



Northern Ireland
Assembly

**COMMITTEE FOR
AGRICULTURE AND
RURAL DEVELOPMENT**

OFFICIAL REPORT

(Hansard)

Forestry Bill

22 September 2009

NORTHERN IRELAND ASSEMBLY

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RURAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Ian Paisley Jnr (Chairperson)
Mr Tom Elliott (Deputy Chairperson)
Mr Thomas Burns
Mr Willie Clarke
Mr William Irwin
Dr William McCrea
Mr Patsy McGlone
Mr George Savage
Mr Jim Shannon

Witnesses:

Mr Stuart Morwood) Forest Service
Mr David Small)

The Chairperson (Mr Paisley Jnr):

The Committee is joined by David Small, chief executive of the Forest Service, and Stuart Morwood, director of woodland development strategies. You are both very welcome, and we appreciate your coming. We look forward to your presentation on the Forestry Bill. The floor is yours.

Mr David Small (Forest Service):

Thank you. This is the first opportunity that we have had to address the Committee since the Bill was referred to its Committee Stage. I plan to outline the background to the Bill, its main purposes and the main clauses. I expect that to take around 10 minutes.

Current forestry legislation dates back to 1953 in the form of the Forestry Act (Northern Ireland) 1953 and reflects the priorities of that time, when the main focus was on commercial timber production. That legislation is dated, and it has been evident for some time that new legislation was needed.

The forestry strategy that we published in 2006 highlighted two key policy priorities. The first was the need for sustainable management of existing forests to deliver the full range of forestry benefits, and the second was a steady expansion of tree cover. The strategy seeks to deliver a more competitive forestry industry through a balanced approach between producing commercial timber, protecting the forest environment and providing increased opportunities for forest-based leisure and recreation.

We need legislation that will provide a statutory framework to deal with those varied issues, and the new Bill will address the Department's contemporary and evolving commercial, environmental and social forestry objectives. It will allow us to obtain better value from the forest estate through new revenue-generating opportunities, and it will enable us to secure better use of recreational facilities and buildings and facilitate wider objectives, such as tourism. It will help protect all forest trees, both private and public, from damage; it will reintroduce a restriction on the felling of trees in private woodland; and it will provide a public right of access to state forests.

The Bill contains 39 clauses and two schedules. It provides a statutory framework within which the Department can deliver its forest expansion and sustainable forestry objectives. Clause 1 creates the foundation of the Bill. It describes the Department's duty to promote forestry. A similar clause set the framework for the 1953 Act, but the wording in the new proposed clause is wider to reflect an expanded duty to promote the wider economic, environmental and social context of modern forestry.

Our aim is to promote and facilitate the full range of benefits that forests can offer. That includes the economic benefits delivered by the timber industry, as well as the renewable energy opportunities that can be delivered. It also includes the wider social benefits. For example, we are currently working with a number of councils to develop recreational tourism products. We recently worked closely with the Northern Ireland Environment Agency to facilitate the relaunch

of the Ulster Way. We are currently engaging with the Tourist Board to identify the tourism opportunities in our forests and we are engaging with commercial partners to promote new leisure facilities. The draft Bill will enable us to develop those opportunities.

The Bill will also allow us to protect our existing woodland, both publicly and privately owned, especially where it has high biodiversity value — for example, ancient and long-established woodland. In promoting those wider social and environmental benefits, the Bill supports what is meant by the concept of sustainable forestry. That expanded duty is carried throughout the Bill, for example, in clauses 4 and 7.

Clauses 2 and 3 provide the Department with the main powers to support the afforestation of land and forest activity, including the acquisition and disposal of land, as well as the ability to provide facilities on forestry land to improve its amenity. That provision will enable the Department to deliver social and recreational forestry, for example, through arrangements with a range of partners. In July, we published a strategy to develop the recreational and social use of our forests. The provisions in the Bill will provide the Department with the powers to support the implementation of that strategy.

Clause 4 includes provisions to allow the Department to use or develop its forestry land for purposes other than forestry. The aim is to allow the Department to develop or facilitate what might be regarded as non-forestry opportunities — for example, tourism opportunities such as the provision of forest chalets or cabins in forests, which currently, under our legislative framework, we probably cannot do. It will also allow us to do things like develop renewable energy possibilities such as wind farms.

The provisions will enable us to better realise the full potential of our forests and, at the same time, obtain better value from the forest estate. However, in exercising those powers, under clause 4, the Department will be required to have due regard to the general duty — outlined in clause 1 — to promote forestry. Therefore, we must ensure that there is an appropriate balance when we use those provisions.

Clause 5 creates a new power to enable the compulsory acquisition of land for any of the functions under the Bill. We seek that power primarily to deal with situations in which forests and the associated timber assets are landlocked, and access, even after reasonable negotiations

with landowners, simply cannot be secured. In those situations, the public value of mature timber, which may be the result of many years of public investment, could be lost. Our primary purpose is to try and enable access to landlocked public assets. There may be other circumstances in which land may be required — for example, to facilitate access to a recreational or tourism type of project, or for biodiversity purposes. Therefore, the power is widely drafted. At this stage, we cannot see the full range of contingencies that may require such a power. However, our intention is that the power will be used very sparingly and only with ministerial supervision.

The vesting process is described in schedule 1 to the Bill and is based on the procedures that are used under the Local Government Act (Northern Ireland) 1972, which is considered to be the cornerstone of modern vesting law, with all the established rights, including recourse to an inquiry by the Planning Appeals Commission, compensation, etc.

Clause 6 provides the Department with powers to carry out inquiries and to collect and disseminate the results, including the preparation and publication of statistics for the purposes of any of the functions under the Act. That is largely a carry-over from the 1953 Act.

Clause 7 is a new power that allows the Department to:

“do anything which appears to it to be conducive or incidental to the discharge of its general duty under section 1(1).”

This clause also allows engagement in partnerships or participation in a body corporate in support of the Department’s general functions, which could, for example, include recreational or renewable-energy initiatives. The power is not intended to be additional to the general duty, but to supplement it.

Clauses 8 and 9 are intended to protect forest trees from damage by wild animals. Clause 8 allows an owner and occupier, in the event of damage by wild animals to trees growing on his land, to cull such animals at any time, either in his woodland or in any adjoining land that he owns. That clause applies to owners of any woodland, private or public.

Clause 9 provides the Department with a power to deal with damage or likely damage to woodland, public or private, by wild animals living in adjacent land in other ownership. The context for that is our long-term aim to double the area of forest cover. The powers are designed to enable the Department to limit possible damage and will only be exercised where landowners

are unable or unwilling to address the problem.

Clause 10 is a carry-over from the 1953 Act and is a standard provision in forestry legislation, aimed at protecting woodlands private and public from fire damage. Clause 11 offers protection to woodland owners or the Department's authorised officials taking action under clauses 8, 9 or 10 of the Bill against prosecution under the Wildlife (Northern Ireland) Order 1985 or the Game Preservation Act (Northern Ireland) 1928.

Clause 12 includes provisions to restrict the burning of vegetation close to forests and, again, is a carry-over from the 1953 Act. Clause 13 amends the Plant Health Act (Northern Ireland) 1967 to provide powers to make subordinate legislation to control the danger of tree disease posed by wood packaging.

Clauses 14 to 29 deal with the felling of trees. The key provision in this section of the Bill is the requirement for a felling licence to fell trees on land of 0.2 hectares or more. That will help to underpin our strategic objective of sustainable forest management. The aim is to ensure that private landowners manage their land with due regard to sustainability, including restocking, where appropriate, of sites that have been felled. We hope to use that mechanism to protect woodland of special biodiversity value — for example, ancient woodland. In order to obtain a felling licence the landowner will have to prepare a felling management plan for consideration by the Department. Our aim will be to keep that management plan as simple and straightforward as possible.

Felling licences are already a requirement in England, Scotland, Wales and the South of Ireland. Their introduction here is consistent with the principles of good forest management. In order to safeguard the interests of private landowners, there is provision for compensation. In the event that an application for a felling licence is refused, there is also a right of appeal against the decision. A further important provision is the power to require restocking after unauthorised felling. That provision also has an appeal mechanism. Procedures relating to an application for a felling licence and the requirement for a felling management plan will be described in subordinate legislation which will be subject to separate consultation.

Clause 30 of the Bill introduces a statutory right of access for pedestrians to the Department's forests for the purposes of recreation, subject to by-laws. The remaining clauses — 31 to 39 —

include powers of entry, regulation-making powers, provisions for amendments and repeals, and provisions relating to commencement of the provisions of the Bill.

That summarises the key provisions of the Bill. I apologise if it took a bit longer to deliver than I had hoped. I wanted, as far as possible, to explain the policy aims behind the legislation.

The Chairperson:

Thank you very much. That is a very helpful precis of the Bill. As you know, the Second Stage of the Bill was taken in the House last week, and it did not get universal approval. A number of concerns were expressed by Members of the Assembly and members of this Committee. I am sure you noted them.

You said that you are currently identifying ways to promote forests with the Northern Ireland Tourist Board. Are you not putting the cart before the horse in that regard? Should those ways not have been identified before the legislation was drafted? One criticism that has emerged is that the Bill is not ambitious enough and does not recognise the full potential of our woodlands and forests to make the hit with tourists.

Mr Small:

We have had discussions with the Tourist Board about where there may be tourism opportunities in the forests. We accept, and the Minister is clear, that we are not getting as much out of the forests as we should and that there is an awful lot more potential to be realised, in recreational leisure, tourism, health, education and so on.

Our feeling is that forests can and should deliver a wider range of Government objectives. We have been having discussions with the Tourist Board about the opportunities for tourism potential in the forests, and about which key sites can deliver more tourism. The Bill has been drafted to give us broader powers. We believe that the powers in the Bill, particularly in clause 4 and clause 7, give us sufficient power to enable us to deliver tourism products, either directly, in partnership with other groups such as district councils — we are working with a number of district councils at the moment on tourism products — or perhaps as part of a joint venture. Clause 7 would allow us to enter into a partnership or body corporate to jointly deliver a tourism, or renewable energy, project, where we can secure the public return at the same time as delivering a new product. Our view, and our legal advice, is that the Bill gives us sufficient powers to do all of that.

The Chairperson:

Who is leading those discussions with the Tourist Board?

Mr Small:

The first discussions were taken forward by me and my deputy, John Joe O'Boyle, along with Alan Clarke, the chief executive of the Tourist Board, and his colleague Laura Harvey. Ms Harvey is developing a paper that will set out where the Tourist Board believes there is scope to do more. That will take us forward in identifying the kind of projects that might be possible at key sites and the kind of partnership arrangements that we might want to see in place to help us take those projects forward.

The Chairperson:

Are you convinced that the Tourist Board is enthusiastic about that?

Mr Small:

I am; the Tourist Board is very enthusiastic, and we are very keen to work with it.

The Chairperson:

Has there been any exchange of paperwork yet between the Forest Service and the Tourist Board?

Mr Small:

Not really, other than letters arranging meetings and establishing the desire to work together. The next stage is that Ms Harvey will produce a memorandum of understanding or heads of agreement that will set out how we will work together.

The Chairperson:

If it is to meet the potential, my view, and that of other Committee members as expressed in the House, is that that is key to changing gear on our approach to getting the best bang for our buck from forests.

Mr Small:

We accept that. Another separate, but related, piece of work that we are taking forward is the development of a stronger commercialisation approach in the Department. We are working

jointly with the Strategic Investment Board (SIB) to identify the commercial opportunities to do more with the forests. In that respect we will be looking at the possibility of commercialising our current caravan and camping provision, which is generally very well regarded by all those who use the facilities. However, we feel that we are constantly struggling to maintain that standard of delivery, and the private sector would have an interest in delivering caravanning and camping on a commercial footing. We are working with the SIB to look at opportunities like that. We have just secured, with SIB assistance, a partnership with a company called Go Ape to deliver high trees adventures in our forests.

The Chairperson:

Monkey business.

Mr Small:

Yes. That company operates widely in GB. With the SIB, we will hopefully be looking at opportunities for tourism-type accommodation, such as forest chalets and forest cabins. Those are the kind of things that we are trying to take forward on a commercial footing with the assistance of the SIB and with commercial partners. On the other hand, we are also trying to develop relationships with district councils that wish to deliver tourism products and recreational leisure products, socially supported through public subsidy.

The Chairperson:

You will have to guard against advancing some private interests. It has to be an open competition.

Mr Small:

Absolutely.

The Chairperson:

I know that a number of Members have expressed an interest. I would like to come back to some of the issues later, but, to get the discussion started, perhaps Members will identify the clause on which they wish to speak.

Mr Elliott:

As you will appreciate, I will not go through the entire Bill today, because there is quite a bit of it. I will leave it until the Committee Stage, but I will mention a few broad issues. First, following

the plenary session, have Mr Small and his team identified anything that they can immediately think of that may be acceptable for the Department to bring forward as an amendment before we develop any of the other issues? Is there anything they see immediately that can be changed or amended so that we do not have to concentrate on it so significantly?

Mr Small:

At this stage, I do not think that we have, Tom. Following last week's debate, we want to sit down with the Minister and talk about any areas that she feels may be suitable for amendment. We have not done that yet. The Minister said in the Assembly that she wishes to withdraw the Irish hare from the definition of "wild animal", in the context of managing and controlling the damage that can be caused by wild animals. That is something that the Minister will be bringing forward. We have not yet had the opportunity to sit down and discuss with her the other issues that were raised in the debate. However, that is a process that we must take forward.

Mr Elliott:

Do you accept that clauses 4, 5 and 7 significantly change major areas of the powers of the Forest Service, giving it an unfair advantage over private commercial forest operators?

Mr Small:

I think that you are absolutely right. Those clauses significantly change the level of power that we have. However, the purpose of giving us some of those powers, in particular those provided by clauses 4 and 7, is to enable the Forest Service to take forward the type of projects that we just discussed, such as tourism-related projects.

Mr Elliott:

But the powers are not restricted to that, David. If they were, perhaps I could accept it. The difficulty is that they are not. The Bill gives you wide-ranging powers over compulsory acquisition that the private industry does not have. If those powers only provided for access, we could accept that, or, at least, see some way to develop it. However, the wide-ranging powers go far beyond what any private commercial operator can compete with.

Mr Small:

I will talk about the commercial forestry element in a moment. However, when it comes to developing tourism projects, we believe that the powers set out in clause 4 and clause 7 give us

sufficient scope to do that and do it well. If we are to try to draw back from that level of freedom to negotiate with a private organisation or, indeed, with a council, that will limit the wider benefits that forests can deliver. The compulsory purchase power was debated in the Assembly, and a range of issues were raised about the breadth of that power. The Minister noted the specific interests of the Committee and the other comments made during the debate. We will sit down with the Minister and discuss whether there are ways to amend that particular clause.

The clause was drafted in a broad way on the basis that, while we know that there will be issues around access to landlocked timber that we will want to try to address, we believe that similar circumstances might arise in facilitating a tourism product. Some adjustment might be needed, for example, to our own access roads into a site, such as broadening a corner. That is the type of adjustment that we might make and the type of problem that we might want to resolve. However, we do not know all the contingencies in which we would want to use that sort of power. Essentially, that is why it was drafted in that broad fashion. However, the Minister will have noted the comments of the Committee and the comments made during the debate, and we will discuss those issues with her.

The Chairperson:

You have twice said that those powers were drawn up to be used “sparingly”. Given that, and your explanation of the understated ways in which the power will be used, is there not an advantage, as has been suggested, to specifying how that power will be used?

Mr Small:

That is a suggestion that was made at a previous Committee meeting, and it is something that we will look at. We accept that those powers, as currently drafted, are very broad, and would enable us to compulsorily acquire land for any purpose. We acknowledge the point that is being made by the Committee, and we will discuss that with the Minister. There may be ways of restricting that. However, our concern is that we restrict it too far and face the situation, again, where those powers do not do what we want them to. However, that is an issue that we will look at.

Mr Stuart Morwood (Forest Service):

The Forest Service manages 75,000 hectares of open land and forest, mostly for forestry purposes. However, compared with other land managers — and comparison was made with the private sector — we want to achieve value from the asset. I recently visited a woodland estate

which had a significant wind farm attached, enabling the owner to ensure value from his estate. Clauses 4 and 7 allow us to achieve from the forest the value that we would expect any manager of land to achieve. That is important for public value.

Mr Elliott:

You miss the point. It gives you an unfair advantage over private industry and private foresters. You expect to increase your forest cover through private developers, because you are not going to do it yourself. You admit that the Forest Service cannot do that on its own, so you will expect the private industry to increase forest cover. However, they will be restricted, and you will have an open-ended approach. For example, if forest timber reached an exceedingly good price and Forest Service had 10,000 acres coming to maturity and needed access to it, you could easily get that through these compulsory powers. However, the private landowner does not have that same power. Forest Service, unlike private operators, does not need a felling licence. Therefore, it has a huge advantage over private industry, and that is not recognised in the Bill.

Mr Small:

I note the comments. Similar comments have been made by stakeholders during the consultation and in the run-up to introducing the Bill. Forest Service has noted the issue and will be discussing it further.

The Chairperson:

How much will felling licences cost? Is Forest Service proposing to pay compensation for refusing to grant a felling licence?

Mr Small:

Forest Service is looking at the issue of an application fee for felling licences. The Bill allows us to prescribe a fee. However, we are aware that no fee is payable for an application in England, Scotland, Wales and the South of Ireland. We are working on a business case to establish the merit or otherwise of having a fee. We recognise that it will be very difficult to apply a fee here when the same process operates elsewhere without a fee. We will take account of the number of applications that we expect to receive, the cost of administering the system, and the wider Department of Finance and Personnel policy on cost recovery.

The Chairperson:

And compensation?

Mr Small:

There are compensation provisions in the Bill in circumstances where we refuse a felling licence and that results in a loss for the woodland owner in terms of the value of the timber.

Mr Morwood:

Effectively, it is compensation for deterioration of timber value.

The Chairperson:

Over the period when the application was made and was refused?

Mr Morwood:

Over that period.

Dr W McCrea:

David and Stuart, you acknowledged several times that you had noted the comments that the Committee previously made. Yet, although you noted those comments, you went on with the Bill without actually addressing them. Once again, you have said to the Deputy Chairperson that you have noted the Committee's comments. However, that does not give us any confidence whatsoever. We are not asking the Department to note our comments. With the greatest of respect, if it was simply a matter of noting comments, we could have written to you, and a meeting would not have been necessary. We want more than the noting of comments.

The Committee's role is to scrutinise the Bill. I will not go into the detail now because we will be going through every section of the Bill clause by clause. We also need to hear the representations that are made by others. At the Committee Stage, we bring people in to make their representations rather than us doing that for them. We have to hear from those who are involved.

There are a number of things that you have set out. There is this bland statement:

"A Strategy for Sustainability and Growth".

Where in any of this is there a strategy for sustainability and growth?

Mr Small:

It is not in the Bill, obviously; the Bill is the legislative tool to enable us to deliver the strategy, which is a published —

Dr W McCrea:

We need to know exactly where you are taking us. Therefore, we really do need to have a strategy for that sustainability and growth. We need to know what that means in order to know the Bill that is required to accomplish it. If that is the background of the policy objective, it should be set out first. Then, in the light of where you want us to go, you bring in the legislation to support it.

It seems that we have a situation in which we have legislation in the minds of officials without having any clear or definite strategy. We can say that we want to double the area of forest, but you know very well that that has not been achieved. I do not know of anything that will attract farmers to plant trees. There has to be a policy and an incentive that will make them turn away from using the land for another purpose and plant trees. Quite frankly, that is going to take the offer of money. Have we got that money?

There is genuine concern among Members when we hear about the incidental powers that give Departments general powers to do anything. Elected representatives are suspicious of Departments looking for general powers, because that could mean anything, as we often find that it does. This Bill gives the Department power in such things as the compulsory acquisition of land.

The Deputy Chairperson has also made the point about the inequality of what the Department is demanding of others and what it is going to do itself. An example that has been mentioned is the felling licence that it will be demanded that people have, whereas the Department will simply decide willy-nilly whether that is so. You will also have the power to acquire land for the fulfilment of what you want. There is unfair competition between what the Department is demanding and what it can dodge.

Without going into the nitty-gritty of the Bill, which the Committee will go through line by line and clause by clause, particularly where we have concerns, what about the protection of the

ancient woodlands?

Mr Small:

I accept absolutely what you are saying about us noting the comments. When I say that I note the comments, I mean that I note them and I give the Committee a commitment that we will take them away, seriously consider them, discuss them with the Minister, and report back to the Committee.

Dr W McCrea:

My point is that you have had meetings with us in which you have noted those comments, but they are not seen anywhere in the Bill. Therefore, it seems to be noting with no outcome. We want something productive at the end of the noting.

Mr Small:

I appreciate that. In those earlier discussions with the Committee, a number of comments were made, but reference was also made to the importance of the Committee Stage that would follow and the opportunity that it would offer to have a real debate. In fairness, we were expecting that debate to take place at Committee Stage, having set out our proposals.

I accept your point about the need for a strategy. We published the strategy for sustainability and growth in 2006. It sets out our aims for sustainable forest management, how we address issues of forest expansion, and how we put in place measures and the kind of legislation thought necessary to enable us to ensure sustainable management of Northern Ireland's woods and forests.

Dr W McCrea:

That strategy was published in 2006, and we are now in 2009. What real changes can we see on the ground three years later? What has changed to give us confidence that we are not simply looking at words, but at a way forward?

Mr Small:

There are a couple of things. The first is the Bill. The strategy committed us to look at areas where we felt that legislative change was needed. We have done that, and we have developed the legislative proposals. The strategy committed us to taking a more serious approach to the social

and recreational use of forests, and in July 2009 we developed and published a recreational and social use strategy, which sets out a two-page implementation plan indicating what we will do to try to deliver more from the forests with regard to leisure, recreation, social use, tourism, health and so on.

While we have been developing the Bill, which took a fair bit of work, we have also been developing and publishing our recreation strategy, which was quite a piece of work and involved consultation. We have been working hard to develop new approaches to promoting, marketing and incentivising woodland planting as part of our forest expansion aspirations.

I accept that we have not been making as much progress as we would like. We have been involved in a review of those incentives and how we incentivise woodland creation. That has involved a review of the rates of incentive and grant, and it has involved looking at other, more extensive, means by which we can make woodland creation happen at a faster rate than at present. I accept that it is difficult to persuade some farmers who have been farming their land for years, and in some cases generations, to set aside that agriculture interest in place of forestry. Nevertheless, it is something that we need to try to address.

You raised, as Mr Elliott did, the issue of felling licences applying to private woodland owners but not to us, and the issue of compulsory purchase and the advantage that that might give us. All I can do at this stage is note those comments and give an undertaking that we will take them away and look seriously at what is being proposed and what has been said, and see whether we can make amendments that would try to balance that a bit better.

We believe that there are provisions in the Bill that will enable us to manage and protect ancient woodland in the future. We do not have a provision that clearly indicates that ancient woodland will be protected in all circumstances, but we believe that there are provisions in the Bill that will enable us to protect the higher-biodiversity woodland in Northern Ireland, such as ancient woodland, long-established woodland and native woodland.

Mr Morwood:

That provision is made specifically through the felling regulation, which enables us to indicate to owners the timing of their felling, the extent of their felling and how woodland should be regenerated. It is worth bearing in mind that ancient woodland is a living thing: trees are young,

they get older, and they die. Woodland will often be managed, and owners will often want to fell individual trees in their woodland for a particular end use and to derive benefit from it. The felling regulation seeks to ensure that that is done according to good forestry practice, which is identified in the UK forestry standard that is just out for consultation, along with the associated guidelines and booklets available on the subject. Through the felling regulation, we will be able to assess an owner's proposal to manage his ancient woodland, and we expect that to be managed in conjunction with good forest practice. We will apply that to ancient woodland and to other types of woodland.

The Chairperson:

Do you feel that there would be more chance of growth, success and development if the scheme was grant-supported?

Mr Small:

In terms of creating new woodland?

The Chairperson:

Yes.

Mr Small:

A grant scheme is available, and broadleaf trees account for 70% of its uptake. We have issued clear guidance on, and definitions of, "native" woodland to ensure that anyone who is contemplating putting woodland in place understands what is needed to make it "native".

Mr Morwood:

Incentives for the establishment of woodland are available through the woodland grant scheme. In addition, annual payments are available under a farm woodland premium scheme to compensate for income forgone for a period of up to 15 years. Support is available to landowners through the rural development programme, the woodland grant scheme and the farm woodland premium scheme. As David indicated, we have recently examined those levels of support.

The Chairperson:

Do you accept that those support levels are not sufficient to attract a lot of people to forest diversification?

Mr Morwood:

I recognise that, in the previous year, we did not achieve the target that we set out to achieve. In the three years previous to that, we did achieve our targets on the annual rate of increase in new woodland. The decline in uptake has made us focus not only on the rates but on how we promote the schemes and engage with farmers and landowners to ensure that they are aware of the schemes and can see the benefits of woodland ownership.

Mr Small:

Although we achieved our targets in those years, we recognise that we need to set higher targets if we are to achieve our long-term target of doubling forest cover.

The Chairperson:

We will measure your commitment to those stated objectives by the changes that come forward as a result of today's dialogue.

Mr W Clarke:

The Bill should make reference to using forestry as a tool for alleviating flooding and combating climate change. It is more than 50 years since the last change was made, and it could be a hell of a long time until the next change is made.

I agree with you about ancient woodland: management is the key. There is no point in having 200-year-old trees and no growth of young trees. You could get a storm and they would all be gone, so management is vital. How does that dovetail with Department of the Environment (DOE) tree preservation orders? How do you work with other Departments in relation to that? Which Department has the greatest powers?

I am glad that there is great emphasis on positive stuff such as recreation, social wellbeing and tourism. However, those things must be delivered, and there is a difficulty in relation to recreation. I do not want to get into that, but at times there seems to be a bit of foot-dragging. It is a case of Forest Service managing change and making it clear that the organisation is no longer into only wood production. It is a new phase, and you must take people with you. How difficult is it for you to manage change?

It is obviously going to take a considerable amount of money to deliver the Bill. Will the generation of new income that is needed to deliver the changes remain ring-fenced within Forest Service?

Will there be a greater opportunity to employ people in forestry? I envisage that we will need many more staff to deliver the programme. Who will administer repairs to roads and restore damage on roads? I am conscious that the Department for Regional Development is responsible for standards on rural roads and stuff like that. Who will administer repairs, and how will that be rolled out?

Mr Small:

I appreciate that the wider issues of climate change and flood alleviation are not explicitly mentioned in the Bill. We fully recognise those issues. However, we feel that we have sufficient power to do what is needed — to mitigate and adapt, from a forestry perspective, on climate change and to maximise the Forest Service's role in flood alleviation. I will, perhaps, say more about that issue in a moment.

You talked about the distinction between the felling regulation system that is proposed in the Bill and tree preservation orders. The Bill's aim is to protect areas of woodland and forestry rather than individual trees or small numbers of trees, which will continue to be protected by the tree preservation order system. I know that that system can have weaknesses, but it is the system that is there to deal with that kind of situation. Our focus is very much on areas of woodland and forestry; that is the type of woodland that we want to protect.

Income retention is something that we would like to see happen. In our discussions with the Strategic Investment Board on our joint work trying to identify commercial opportunities, part of that arrangement is an acknowledgement that we should be able to retain some of the income that we secure. I would like to think that that income can be recycled, either by increasing staff numbers or by taking forward further initiatives to get more commercial projects going.

The issue of employing greater numbers in forestry introduces the issue of wider resourcing within government. We have been under quite a bit of pressure in the past couple of years, and it has forced us to become more efficient. That has meant reducing staffing numbers. I expect that pressure to continue. However, it would be good if our work with SIB on the commerciality of

our activities could enable us to retain some income. We will certainly continue to negotiate to that effect with SIB and, ultimately, the Department of Finance and Personnel.

We acknowledge the issues of roads. The Minister and I receive correspondence about that. We are engaging with Roads Service to try to find a better way through which either Roads Service or Forest Service can become more clearly responsible for repairing damage that we are satisfied has been caused by forestry operations. There is nothing in the legislation about that. We have had discussions with Roads Service, and we believe that we can put mechanisms in place without legislation. The Roads (Northern Ireland) Order 1993 contains legislative provision that allows Forest Service to go out and do work. However, we need to develop any approach in more detail with Roads Service. We acknowledge that problem and are committed to addressing it.

Mr Irwin:

Like other members, I welcome some parts of the Bill and have concerns about others. It is positive that Forest Service is looking at tourism. In my area, Armagh, Clare Glen and Gosford Forest Park have been used in conjunction with the council. That is good. As one member has already said, elected members always fear too much power, because it might be abused. We need clarification on that matter.

Clause 4 outlines the powers that the Forest Service wants to have over its own lands. That is fair enough; Forest Service needs power over its own lands. The compulsory acquisition of land is more difficult. I understand that there may be narrow laneways and other things that could be difficult. However, it needs some tidying up and clarification.

Mr Small:

That point has come through strongly. We take note of it and we commit to considering the issue.

Mr Shannon:

I apologise for being late this morning. I had a meeting set up in advance of the Committee and it had to go ahead. I am sorry that I was not here to hear the presentation. I suspect that Tom was the first to speak after the presentation. Is that correct?

The Chairperson:

Yes.

Mr Shannon:

I caught the gist of what he was saying.

The Chairperson:

Go ahead and ask a question.

Mr Shannon:

I am concerned about a number of issues. I am not sure that this is the time or place to raise them. However, I want to mark up what other members have said, and in particular what Willy McCrea has said.

If we wanted to have a wee chat, we could e-mail each other using the modern system of technology, but that is not what we are about. The Chairman has reiterated, and I agree with him, that the Forestry Bill should incorporate all the issues that we have. The Department should respond to that. The Minister has said in the Chamber that she will work with the Committee to bring things forward. She wants the Bill just as we do. However, it is not right that we support it uncritically. I want to be sure that all the issues are dealt with.

The Chairperson:

I hope that we will help to get it right. That is the intention that I proceed on.

Mr Shannon:

I am convinced that we will. That is my intention, too.

Compulsory purchase of land has already been mentioned. I will not go over it again, but I want to make it quite clear that I, too, have those concerns. There are other ways of doing business without resorting to compulsory purchase of land. You could have a compulsory right of access. There are ways of doing things without taking land away. If we are going to have a process of moving forward together, which is what we are here for, let us do it without the compulsory purchase provision.

Mr Morwood mentioned that take-up in relation to new woods and the planting of trees has not been as good over this last period. The Minister has said in the Chamber that she would like tree-planting to increase by 6% to 12%. I am sorry, that is off the top of my head. We need to have incentives in place to ensure that that will happen. It is all very well to say let us do it, but it will only happen if there is something to encourage farmers to do it. It is not just about the reworking of land. When you plant trees, you take that land out of agricultural use for a great many years beyond the time when the trees are removed.

I am very concerned about — I hope I have the right clause here —

The Chairperson:

Just call out the clause and ask the question. No need to go through all 30 clauses.

Mr Shannon:

I have only half a dozen here. The compulsory purchase of land is in clause 5; clause 1 is the incentive to plant trees; clauses 8 and 9 are to do with the powers of the rangers. That sounds exciting. Rangers, like in war films, go onto private land adjacent to forests public and private to shoot deer.

The Chairperson:

OK, Tonto.

Mr Shannon:

I am very concerned about opportunities that the rangers might have. In particular, the DOE has a red grouse project under way. That is a biodiversity project that requires that everyone play ball. I am concerned about that project, which £0.5 million of private finance has been put into. The Department of Agriculture and the forestry rangers might be roaming freely over land, doing away with all the good work that is done.

I am also concerned at clause 11, which enables staff to shoot deer day or night. There has to be some control over departmental officials and staff. We have to think about where we are in relation to deer welfare. It is about managing the animals, deer in this case, in a sustainable way.

Also according to clause 11, your staff are exempt from the provisions of the Wildlife

(Northern Ireland) Order 1985 and the Game Preservation Act (Northern Ireland) 1928. Why should that be? Nobody is outside the law. I am putting down a marker. I am concerned that the rangers — not Glasgow Rangers, the other rangers — are exempt from the provisions of the 1985 Order and the 1928 Act. That must never be the case.

You said that the Department may cull deer that might cause damage, for goodness' sake. Every person who drives a car “might” cause an accident; every person who walks across the street “might” get knocked down; every deer that happens to be in a forest “might” cause damage. It is unbelievable. I refer back to clause 9. The Department wants the costs of such deer culling on private land to be recoverable from the owners of adjacent land, and that is supposedly for the benefit of other private woodland owners. They will shoot all the deer, take them back to wherever they go to and then send the bill to the landowner, because it was his or her land on which the animal was shot.

Mr McGlone:

And they were wild.

Mr Shannon:

And they were wild. It is incredible. The Forest Service accepts no responsibility for road traffic accidents that are caused by wild deer. That is correct. I accept that; that is how it should be. Neither does it accept responsibility for losses incurred by sheep farmers from foxes that inhabit their forests and stray out onto farmland. However, the Department wants to reverse that in its own interests and cull wild animals on private ground. You cannot be poacher and gamekeeper; you are either one or the other. Hopefully, you will not be a poacher. If you are, you will be on a sticky wicket. It is worth noting the inconsistency of this.

Earlier, I mentioned the £500,000 grouse project. There are people putting their hands deep into their pockets to ensure that the grouse are encouraged to multiply, and there will be economic benefit to that.

The compulsory purchase of land has been touched upon. During the Bill's Second Stage, I said that at no stage when talking about clause 4 did the Minister refer to recreational deer stalking or recreational shooting. There is an economic benefit there which the Department has not taken on board and which is being denied. It is not mentioned anywhere here. The Minister

said in the Chamber that she was prepared to look at it. I am asking the Department to do that and make sure that they have taken it on board.

My last point, which everyone will be glad to hear, is to do with —

The Chairperson:

I am enjoying this, Jim; it is very informative.

Mr Shannon:

I suggested that there is a need for a deer forum or a users' forum. The Minister indicated that she would be receptive to that. I introduced my comments by saying that I would be unhappy if we proceeded with a Forestry Bill that does not take those issues on board. However, I think that the Minister and the Committee can work together to deliver that. It takes us to work together, and it takes the Department to be receptive to the viewpoints put forward by members around the table today. I hope that all of the points are taken on board. I am sorry for the lengthiness of my comments, but it is important that I put down the marker at this stage. I will be watching with great interest to see whether the Bill that everyone wants is delivered.

The Chairperson:

Mr Small, I think that you get the gist. A balance has to be struck between the extent of the powers that the Department wants and what is in the best interests of the Forest Service. There was a lot of detail in those questions. I want you to give a general answer now, but I would like you to come back on each of those issues, because there is a lot there, and we need to get it right.

Mr Small:

You talked about compulsory right of access, as have other members. We will be properly considering all of the issues that have been raised and reporting back to the Committee. You talk about forest expansion and the need for better incentives, and that is something that we are looking at. We recognise that we are not achieving as much woodland creation as we would like or need to support if we are going to achieve our longer-term targets. We are looking at that whole issue. However, I do not think that that is something for the Bill, which, if it is passed, will give us powers to pay grants, incentives and annual premiums. The power to do that will be enshrined in the Bill.

Mr Shannon:

It is not that the power is not there, but the incentives must be right to encourage people to take advantage of it. If they are not right, who will do it?

Mr Small:

As I said, we already pay incentives, but they are not achieving what we want, so that is something that we are looking at.

You spoke a lot about clauses 8 and 9, which are about controlling the damage to forests by wild animals. For example, you talked about the exemption for authorised officers of the Department who shoot deer and who would otherwise be in contravention of some of the other wildlife legislation.

Mr Shannon:

You should be aware that such people might also be in contravention of environmental legislation.

Mr Small:

We are aware of that. The protection also applies to other woodland owners who cull wild animals under clause 8, so it is not just something that we are putting in place for our own —
[Interruption.]

The Chairperson:

My Clerk has just culled a wild animal.

Mr Small:

Clause 11 specifies that it is any landowner who exercises the powers under clauses 8 or 9. The other thing is that the power in clause 9 to go on to adjacent land to control deer is only exercisable when everything else has failed. We will endeavour to resolve those situations by negotiating with landowners, and it will only be when that fails and it is apparent that an entire area of young woodland will be destroyed that we would want the power to go in and deal with the problem. But I appreciate the sensitivities of what was suggested —

The Chairperson:

The legislation could be shaped for specific, rather than general, circumstances. That brings us back to comments that were made earlier.

Mr Small:

The only other issue is clause 4, which does not refer specifically to recreational shooting. In fact, it does not mention any particular recreation, whether that is high-trees adventuring or mountain biking. We are not trying to specify in the Bill every form of recreation that we will want to facilitate.

Mr Elliott:

Otherwise, you would have to put in wild dove shooting.

Mr Shannon:

Before mountain biking became the modern-day craze that it is, hunting deer, whether by bow and arrow, spear or modern firearm, had been going on for centuries, so it seems to be a bit unrealistic to have excluded it. There is potential to be realised.

The Chairperson:

The point that the Bill is unambitious has been well made, both in the debate and around the table.

Mr Shannon:

I think so. There was one other thing — the forum.

The Chairperson:

We really have to move on. Be very quick about the forum, because time is getting on.

Mr Small:

The forum issue was mentioned during the debate, and, again, we will discuss it with the Minister.

Mr McGlone:

A number of issues have already been touched on in considerable depth. I am anxious to

establish the level of collaboration that there will be on the burning of vegetation between the Forest Service and the DOE, particularly the Northern Ireland Environment Agency. Many people from the farming community and rural areas will know about problems with licensing for lighting fires and about officers landing out with them, so I am concerned that they might have to go through another permission-seeking process, which would further add to an unending stream of bureaucracy and red tape. Therefore, in order to ensure that we have not created more hoops for people to jump through just to burn a lock of briars, I am anxious to establish the level of contact with yourselves, and, for want of a better phrase, your harmony of approach on this matter.

When we come to clause 30, I will be interested to get a flavour of the Department's thinking on the by-laws.

Finally, bearing in mind what Mr Shannon referred to earlier, the explanatory and financial memorandum says of clause 31:

“in a case of extensive damage being caused to forest land by wild animals on land adjacent to the forest”.

I would have thought that, in the first instance, it should read:

“from land adjacent to the forest”.

However, does that tie in with making the landowner on whose land those wild animals currently are responsible for any damage that those animals may have caused on forest lands? They may not even be his animals or his stock. If the animals are on land adjacent to the forest, they cannot damage the forest, if you know what I mean. The language is either clumsy or incompatible.

Mr Shannon:

You can almost see the stag and the doe on that person's land —

Mr McGlone:

You would need to have a pretty long neck.

Mr Shannon:

They say, “don't go across that line”. What they do not know is that the ranger is on top of the hill watching them, and he blows the both of them away.

The Chairperson:

Is that what you do?

Mr McGlone:

Anyway, that is something that we can discuss later. In the light of what Jim said, it is something that we want to watch.

Mr Small:

I do not think that there is any intention —

The Chairperson:

I do not think that anyone trusts the Department; I just get that impression. *[Laughter.]*

I do not know if you have picked that up or not. Most of my colleagues have been very subtle in their approach.

Mr Small:

I have tried to describe the circumstances under which the powers in clause 9 would be used; that is, in circumstances in which we have not been able to reach agreement with the landowner on a resolution to a problem that we know exists, where a significant piece of either private woodland — which has been the subject of private investment — or public woodland is seriously at risk. In a situation in which one stands to lose the entire area of woodland unless the animal, which happens to be a deer, is dealt with, it is only after discussions and negotiations with the landowner that we would go in and use that power to cull the deer. It is not something that we would resort to as a first option.

Mr McGlone:

I was questioning the wording of the explanatory and financial memorandum.

Mr Small:

I do not have the memorandum to hand; I have a copy of the Bill. However, I will look at how that is worded.

Mr McGlone:

Thank you.

The Chairperson:

Thank you for that comprehensive explanation of those clauses. Following on from what I have heard, it is my intention to consider inviting the Tourist Board and the SIB to give us their views. I know that you have had discussions with them as well. That would be very helpful to us. There are some substantial matters to consider, and which are of genuine concern to people. I would like you to come back on those issues so that when we go through the Bill we get an agreement. Otherwise, the Bill will end up being opposed in the House. We want an efficient piece of legislation that will be as ambitious as it needs to be.

I ask members to approve the submission of a draft motion to the Business Office for an extension of the Bill's Committee Stage to 2 March 2010.

Members indicated assent.

Mr Small:

I assure members that we will consider seriously the points that have been raised and report back to the Committee. It is our desire to reach an agreement on the Bill that we can all be comfortable with.

The Chairperson:

That is great. Thank you very much.