?

Mr John McCallister MLA:

If there is a vote of no confidence, at least the Minister will know that there are enough of us here not to vote either for or against him. Of course, we did not vote for him on either occasion when he was elected. So, he was elected despite us. As Jim Wells said, the justice debate has settled down remarkably well, which, given its contentious nature, is surprising. Minister, how big a problem is being caused to his Department by our complete failure to deal with the past? I know that the appointment of a new Police Ombudsman is a matter for

OFMDFM. However, that is just one manifestation of this failure to deal with the past. The fact is that the Police Ombudsman's Office is in real trouble. The crisis there has been caused not by its day-to-day work on current issues but by its handling of historic cases.

Brian Mawhinney mentioned peace walls, which we have totally failed to deal with. There are also the issues of parading and how we deliver on a shared future. With the Minister's colleague Chris Lyttle, I sit on the group that is looking at the cohesion, sharing and integration (CSI) strategy, and it would not be described as moving anywhere fast. How big a problem does the Minister regard that? How quickly do we need to get on with that work before it starts to cause huge problems in the Department of Justice?

The Co-Chairman (Mr Joe McHugh TD):

Thanks, John. David, do you want to take those three questions?

Mr David Ford MLA:

OK. Thanks, Jim. I never thought that you would describe me as humdrum and dull, but I appreciate the compliment. On the specific issue that you raised of cutting legal aid: yes, the

budget will have to be cut further. That is not just because you will applaud me for doing it, but because the reality is that the money is not there to continue on some of the civil matters, which is why the access to justice review is looking at different ways of operating. Hopefully, it will find cheaper ways that are equally good. Here, I declare an interest. As a former social worker, I remember appearing at a wardship hearing 20 years ago, at which two parents and a solicitor were on one side of the room and I was on the other because the solicitor supporting me arrived late. We are now in the situation where both grannies have QCs. That is an utterly ludicrous way of resolving family difficulties.

On the specific issues of fuel smuggling that Jim raised, we need to be slightly cautious about the figures. Some of the £90 million potentially lost to the Exchequer benefits the Southern Exchequer, because people are buying slightly more fuel in the South than the North. That is because the differential rates just about favour suppliers there. As Jim Wells highlighted, a large part of the rest of it goes to gangsters.

I will leave the issue of custodial sentences to the judiciary. I would not wish to see any Minister telling judges what to do. However, we are talking to the Lord Chief Justice about matters such as sentencing guidelines. My understanding is that, although your party

colleague the MP for North Antrim thinks we have some magic tracer, we do not have that but are working on it.

Brian talked about so-called peace walls. There is one particular phrase that I like. When we opened the gate at Alexandra Park, one of the locals referred to it as the “peace gate”. The wall was anything but a peace wall; opening the gate was a statement of peace. One of the reasons why I hate using the term “peace walls” is that they have nothing to do with peace. The number that you gave us of 88 peace walls is a bit too high, but there has certainly been a significant increase in the past 13 years. I am happy to say that, since I became Minister, there has been no increase in the number of peace walls, apart from one or two minor bits of repair.

10.45.am

Early last summer, it was suggested that I should increase a wall by about 200 meters in one part of west Belfast. I refused to do it on the basis that the only logical statement of that was that, eventually, the walls would go over the top of Divis and land down in Dundrod. There had to come a point where we said that working with the communities on either side of the line is what will make them safer, rather than building a wall of another 200 meters. It was not the most comfortable discussion that I have ever had with officials, and I can quite

well see why some of my predecessors in the NIO opted for the easy, short-term fix of putting up walls. We established that investing in community work on both sides of the divide was a much better way of dealing with problems than building walls. We will continue to do that as far as we can.

John, thank you also for saying that I am boring. John's point about the past is absolutely true. The responsibility for dealing with the past lies either with the Secretary of State or, to some extent, with OFMDFM. At the moment, the practical realities of dealing with the past are that the Historical Enquiries Team of the PSNI, the Police Ombudsman's Office and legacy inquests are bearing the burden of the past because we have not found any other way of dealing with that. The Department of Justice, funded for the present and the future, is the only Department that is carrying that burden of the past, and significant work needs to be done around that. Indeed, we need to see much greater energy about the co-called cohesion, sharing and integration (CSI) strategy, or let us be simple and call it good relations. John, it is up to you, Chris Lyttle and various others in that working group to emphasise to Ministers the importance of the work that is being done. There has been some joining up on the issue of building a shared future, but a lot more is still to be done.

Baroness Blood:

Thank you, David, for your very plain report. Even I understood everything that you were talking about, so that is very good. I could speak on a number of the issues that you brought, but I will not do so. As many of you know, I live beside a peace wall. You said that the people are ahead of the politicians on the issue, and that is quite right. In the summer, I was involved with a group of people from all sides of the community of all ages, and we made flags of peace on part of the peace wall. It was to go into the Guinness Book of Records, and it was a wonderful experience to see young people, old people and middle-aged people making their own little set of flags. We went down and launched that.

I want to talk particularly about youth justice and the fact that restorative justice in Northern Ireland is leading the way in many ways with youth justice. One of the problems that we suffer from in that area is speech and language. Have you any thoughts on that? Many of the young people who I know who get caught up in anti-social behaviour orders (ASBOs) and so on have very little education and do not understand what is happening around them. I am anxious to hear what you think about that.

Lord Dubs:

It is always a pleasure to follow May, because, of all people, May knows what it is like in her part of Belfast. She does not theorise from a distance, and that is great. David, I congratulate you on your presentation and on what you have been doing. It is absolutely great, given the difficulties that you have had to face. I feel warmly about your many successes, and I wish you well for the future.

You mentioned that the difficulty over the question of pension transfers from the gardaí to the PSNI and vice versa has not yet been overcome. That seems to have been going on for many years. It went on before devolution, and Committee A, of which I was then a member, spent a lot of time thinking about. There is no progress at all. Who has to unlock this? It seems such a ridiculous bit of bureaucracy that you are hampered because someone cannot get their finger out, or am I being too blunt?

Lord German:

Thank you, David, for an excellent and clear presentation, which you dealt with in your usual self-effacing manner. We recognise the work that you have been doing and the problems ahead that you face. I want to follow on from May's question, which referred to the comment

that the people are ahead of the politicians in seeking change on the route march to normality in politics, which you alluded to. Is there a sense that there is Cabinet collective responsibility but not Cabinet collective decision-making? If that is the case, in the mandatory coalition that you described, which you will probably face for a number of years, how do you reach one of those collective positions? What is the route march to make that happen?

Mr David Ford MLA:

OK. First of all May, thank you for your comments about the peace walls. They very much reinforced the issue that we need to address.

On the issue of youth justice, I had the great pleasure last year of hosting a visit by a Home Office Minister, who came to see the work of the Youth Justice Agency and whether England and Wales could learn anything from our progressive and good work being done in Northern Ireland. Can I say that bit again? I rather enjoyed it. It is clear that the restorative work that is done through youth conferencing and so on in Northern Ireland is very much ahead of the game when compared to the other jurisdictions in these islands.

I had a discussion recently — I think that this is part of the point that you made — about ensuring that young people fully understand the consequences. An issue arose in one of the agencies that deal with youth justice about a letter that is issued to young offenders. I would like to think that I have a higher educational attainment than most 15- and 16-year-old working-class-offenders in Belfast, and possibly even an equal intellectual ability, yet I needed to read that letter twice before understanding it. That letter would never win a Plain English award; indeed, it would probably win an absolute worst English award. We seriously need to address that issue, and part of the youth justice review will look at the ways in which a good system operates to ensure that we get the best possible value from it. However, a lot needs to be done.

As to your point about pensions Alf, I suggest that you should ask that question of whoever speaks to the Chancellor of the Exchequer in the House of Lords. It seems to me that the pension issue is entirely tied up at a national level. It is not something that we can deal with in Northern Ireland or in policing; it must be done on a wider level. I suspect that it will not be seen as a matter of urgency by the Treasury; it is of relatively little consequence, because relatively few people across the UK would want to transfer in or out. However, it is certainly impeding the opportunities for transfer in policing in Ireland, North and South.

Michael, given your experience of being part of a coalition government in Cardiff, I am hesitant to get into the issue of collective responsibility as opposed to collective decision-making. However, we have a degree of enforcement of collective responsibility, as all Ministers are expected to back Executive decisions in circumstances in which only Ministers of two parties actually have any say in what those decisions are. It is entirely realistic to say that decisions only come to the Executive for approval when the First Minister and the deputy First Minister have agreed. That is not a criticism of the DUP and Sinn Féin, and, although I was not part of any Executive in the past, I do not think that it was much different when the Ulster Unionist Party and the Social Democratic and Labour Party (SDLP) were in the lead. Therefore, we have an insistence on Ministers abiding by an agreed line when there is no open or free discussion around the Executive table, and that is an ongoing problem. Frankly, I am not sure that that will ever be resolved within the peculiar mandatory coalition system that we have. That is one of the reasons why I am keen that we should move to some form of voluntary coalition that is supported by a weighted majority of two thirds or 70% in the Assembly, rather than the supposition that you can have unanimity when we clearly do not.

Ms Bethan Jenkins AM:

Thank you for your presentation. I do not envy your task, because conversations with the politicians here have told me that there is still a long way to go.

My question follows on from what Michael German said about collective responsibility. I am sure that you get this question all the time in the North, but I am not involved in everyday discussions. Did you think that anyone else could be in your position? Will it have to be a Member from the Alliance Party who holds the role of Justice Minister for the foreseeable future? Can you envisage a day when another political party, especially the DUP or Sinn Féin, is able to hold that role and bring people around a table? I think that you are doing that, but I do not know all of the ins and outs.

There have been cuts to the police across the UK, and, in Wales, we are also facing cuts. How do you balance cuts to the Police Service with the desire to recruit new people who never before thought of a career in the police? I am particularly interested in those from the Catholic community who would not have associated themselves with a career in the police because of the political implications of having such a career.

Finally, it is really good to learn that people are having cultural events around the peace walls. I was part of a scheme in the North which brought young people from Protestant and Catholic communities together, and they created lovely flags and so forth. However, at the end of the day, both sets of young people went back to their communities. My family who live in Belfast are indifferent to what is happening; they fear that if they get involved that they will become part of all of the wrangling that still exists. How do you really change things, aside from just having a press release and a nice photo of things being done that look good? Things are not really changing in the different communities; people still live in their little silos and do not want to engage. That keeps me awake at night, because people's psychology has not changed. How can that be changed in the long term, so that we get over this constant looking back to the past. There is too much of it.

Ms Ann Phelan TD:

Thank you very much. I also want to congratulate David on his very good work. It is refreshing, and perhaps a lot less cumbersome, that he does not have to go through a referendum to reduce the fees that are paid to the legal profession.

I want to support what Jim Wells said about fuel laundering, and that is an issue that I have tried to raise in the Dáil. Having spoken to the relevant Minister, I know that the non-colouring of fuel is very problematic, and if Jim knows the name of the tracer element that he mentioned, perhaps he will tell me so that I can pursue the issue.

Some members of the public unwittingly buy laundered fuel, and it causes a lot of damage to their cars. Indeed, we have received many complaints from people who have gone into garages, bought fuel and ended up with severe damage being done to their cars. Those people have no recourse; they have been told by good, solid mechanics that that is why their cars have been damaged, and it is a serious issue.

I believe that there was a very good programme about fuel laundering in Britain two nights ago, and it is something that we should look at together.

Mr Robert Walter MP:

Thank you. David gave a very impressive list of the achievements in the administration of justice in a very short time, and he is to be congratulated on that. I want to ask him about a

slightly longer-term issue. We heard yesterday from Martin Howe QC, who is one of the commissioners appointed by the Prime Minister to look at a bill of rights for the United Kingdom. He is very cognisant of the fact that the Good Friday Agreement referred to the creation of a bill of rights for Northern Ireland, but, of course, that was at a time when a bill of rights for the United Kingdom was not on the table. The European Affairs Committee of this Assembly, which I chair, is to undertake an investigation into the application of the European Convention on Human Rights in all the jurisdictions. I envisage us coming to Belfast at some stage and talking to you and the Northern Ireland Human Rights Commission.

David, I wonder whether you can give us some idea of your thinking, or that of the Executive, on the current deliberations about a United Kingdom bill of rights, and how it affects the provisions that would have led to a Northern Ireland bill of rights.

11.00 am

Mr David Ford MLA:

Bethan started off with a lovely challenge: she asked whether anyone but the Alliance Party can provide the Minister of Justice. Let us be clear, I am not the Minister of Justice because they love me. I am Minister of Justice because they hate everyone else more. At whatever

point people decide that they have overcome hatred of other people, I will be out on my ear, full stop, the end. That said, although I refer to things like the DUP accepting a Sinn Féin amendment on support for the police against terrorism, we are still a long way from seeing that degree of trust. It is probable that the presidential campaign of one particular individual in the Republic highlights the unacceptability of people with particular sets of baggage to do certain jobs.

Interestingly, last year on a television programme — the BBC Northern Ireland equivalent of ‘Question Time’ or ‘Questions and Answers’ — faced with a diatribe from Jim Allister of the TUV against Gerry Kelly, Mark Carruthers turned to me and said:

“David Ford, what do you think?”

My answer was:

“I don’t like what Gerry Kelly did, but ...”

and I got the largest applause of the entire programme for that simple comment. So there is a degree of acceptance, but whether it will extend to involvement in the justice system for some period of time, remains to be seen.

I find it difficult to believe that they will agree on any other system by 1 May 2012, but, frankly, it is not worth my while worrying. If they do, they will, and it will be nothing to do with me. So that is very much an open question. If the d'Hondt lucky dip included the Department of Justice, the DUP would have to take it first, because it would be frightened that Sinn Féin would take that Department second. That is the manner in which things would be dealt with. It would mean that Sinn Féin would get the Department of Finance, and the DUP does not want that either. We are in that kind of stalemate for the moment.

You referred to the issue of cuts in policing. The reality is that policing in Northern Ireland faces cuts on the same basis as policing services across GB. We are getting the Barnett consequentials, because ring-fencing of the Department of Justice does not mean that it is protected; it means that it is directly linked to the Home Office and the Ministry of Justice in England and Wales through Barnett consequentials.

At the moment, we are slowing down significantly on PSNI recruitment, having had effectively the end of the Patten reforms with people leaving under the terms of the severance package and more being brought in. The target set under Patten for the somewhat unusual recruitment process was 50% Catholic and 50% everyone else. It has now reached a 30%

Catholic target after 10 years and has been removed by the Secretary of State's action. In that sense, it will not slow up that particular issue because we have got to that point. The PSNI has also obtained £245 million of additional security funding over the CSR period, £200 million of which came from the Treasury. I do not know of any other Department, in any part of the UK, that got that amount of money out of the Chancellor. A considerable amount of hard work went into that. So, although policing finances are tight, they are not as bad as they might be in other respects.

You talk about people going back into divided communities. To be frank, that is not something that requires a two-minute answer: it would be a PhD thesis. The problem that I can never get my head around, as MLA for South Antrim and representative for Antrim new town, largely populated in the 1960s and 1970s by people who moved out of north Belfast, is that I am quite sure that, somewhere in Antrim town, there are two people who live next door to each other and who have siblings who live a few miles away in north Belfast, within a few yards of each other but with a wall in between them. The fundamental issue is why is that the case? Antrim, I am happy to say, is probably the most mixed large town in Northern Ireland. Why is it that that can happen in Antrim, and yet, a few miles away, members of the same families are living in a divided situation? Although walls are very much part of the physical infrastructure, and social housing in greater Belfast is overwhelmingly segregated, we also

have examples of significantly mixed housing in some rural areas, small towns and villages and in one or two large towns such as Antrim. We must ensure that we learn those lessons and apply them. However, as I said, that is a PhD thesis. I will write it when I retire.

Ann, on your cheery point: we did not need a referendum to cut solicitors' pay, and we have not tried to cut judges' pay. As you correctly highlighted, fuel laundering is a problem throughout these islands. It is particularly acute, and it is probably becoming more acute, because there are now no opportunities for fuel smuggling. The excise duty is sufficiently close North and South that it is hardly worth smuggling, whereas it is worth laundering unfortunately. A constituent sent me an e-mail after a recent debate on fuel laundering, asking why we do not just let farmers buy white diesel and rebate them a certain amount for a reasonable allocation. I must say that that proposal is attractive to me. However, it is not my decision; it is a reserved matter.

Robert's point on the bill of rights is significant. Frankly, we ran into a roadblock on the issue of a bill of rights for Northern Ireland. Elements of the third sector and nationalist politicians proposed a maximalist Northern Ireland bill of rights, whereas unionists wanted a minimalist bill of rights. We have not resolved that. It is a matter for the Secretary of State.

I am happy that it is not a matter for the Executive, never mind the Department of Justice. I do not think that there has been any discussion about the implications for Northern Ireland of the UK-wide situation. The issue was highlighted in the Good Friday Agreement to take account of Northern Ireland's specific circumstances, but no one can agree on what those are.

The Co-Chairman (Mr Joe McHugh TD):

Thank you, David. We are coming under a wee bit of a time constraint. I would appreciate it if the four remaining people who have indicated that they want to speak would make their contributions succinct.

Baroness Harris of Richmond:

Thank you very much, Co-Chair. I add my congratulations to your handling of justice matters, David. We are all very proud of you in my part of the world. I also congratulate the Assembly Members who had the foresight to elect you; that was very prescient. I am looking directly at one of them. I went to Northern Ireland a few weeks ago and had a remarkable time with the Human Rights Consortium — not the Human Rights Commission — which does an amazing job as the umbrella organisation for a whole host of community projects that help to cross the divides. Like you, I think that calling them peace walls is absolutely

horrendous. Investing in the community is definitely the way forward

Mindful of the Co-Chair's strictures on time, I will ask my question. I cannot remember much about this, but can you take the proceeds of crime, and, if so, what percentage? Do those proceeds stay in Northern Ireland?

Baroness Smith of Basildon:

David, thanks very much indeed for your presentation and congratulations on hitting the ground running.

I agree entirely that the legal aid payments to solicitors have to come down. However, I wish to make a plea. Legal aid was intended to help those in greatest need and the most vulnerable. When things are cut, there is always a danger that the most articulate people who have money can still get access and poorer people who need the help cannot. Given your background, I know that you will be very careful to avoid that, but I just wanted to make that plea.

I was taken by your comment that the Executive are not unanimous but are united. As a new direct rule Minister, I found that Departments and civil servants were surprised that Ministers would want to work together, talk to each other and co-operate behind the scenes. You talked about the interdepartmental working that the Department of Justice has been able to do with other Departments. I wonder whether the barrier to greater co-operation is not that Ministers do not want to talk to each other but that there needs to be a cultural change. Departments need to understand that Ministers want to co-operate and work together and that there is a role for the Civil Service to play in that co-operation.

It is difficult enough to get Departments in Whitehall talking, even though the Ministers are all from the same political party. It would be helpful if Ministers or civil servants could take a lead on that. Is there a role that this Assembly could play to assist in that work? We produce reports that cross jurisdictions and cross issues, and those might be of help to the Executive.

Mr Martin Heydon TD:

I also thank David for a very interesting presentation. I would like a little bit more detail on the announcement on prison reform that you made yesterday. Mindful of the ongoing

dissident threat and the role played by incarcerated prisoners historically, I am interested to hear more detail on the proposals for prison reform.

Senator Cáit Keane:

Thank you, Minister. I want to refer back to the problem of the non-transferability of pensions between the PSNI and the gardaí. More transferability between both organisations in the process would help to create the trust that may be lacking in some quarters. What stage is that at? Obviously, it is an administrative problem. You cannot sort out both Civil Services at the same time. However, if that side of it were sorted out, I know that more officers would transfer. What stage is it at, and how long will it take to sort out?

Mr David Ford MLA:

Angie Harris caught me out on the precise detail of the Proceeds of Crime Act 2002 and how much we get. We certainly had to remind the Home Office that devolution had happened and that we had some success in dealing with civil and criminal issues. I cannot remember the detail, but I will happily write to you about that.

Angela, I entirely take your point about legal aid. What we have done has restricted how much lawyers get paid, not access to legal aid. If I were to try to restrict access to legal aid, Jim Wells, never mind anybody else, would beat me up at this gathering. He is, however, very keen to beat up the lawyers. It is a key point.

The issue of collaboration is compounded by the fact that we have no agreed Programme for Government. Following the result of an election in civilised places, parties negotiate to see whether they can agree a Programme for Government by which they could go into coalition. They then formally ratify that by taking a trip to a palace, voting for a Taoiseach or whatever. We have no such process. People get their jobs by a mathematical lucky dip, and the parties then see whether they can agree on anything.

The difficulties experienced with civil servants — I know that you have experienced some of them — are significantly compounded by party differences. At the moment, there are incentives to stick to your party guns but very few incentives to co-operate. That is why I think that we can sometimes work out quick deals in groups of two, three or four Ministers. However, it is much harder to get full Executive agreement on certain issues.

On the issue of prisons, we are clearly having a major problem managing one particular unit in Maghaberry jail, where 32 or 33 republican prisoners have been separated from the other prisoners. We are doing our best to ensure that that does not affect the ongoing work on prison reform. The danger is that the Prison Service, which has 16,000 or 17,000 prisoners, will be driven by the issues of the management of those 30 prisoners. We need to ensure that we move away from that. What we are seeking to do is to manage them in a way that is human rights compliant. There are certain circumstances where it is in the interest of a jail's security to require full-body searches to be carried out. That applies in every prison in the UK. However, the separated republicans are resisting those searches, and it is now at the point where the majority of them are engaging in a dirty protest. That is not pleasant, but it is the reality of what we are dealing with. My advice is that there is no other way of providing full security.

Freer association would have been implemented for those prisoners had they not started that protest. Ironically, we have implemented freer association for the other prisoners in Maghaberry jail, whereby they have the more opportunity to move between residential blocks, workshops and so on without supervision. So, in fact, the dissidents on protest are

getting the least, while the other prisoners are getting opportunities because of their good behaviour.

11.15 am

On the specific issue of police pensions, I think that there are issues around that that go to a much higher level. The practical reality is that short-term secondments are working well. A garda superintendant worked for a full year in the community safety division at PSNI headquarters last year. Those kinds of secondments are working well. The issue is about how someone can transfer permanently rather than on a short-term basis. However, those short-term secondments are as useful as anything else in building confidence in and knowledge of each other.

The Co-Chairman (Lord Cope of Berkeley):

It is my pleasant and easy duty to express our thanks to the Minister for coming, for his speech, in particular, and what he said, which was interesting and encouraging to all of us, and for the very thorough and clear way in which he dealt with all the issues raised across the range of his responsibilities.

The Minister was talking just then about the prisons and the contrast between the prisons in Northern Ireland now and 20 years ago. As it happens, I was the Minister with responsibility for prisons 20 years ago, so I understand that contrast very well. At that time, I was, of course, an MP. I had three prisons in my constituency in England, and I also had responsibility for the five prisons that existed then in Northern Ireland. So, for part of the week, I was involved with the Maze and, at the weekend, I went back to deal with the problems of a very different prison — an open prison, in fact — in my constituency. I can tell you that the contrast was absolutely complete. I very much encourage the sorts of reforms that you are trying to introduce in the prisons. From the Assembly's point of view, this session has been most encouraging, for which we thank you very warmly indeed, David.

Thank you very much.

[Applause.]

THE ROLE OF THE ASSEMBLY

The Co-Chairman (Lord Cope of Berkeley):

We come to the last part of our deliberations, which is to talk about the role of the Assembly in the future. To introduce the discussion, I call Paul Murphy. As many of you will know, he

was the Co-Chairman of this Assembly, but more importantly he has held responsibility in Government, particularly as Secretary of State for Northern Ireland, so there is no one better to reflect on the role of the Assembly.

Rt Hon Paul Murphy MP:

Thank you, Co-Chairman. I echo everybody's thanks to David Ford, who I thought spoke brilliantly and was unquestionably a great beacon of hope for us all in terms of progress in Northern Ireland.

I also thank you, John, for your work as the Co-Chairman of the Assembly. Last night, I was in London supporting the Government unfortunately—[*Laughter.*]—so I thank you now for all the hard work that you have put into the office and the dignity with which you have held it. I know that I speak first on behalf of the Labour Opposition in Westminster when I bring good wishes from the shadow Secretary of State Vernon Coaker to you and the Assembly, and I speak on behalf of us all here when I say that we have valued very much the way in which you have been our Co-Chair.

Members:

Hear, hear. [*Applause.*]

Rt Hon Paul Murphy MP:

The short debate that we are having this morning is about where we will go as the British-Irish Parliamentary Assembly. I recall first addressing what was then the British-Irish Inter-Parliamentary Body in May 1998, one month after the signing of the Good Friday Agreement, when the Body met in Dublin. In what I am told was a very good speech, Michael Mates last night referred to the origins of the Body. That occasion in May 1998 was obviously a joyful one, because we had achieved the Good Friday Agreement, but it also indicated how the Body was very much linked, as it still is to a certain extent, to how events in Northern Ireland take shape.

It was also about bringing together, at that stage, Members of the British and Irish Parliaments in a way that had never happened before. The improvement in relations between the two Parliaments—this is a parliamentary body—has been monumental over the years of the history of this Body and, I believe, has in fact been caused by the fact that this Body exists.

In 2004, I went to the meeting of the Body in Chepstow in Wales. Again, I could see how the Body was developing into a different type of animal altogether. In the early days, it brought together Irish TDs and Senators and British Members of Parliament and members of the House of Lords; by 2004, it had been widened to include members of the devolved legislatures and the Crown dependencies, which brought a new richness to what we were doing.

I went back again in 2009 to Donegal to talk about the work of the British-Irish Council, which is another dimension that the Body has had to deal with. The point that I am trying to make is that the evolution of the Body and Assembly over the past number of years has been very good indeed.

Members will recall that the origins of this Body lay both in the Anglo-Irish Agreement and in strand 3 of the Good Friday Agreement. It was felt rightly that, because in strand 2 we had deepening relations between the North and the South of the island of Ireland, we had to ensure that there was a proper relationship in the east-west axis as well. Jim Wells talked

about that yesterday and how important it is to his community, but it is important to us all that that development took place.

In my view, the effectiveness of the Body can be seen first in how it had some responsibility for the Good Friday Agreement through the improvement in personal relationships in these islands, and secondly in the cementing of relations first between Dublin and London and now including Scotland, Wales, Belfast, Guernsey, Jersey and the Isle of Man.

What is also important is what happens outside the formal sessions of this Body. The new word is “networking”—I do not care for it much, but I know what it means. The networking that has occurred over the years between Members of different legislatures and Governments has meant that positive action has been taken on a number of issues.

I will give one example. In the last days of the previous Labour United Kingdom Government, people on the Isle of Man felt considerable unease that the agreement between the Isle of Man and the United Kingdom Government on health issues would be changed in a

way that would be to the detriment both of the people who lived on the Isle of Man and of British visitors who holiday there. The then British Government was originally quite stubborn—as Governments are on such issues—but concerted effort on the part of members of this Body changed the Government’s mind. The Secretary of State for Health at that time, Andy Burnham, was persuaded by the case that we put to him. It took a number of weeks—perhaps even months—but in the end, the policy was scrapped. That is a good example of how opposition to a particular policy actually started here in this Body.

Where do we go from here? Again, it is a question of continuing evolution. The first point is that we must formalise much better our relations with the British-Irish Council. A new secretariat has been started, which is good, because the reality is that the British-Irish Council, for which I held ministerial responsibility in the previous Government, was not adequately dealt with. Effectively, it was just one man and a dog—or one woman and a dog, as it happened—in the Ministry of Justice. That meant that there was not sufficient civil service governmental activity involved—certainly on the British side—in setting up the secretariat.

That has now changed, and there is a general view among all members of the British-Irish Council that a central secretariat, which was the original idea, should be set up. When that has

happened, one of its jobs—as well as the business of governing—will be to see how it can engage with this Body. We, after all, are responsible for parliamentary scrutiny of the British-Irish Council.

We can ensure that our reports are sent to the BIC as well as to the individual Governments, and that what the BIC does is reported back to us. I have two suggestions; they are not earth-shattering but may be worth considering. The first is that there should in every plenary session be a standing agenda item that is headed “Report from the British-Irish Council”. If possible, that report should be given by a relevant minister—it need not necessarily be a British or Irish minister, but a minister from wherever we are meeting, whether that is Scotland, Wales or wherever.

We must also not underestimate the importance of the still vastly significant relationship between the United Kingdom and Ireland. That is why we must continue to insist on—although there is no need for insistence in some ways—and to encourage and welcome the attendance of Ministers at the highest level from the British and Irish Governments. We have the Taoiseach, and we generally have the Secretary of State for Northern Ireland, although he has given his apologies for not being at this conference because he is in the United States.

However, there comes a time when even the British Prime Minister, or at least the Deputy Prime Minister, could perhaps turn up and address us when we meet in the United Kingdom.

The next point is that we should strengthen interparliamentary links among ourselves. I am not sure that we have got that far yet, because this is the only organisation in these islands that brings together parliamentarians from all our different legislatures; no other vehicle exists for that. We must build on that and encourage bilateral and even trilateral links among the Parliaments.

11.30 am

The final point—which has, in a sense, been the theme of the conference—is that we must boost the role of our Committees. The real work of the BIPA lies, as well as in networking, in Committees' examining the detail of policies.

It is important now to ensure, after we have completed our reports with great thoroughness and they are reported back to the relevant Governments and legislatures, that the response that we get is adequate and that we in our individual roles can play a part—as I said the other day—in question times and debates, and in other ways such as meetings with ministers. In

those ways we can ensure that the reports are dealt with seriously, and that they are seen as being important by the Governments and legislatures.

A big role remains for this Assembly: it has not gone out of existence and there is no need for it to do so simply because there has been huge progress in Northern Ireland, which has occurred partly because of the work that we have done. The world is changing and this Body is changing with it. It has a unique role to play and there is a unique opportunity for all of us. When we meet next in Dublin, I hope that we can consider in plenary session some of the points that I and other colleagues have made.

The Co-Chairman (Lord Cope of Berkeley):

I call Robert Walter, to be followed by Jim Wells.

Mr Robert Walter MP:

Thank you very much indeed, co-chairman. I echo Paul Murphy's comments on your co-chairmanship and I thank you for all the work that you have done.

I agree with everything that Paul Murphy said. With regard to our relationship with the British-Irish Council, I think that, although it represents the intergovernmental east-west dimension and we the parliamentary east-west dimension, we seem to be travelling on different tracks in slightly different directions and need to bring ourselves together. As someone who has been a minister on the British-Irish Council, Paul Murphy speaks with some authority on the subject. However, it lacks a secretariat.

It all came home to me yesterday when I heard David Shutt talking about the Deputy Prime Minister going to a British-Irish Council meeting in Dublin next week or the week after. I thought, "Why isn't the Deputy Prime Minister here, telling us about that?" Based on what Lord Shutt said yesterday, and on the very strong commitment that the Taoiseach made to us in Cork to working more closely with the British-Irish Council, I propose that a number of Assembly members in Dublin go and see the Taoiseach, a number in London go and see the Deputy Prime Minister, those from Belfast, Cardiff and Edinburgh go and see their respective First Ministers and those in the islands go and see their Chief Minister, pin each of them down to a commitment to working together with us and demonstrate that doing so will add value to their own work.

Surely the Council cannot expect to meet without anyone knowing what it is doing. It must be to its advantage to have a parliamentary body with which to interact. I must admit that I cannot recall any report from the British-Irish Council to the British Parliament. Paul Murphy will probably tell me that he provided written ministerial statements; I am sure that such statements were made, but only one or two anoraks will have picked up on them.

This Body is interested in what the British-Irish Council is doing and might—through motions that we pass or reports that we produce or simply by picking up on topical items that are of relevance to everyone in these islands—actually be able to provide it with some direction on relevant issues with which it should be concerned. My positive suggestion is that we each take on the responsibility of seeing our respective representatives on the British-Irish Council and report back next time we meet on the results of those meetings.

The Co-Chairman (Lord Cope of Berkeley):

Thank you very much. I call John Scott from the Scottish Parliament, to be followed by Senator Breckon from Jersey.

Mr John Scott MSP:

Thank you, Co-Chairman. I endorse everything that Paul Murphy and Robert Walter said. Given the self-evident crossroads at which the BIPA finds itself and the fact that the Assembly includes the devolved Administrations and the Crown Dependencies, I simply want to highlight the huge amount of accumulated wisdom and knowledge in the Assemblies and Parliaments. I propose that we form a new Committee that would concentrate on sharing of best practice—a knowledge transfer Committee, if you like—pour encourager les autres. Instead of their having to reinvent the wheel daily, as they seem to do, all parliamentary centres could tap into that resource to share knowledge and expertise and to find out what is going on in other areas.

The Co-Chairman (Lord Cope of Berkeley):

Thank you. I am sorry; I missed out Jim Wells, who will be followed by Senator Breckon.

Mr Jim Wells MLA:

Thank you Co-Chairman. Even though you left me out I thank you for your excellent chairmanship of this body and I hope that you can be persuaded to continue, if enough pressure is put on you.

I was the first Democratic Unionist Party MLA to speak at a meeting in the Irish Republic. In 1987 I addressed the MacGill Summer School in Glenties. It took four guards with submachine guns to get me in and out of that event, which gives an indication of just how difficult life was at that stage, three years before the BIIPB was formed.

I was also the first person from the Unionist community to attend a meeting of this august organisation. I was simply told to be at Newcastle on a certain Sunday night—such is our blind obedience when our whip gives us an order. I actually thought that I was attending a British-Irish Association meeting and while I was on the train to Newcastle I remember thinking, “That’s strange; I was with the BIA a month ago in Cambridge. It’s a bit odd that it’s meeting again.” It was only when I walked into the hotel reception and Peter Hain walked across and gave me the most enthusiastic embrace that I realised that I was the first Unionist to attend a BIPA meeting.

What I also remember about that night is that Ken Maginnis was supposed to be there. He was indeed in Newcastle; the problem was that it was Newcastle, County Down, rather than

Newcastle, Tyne and Wear. We really did tease him about that.

Relationships have moved on dramatically. I am the Father of the House at Stormont—I have been there the longest—and I remember the cold dark days. I was down at Iveagh House at a dinner—an excellent dinner, I have to say; do invite me back—to address a group of TDs. I was making the point that my previous visit to Iveagh House had been 25 years earlier, when I had stood outside protesting about gutless, spineless Unionist MPs who were inside wining and dining with TDs. Some 25 years later, the situation had moved on so much that I felt extremely comfortable at the event.

To some extent, the pioneering work of this organisation has been overtaken by the massive improvement in relations between the two Governments and, indeed, among the devolved Governments in the United Kingdom. However, I still see a valuable role for the Assembly, because at last we hear that the BIC will have a full-time secretariat and an office somewhere. The last time I met its secretariat, one of them was working on BIC for one fifth of his work time, one was doing one eighth and the other was doing once a month. They were combining that work with other duties, which I thought showed absolutely no commitment to the east-west relationship. I take the chairman at his word that in January a ribbon will be cut

and there will be a full-time properly resourced BIC secretariat.

As others have said, our role will be to shadow and hold to account the work of the BIC, as was initially meant to be our role. I see huge benefits in doing that. We also have to deliver more. I was enthusiastic about the Isle of Man agreement on medical care. If we can deliver on, for example, fuel smuggling or people trafficking, our *raison d'être* will continue to be valid. There is a danger that we could become a valid and worthy talking shop, but nothing much more than that. We need to reinvent ourselves now that the situation has moved on.

David Ford talked about policing and justice. Two years ago, that was a wild, hot, difficult and controversial topic. Now it is as dull as ditchwater. Is not that wonderful? People in Northern Ireland are perfectly happy for David or whoever succeeds him to potter along looking after bread-and-butter policing and justice issues. One by one, the difficult matters are being resolved. However, we need to continue and to reinvent ourselves and become more relevant, given that all the old animosities have disappeared.

I was delighted that Michael Mates was able to make it last night. It was wonderful to hear

about the old times and the difficult days. It is only when we hear something such as he had to say that we realise how far things have moved on. We need to consolidate those gains and move on to a stage at which the relationship is as good as it could be.

The Co-Chairman (Lord Cope of Berkeley):

Thank you very much.

Senator Alan Breckon:

We heard wise words from Paul Murphy in his introduction, which followed on from what Michael Mates had to say last night. He was one of the original members and he highlighted the tensions that there were then and how we have moved on.

The question that I want to put to members is this: is this gathering worth while and are there measurable benefits? There are benefits, which Paul Murphy touched on—but maybe I would say that, wouldn't I? If colleagues will bear with me, I will tell them why I say it. In February 2010, Andrew Mackinlay was a bit like a dog with a bone. As we know, he has done tremendous work and asked more than 50 questions in the House of Commons about

reciprocal health agreements.

Along with others, I supported the proposal to retain the Isle of Man reciprocal health agreement, which was to disappear. In fact, Jersey had had its reciprocal health agreement taken away without any discussion or opportunity to renegotiate, which disadvantaged not only the people who live on the islands, but visitors. As a result of the motion from this Assembly, we were able to get some action. Of course, questions were also asked in the House of Commons and the House of Lords and there was cross-party support from people including Lord Smith, Alf Dubs, Baroness Harris and others, all of which demonstrated the unity of purpose that came from this Assembly. Paul Murphy has already touched on this, but there was a lot of behind-the-scenes action and pressure—political and otherwise, with the election looming. There was also support from the devolved Administrations, which had been told that Jersey had agreed to removal of the agreement and were pretty angry when they found out that it had been a tick-box exercise. The Assembly's actions made a difference and I would like to add the thanks of the people of Jersey and those who visit for the work that was done. After all, people sometimes ask, "What have you achieved?" That was a measurable achievement.

Paul Murphy also pointed out that, as well as our formal business, we discuss our concerns at breakfast, at supper and over a drink. I certainly think that we can learn from one another. I have been coming to these gatherings since April 2006, when Paul Coghlan welcomed us to Killarney as only he can. Although, as others have hinted, we could improve what we do, we are able to have a dialogue and to discuss Committee work and reports and so on. Moreover, we are able to share our experiences and problems and—more important—look for solutions. The same solution will not work for all of us, but we can learn from the process; after all, certain issues and problems are common to all of us, and it is important that we find a way forward across and within our communities. As others have suggested, we should work more closely with the related organisations of which we all have experience, and we should feed into this Body their knowledge, experience and information for the benefit of all of us.

BIPA will play a very important part in the future because, when we have these gatherings, we take information away and begin taking action in our own Assemblies and communities. There is much that we can do and many benefits that we can bring. The experience that people share here filters back to our communities and when people ask, “Is it worth it?” my answer is, “Yes. It definitely is”.

The Co-Chairman (Lord Cope of Berkeley):

Thank you very much, Senator Breckon. I call David Melding from the Welsh Assembly, to be followed by Lord Dubs.

Mr David Melding AM:

Thank you, Co-Chairman. I add the Welsh delegation's thanks for your outstanding leadership over the past year. Indeed, you and your Co-Chairman have substantially reconstituted this Assembly and I am very grateful for your clear vision of how the devolved Parliaments might evolve and develop their work within the Assembly.

With that in mind, I think that it is probably time to have a Committee E on devolved issues. Indeed, I have just been thinking about the concrete issues that could be discussed by such a Committee, some of which—sub-state taxation, fiscal devolution, general scrutiny and cross-border issues and joint responsibilities in policy delivery—have already been mentioned this morning.

All those issues impinge heavily, as does sharing best practice and developing new

practice in things such as e-democracy and public participation. We face huge challenges in renewing democracy, and sometimes it is the devolved institutions that come up against those challenges first and initially develop the sharper instruments. That experience can then be shared with the Irish Parliament and Westminster.

I have been encouraged by the practice at this meeting of the Assembly to intersperse the work of the Committees throughout plenary sessions. Unfortunately, we have not had reports yet because of where we are in our work cycle, but it is important to intersperse them rather than to have them right at the end of a Tuesday session when there is a rush to leave and the work is perhaps not as valued. That approach would feed in to our trying to get the British-Irish Council to respond more effectively to the reports. We could perhaps deliver and agree our reports by formal resolution, with key recommendations, and then expect a response to each recommendation—which I think is the practice in most Parliaments.

I think that more needs to be done to ensure that the Executives respond. Robert Walter made an excellent suggestion that each individual delegation could meet their Government to talk about our work: that is something that we need to do. Paul Murphy's outstanding analysis was based on extensive experience on both sides of the fence, and he is right that a senior

Government minister should be here—perhaps the Prime Minister or Deputy Prime Minister, on occasion at least—to give the authority that our work requires.

I also think that we should be able, through the Co-Chairs, to put items on the British-Irish Council's agenda—that would mark the importance of issues that we pick up—and that the joint chairs should attend the Council, at least for the session when they explain the work of the Assembly.

I realise that the Council regards its work as confidential and as coming under Executive privilege, but it could start with a session, or have a break in the first part of its meeting for a session, with the Co-Chairs. That input would be very important, as Paul Murphy said—and he speaks as a former senior member of the Government; I have never been within striking distance of Executive office and Governments can be slippery entities, so they need to be tied down and to be encouraged to do things that they would perhaps not spontaneously volunteer to do.

The Co-Chairman (Lord Cope of Berkeley):

Thank you, David. I call Alf Dubs to be followed by John Paul Phelan.

Lord Dubs:

Thank you, Co-Chair. I want to make three brief points, not necessarily in order of significance. I learned this morning something important. Since the mention of the flooding in Dublin—tragic flooding in the case of the death of the Garda officer—I am now convinced that in Committee we have to be able to respond quickly to situations. If we say that we will deal with flooding later, we are maybe missing the boat. Thanks to the discussion this morning, it is my aim to get Committee D to change its priorities a bit, to put people trafficking a little later and to see what we can do quickly about flooding. The conclusion that I draw is that the Committees have to be able to respond quickly, otherwise we will not be as credible as we could be. I hope that Committee members will be able to adjust to that and that we will move as fast as we can.

My second point concerns the discussion about a Committee E. I am certainly not against it; I will utter only one small word of caution about the exchange of best practice. I regard it as a responsibility of all the Committees to look at best practice in any jurisdiction when they

do any study. Although there may be other bits of best practice that need to be exchanged and drawn to the attention of the plenary and then to the Administrations, I would not want to take away that particular responsibility from the existing Committees, even if we look at a potential Committee E as doing something similar for areas that are not covered by Committees A, B, C and D.

My third point is to agree with Paul Murphy and Robert Walter on our relationship with the BIC, which seems to have been an on-going issue for a long time. We have certainly been discussing it for as long as I can remember, and we have had various goes at getting BIC reports here.

Some years ago, I was asked to go to the Nordic Council. I am not saying that the Nordic Council is exactly the right model for us, but its parliamentary assembly meetings and its ministerial meetings always coincide so that one can react to the other. That is a pretty good model. If we can get the BIC to move to that model, I am sure that we would be happy to see whether our meetings could coincide. Such a system might be hard to work; the Nordic Governments might have found it easier.

Lastly—I could talk for a long time and make it seem like a music hall turn—a long time ago, Committee A considered penalty points and whether penalty points that had been incurred in the Republic by a driver from Belfast would go on his or her licence, and vice versa. Brian Hayes and I were the joint rapporteurs for Committee A. Most of you have probably heard me talk about this situation, but it has gone on for about eight years. First, we discovered that, in the United Kingdom, a driver who was disqualified from driving in London was not disqualified from driving in Belfast. That had to be sorted out.

We have had BIC reports, I have had meetings with officials, and Brian Hayes has gone on to higher things and has left me to work on the issue, but it really is ridiculous. I shall go on asking parliamentary questions. It is an area in which we could have taken the initiative. Something is happening but—goodness me!—it is happening ever so slowly. Is not that one of the frustrations? I will certainly push the penalty points issue which, in the end, will save lives, so it is not unimportant.

Thank you. I take to heart the point about urgent responses by Committees. I hope that the

members of Committee D who are here will go along with that, and that we will adjust our priorities to take account of the important matter of flooding.

The Co-Chairman (Lord Cope of Berkeley):

I am glad, and not in the least surprised, that penalty points got a mention. Alf Dubs has rarely let slip an opportunity to mention the issue. I congratulate him on his persistence.

Lord Dubs:

Penalty points are the story of my life.

The Co-Chairman (Lord Cope of Berkeley):

I now call John Paul Phelan, who will be followed by Lord Bridgeman.

Mr John Paul Phelan TD:

Thank you, Co-Chairman.

I agree with previous speakers about the importance of this Assembly in relation to the British-Irish Council, but as a relatively new Member, I want to ask about the role of the Assembly in relation to the North South Ministerial Council. My constituency and party colleague is a member of the Cabinet who meets his counterparts north of the border, but he is unlikely to tell me what goes on at those meetings, for party-political reasons. I would like an explanation of the role of this Assembly in relation to those North South Ministerial Council meetings, and to find out about the possibility of scrutiny of what goes on there. I completely concur with what Paul Murphy said in the first speech about the importance of the east-west relationship, but the North-South relationship is equally important, and I would like to know what our function is in that regard.

Viscount Bridgeman:

I speak as a very new Alternate Member, but it has struck me how much this Assembly mirrors the work of the back-bench Committees and associations at Westminster. My only experience is as a member of the Association of Conservative Peers, but it will be mirrored in the other parties, and in both Houses. I cannot speak for the Administrations in the remaining parts of the Assembly, but those back-bench Committees have huge influence, both with ministers in Government and with the Opposition. It is clear to me the vital role that this

Assembly bears in its relationship with the British-Irish Council.

The Co-Chairman (Lord Cope of Berkeley):

Thank you. The only other person who has caught my eye so far is Frank Feighan.

Mr Frank Feighan TD:

I certainly agree with Lord Dubs on penalty points. We need to lodge parliamentary questions to find out what has been done. We will follow up on that.

Regarding the commemorations on Committee A, we talk about commemorations of serious events, so I think that the Good Friday Agreement should be commemorated. There is talk in Dublin about having an appropriate monument, such as a peace garden, and about where to locate it. This Assembly could pursue that in the coming years. The Anglo-Irish Agreement will be 30 years old in two years, so that should be recognised, too.

Ms Bethan Jenkins AM:

To follow on from what David Melding said, we need to embrace social media. Many of us have been using our phones to update people and let them know what we are doing. Some people have told me that they do not know what this Assembly does, or that they did not even know that it exists. We need to embrace social media so that the Assembly is relevant to everybody.

When we discuss issues on the Committees, we could try to consult people before we come up with themes. What we think is interesting and relevant might not be what people in our communities feel is relevant. We perhaps need to do more consultative work so that we know where to go with the agenda.

The Co-Chairman (Mr Joe McHugh TD):

I will give some feedback on the debate, although I will not go through every individual contribution. I thank John Cope for agreeing to put this item on the agenda. When I proposed it, he agreed straight away that we need to be conscious of the issue. We live in a time in which things are constantly evolving, so we must ensure that we feed into discussions on the mechanisms that will be set up in the near future.

There is a meeting of the British-Irish Council in Dublin on, I think, 28 November. It is important that we communicate all the information from this conference, and not just this session, to the British-Irish Council before that meeting. As Jim Wells pointed out, there is a timeline. The new BIC secretariat is to be up and running by 1 January 2012, although that has been qualified as a target date. We should impress on the BIC once again that we hope that the target date will be written in stone.

I thank John Cope. I said my words about him last night, so I will not go over them again, but in the short time I have spent working with John I have found him to be a progressive thinker. Paul Murphy summed it up. John does everything with great dignity and with respect for Members and their ideas. He wants to work with the enthusiasm and willingness that exists in this Assembly at present. He has made a contribution—he has put the Committees back at the forefront of the work and infrastructure of this Assembly. I thank him for his commitment and I am in no doubt that he will continue to have a role somewhere along the line in this Assembly.

I thank Paul Murphy for his detailed analysis and for his reminder that, although we had an agreement 12 years ago in 1998, we still have to focus on strand 2 and strand 3—on the east-west and the North-South issues. John Paul Phelan focused on the North South Ministerial Council. We must consider whether this Assembly should become a scrutiny body for the North-South work. We have a working group on a North-South parliamentary forum that we hope might get up and running, but we are not there yet. A few Members of this Assembly are on that working group, including Dominic Hannigan, who chaired the Good Friday Agreement implementation Committee, and Barry McElduff—along with other representatives who are not on this body. We will have to consider mechanisms for the Assembly to have a feedback communication line with the North-South parliamentary forum.

There is so much that this Assembly can do. Bethan Jenkins said that the public are not even aware of this Assembly, but thanks to John Cope's choice of venue, after the last two days, the public are very well aware of the British-Irish Parliamentary Assembly. It is up to us to use all the necessary communication tools. The Assembly secretariat is considering different website designs and various changes. The new website is up and running. We will use and embrace all the technological tools that are available to us.

We become irrelevant as politicians if we do not have a focus. That is what this session has been about—where we are going. There is anxiousness on the part of every Member of the Assembly not to be redundant and to embrace the opportunities to work together or, as John Scott said, to share experiences. If there is to be another Committee, we must think about what its remit will be. We should not go for a Committee for the sake of having a Committee; we should think seriously about what it should do and what it should involve. I know that plenty people have ideas and we will certainly embrace them.

Both the east-west and North-South aspects are important. We have to keep an equal focus on both those important aspects of the Good Friday Agreement.

I will conclude by mentioning transport. I say to Alf Dubs that transport came up at the last British-Irish Council meeting, so we will send information for it to be included at the next one as well, to keep his voice loud and clear. Alf Dubs has a history of keeping at an issue—indeed, this Assembly was one of the issues that he kept at. Alf Dubs raised the idea time and again in Westminster prior to the formation of the BIIPB in 1990, and he was certainly a key person in its being set up in the first instance and in why we are here today.

The message from Michael Mates last night was loud and clear: there were difficulties in the beginning, a lot of work has been done over the past few years, and the responsibility now lies on all our shoulders to take it to the next level.

ADJOURNMENT

The Co-Chairman (Lord Cope of Berkeley):

That brings us very nearly to the end of our deliberations. I call on Patrick O'Donovan to move the adjournment of the Assembly.

12.00 noon

Mr Patrick O'Donovan TD:

I beg to move that the Assembly do now adjourn.

Go raibh maith agat, a Chathaoirligh. Let me say first that, as a new Member and a younger Member of the British-Irish Parliamentary Assembly, I have enjoyed the experience in Brighton and previously in Cork. I grew up as a bit of political anorak—as a child I always watched the news while everybody else was out in the back yard playing with a football. I am

very proud to be part of an Assembly with people of the calibre and experience of, for example—I know that I should not mention names—Paul Murphy, who I followed on the “Six One News” on RTÉ every evening, and to listen to the refreshing honesty of people such as David Ford, who this morning gave us the real reasons for how the Ministers in the North of Ireland are distributed: the first to the front gets the best job. For me, as a younger person in politics, it is significant to be part of the Assembly and it is something of which I am very proud.

Paul Murphy mentioned the importance of networking. I can safely say that I and three or four other members of the Oireachtas joined a few members of the House of Lords yesterday in a little travel through the Lanes of Brighton, and we found a very comfortable watering hole where we exchanged views. The networking was very good.

On behalf of Members of the Assembly, I thank the staff who are assigned to the Assembly—the clerks and everybody who arranges the meeting. It runs very smoothly from the time that we receive the information, to being collected at the airport, arriving here and receiving all the documentation and so on.

There is also the very fact that we are in this hotel in particular. In the part of the country that I am from in West Limerick, we are surrounded by—for want of a better phrase—political shrines that mark out our history. This hotel is a significant location, and it would be remiss of me not to draw attention to the fact that we are sitting in a location that is, to all intents and purposes, a quasi-political shrine where people lost their lives in an act of violence. It is a sign of maturity that we can come here under your stewardship, Lord Cope, and at your invitation. The fact that we have even had a discussion about the relevance of this Assembly demonstrates how successful it has been.

When I was speaking to a few people yesterday, the word “journey” was mentioned several times. When someone starts a journey in a car, it is important that every now and again they glance in their rear-view mirror but never stare into it because, if they do, they will come off the rails fairly lively. We must look forward. It is nice every now and again to glance at the rear-view mirror, but we should not stare into it continuously.

I pay tribute to Lord Cope. As a new Member, I know from speaking to other Members

that they have huge respect for the work that you have done as a Northern Ireland minister, as a Member of the House of Commons and now in your role as Co-Chairman. I wish you well in the future. I also pay tribute to my Oireachtas colleague Joe McHugh and his work.

The networking that is done here is important. People say that it is great that we meet people from other Parliaments and other Assemblies, but there are people from the Oireachtas, even from my own party, that I have become friends with, and people from the Labour Party, the Technical Group and Fianna Fáil whom I would not otherwise have met. This Assembly does a very good job.

I wish everybody well and look forward to the next plenary session in Dublin. I am looking forward to playing as active a role as I can as a Member of the British-Irish Parliamentary Assembly.

The Co-Chairman (Lord Cope of Berkeley):

I thank all of you who have made kind remarks about my efforts as your Co-Chairman. I have enjoyed it—well, most of it—a lot, and I certainly feel honoured to have been a Co-

Chairman.

This Assembly does extremely useful work in the ways that we have discussed, in particular over the last hour or so, but also over the meeting as a whole. It is an extremely useful body for the contacts, for the work that the plenary does and for the work that the Committees do. We deliberately placed more emphasis on the work of the Committees to get them relaunched—as it were—following the various elections that have taken place.

I particularly thank all the staff from the various jurisdictions who come to the Assembly: the co-clerks at either end of this table, those down in front of me who keep the record, and all those who make the physical arrangements that enable us to carry on. The British-Irish Council may not have a secretariat, but we do. It is very efficient and we appreciate it.

Finally, I should like very much to thank Joe McHugh, my Co-Chairman, for the work that he does. He is extremely easy and friendly to work with. I appreciate that very much, and we get on very well together. You are all in good hands from that point of view.

I know that you will all meet in your various Committees, but we will meet in plenary session in Dublin next year. The date is not finally fixed, but it is intended to be in April. As soon as the date is fixed, you will all know. We look forward to Dublin but, in the meanwhile, work hard in those Committees. Thank you very much.

I declare the 43rd plenary session of the Assembly closed.

Adjourned at 12.07 pm.