

Monday 16 January 2017

essence, we have had a retrospective application of what was done in November 2015. Given that that is the case, it raises the question of why this was not done sooner in the current financial year. It seems that we have missed the boat over recent months for having this type of approach put forward, properly scrutinised and implemented. I am concerned about why that has been the case.

Finally, I am just learning from my colleagues that it has been confirmed that dissolution will not take place until 25 January, so, clearly, we will meet next week as an Assembly. In that context, the point that I made about the Minister not pressing this to a vote today and the matter returning to the Committee to provide for further scrutiny and coming back to the Assembly next week would be a much more viable approach — indeed, a more genuine approach — that would allow for the public to have a stronger degree of confidence that what we are being asked to do is very much in the public interest. Given the very rushed manner in which this has been done today, while it may eventually go through, I dare say that there will be a question mark hanging over not just the motivation behind this but how effective it will be in practice.

Mr Nesbitt: On a point of order, Mr Speaker. As Mr Farry said, the Secretary of State has called the election for 2 March, with dissolution not occurring until Thursday 26 January — that is, next week. On that basis, under Standing Order 16, I move that we adjourn the debate on this motion until next Monday, 23 January, and ask the Minister to come back with certainty about the opinion of the Examiner of Statutory Rules. The Committee for the Economy will have time to move off its position of simply noting the regulations, and we can not only see a robust business case but get confirmation that the European compliance unit is happy with the regulations.

Mr Speaker: Members, a motion has been proposed by Mr Mike Nesbitt that the Assembly adjourns the debate on the draft Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017 for seven days.

Mr O'Dowd: On a point of order, Mr Speaker.

Mr Speaker: Let me finish. I am content that the motion is in order, and I propose to allow up to 30 minutes for a debate. Members will have a maximum of three minutes in which to make their comments and should indicate their desire to speak by informing the Table. The mover of

the motion will have three minutes to propose and three minutes to make a winding-up speech. If the House divides, it will be by simple majority.

Mr O'Dowd had a point of order.

Mr O'Dowd: Sorry, Mr Speaker, you have just given your ruling. My point of order was to ask for further details.

Mr Speaker: OK. I propose to suspend the sitting for 10 minutes to allow Members to make arrangements for speaking in the debate. The Assembly is, by leave, suspended.

The sitting was suspended at 5.42 pm and resumed at 5.58 pm.

Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017: Motion to Delay

Mr Speaker: The sitting is resumed. The next item of business is a motion to delay the debate on the draft renewable heat incentive regulations.

Mr Nesbitt: I beg to move

That this Assembly, in accordance with Standing Order 16, adjourns the debate on the draft Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017 until Monday 23 January 2017.

It hardly needs to be said that this is an incredibly serious issue, given what it has done to us collectively over the last number of weeks and what came to pass almost exactly one hour ago. Let me emphasise that this is not party political; this is about the integrity — Members may snigger, but this is about the integrity — of these institutions.

It is about starting the process — it would be only a very small step on a long journey — of restoring public confidence in devolution.

6.00 pm

I will use language that I have thought through carefully. The renewable heat incentive scheme is a debacle. That is not my word but the First Minister's. What the public probably think of these institutions, and of us collectively because of RHI, is probably not fit for parliamentary language. Why delay? Very simple: it is at no cost to the public purse. The

Monday 16 January 2017

£85,000 a day that we are burning off because of the overspend continues, even if these regulations are agreed today or next week, until at least 1 April. That is over £6 million. However, there will be no cost to the public purse if we wait for one week. In waiting for one week, the Minister has opportunities. Specifically, there is an opportunity for the Examiner of Statutory Rules to give a definitive view on what is being proposed. We do not have a definitive view from the Examiner. Reference was made to Standing Order 43. The proper way to do business — the good way and the best-practice way — is to get the view of the Examiner.

The Committee for the Economy would also have the opportunity to consider and scrutinise the legislation. The Minister and permanent secretary were before that Committee this morning. All that the Committee could do was to note the legislation, not approve it. There is no business case for it, and the Minister made clear that he has been working on it for a long time. Another seven days gives him the opportunity to complete it.

Finally, the European unit can give a view on whether it is compliant with European legislation. Let us remember that the regulations make clear that they will take effect from 1 April or when the European Union says that it is happy that they do not contravene state-aid rules.

There are four very solid reasons for why we should delay for a week at no cost to the taxpayer. Given that this is about good governance, the argument is made. Let us adjourn until Monday 23 January.

Mr Lyons: The whole House will be aware of the public concern over, interest in and anger about the renewable heat initiative. I certainly support the Minister bringing the regulations before the House, because, along with an Independent Inquiry, one of the things that the public want to see is cost controls. They want to see the cost of this brought under control. The regulations brought by the Minister will help to do that.

We met as a Committee this morning, and the timings for all of this have not been ideal. We would like to have had more time for the Examiner of Statutory Rules and the Committee to have a look at the legislation so that we can give it some of the extra scrutiny that it needs. That is not always possible, however. When we began our debate this afternoon, we were not aware of how long we had left in this Assembly. That has now been clarified, and we

now know that the Assembly will not be dissolved this week but that we will have an opportunity to meet next week. Doing nothing on this is not an option. However, to delay for one week is a reasonable request, and I believe that it will give us time for some of that extra scrutiny that the Member who spoke previously mentioned.

Therefore, we are content to support the adjournment. We want to see the regulations go through and believe that it is right that they should. The Secretary of State has afforded us an extra week, so we believe that we have more room in which to do that. It is important that the regulations be brought back to the Chamber next Monday so that Members can have their say and a vote can take place.

I want to bring up something that was said during the debate by the Member for South Belfast Mr Ó Muilleoir. He talked about other parties' dereliction of duty. I look around the Chamber, just as I sat in Committee, and it seems to me that there is only one party that has abdicated its responsibility, and that is Sinn Féin. It has not been prepared to come to Committee and do the work and scrutiny that should be done on this.

I certainly hope that they will change their mind and play a role in the Assembly. The public are not interested in some of the party political back and forth that has been going on. They want to see a solution to this.

Mr Speaker: Will the Member conclude his remarks?

Mr Lyons: They want to see costs controlled. I believe that we can do that through these regulations, so let us use the next week to scrutinise that further.

Ms S Bradley: As the SDLP's economy spokesperson, I welcome the opportunity of the extension. I doubt very much if any Member drove to work today in the hope that we could genuinely plug the hole in what is an £85,000 per day haemorrhage to the public purse. Sadly, even though I arrived here with an open mind and a positive outlook, I watched the day unravel. I listened to the Minister, who presented to us a case. He expressed his regret that there had not been time to get the agreed business case and that we would not be able to follow normal scrutiny process, and he put it to us that the decision would have to be made in the absence of good legal practice. Members of my party, including me, were very uncomfortable with that, weighing up the

Monday 16 January 2017

balance of the loss to the public purse with the request that was put in front of us to carry out a piece of work that would be highly irregular, face legal challenge, no doubt, and maybe cost the public purse beyond anything we could begin to calculate or anticipate.

Things have moved quickly here today, as you will appreciate. I listened then to the Finance Minister give a very moving speech, although I am rather cynical that it was on the sniff of an election, about how he has great concerns about the public purse, as do I. He has great concerns, and he used the opportunity to list things that were of precious importance to him — things that did not appear in the draft Programme for Government. He made clear to the House that he believed the right and proper thing to have done would have been to stop the loss of that money to the public purse. Herein, we are agreed. We all agree that the further haemorrhaging of this money from public finances should be stopped in any way possible. I therefore put it back to the Finance Minister: be true to your word. Show the House that you were genuine in your words. Along with the Economy Minister, show your constituents and the people of Northern Ireland that you are genuinely minded to save the public purse the money that is being lost. Anybody who was genuine in their position would use this week wisely. They would put public interest before any party political interests that are already evident in the House.

Dr Farry: I will be relatively brief, as I made a number of points in relation to this potential direction of travel in my remarks in the main debate. We are operating in the dark, essentially, in relation to the viability of this approach being the best way forward. A delay of a week provides the opportunity — I stress that it is no more than an opportunity — to cast at least a little light on a range of important issues. I welcome the fact that DUP Members are willing to go along with a week's delay. In the context of deep public concern and lack of confidence, that is at least a very small gesture in the right direction, but welcome nonetheless in that process. It is incumbent, however, that the week is used effectively. I am sure all Members of the Economy Committee will be very keen to make themselves available to engage with the relevant stakeholders and again, once more, with the Department. I certainly hope that the Minister and his senior officials will make themselves available to engage further with the Committee, if we have the opportunity of that further week. The week should be used extremely wisely.

Mr Aiken: Speaking as the Deputy Chair of the Economy Committee, in the continued absence of Sinn Féin, I welcome the opportunity for the Economy Committee to provide more detailed scrutiny of this statutory rule. It would give us great opportunity to get the Minister and the permanent secretary back, to take the detail of the business plan, which we have not had a look at yet, and to have the draft PwC report presented to us so that we are able to provide some detailed scrutiny. We may be able to call directly on key stakeholders like RHA NI, the Ulster Farmers' Union and other groups. It will also allow very clearly, as my party leader pointed out, for the Examiner of Statutory Rules to take the opportunity to report to us, having had appropriate time to be able to consider the rule.

I suspect that we will also consider the issues around the economic impact, take views on the understanding of what the European dimension is and what it is likely to be, and apply, even at this short final stage, more effective scrutiny for the Assembly and, more importantly, for the people of Northern Ireland. I support the motion.

Mr Agnew: As things stand, the Green Party is unable to support the proposals brought forward by the Minister for the Economy, so we welcome the opportunity of an adjournment so that we can glean more information on them. The Minister has asked us to gamble on his proposal — gamble that it will save us more money in money not lost to the RHI scheme and save us more money than it will cost in potential legal cases, and I think that that potential is great. I have to say that, right now, the Green Party is not minded to gamble on a DUP Minister's assurances at this time.

The Minister appears to be trying to dig the DUP out of a hole of its own making. He has stated clearly that these proposals would have to face the scrutiny of the EU, and I think that he does so knowing that they will not pass muster. I think he does so in the hope that he will be seen to put forward a proposal to deal with this debacle that the DUP has created and that the EU will shoot it down, because he knows that it is unworkable. He has record on this; he previously sought to blame the EU for his failed attempt to woo United Airlines with public money to get it to stay in Northern Ireland. He said that the EU blocked it, but United Airlines came out and said that, in fact, it chose to leave.

The Green Party proposes instead a windfall tax and asks the Minister to take the extended time that he has been given to explore the

Monday 16 January 2017

option of 100% tax on excessive profits as a result of RHI. Under our proposals, claimants would only receive a maximum of the cost of wood pellets, thereby removing the incentive to heat empty sheds and burn heat needlessly and to ensure that there was no cash for ash. It would be fair, legal and protect public money. I support the motion to adjourn today's debate so that such a proposal can be considered.

Mr Ailister: There is nothing to be lost and potentially something to be gained by an adjournment. This matter has been bounced upon the Assembly with incredible speed and without any of the routine or attempted scrutiny that would normally be expected by our Standing Orders and by due process. There never was a need to rush it, because the Minister has known since the day he came into office that there was a major issue here, as did his predecessors for months before that. Yet if there had not been the BBC 'Spotlight' programme, and if we were not facing into an election, I suspect that we would not have this proposal at all, because there was a laissez-faire attitude of, "Let's brush it under the carpet" until it became uncontrollable in consequence of the 'Spotlight' programme.

What we were to debate today should have been tackled months ago but now it is rushed at the very last minute. It is right and appropriate that, if there is another week, it is taken so that some semblance of scrutiny can be given to it and we can address it on a more proper footing than hitherto. I support the motion.

6.15 pm

Mr Bell: Given that this incurs no cost to the public purse and allows us to see whether what is occurring is legal — there are, rightly, many concerns around Northern Ireland — it is only right that we take the time to get this right rather than rush it.

Many people have asked me why, in 20 years of elected politics, I spoke for the first time in the fashion that I did. I would like it read into the record of the House that I spoke for the first time in the fashion that I did because journalists were able to conclusively prove to me that they had contacted the Democratic Unionist Party's press office day after day after day and were being fed back misinformation that Jonathan Bell was unavailable.

I also want a very major concern read into the record of the House that an instruction went out from DUP special advisers John Robinson, currently special adviser to the Economy

Minister, and Andrew Crawford, the current special adviser to Michelle McIlveen, to try not to get Arlene called to the Public Accounts Committee, but:

"under no circumstances allow Jonathan Bell to be called".

These matters need to be deeply investigated —

Mr Speaker: Mr Bell, we are moving outside the scope of the renewable heat incentive.

Mr Bell: With an adjournment of a week, I am saying that these matters can be investigated in this week alongside the very first piece of information given to me in a ministerial office by the DUP party officer who was appointed as a special adviser, Timothy Cairns, which was that I would not be allowed to reduce the tariff on the scheme because Timothy Johnston, the special adviser to the then First Minister, and John Robinson, at that time the DUP director of communications and now the special adviser to the Economy Minister, had such extensive interests in the poultry industry that it was not allowed to be on my ministerial agenda. I have the information, Mr Speaker, and I have kept the records in many formats. This party has suspended me for telling the truth while I gave the First Minister, the deputy leader and the chairman of the party all the information —

Mr Speaker: Mr Bell, we are way outside the scope of the motion.

Mr Bell: — about people who are sitting beside them and behind them and much more serious offences.

Mr Nesbitt: Mr Speaker, will you just confirm that Sinn Féin is not speaking on the motion?

Mr Speaker: There is no indication from Sinn Féin that it wishes to speak on the motion.

Mr Nesbitt: It would have been useful to hear from Sinn Féin. I also note the absence of the Economy Minister. I thank Mr Lyons, Ms Bradley, Mr Farry, Mr Aiken —

Ms Ní Chulláin: Will the Member give way? I just want to clarify the situation. We have been very consistent on accountability and transparency and on stopping the flow of public money into this scheme. People have been very patient. You have asked for a tactic in order to look at further scrutiny. That is our position. I thought, even going by some of your

Monday 16 January 2017

own comments earlier, that we were speaking ad nauseam so, hopefully, that has clarified it again.

Mr Nesbitt: Thank you very much.

Mr Speaker: The Member has an additional minute.

Mr Nesbitt: Right. I thank Mr Lyons, Ms Bradley, Mr Farry, Mr Aiken, Mr Agnew, Mr Allister and Mr Bell for their comments, and I thank Sinn Féin for the clarification.

If we had done it today, we would have had 74 days until we could bring in these cost controls. It goes down to 67 days although, again, I stress that that is dependent on the European authorities saying that it is compliant with state aid; that must remain an open question.

Finally, once again, over the next seven days, we can hear from the Examiner of Statutory Rules, and the Committee can look again and, as Mr Aiken says, take on board the PwC report. We can have a business case from Mr Hamilton, and we can hear from the EU unit on its presumably preliminary discussions with the European Commission.

If we were an irresponsible Opposition, we would not have tabled this motion. We would have said, "Let the Executive play fast and loose with the public purse. Who cares about £85,000 a day?" If we had been an irresponsible Opposition, we would have wanted to hear a lot more than the two minutes and 32 seconds that we have just heard from Jonathan Bell MLA — he has whetted my appetite for the debate when it resumes next Monday — but no. On this day, as the Executive parties bring the mandate crashing to its knees four and a half years early, you have a responsible Opposition holding the Executive to account.

Question put and agreed to.

Resolved:

That this Assembly, in accordance with Standing Order 16 adjourns the debate on the draft Renewable Heat Incentive Scheme (Amendment) Regulations (Northern Ireland) 2017 until Monday 23 January 2017.

Mr Speaker: I ask Members to take their ease for a moment.

The House took its ease from 6.21 pm to 6.25 pm.

Assembly Business

Mr Speaker: Members, owing to the nature of the next item of business, I will not be chairing the debate. I have been advised that the three Deputy Speakers will also be unable to do so. Standing Order 9A(1) provides for these circumstances by requiring the sitting to be chaired by a temporary Speaker. The temporary Speaker is defined as:

"the member, present at the sitting, who has served the Assembly the longest number of days, and in the case of a tie, the oldest of [these]."

In accordance with Standing Order 9A(1), I therefore ask Lord Morrow to take the Chair. I invite Members to take their ease while we make a change at the top Table.

The Temporary Speaker (Lord Morrow) in the Chair.

Private Members' Business

Speaker: Motion of No Confidence

The Temporary Speaker (Lord Morrow): The Business Committee has agreed to allow up to two hours for the debate. The proposer of the motion will have 10 minutes to propose and 10 minutes to make a winding-up speech. One amendment has been selected and is published on the Marshalled List. The proposer of the amendment will have 10 minutes to propose and five minutes to make a winding-up speech. All other Members who wish to speak will have five minutes.

I inform Members that I have been advised by officials that a valid petition of concern has been presented today in relation to the motion of no confidence in the Speaker. Under Standing Order 28, the vote cannot take place until at least one day past. The vote will therefore be taken at the beginning of business tomorrow morning, Tuesday 17 January. I remind Members that the vote will be on a cross-community basis. I ask the Clerk to read the motion.

The following motion stood in the Order Paper:

That this Assembly has no confidence in the Speaker of the Assembly; believes that his position is untenable as he has compromised the independence and integrity of the office of