



Northern Ireland
Assembly

**COMMITTEE FOR
CULTURE, ARTS AND LEISURE**

**OFFICIAL REPORT
(Hansard)**

Justice (Northern Ireland) Bill

2 December 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Barry McElduff (Chairperson)
Mr Declan O'Loan (Deputy Chairperson)
Lord Browne
Mr Thomas Burns
Mr David Hilditch
Mr William Humphrey
Mr Billy Leonard
Mr Kieran McCarthy
Mr Raymond McCartney
Mr David McClarty
Mr Ken Robinson

Witnesses:

Mr Tom Haire) Department of Justice
Mr Gareth Johnston)

Mr Ciarán Mee) Department of Culture, Arts and Leisure
Mr Colin Watson)

The Chairperson (Mr McElduff):

Good morning, everyone. Thank you for coming along. I remind the officials that this evidence session will be recorded by Hansard. I will hand over to Gareth straight away. Perhaps you will give us your job description and introduce your team.

Mr Gareth Johnston (Department of Justice):

Thank you very much, Chairman. I am head of the justice strategy division in the Department of Justice. With me from the Department is Tom Haire, who heads my criminal law branch and is Bill manager for the Justice Bill. From the Department of Culture, Arts and Leisure (DCAL), we have Colin Watson and Ciarán Mee. I am glad to be alongside our DCAL colleagues today, and, indeed, I welcome the agreement of Nelson McCausland and the Committee for Culture, Arts and Leisure to our joint appearances here and at the Committee for Justice. We are grateful for the opportunity to present on the sports law clauses of the Justice Bill. The Second Stage of the Justice Bill took place on the Floor of the Assembly on 2 November. It is now before the Committee for Justice. I know that this Committee has given the Committee for Justice its initial thoughts and comments, and I am conscious that there may well be more after this morning's meeting.

The Bill itself covers a wide range of areas. I am told that it is the largest piece of legislation that the Assembly has considered, with 108 clauses under a number of headings. There is a section on victims and witnesses in which we are introducing a levy on offenders that will contribute to a victims' fund. We are making changes to special measures for vulnerable witnesses and victims in court. Under the heading of community safety, the Bill will introduce new policing and community safety partnerships. Under the headings of efficiency and effectiveness, there is provision for fixed penalty notices for minor crime and first-time, non-habitual offenders. There is also provision for new conditional cautions and a lot of other reforms. The Bill is a substantial package, and the sports law provisions are very much part of that package, under the heading of community safety.

We are keen to take back any issues from this morning to which we need to give further consideration. David Ford sees this meeting as an important opportunity in the legislative process. I will say a few words about scope and approach. If you are content, Chairman, Ciarán Mee will set the context of those provisions in the Safety of Sports Grounds (Northern Ireland) Order 2006. Tom Haire will then give a brief description of the key clauses of the Justice Bill. I will conclude by saying a few words about our engagement with the Committee for Justice to date.

As regards scope and approach, the legislation is very much conceived in the context of the safety of sports grounds legislation. Ciarán will say something more about that in a moment. It is, at base, about improving the experience of all those who attend sporting events. It is about setting standards of safe behaviour that are backed up by criminal law, to support match organisers and stewards.

There are provisions concerning direct dangers such as the throwing of missiles and the use of flares. There are also provisions concerning things that could create a difficult or dangerous situation, such as alcohol, offensive chanting or the sale of tickets for segregated matches by touting. Provision is also made for banning orders for the small number of people who pose a risk of serious problems. I am conscious that, in the past, the Assembly itself has called for legislation in that area.

We want to stress the importance of seeing the legislative package as a framework within which the individual sports law provisions can be applied if necessary to the various sports in the appropriate ways and at the appropriate times. We detected that some of the stakeholders were worried that, on the first day of the Bill's enactment some time next year, everything would be applied to the maximum extent possible for every sport. However, that is not the case. We hope to show that flexibilities exist to reflect the nature and divergence of attendance at different sports through the commencement and application of the powers in the Bill. We are keen to make it work in best way possible. I will come back to that point.

As I said, Ciarán will say a few words about how the safety at sports grounds powers and our sports and spectator proposals are connected and the rationale for applying those powers as we propose.

Mr Ciarán Mee (Department of Culture, Arts and Leisure):

I thank the Committee for inviting DCAL to the briefing on the sports law provisions of the Justice Bill. As I understand it, the Committee asked DCAL to comment on the implications of those provisions for the Department. As we indicated in our briefing paper, the Department believes that the legislation will have little, if any, direct implication for DCAL in either

operational or cost terms. Having said that, the introduction of spectator behaviour legislation at larger sports grounds is identified as a key action to be taken forward as part of the implementation of ‘Sport Matters: The Northern Ireland Strategy for Sport and Physical Recreation, 2009-2019’. Much of the rationale for including that action in Sport Matters derives from the Northern Ireland Assembly itself, which, in September 2007, unanimously called on the responsible Department to bring forward laws to combat racism, sectarianism and violence at major sports events.

DCAL believes that such legislation should not be viewed in isolation. Instead, it should be seen as part of a wider package of measures that are being taken forward through the Department’s safe sports grounds initiative. Those measures are designed to help major sports ground owners to make their venues safer and more welcoming for spectators. That package includes the safety at sport grounds legislation, facility development, improved safety management and the training of stewards.

I am sure that, like DCAL, the Assembly and the Committee recognise that most sports fans here are responsible, well behaved and go only to enjoy the occasion. As a result, incidents of disorder here have never been on the organised scale of that experienced in, for example, GB. Even so, serious disorder, often resulting from an unauthorised pitch invasion, missile throwing, offensive chanting, and the misuse of flares and fireworks, does still occur from time to time. Apart from the injury and distress that that causes to the majority of well-behaved supporters attending games, evidence suggests that such episodes deter many more people from going to games who might otherwise have chosen to do so.

The Department believes that improving facilities and managing safety at sports grounds are essential in helping sports clubs and responsible fans to address problems of disorder where they occur at major games. However, we do not believe that safety initiatives are sufficient on their own. They need to be backed by legislation that clarifies what is acceptable behaviour at grounds and which can penalise the perpetrators rather than the clubs or the well-behaved fans.

DCAL is pleased to note that so far there appears to be general support in sport for most of the measures proposed by the Department of Justice. We also welcome the fact that the DOJ listens

to and takes account of the views and concerns of interested parties before finalising that package. DCAL welcomes that approach and is happy to support the Department of Justice in that process.

Mr Tom Haire (Department of Justice):

I will briefly go through the 20-odd clauses on sports in part 4. Clause 36, which determines regulated matches, sets the framework for what follows as to what offence applies to what sport. Along with schedule 3, it determines the application of the various powers.

The offences in clauses 37 to 43 around missile throwing, pitch incursion, firework possession, drunkenness, possession of containers, and alcohol consumption in sight of the pitch will apply to all matches played in Northern Ireland, football matches involving teams from the Northern Ireland representative teams, the top two IFA leagues and the top two FAI leagues, essentially because of Derry City playing in the FAI league. For Gaelic games, the powers will apply to those requiring a ground or stand certificate. We think that that will work out at about 14 existing Gaelic games grounds. For rugby union, it will be the same as for Gaelic games; it is the ground or stand certificate regime that engages the powers, and that only encapsulates Ravenhill at the moment.

In the application of the offences, some only apply to football. Ticket touting applies only to association football, as does the football banning order, and there are the types of matches and leagues that that will engage. Clause 36 also defines the periods within which the powers will apply. It defines what is called the period of a regulated match, and that is two hours before the start and one hour after the match concludes, and those time periods apply to missile throwing, pitch incursion, firework possession, drunkenness, possession of containers and alcohol consumption in sight of the pitch.

Finally, schedule 3 allows the Department to amend those provisions; for example, to change the hours, leagues, grounds or even to add or remove sports, so the Department has a flexible power to adjust the regulated structures. The actual offences, such as the throwing of missiles in clause 37, apply to the playing area and areas adjacent to it and could result in a fine of up to £1,000. Chanting would be an offence if it was indecent, threatening, abusive or insulting, essentially around section-75 groups, and again could result in a £1,000 fine. Pitch incursion

applies to the playing area or areas adjacent to it with caveats around lawful authority and lawful excuse. Again, that could be up to a £1,000 fine. Clause 40 is about controlling the bringing of fireworks into grounds. There are some quite complicated descriptors of flares included in the legislation to ensure that we encapsulate the right type of firework, for want of a better word.

Clauses 41 to 44 deal with alcohol, both at regulated matches, which are as I have described, and en route to and from such matches. Clause 41 makes it an offence to be drunk at a regulated match; clause 42 makes it an offence to have certain drink containers when trying to get into a ground or inside the ground in sight of the match; clause 43 determines how the possession of alcohol will apply inside the ground in sight of the pitch. Excluded from those provisions are executive boxes and registered clubs. The possession and consumption of alcohol in those facilities is not limited by the Bill. We have built into clause 43 flexibility as to how it would be applied. The Department of Justice would be able to disapply the offence; for example, to a whole sport or to a group of matches in a sport. Alternatively, it could restrict the period over which an offence would apply. We have engaged in detail with other sports as to how it would apply.

Clause 44 deals with alcohol in certain vehicles travelling to and from regulated matches, such as buses used for hire or financial reward. It would be an offence to possess alcohol in a hired vehicle going specifically to a regulated match.

Clause 45 deals with ticket touting. It makes it an offence to sell or pass on a ticket for certain football matches unless authorised by a match organiser; it targets risks to safety and order where fans need to be segregated. It focuses on matches that are actually ticketed and does not apply to all games.

The banning order regime is provided for from clause 46. It applies to regulated football matches played in Northern Ireland. They can only be imposed in conjunction with a criminal conviction where a person is engaged in violence or disorder and can apply to behaviour while entering or leaving a match, as well as at the match.

Clause 47 prohibits a person from entering premises if a banning order is imposed on him.

The ban normally lasts between three and five years but could be between six and ten. Failure to comply with a banning order could mean a six-month sentence or a £5,000 fine.

The remaining clauses provide for procedural requirements on the court, such as providing information, giving copies of orders and powers to adjourn, vary and adjust a banning order.

Clause 55 provides powers of enforcement. It provides the police with power to enter a ground during a regulated match to enforce any provisions if need be and powers of search. Police do not routinely police what are, in effect, routine privately organised matches, and we do not envisage that changing. It will remain for match organisers to steward and manage events with the ability to call on the police and to deploy those powers as and when appropriate. There may be occasions when the police need to act quickly and on their own initiative, and clause 55 gives them that back-stop authority.

Mr Johnston:

To close, Chairman, I will give a flavour of some of the issues that were raised when the Justice Committee discussed those provisions. Mr McCartney and Lord Browne are members of the Committee, so I am sure that I will quickly be corrected if I do not give a fair account.

We presented the package to the Justice Committee on Thursday 19 November, alongside presentations by the three main sporting bodies: the IFA, Ulster GAA and Ulster Rugby. The Ulster Rugby Supporters' Club assisted Ulster Rugby and, from football, the Amalgamation of Official Northern Ireland Supporters' Clubs made a separate presentation. Evidence was also presented by Sport NI. The Justice Committee also had written evidence from this Committee, and Mr K Robinson gave written evidence individually.

The football supporters impressed on the Committee their concerns that football was being singled out and that we took rather an ill view of football supporters. I offer a very different opinion: we support safe behaviour at football grounds and help people to enjoy themselves.

Ulster Rugby was concerned that fully implementing the provisions of clause 43 on alcohol would present it with problems, although it was supportive of the other provisions. The GAA

was concerned that the definitions of regulated matches, particularly the use of the stand certification definition, was too wide. Its preference was to regulate alcohol possession and consumption under its own arrangements. The IFA supported the package and, indeed, called for additional provisions around the football banning order. Sport NI supported the package, but it recognised that there is an argument for flexibility in the application of clause 43.

Having heard that evidence, the Committee has not come to a conclusion. We will have further discussions with it after Christmas, and it will consider the sports law provisions this afternoon. We detected support in and beyond the Committee for the provisions of the Bill dealing with penalties for in-ground offences such as missile throwing, chanting, pitch incursion and firework possession, although there were questions of whether ordinary criminal law was already sufficient.

Points of detail were raised on drafting. Clarification was sought on the definitions of “sectarianism”, “drunk” and “indecent”, and a point was made about whether laser pens could be included along with firework possession in what is banned from sports grounds. We are considering those points, and we will work with the draftsman as required. As I said, football supporters expressed the view that the provisions targeted their sport unduly, and some members of the Justice Committee felt that. However, that view was not shared by the football authorities, which strongly supported almost the whole package.

Taking up some of the points that the GAA made, the Committee discussed the depth or extent of games to which the package would apply. As a result, we are working with our DCAL colleagues. We feel that we can resolve GAA concerns about, for example, stand certificates.

Given that Ulster Rugby stressed the significance of clause 43, the Committee asked us for further thoughts. Since that Committee meeting a couple of weeks ago, we have again met Ulster Rugby. It was not our intention to commence clause 43 for rugby unless a need was demonstrated, and we offered to strengthen the requirements around consultation before any commencement in the Bill. The Minister has written to the IRFU along those lines, but, based on our discussion, we feel that it could serve at least as an accommodation with the rugby authorities, even if that is not their first preference.

Finally, the Committee raised enforcement issues. Members asked whether the package would lead to increased policing costs or a major increase in policing in sports venues, to which the answers were no and no. We seek to provide legislation that gives the backing of the criminal law to match organisers. We are not seeking to take over their roles and responsibilities, which, as we are aware, are often admirably displayed. However, we are giving them the authority to say that it is now against the law, for example, for people to come into their ground drunk or to chant whatever they want. It is about the normative effect and the declarative effect of the criminal law in saying that such activities cannot be practised at sports matches. As I said, it gives match organisers the strength of the criminal law behind them.

Whatever the outcome, this phase of consultation is important for planning and discussing with sports bodies so that implementation is fair and timely. The Justice Committee will consider the sports laws clauses this afternoon. We look forward to hearing the views of the Committee for Culture, Arts and Leisure and to working on delivering an appropriate package in law.

The Chairperson:

I welcome that you are listening closely to the governing bodies of sport. Examples that come to mind include the Ravenhill Friday-night experience, where people say that social drinking is taking place, which is not a threat to order, and the GAA seeking clarification about the measures that apply to its events. I welcome your opinion on the notion of allowing spectators onto a playing area at the end of a game for controlled celebrations, which might be a culture in a particular sport.

From talking to the sporting bodies, I get the impression that if something is not broken, there may be no need to fix it. Solutions need to be local and relevant.

Mr Johnston:

We can reach an accommodation on clause 43 in regard to rugby and on the provisions concerning GAA matches. The provisions in the Bill are for unauthorised pitch invasions. It is up to a sporting body or match organiser to say whether people coming onto the pitch is authorised. The Bill is phrased in that way so that paramedics are authorised to come on to the

pitch.

We have picked up from the sporting bodies that even where there is a tradition of celebratory pitch invasions at the end of matches, they are getting increasingly concerned about them. Last night in England, we saw an example of something celebratory turning a bit nasty. The sporting bodies are very aware of that, and work is ongoing to educate supporters. However, it is unauthorised pitch invasions that the legislation seeks to outlaw.

I take your point about not fixing what is not broken; we discussed that at some length with the Justice Committee. However, we are all too aware of examples of things getting out of hand at sports matches in recent years. We are trying to curb that sort of behaviour without spoiling the enjoyment of many thousands of people each week.

Mr Hilditch:

I declare an interested as the designated stadium operator and a safety officer at Taylor's Avenue stadium in Carrickfergus. Therefore, I do not want to get too involved in some of the issues.

Following on from the Chairperson's comment that if something is not broken it need not be fixed, perhaps we do not need a Rolls-Royce model when we are all Mondeo drivers. We saw that when looking at the health and safety, which highlighted some scandalous issues.

How will this work? It may work in the greater Belfast area, where there are plenty of police for stewards and safety officers to contact. However, if the police are not at Taylor's Avenue within 45 minutes, the stadium will have emptied and been closed and everything will be finished for the night. Then you will be left standing like a fool.

I do not know how it will work. Who will enforce it? The stewards and safety officers have the authority to take certain action when it comes to compliance with the ground rules and advising spectators what they should not be doing. I do not see how the provisions can be practically enforced. It may work in the greater Belfast area, but once you get out into the sticks, it will be different. There are games in some sports at which the police will not be in attendance at all.

Mr Johnston:

We do not want the Bill to lead to the police being in attendance at any more matches than they are at already, although the facility is there if match organisers or stewards need to call the police to a particular situation or to press charges.

Thanks to improvements over the past few years, what match organisers and stewards do on their own is often very effective. We see the Bill as simply giving extra protection so that instead of only being able to say, “Don’t do that”, stewards can say, “If you continue doing that you will be breaking the law, and we can and will call the police, which could lead to your being prosecuted.” It gives weight to what match organisers do. However, we do not envisage that it will require police to be present at every match or that it will change fundamentally how matches are policed.

Mr O’Loan:

Thank you very much for your presentation. I do not want to be definitive about the provisions in the Bill at present, because it is early days in my looking at it. I imagine that it is probably the same for other Committee members. We have still quite a bit of work to do just to get our heads around the Bill and its implications and where we sit vis-à-vis the Committee for Justice.

I just want to express a few concerns. I have a broad concern that those provisions have been borrowed from England and that the Bill may not adequately address the local situation. Considerable amendment may be needed before it goes through, if, indeed, it is even desirable that something of that nature goes through at all.

Alcohol seems to concern sporting organisations. Recently, I attended a corporate event that was associated with a football match. It was held before the match started at one of the Irish League clubs. The event was very well regulated. The club has concerns about whether there will be unreasonable restrictions on its events, which are perfectly well regulated and which it can police itself. Sporting organisations, generally, have stressed their ability to self-regulate.

The GAA is extremely unhappy with the Bill; it argues strongly that there needs to be

differentiation between sports. Their histories, cultures and traditions, and the nature of their crowds, and so on, vary greatly. The GAA has interesting direct experience of managing other sports' events at Croke Park. It says that when it managed those events, there was a world of difference between running a rugby event and running an association football event in Croke Park. Management arrangements, particularly, although not specifically, relating to alcohol, were very different. All that needs to be taken on board. The GAA wants much more freedom to self-regulate and believes that it has the capacity to do so through its own ground regulations.

The Bill proscribes chanting that is:

“threatening, abusive or insulting to a person.”

What is the significance of, “to a person”? There have been instances when chanting was directed at particular players, and clause 38(3)(b) would apply in those instances. If there is more general sectarian chanting, which is not, on the face of it, directed at any individual, would that be captured by the Bill? What is the significance of the legal expression, “to a person”?

Mr Johnston:

I will deal with those points in turn. Your first concern is that what is being done has been borrowed from England; however, we believe that our provisions are appropriate to Northern Ireland. England has legislated at different points for matters in the Bill, and we have learnt from that legislation. However, we have not adopted it wholesale; we have adapted it with Northern Ireland's needs in mind. Having said that, the news from GB is that those provisions have been very successful and have contributed — not entirely but at least in part — to much greater attendances at leading matches and to making the experience more family-oriented. As ever, therefore, we try to take the best from England and Wales without copying it wholesale.

As regards alcohol, there will, certainly, be flexibility and further consultation. As you say, there have been concerns about exactly how the alcohol provisions will apply to football matches, such as the times at which alcohol will be banned before and after a match. We have said that, although we aim to put in place a framework through the Bill, we will consult further with all the sports on how those provisions, particularly clause 43, will apply. As Tom said, taking alcohol in private viewing facilities or in social clubs in a ground is not included. Clause 43 is really about taking alcohol in sight of the pitch.

The GAA rightly made the point about differentiation. I hope that, by addressing its concerns about which stands are covered, we will go a fair way towards meeting those concerns. As with the other sports, we will consult the GAA about the application of the alcohol provisions. However, I gather that alcohol is not a feature of GAA matches, so there may be some flexibility there. Having said that, some types of behaviour are clearly not right in any situation, such as throwing missiles and having fireworks at grounds. Although we differentiate, we recognise that there is a base standard across all three of the sports.

Finally, it is our understanding that more general sectarian or offensive chanting will be covered even if it is not directed at a particular individual, because the general statement is offensive to various individuals at the ground. However, we will confirm that with the draftsman. It is our policy intention that the issue that you raised will be caught by the legislation.

Mr K Robinson:

I listened with great interest to the gentlemen's presentation. I wish to ask each of you the same question, before I ask my specific questions about the legislation. When did you last attend an Irish league football match or an Irish international football match at Windsor Park? We will start with you, Ciarán.

Mr Johnston:

Chairman, I am a little bit uncomfortable with the question, because, as civil servants, we legislate for all sorts of areas. If I were being very cheeky, I would say that, in recent years, I was able to bring through legislation on sexual offences without, I hope, ever having any experience of them. However, I will say that I have not been to a game of that sort since I was at school.

The Chairperson:

I think that we should park the question.

Mr K Robinson:

I asked that question to establish what understanding the gentlemen have of the legislation. If you have been at a football ground, you will understand my concerns. Apart from my visit to

Casement Park, I have not been at a Gaelic ground or seen a live Gaelic match. It has also been many years since I last saw a live rugby match. However, I have visited Ravenhill on several occasions. I want to know whether these gentlemen, who are trying to persuade me that the Bill is worthy of support, have the grounding to understand some of the concerns that I have raised in writing and that will probably be raised by members this afternoon. That is what I am trying to establish first of all. However, we will move on.

Clause 37 deals with the throwing of missiles. I do not know what happened at Windsor Park on Tuesday, because it was an all-ticket match and I did not have a ticket, so I could not go at the last minute. However, I know that there was snow around the pitch. Therefore, under the proposed legislation, if someone had thrown a snowball in celebration at the end of the match, would they have been taken to court or fined?

Clause 42 deals with the possession of drink containers. If a fan took their young child to a ground and the child required nourishment from some type of drink in a container, would the parent be challenged, ejected from the ground and taken through the courts? I have seen parents take out plastic drinks containers at matches and give their children a drink to provide some sort of sustenance.

I believe that in England someone was charged with throwing a missile because they threw chewing gum towards the ground. Our footpaths are rather littered with chewing gum, so does that mean that half of the population of Belfast will finish up in the courts? Some ridiculous situations are possible from the legislation, and a lot of the interpretation will come down to police officers. Will a police officer get on a bus and tell someone that they are drunk? What will he base that on? Will he have a breathalyser with him, or will he have some sort of medical expertise that will allow him to define the blood-alcohol level of a person on a bus?

We submitted to you a case in England of a Tranmere fan who travelled to Bristol for a match. There was an altercation outside the ground involving two young ladies, and the gentleman stepped forward to try to prevent it. He finished up being arrested and appearing before the Magistrate's Court in Bristol on four occasions, if I remember correctly. Eventually, a medical certificate was produced to show the magistrate that he had had a stroke two years previously,

which resulted in his suffering from slurred speech and being unsteady on his feet. He was arrested as being drunk and turned up in front of a court with that charge. The magistrate was sympathetic and said that, if he had not intervened, he would not have found himself in court.

The thrust of my argument is that it appears that football supporters are being made subject to certain conditions to which supporters of other sports are not being made subject. We heard you talk about the GAA's problem regarding stands, and we heard about Ulster Rugby's concerns. It strikes me, other Committee members and others who have looked at the legislation, that football is being pilloried. Yes, there are problems that need to be addressed, but it is almost open season on football supporters. A police officer will be able to, on a whim, make decisions that could result in a young man having a criminal record for the rest of his life. When such a young man appears in front of a court, he will not get the most sympathetic hearing from the magistrate, because he is a football supporter and certain perceptions are built into that. That is the underlying danger.

The legislation contains some points that are very useful to match organisers, but some aspects of it will penalise a whole section of the community. We and others pointed out that it will have a section 75 implication. No equality impact assessment was carried out, yet the provisions will have an impact on one set of the people who are included in section 75.

Mr Johnston:

The fact that applying the law sensibly will need a certain amount of good judgement on the part of police and prosecutors is no different from other elements of law. If I were to give Colin a shove, I would have, technically, committed a criminal offence, and there are witnesses around the table who saw it. However, I would like to think that I would not be prosecuted for that. We are well used to that concept in a sports context, because lots of things are done on the pitch, such as running up and tackling someone, that, on the street, would be considered to be assault and, possibly, battery.

Mr K Robinson:

Does that happen in all three of the sports that we are discussing today?

Mr Johnston:

Yes.

Mr K Robinson:

Are they are recorded on camera for the public to view?

Mr Johnston:

Yes. Things happen that could, technically, be regarded as criminal offences, but they are not, because of the situation in which they happen. The police are very focused on the importance of discretion in charging and prosecuting. I would be very surprised and disappointed if someone were prosecuted as having thrown a missile when they had thrown a piece of chewing gum on the ground. It may well be a littering offence, but common sense has to be applied. The question of whether a snowball would be considered to be a missile would depend on the situation. A certain amount of harm can be done with a well-compacted snowball.

Mr K Robinson:

What about a potato crisp packet? Some years back at Seaview, I saw a well-known brand of potato crisps trying to do a commercial by throwing crisps into the crowd and, in great hilarity, the crowd threw them back on to the pitch again. Is that a missile going onto the pitch?

Mr Johnston:

It is a missile going onto the pitch, but the legislation is about throwing missiles without lawful authority or lawful excuse. If this was a part of a promotion that the match organisers had arranged, there would be lawful authority.

Mr K Robinson:

Perhaps they did not like the flavour and that is why they threw them back onto the pitch.

Mr Johnston:

I do not envisage the police standing in sports grounds with video cameras, trying to catch people who throw crisp packets.

Mr K Robinson:

I am conscious of the time and do not want to trip you up in any way. However, those of us who attend football matches on a regular basis have noticed that since the police are less obvious inside grounds, or even not present at all, stewarding, by local people who know the situation and the individuals involved, has improved. Some of the representatives of Gaelic sports referred to that happening at Casement Park. That can deal with the vast majority of these incidents.

This legislation is totally unnecessary and will criminalise a particular section of young men in our community, with dire effect. It could drive them into a life of crime. If they cannot get a job, emigrate or go on holidays, their view of society will be a very adverse one. That is what concerns me, because football crowds are, to a large extent, young, working-class males. Most of them are Protestant, but an increasing number of Catholics support certain Irish League teams, and that will balance out over time. However, they are generally young, working-class males who will be treated in a different way from, say, some of the more mature spectators who follow other sports.

Mr Johnston:

I was in complete agreement with Mr Robinson up to a certain point.

Mr K Robinson:

I am obviously winning.

The Chairperson:

You have snatched defeat from the jaws of victory.

Mr Johnston:

I agree with him that stewarding and match organising arrangements work well, and we are trying to promote them. However, this is not about criminalising spectators. It is about helping people to have a good time and recognising that there are a few people who cause real trouble and for whom match organisers will benefit from the support of the criminal law.

I regret that an impression has got out that we are somehow targeting football supporters or

viewing them in the way that Millwall fans were viewed in the 1980s. That is not in any sense where we are in either Department. That is the approach that we take to implementing the proposed legislation.

Mr McCartney:

I sit on the Justice Committee. We have to be mindful that the genesis of a lot of these regulations comes from a different experience. In England, many problems arose in football grounds as a result of ticket touting and segregation. You can see the logic: ticket touts sell the tickets to fans of the opposing team who get into those terraces or stands and may cause trouble. It is understandable to want to tackle that problem. However, legislating for a Coleraine versus Larne game that happens to be all-ticket is like taking a sledgehammer to crack a nut.

Mr McClarty:

We would love a crowd-control problem.

Mr McCartney:

We have to be mindful of the genesis of the regulations. What are we trying to deal with? Is there a problem? There can be issues with crowd control and who handles it. If offences are committed, how are offenders handed over to the proper authority? However, if there is no wholesale problem, I do not think that there is a need for such broad legislation. The legislation should be focused on what we are trying to stop, rather than preventing what might happen.

Mr Johnston:

We are certainly aware that there have not been problems to the extent that we have seen in England and Wales. We are grateful for that. There have, however, been well-documented incidents. Your colleague Mr O'Dowd has asked for a list of those for the Justice Committee. The Minister will write to him, and we will be happy to copy that to this Committee.

The ticket-touting measures are aimed at segregated matches to support safety. If the Committee wants to offer views on whether we have got it right —

Mr McCartney:

I understand that, but which games will you segregate? When you identify the games that you want to segregate, that is where your proposals should be targeted. There is no segregation at most games. You may have it at big UEFA Cup or international games, but you do not have it at Irish League games.

Mr Mee:

We have talked to our justice colleagues about ticketing. Some games here are regarded as contentious, and the police may recommend that those are all-ticket. Our intention, whether we have expressed it well or not, is to look at those types of games.

Mr McCartney:

I understand that. There are segregation issues when Linfield play Glentoran, for example, or when Derry City play Linfield in the Setanta Cup, but ticket prices are not affected. There is no issue of someone having five tickets for the Derry end and selling those on to Linfield fans for twice the price. It is not about the price; the issue is that people have to be kept separate. I feel that the legislation may be over the top in that area.

Mr Johnston:

We are happy to look at that to ensure that it is targeted properly. It is about those situations in which there could be dangers if fans are not segregated properly. We will be happy to listen to any further observations from the Committee on that.

Mr K Robinson:

I wish to resurrect one specific question. We suggested to you that lasers should be banned from grounds. I do not think that you have responded to that suggestion. I have seen a laser used at a match, and I would not like to see it again. Will you address that problem specifically?

Mr Johnston:

There are already provisions concerning the sale of laser pens. The types that could cause injury to people's eyes are not to be sold. When the Bill was being drafted, our feeling was that other parts of the law covered laser pens. However, the issue has been raised in the Committee for

Justice as well, and we will certainly look at it again.

Mr K Robinson:

That would be helpful, because it would be a dangerous precedent if the use of laser pens were allowed to develop. If flares are contained in one section of a ground, they can add to the whole spectacle, as can be seen at continental matches. You obviously take a different view. However, lasers, regardless of their strength, should not be brought into football grounds at all.

Mr McClarty:

There were difficulties with flares at the Birmingham City match last night.

Mr K Robinson:

Flares were thrown at that match last night. However, at continental matches, a section of the crowd is allowed to let off flares within a controlled section. You get the colours of one team at one end and the colours of the other team at the other end, and it adds to the spectacle. Crowd chanting also adds to the atmosphere. At Auxerre games, one gentleman climbs up with a megaphone and encourages the crowd behind the Auxerre goal to chant, "Allez les bleus". A guy from Nantes does the same at the far end. There are ways in which the spectacle and atmosphere can be added to. Perhaps we might build little crow's nests behind the goals and have organised chanting instead of the stuff that we are talking about today.

Mr Johnston:

I am just worried that there could be an issue in distinguishing between what is a safe flare and what is an unsafe flare. However, we will certainly look again at the laser pen provisions.

Mr Leonard:

I support the point about laser pens and Declan's point about chanting against groups. I appreciate that you have already said that some thought will be given to that, but I just wanted to add my voice. I want to make a small point about banning orders, although I appreciate that this could be a rarity and hard to enforce. A person could be banned from attending designated matches. Should there be a facility for broader bans other than just bans for designated matches?

Mr Johnston:

Are you thinking about any particular sorts of matches?

Mr Leonard:

If a person has a reputation for using any sporting event to cause trouble, should there be a facility for a broader ban than just designated matches? I appreciate that it may be a rarity and hard to enforce, but could there be a situation that we may need to cater for in the legislation?

Mr Johnston:

One thing that we are looking at is whether there would be an opportunity for banning someone from a match outside the jurisdiction if they could cause trouble. There were some competence concerns about extraterritoriality, but we are exploring whether we could draft such a clause. However, if there any further thoughts I am happy to take them.

Mr Leonard:

There may be a rare situation in which a person or a group causes trouble and may need to be banned from a greater list of matches.

Mr Colin Watson (Department of Culture, Arts and Leisure):

The normal way of enforcing banning orders is to require an offender to turn up at a police station when the match is on. I understand that the matches may not be at the same time, but if they are the police station they cannot go to any match, whether designated or not.

Mr Leonard:

If a case were brought to court, a judge may not have the legal gateway to impose a broader sanction than a ban from designated matches.

Lord Browne:

Do you agree that most of the offences in the Bill are already criminal offences and that many of the other provisions will be difficult to enforce? For example, the definition of being drunk is loose and will be difficult to enforce. Drunkenness will become apparent when a person is disorderly, but that is already a criminal offence. Likewise, offensive chanting is already covered

if it incites hatred or causes offence. Will the provisions of the Justice Bill apply if an event is held in a designated ground?

Mr Johnston:

The existing law only goes so far and does not cover certain things that you might want to cover inside a sports ground. For example, the general law on assault would cover the throwing of a missile in a sports ground if the intent was to hit someone, but the intent must be proved. Through the Justice Bill, we are saying that people should not throw objects in sports grounds at all. Likewise, the incitement to hatred provisions could cover some forms of chanting but, again, you have to prove intention and whether the chanting actually incited hatred. Through the Bill we want to ensure that people do not engage in sectarian or offensive chanting when they are in sports grounds.

I take it that your second question referred to concerts and music events that take place in sports grounds. The provisions would not apply to those events; they would only apply to regulated matches.

Mr McCartney:

Colin, banning orders can stretch across more than one specific game. Currently, they can be placed on the games of specific teams. In the Justice Bill, that ban will be extended to any regulated games, meaning that offenders could go to amateur league games and cause havoc there. That is why Billy called for the provision to be extended to a particular type of offender.

Mr Johnston:

OK.

The Chairperson:

I thank the officials from the Department of Justice and those from Department of Culture, Arts and Leisure for coming before the Committee today.