

DÁIL ÉIREANN

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Déardaoin, 5 Feabhra 2004.
Thursday, 5 February 2004.
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Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

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Paidir.
Prayer.
 —————

Request to move Adjournment of Dáil under Standing Order 31.

An Ceann Comhairle: Before coming to the Order of Business, I propose to deal with a notice under Standing Order 31. I call on Deputy Crawford.

Mr. Crawford: I seek leave under Standing Order 31 to move the adjournment of the Dáil on a specific and important matter of public interest requiring urgent consideration, namely, the failure of the Minister for Justice, Equality and Law Reform to get agreement with prison staff leading to a possible change of status, or closure, of Loughan House open prison, the lowest cost prison in the country, at a time when he was able to find €30 million for consultants, PR etc.

An Ceann Comhairle: Having considered the matter raised, I do not deem it to be in order under Standing Order 31.

Order of Business.

The Tánaiste: The Order of Business today shall be No. 2, the Immigration Bill 2004 [*Seanad*] — Order for Committee, Committee and Remaining Stages; and No. 1, Maternity Protection (Amendment) Bill 2003 [*Seanad*] — Second Stage. It is proposed that, notwithstanding anything in Standing Orders, the proceedings on Committee and Remaining Stages of No. 2 shall, if not previously concluded, be brought to a conclusion at 3.30 p.m. by one question which shall be put from the Chair and which shall only include the amendments set down or accepted by the Minister for Justice, Equality and Law Reform.

An Ceann Comhairle: There is one proposal to put to the House. Is the proposal for dealing with No. 2 agreed?

Mr. R. Bruton: I thank the Government for extending the time allocated to Committee Stage to allow a more detailed debate on this important issue. I continue to raise my doubts to roll Committee and Report Stages together for a Bill of such importance. Normally, there would be time for reflection between Committee and Report Stages. The Bill was struck down by the High Court on the grounds of insufficient consideration of the issues involved. I question the Government on whether it is wise to adopt this approach of guillotining the Stages.

Mr. Rabbitte: While I welcome the additional two hours for debate, it is inadequate to deal with a measure of this significance. There are 113 amendments on the green list and the Minister has introduced a further three this morning. If we have dealt with the Order of Business by 11 a.m. — I know that is the Chair's desire — we will have 270 minutes to deal with 116 amendments, or 2.3 minutes per amendment, provided there are no divisions. We cannot deal with a matter of this importance in this fashion.

The Minister is rapidly earning the title of the rubber stamp Minister. He sought to put this Bill through the House last Thursday. He has tabled three amendments today on top of the 20 he tabled yesterday to a Bill he would have enacted if he had his way last Thursday. This is not the way to do business.

Mr. Gormley: While I welcome the additional time, this is rushed legislation. This is not the way to process legislation. My constituency colleague, the Minister for Justice, Equality and Law Reform, has taken grave umbrage at the description in the Seanad of the Bill as Nazism at its worst. While it may be inaccurate to describe the Government as fascists, it is becoming more apparent each day that normal democratic principles are being abandoned in this House. The normal courtesy extended to the Opposition is being arrogantly done away with.

The Government must listen to the Opposition. This is an important Bill that will have a profound influence on the way people lead their lives, particularly those coming to this country. I ask that the Tánaiste reconsider the arrangements for taking this Bill. The Minister has submitted 20 amendments after he wanted to rush it through last Thursday. It is not the way to conduct business in this House. My colleague, Deputy Cuffe, has tabled a number of amendments and has expressed real concern about aspects of this Bill. The main problem is how business is conducted in this House. Things will have to change. We need Dáil reform and more respect for the House.

Caoimhghín Ó Caoláin: I appeal to the Tánaiste not to impose a guillotine on Committee and Remaining Stages of the Immigration Bill.

[Caoimhghín Ó Caoláin.]

Bad law is bad enough, but rushed bad law is a mark of gross irresponsibility. What we are seeing is gross irresponsibility, because unquestionably this matter will be revisited. This law will be challenged and elements of it will, without question, be brought through the courts. This is altogether apart from the draconian effect it will have on individuals who hope to find a future on our shores.

As the Taoiseach yesterday indicated a willingness to change the hours scheduled for the Second Stage debate, I ask again that a guillotine would not be imposed and that time would be allowed for a full and detailed debate on all the amendments. Members have worked hard and considered the amendments carefully in a very short period. It is an effort to ensure that this Bill

is not a follow-on to the mess that has already been created by the previous Minister for Justice, Equality and Law Reform. It is not too late; I urge the Minister to reconsider the matter.

The Tánaiste: As the Deputies are aware, we are in a very unsatisfactory position as a result of the High Court decision in that there are huge doubts about the conditions under which non-nationals remain in the State and there are difficulties with entry controls to the State. In such situations in the past, the Oireachtas has always shown its capacity to introduce legislation quickly and efficiently and we want to do so in this case. We need the legislation urgently, so unfortunately I am not in a position to accede to the requests of the Opposition.

Question put: "That the proposal for dealing with No. 2 be agreed to."

The Dáil divided: Tá, 69; Níl, 54.

Tá

Ahern, Dermot.
Ahern, Michael.
Ahern, Noel.
Andrews, Barry.
Ardagh, Seán.
Aylward, Liam.
Brady, Johnny.
Brady, Martin.
Brennan, Séamus.
Browne, John.
Callely, Ivor.
Carey, Pat.
Carty, John.
Cassidy, Donie.
Collins, Michael.
Cooper-Flynn, Beverley.
Coughlan, Mary.
Cregan, John.
Curran, John.
Dempsey, Noel.
Dennehy, John.
Devins, Jimmy.
Ellis, John.
Finneran, Michael.
Fitzpatrick, Dermot.
Fleming, Seán.
Gallagher, Pat The Cope.
Glennon, Jim.
Grealish, Noel.
Hanafin, Mary.
Harney, Mary.
Haughey, Seán.
Hector, Máire.
Jacob, Joe.
Keaveney, Cecilia.

Kelleher, Billy.
Kelly, Peter.
Kirk, Séamus.
Lenihan, Brian.
Lenihan, Conor.
McDaid, James.
McDowell, Michael.
McEllistram, Thomas.
McGuinness, John.
Moloney, John.
Moynihan, Donal.
Moynihan, Michael.
Mulcahy, Michael.
Ó Cuív, Éamon.
Ó Fearghaíl, Seán.
O'Connor, Charlie.
O'Dea, Willie.
O'Donnell, Liz.
O'Donoghue, John.
O'Flynn, Noel.
O'Keeffe, Batt.
O'Malley, Fiona.
Power, Peter.
Power, Seán.
Roche, Dick.
Ryan, Eoin.
Smith, Brendan.
Smith, Michael.
Treacy, Noel.
Wallace, Dan.
Walsh, Joe.
Wilkinson, Ollie.
Woods, Michael.
Wright, G.V.

Níl

Allen, Bernard.
Boyle, Dan.
Breen, Pat.
Broughan, Thomas P.
Bruton, Richard.
Burton, Joan.
Connolly, Paudge.
Costello, Joe.
Coveney, Simon.
Crawford, Seymour.
Crowe, Seán.
Cuffe, Ciarán.

Deasy, John.
Deenihan, Jimmy.
Durkan, Bernard J.
English, Damien.
Ferris, Martin.
Gilmore, Eamon.
Gogarty, Paul.
Gormley, John.
Healy, Séamus.
Higgins, Joe.
Higgins, Michael D.
Howlin, Brendan.

Níl—*continued*

McCormack, Pádraic.
 McGinley, Dinny.
 McGrath, Finian.
 McGrath, Paul.
 McHugh, Paddy.
 McManus, Liz.
 Mitchell, Gay.
 Mitchell, Olivia.
 Morgan, Arthur.
 Moynihan-Cronin, Breeda.
 Murphy, Gerard.
 Naughten, Denis.
 Neville, Dan.
 Noonan, Michael.
 Ó Caoláin, Caoimhghín.

Ó Snodaigh, Aengus.
 O'Dowd, Fergus.
 O'Keefe, Jim.
 O'Sullivan, Jan.
 Pattison, Séamus.
 Penrose, Willie.
 Quinn, Ruairi.
 Rabbitte, Pat.
 Ryan, Eamon.
 Ryan, Seán.
 Sherlock, Joe.
 Stagg, Emmet.
 Stanton, David.
 Timmins, Billy.
 Upton, Mary.

Tellers: Tá, Deputies Hanafin and Kelleher; Níl, Deputies Durkan and Stagg.

Question declared carried.

Mr. R. Bruton: Before asking a question on the Order of Business, I take this opportunity to wish John Hume well on his recently announced retirement. John Hume has been at the heart of change on these islands for a generation. His dedication to pursuing peaceful forms of reconciliation has been exemplary. He is probably the most popular politician in the Republic, as well as in the North, although he never had the opportunity of putting that to the test in the South. I wish him well.

Will the Tánaiste clarify the position on electronic voting in the European and local elections? Yesterday, the Taoiseach indicated that it was not clear whether an order or regulation was required. It seems that under the legislation there is a requirement to have a change in the European Parliament Acts to introduce electronic voting. Will this be done by way of primary legislation or regulation? If it is not to be done by primary legislation, does the Tánaiste believe that secondary legislation will be sufficiently robust, given that the High Court recently struck down as unconstitutional an attempt to amend an Act by ministerial order?

Mr. Rabbitte: I received a letter this morning from the Taoiseach in respect of the exchanges that took place here yesterday, pointing out that he was incorrect and that an order is, indeed, required. I want to raise the point, as did Deputy Richard Bruton, about the impact, if any, of the Carrickmines decision on this matter. Apparently, it is not possible to alter primary legislation by ministerial order. Does the Tánaiste have any advice that this may now proceed?

Mr. Gormley: I wish to be associated with the remarks that have been made about John Hume. Mr. Hume has been a great servant of this country. He is a man of peace and has taken risks for peace. I wish him and his wife, Pat, well in the future. I had the privilege of meeting him when I was Lord Mayor of Dublin, and we travelled together on an official visit to the United States.

All of us in the House recognise the contribution he has made to the peace process. He has been the pivotal figure in that process.

On the question of electronic voting, if an order is laid before the House, will we get an opportunity to vote on it?

Mr. D. Ahern: Electronically.

Mr. Gormley: We want to make it clear that we are opposed to electronic voting without a proper paper trail. We think the system is flawed and the Opposition deserves an opportunity to make its views known on this matter.

Caoimhghín Ó Caoláin: I join my colleagues in expressing good wishes to John Hume on his retirement from politics. I acknowledge his very important and major contribution to Irish political life. My colleagues, North and South, have registered their appreciation and respect for his contribution on many occasions and I am happy to re-echo their remarks.

It is important to recognise that this Chamber has not had an opportunity to debate, in a substantive way, the detail of what is entailed in the introduction of electronic voting for the local and European elections.

The absence of a verifiable record of the votes cast makes the system most unsatisfactory. Sinn Féin is not opposed to the introduction of electronic voting but to the system that will be employed. It is imperative, in the interests of public confidence and that of all participants, both parties and independent candidates, that we have a transparent scrutiny procedure inbuilt in the system, particularly in the initial stages and electoral endeavours. I hope the Tánaiste will accommodate this and recognise the reasonableness of the arguments presented by the Opposition.

The Tánaiste: I join the Opposition Deputies in paying tribute to John Hume. He has genuinely been acknowledged as the architect of the peace process. If it was not for his courage and vision in defence of constitutional politics on this island for so many years, and that of his party, many more

[The Tánaiste.]
people would have been victims of violence. Everybody wishes him and his wife Pat well in his retirement from politics.

It is correct to say that an order under section 48 of the Electoral (Amendment) Act 2001 will be required to provide for electronic voting. The Minister for the Environment, Heritage and Local Government already made such an order in October 2002, in respect of seven constituencies, for the second Nice referendum campaign and he intends to do the same again. The constitutional status of such an order will be subject to the advice of the Attorney General. Therefore, I am not in a position to respond today to Deputy Rabbitte's suggestion.

Clearly, before the Minister would make such an order, and in light of the recent High Court decision, we would have to consult the Attorney General to ensure it has the required constitutional status. Like all orders, the order can be debated in the House and a motion annulling it could be put before the House. If Deputies want a debate on it, I will discuss the matter with the Whip and the Minister for the Environment, Heritage and Local Government.

Mr. Rabbitte: I rose only on the point of the electronic voting system. I want to be associated with the remarks made by the Tánaiste, Deputy Bruton and other colleagues in respect of the retirement from politics of John Hume. He has been a singular and consistent voice in Irish politics since the civil rights movement, of which he was one of the leaders. It is probably one of the great tragedies of Irish history that a movement that had the capacity to deliver equality for citizens in Northern Ireland, as a condition precedent to any political settlement, was hijacked at the time by the men of violence. John Hume's outstanding contribution has been as a consistent voice in opposition to violence and in favour of constitutional politics over the intervening 35 years. I regret to see him leaving the political stage. He has done the State much service.

Mr. Allen: With regard to the Electoral (Amendment) Bill, will the Government, even at this late stage, refer all aspects of the electronic voting system to the Electoral Commission because of the serious division on the matter at the present time?

An Ceann Comhairle: I suggest the Deputy submit a question on that issue to the Minister.

Mr. Allen: Will the Tánaiste instruct the PR company to withdraw the leaflets and the website which are so misleading and highly political? The company was set up by buddies of Fianna Fáil who are State funded and misleading the people.

An Ceann Comhairle: That does not arise on the Order of Business. He will have to find another way to raise the matter.

Mr. Allen: They are misusing taxpayers money and are seriously misleading the people. This matter should be referred to the Electoral Commission.

An Ceann Comhairle: The Deputy should resume his seat. If he wishes to leave the House the Chair will facilitate him. The Deputy should resume his seat or he will leave the House.

Mr. Gilmore: Since it is now established that orders have to be made and laid before the House —

An Ceann Comhairle: Sorry, Deputy, we must move on to another issue. As the Deputy's leader rightly pointed out, we should move on to debate this Bill with all the amendments at 11 a.m.

Mr. Gilmore: I have a question about —

An Ceann Comhairle: We have already discussed the matter and the Tánaiste has responded.

Mr. Gilmore: I have a question about secondary legislation which I am entitled to ask. With respect, it is not at the Chair's discretion to decide what issues are raised, provided they are in order.

An Ceann Comhairle: We cannot allow repetition.

Mr. Gilmore: I am raising a question about secondary legislation. It has now been established, contrary to what we were told last week, that orders are required to be laid before the House to enable the European and local elections next June to be conducted by way of electronic voting. The present position, therefore, is that there is no statutory basis —

An Ceann Comhairle: Has the Deputy a question for the Tánaiste that has not already been dealt with?

Mr. Gilmore: Yes. As there is no statutory basis, as yet, for those elections to be conducted by electronic voting, on what authority is the Minister for the Environment, Heritage and Local Government spending public money advertising electronic voting for those elections?

An Ceann Comhairle: That does not arise.

Mr. Allen: Some €40 million has been spent already without question from anybody.

Mr. Sherlock: What is the position with regard to the Prison Service Bill and the temporary closure of Fort Mitchell education centre in

Cobh? What is the meaning of the temporary closure of the Fort Mitchell centre?

An Ceann Comhairle: The first question is in order.

The Tánaiste: The heads of the Bill are currently being drafted.

Mr. G. Mitchell: There is a difficulty with racism in Irish society. Now we also have a difficulty in connection with the enlargement of the European Union. Ireland remains the only country without a policy with regard to restrictions on the movement of persons. However, I understand this may be under examination. Will the Tánaiste make time available for a debate on the report of the Joint Committee on European Affairs so the question of immigration and the need for a proactive policy dealing with immigration issues will be addressed properly in the House rather than in the manner in which it is currently being addressed?

The Tánaiste: A Bill was passed in the House last year on this matter. Therefore, it is incorrect to say we do not have a policy. We will give consideration to the Deputy's suggestion and I will revert to him on it.

Mr. Crawford: In light of the ongoing difficulties in the health services and the obvious need for somebody —

An Ceann Comhairle: Has the Deputy a question appropriate to the Order of Business?

Mr. Crawford: My question is extremely appropriate.

An Ceann Comhairle: No preambles.

Mr. Crawford: We have a health Bill and a health (amendment) Bill. Could a surgeon general or something of that nature be added into those Bills in order to make something work in the health sector?

The Tánaiste: The health (amendment) Bill is due this session.

Ms O'Sullivan: The Commission to Inquire into Child Abuse (Amendment) Bill is on the B list of legislation. In view of the conflict of interests identified by the outgoing chairperson of the commission and the failure to adequately respond to the commission's queries and its request for discovery, chronicled in Ms Justice Laffoy's report, will the Government consider transferring the legislation to the Department of the Taoiseach or some other appropriate Department?

The Tánaiste: I do not think that is appropriate to the Order of Business. It is not possible to say when we will have the legislation.

Ms O'Sullivan: Is it possible for the Tánaiste to indicate if it will be transferred in view of the seriousness—

An Ceann Comhairle: The Deputy is out of order.

Mr. Timmins: When can we expect to see the companies Bill? Can the Tánaiste give any indication of when the IFI creditors will receive payment? This issue has been ongoing for 15 months. Has she any information regarding the liquidator of IFI and payment to creditors in Arklow?

An Ceann Comhairle: I would point out to Members that questions appropriate to line Ministers should not be asked on the Order of Business. Deputy Rabbitte rightly pointed out this morning that it was important to get on to the legislation and the 100 amendments and that the time —

Mr. Timmins: The Chair has a new adviser.

An Ceann Comhairle: — should not be taken up asking questions that are not appropriate to the Order of Business. The Tánaiste on the companies Bill.

The Tánaiste: The heads of the Bill will come before the Cabinet shortly.

Mr. Gormley: Will the Tánaiste arrange a special Dáil sitting to discuss the EPA report which has shown that 40% of our rivers and lakes are polluted?

An Ceann Comhairle: Was a debate promised?

The Tánaiste: The matter could be raised with the Whips.

Mr. Gormley: Would the Tánaiste arrange a special Dáil sitting?

The Tánaiste: We might be able to do it during a normal sitting day.

Mr. Durkan: Can the Tánaiste inform the House whether the road traffic (amendment) Bill will address the situation in tunnels as well as on the roads?

An Ceann Comhairle: Questions should be on the content of legislation. We cannot discuss that matter on the Order of Business.

Mr. Durkan: Will it be safe for the Minister for Transport to venture into these tunnels having regard to the health and safety factors?

Mr. Howlin: That will need ventilation all right.

The Tánaiste: We will have the legislation later this year.

Mr. Rabbitte: As the Minister for Transport would say, that is way above my head.

On 9 January, a spokesman for the Minister for Justice, Equality and Law Reform told us the Garda Síochána Bill would be published within three weeks. I know the Minister is very busy, but he announced inadvertently in a radio interview that he had brought forward the Bill. He had not. He had brought forward heads of the Bill. Can the Tánaiste say when the Bill will be published?

The Tánaiste: The Bill will be before Cabinet next week and I presume it will be published shortly thereafter.

Mr. R. Bruton: I see the Minister for Justice, Equality and Law Reform has 30 Bills on the Order Paper and that a criminal justice Bill is shortly to be published. What progress has been made on these Bills? Was the Minister a little confused when he claimed crime figures were coming down as a result of his intervention in other legislation when we see now that very few actions were taken under any of the legislative measures he claimed resolved crime issues?

Mr. Crawford: Fairytales.

The Tánaiste: It is true that we have a very reforming Minister for Justice, Equality and Law Reform.

Mr. Howlin: The Tánaiste is allowed to sit down.

Mr. R. Bruton: The Minister is transforming.

The Tánaiste: Unfortunately, the House is not so anxious for reform and we find it difficult to get some of these Bills on to the floor of the Chamber.

Mr. English: We have been begging for reform.

Mr. Rabbitte: It is very hard when the Bills are not published.

The Tánaiste: We tend to waste a lot of time. There are a large number of Bills in the Department and I hope with the co-operation of the Opposition we will be able to enact them speedily.

Mr. Rabbitte: How does the Tánaiste propose to bring unpublished Bills to the House?

The Tánaiste: There are 13 Bills published.

Mr. M. Higgins: What is the reason for the late publication date of the diplomatic relations and immunities Bill, which will amend legislation so

old that it dates from 1967 and 1976? When will that Bill be published?

The Tánaiste: I understand it is not possible to indicate when that very important Bill will be before the House.

Mr. M. Higgins: One could not describe 30 years as indecent haste.

The Tánaiste: We will have it before the Deputy goes to Áras an Uachtaráin.

Mr. Costello: We are dealing with the legislation of the Minister for Justice, Equality and Law Reform which the Tánaiste has said it is difficult to get on to the Order Paper. The Private Security Services Bill has been on the Order Paper for two years. The Minister has told us on numerous occasions that it is a priority to put this Bill through.

Mr. Howlin: As did the previous Minister.

Mr. Costello: Ours is the only country in Europe in which this industry is unregulated and uncontrolled.

Mr. Durkan: Absolutely. It is uncontrolled.

An Ceann Comhairle: Deputy Costello, what you might like to say on Second Stage is not appropriate on the Order of Business.

Mr. Costello: We reached Report Stage six months ago. Can we finish the Bill?

The Tánaiste: My informant at the back tells me we are ready to go with Report Stage if the Opposition would facilitate it.

Mr. Costello: We are at Report Stage.

Immigration Bill 2004: [Seanad]: Order for Committee Stage.

Minister for Justice, Equality and Law Reform (Mr. McDowell): I move: "That Committee Stage be taken now."

Question put and agreed to.

Immigration Bill 2004: [Seanad]: Committee and Remaining Stages.

SECTION 1.

An Ceann Comhairle: Amendments Nos. 1, 105, 111 and 112 are related and may be discussed together, by agreement.

Aengus Ó Snodaigh: I move amendment No. 1:

In page 3, before section 1, to insert the following new section:

"1.—Insofar as this Act is intended to make temporary provisions to meet the immediate

needs of the Government to manage migration following the 22 January 2004 High Court decision in *Leontjava and Chang v. Minister for Justice, Equality and Law Reform*, and insofar as the publication of comprehensive immigration law reform legislation is expected, the Act shall lapse after 90 days from the date of commencement, unless expressly renewed for a further 90 days by the Oireachtas by means of a motion. Upon the expiration of the additional 90 days the Act may be renewed for a further 90 days, by the same means, if necessary.”

Yesterday the Minister suggested he would accept some Opposition amendments. When he replies on this amendment, it would be helpful if he indicated early in the proceedings which ones he intends to accept. We might then be able to move quickly on them.

The related amendments under discussion propose a title change. They are intended to give effect to the Minister’s statement yesterday that this is a temporary measure pending the publication of the immigration and residence Bill later this year. Hopefully, we will be able to enact that Bill with some haste after consultation with the various interested bodies. In the new section which I propose be inserted in the Bill, I seek to impose a maximum timeframe for that process of 270 days from the passage of this legislation. That is a reasonable amount of time in which this House and the interested groups could put their heads together to produce legislation to deal with immigration and residency within Ireland. If we provide ourselves with such a timeframe, the legislation before us becomes temporary. It is desirable that we state clearly the temporary nature of this measure. It is fine for a Minister to say it is a rush job and a stop-gap measure, but unless we impose a timeframe after which the legislation will lapse, I cannot support the Bill.

When Presidents spoke in this Chamber rather than Taoisigh, Éamon de Valera said the original Act on which our provisions in this area are based was a temporary emergency measure. He was acknowledging Senator Johnson in that debate when he said the legislation was reasonably necessary from the point of view of the possibilities of war and in view of the dangers which might exist from the presence of aliens who were not known in the country. He accepted that the legislation was being introduced in response to war. These are emergency provisions which date from the Second World War and while the draftsmen have tinkered with the arcane wording, it is not good enough to extend the use of such emergency provisions any more than is reasonable. I would prefer if we did not deal with this Bill at all, but rather fast-tracked as much as possible without rushing the full immigration and residency Bill.

Some of my other amendments have been tabled as a protest at the rushing through of this Bill. However, if the Minister were willing to accept amendments Nos. 1, 105, 111 and 112,

Members on this side of the House would be happy that the legislation was temporary. All of the non-governmental human rights organisations, the ICCL, the Human Rights Commission, the Immigrant Council and the Refugee Council have stated that this Bill is not the way to proceed. The Human Rights Commission has said that the Bill should be withdrawn completely. We agree, but if this amendment is accepted, at least we will know it is only for a very short period in the scale of things. I would like to hear the Minister on that. I can come back on other points. If he wishes to push other amendments and slightly extend the time, we will examine that, but 270 days is time enough if there is urgency regarding immigration and residency.

As the Minister stated, we need proper, coherent regulations in this Bill. No one denies that, and I would have a problem with anyone who did. We need it as quickly as possible, and that is why, if it is a political priority of the Government, we on this side of the House will facilitate proper discussion and consultations so we can get rid of this Immigration Bill, if passed, as quickly as possible within the 270-day timeframe. In that way we will not have such legislation on the Statute Book any longer than necessary.

Mr. Costello: I consider the amendment tabled by Deputy Ó Snodaigh as eminently reasonable, and it ties in very well with what the Minister said yesterday, namely, that he saw this as a temporary measure and that his Department was working hard to put together forthcoming legislation, which he expected to be ready before too long. He said it was part of his remit and commitment to do that and that it was well in train in the Department.

When one looks at the original Aliens Act 1905 on which this is based, one sees that it was itself an emergency measure produced in very difficult circumstances before the Great War. The whole tenor of that legislation is of a hostile, emergency situation when Britain was exposed and afraid of what at the time were called unidentifiable “aliens”, or non-nationals, who would threaten its security. It was proposed to deal with German spies at the time. The fact that Britain itself has reviewed the situation and produced new legislation should be another reason to consider regarding this legislation produced before the foundation of the State and which predated our Republic. It was in Saorstát Éireann and predated our Constitution, our membership of the European Union, the European Convention on Human Rights, the United Nations and the Irish Human Rights Commission, which is concerned with such legislation.

We should show intent in this Bill regarding our definite commitment to get rid of this outdated, antiquated, anti-person legislation — that is the tenor — as quickly as possible. It would be very advantageous if, at this point, on the very

[Mr. Costello.]

first amendment, at the beginning of our discussions, the Minister might show his acceptance of this approach. If that were done, we could certainly go through the rest of the Bill with great alacrity, and it would obviate the need for much of the debate and discussion that we are likely to have otherwise — and probably a great deal of acrimony over the rest of the morning and afternoon.

Minister for Justice, Equality and Law Reform

(Mr. McDowell): This measure, as the Tánaiste said earlier, is a response to a situation that emerged, not simply in the short term, but like a bolt from the blue. It must be addressed immediately. It is for that reason that this legislation is being introduced. The officials in my Department and I did not sit down and take out a beer mat to write out random thoughts that occurred to us on how this situation might be addressed. We did precisely the opposite. We said we should keep continuity until such time as the Immigration Bill on which we are working can be presented to the House. We did not simply say that we should think of a whole new package of ideas and throw it onto the floor of the Oireachtas in a moment of desperation; it is quite the reverse. The situation for 60 years has been generous regarding immigration. This country has had significant and welcome legal migration into it. The system, largely speaking, has worked fairly well. While we think about what should be a fundamental law regarding immigration, let us preserve continuity until such time as we are able to introduce it.

The work which will be required on the new Bill is extremely extensive. Yesterday Deputies, in what I thought, generally speaking, was a very good debate, zeroed in on issues such as work permits. There is a superficial attraction. People feel that the present system whereby one must have a permit related to a specific employer in some sense likens one to an indentured servant of old stuck with one employer. I can see that criticism and that a link to a specific employer has that ring about it. The truth is that someone who comes in as a bricklayer or whatever to work for one employer is *de facto* free to go to work for others with minimum difficulty once he has got into the country. The person is not simply told to get out of the country because his employer has gone bust or sacked him.

If we introduce major legislation, we will have to consult with a wide variety of interests, not simply Departments. The Department of Enterprise, Trade and Employment is one. The Department of Social and Family Affairs is another interest that would have to be considered, especially in view of today's headlines about Ireland being the last country in Europe holding out for unlimited access. The Department of Education and Science and the Department of Health and Children would have to be considered regarding all those issues, and many other

Departments have insights. Stopping there, the consultation process would be complex enough. However, the trade union movement and the social partners would also want to be consulted. The alternative to the individual work permit system is a generalised quota system. I would like to see the reaction if the Tánaiste persuaded the Department of Justice, Equality and Law Reform that there should be such a system. I would like to see the reaction from some sections if one said that one was making provision for 2,000 bricklayers next year. There might be some muffled squawks from some interests in the economy. We want the trade union movement to be consulted before we do anything of that sort. The employers and Irish enterprise might also want a say in that process.

If I said the Bill would lapse 270 days after its enactment, I would effectively be saying that, some time in the autumn of 2004, this House must pass replacement legislation. Otherwise we would be in exactly the same position as when the High Court made its decision. We would have no law at all in that circumstance. I am not against putting a gun to the heads of Oireachtas Members, as everyone in the House has accused me, and telling them to get on with their work. As the Order of Business so eloquently testified and Deputy Richard Bruton so eloquently elicited from the Tánaiste, I have 13 Bills already published for which this House cannot find time. That is the first point. Some of them, such as the Private Security Services Bill 2001, are of great importance. Almost all of them are of major significance.

As Deputy Deasy constantly says, I have another batch of legislation coming, and I will give Deputies a little taste of what that involves. It includes the Garda Síochána Bill, the anti-compensation-culture court and civil liability Bill, a Bill on the question of judicial behaviour and ethics and a judicial council, and a criminal justice Bill on Garda powers. These are four Bills which occur to me at random and I am adding them to that list of 13 measures.

People talk about Oireachtas reform which I strongly support. However, if the rate of progress on legislation continues as it has done and if we engage in the luxury, as we did yesterday, of spending an hour and a half on the Order of Business and related votes, I could not put my hand on my heart and say that, in the autumn, we will be in a position to deal with the legislation.

If I accepted Deputy Ó Snodaigh's proposal, one of two scenarios would take place. I would say to the House in the autumn that we must pass the Bill in three weeks or we will otherwise have no law. All the fingers pointing at me for the past two weeks would be pointing at me again saying I was a Fascist to try to override the will of the House, that I created this mess myself by accepting Deputy Ó Snodaigh's proposal and that there was no law thanks to the amendment I accepted on day one. If I did not do this and the other House exercised its prerogative to have

extended consideration of important legislation such as this, I would face exactly the same situation I face now, which is that large areas of our controls of non-nationals in the country would evaporate under our noses.

I was tempted to, and I considered the notion, of calling it a temporary provisions Bill, to time-limit it and even to include something which Deputy Ó Snodaigh would not do for obvious reasons, namely, to limit it to a period and to allow the House to extend it by resolution as a signal of the temporary nature of this set of proposals. However, I do not have sufficient confidence in the capacity of the Houses of the Oireachtas to get on with the existing workload and to make space for such a Bill to be dealt with to enable me, in good conscience, to accept such an amendment.

My officials are working hard on the major Bill. We have had consultation processes and we will probably need to have more. I have outlined to the House the nature of the consultations that will be necessary, but I cannot create a crisis in the autumn equivalent to that which we face now just as a way of putting a whip upon myself to get on with the work. I am not the problem. Sectoral interests, which want to have an input into the matter, will say to Deputies opposite and to my colleagues on these benches that they need more time to do all this. I will not create a second crisis in one year; it would be irresponsible of me to do so.

I would fully accept what Deputy Costello said if he had a sense confidence that it was an agenda item for the Department of Justice, Equality and Law Reform which it was treating with urgency. It would perhaps sweeten the atmosphere for the rest of this debate. That is precisely why I thought of doing something similar to what Deputy Ó Snodaigh suggested, but to do so would be to create, in all probability, another crisis in six to eight months' time. It would mean sweeping aside much important legislation with which this House has yet to deal and rushing through more legislation to meet a deadline we had imposed on ourselves.

In the circumstances, grateful as I am to Deputy Ó Snodaigh for making this proposal and sympathetic as I am to many of the arguments he made, I cannot, in good conscience, accept that we should create a second guillotine for ourselves in the autumn because it is likely to be surrounded by exactly the same controversy that has surrounded this legislation.

Aengus Ó Snodaigh: It is a pity the Minister cannot accept the amendment. He could have altered the timeframes I proposed and I could have examined them. If the Title included the words "temporary provisions", it would at least give an indication that, at some stage in the future, something would happen. If the Minister does not have confidence in the abilities or capacities of both Houses to deal with legislation, it is a sad day. If it is a political priority, we have

shown we can deal with quite complex legislation while, at the same time, including all the sectoral interests.

The immigration non-residency Bill is due to be published this year. We need to create a sense of urgency on this issue. I do not necessarily blame the draftspeople in the Department for the delay. However, if the heads of the Bill are available, we need to speed up the consultation process and get to grips with it by seeing the heads. We should begin at an early stage to consult support staff, if we have any, and people who have given us their views in the past.

The Minister said that such legislation has been in place in some form for the past 60 years and that it has worked well. It is only in the past ten years that the immigration issue has come to the fore and we all know the associated problems. It is only because of the level of applications for residency and work permits that we are beginning to see the problems. These problems did not emerge 30 or 40 years ago; they have only emerged recently. That is why society was not focused on this issue in the past. However, it has been in recent years, which is why court cases have been taken and more will be taken in the future unless we get to grips with this issue as quickly as possible.

It is a pity the Minister is not able to accept this amendment because it is the view of most of the groups with which we will consult that there is an urgency in respect of the other Bill and that this legislation should, at most, be a temporary provision or not be taken, which is the view of the Human Rights Commission. I urge the Minister, even at this late stage, to accept the amendment and change the timeframe therein if he believes it is too short, or at least change the Title to indicate that it is a temporary provision.

If there is a delay, we might end up with a situation like that with the disabilities Bill which has been promised for a number of years. In four or five years' time, we might end up without an immigration non-residency Bill and that would be a travesty. I know the Minister and Opposition spokespersons do not want that to happen, but it could if we do not say this must be done by a certain date. That is why I set the date, although it may be too short, and if we needed a little more time, the Minister could extend it by order of the Oireachtas. The Minister could change the times to 100 or 200 days, but it is important that we know it will be brought to finality because the Government and the Opposition must sign off on it at some stage.

Mr. Costello: It ill behoves the Minister to shed crocodile tears about the amount of work he is doing in his Department and the amount of legislation forthcoming. I have always considered the Department of Justice, Equality and Law Reform to be something of a mini-factory in the production of legislation.

Mr. McDowell: That is new to me.

Mr. Costello: I often wonder why approximately one third of the legislation before the House appears to emanate from the Department of Justice, Equality and Law Reform. Where do its officials get the time and energy to produce so much legislation? It may be a better idea to have fewer, but more focused Bills. We certainly need less of the emergency approach evident in a number of recent cases and less use of the guillotine which the Minister has exercised on a number of occasions.

Since the Minister came into office, there has been considerable focus on anti-terrorist type legislation. The House discussed the framework document on terrorism before the summer, dealt with the Immigration Bill about which major questions arose, and discussed the European Arrest Warrant Bill before Christmas. We could have addressed more important issues and should focus on ensuring the correct issues come before the House.

I am also concerned that this Committee Stage debate is taking place in the Chamber. It should have been held in one of the committee rooms to allow Second Stage of the Maternity Protection (Amendment) Bill to be discussed, as scheduled, in the House. This would have freed up time and we could then have debated Report Stage of the Bill in the House.

The Minister must signal to the House his intention, within his term of office, to replace this Bill with comprehensive immigration legislation which addresses the new reality. Deputy Ó Snodaigh is correct that immigration did not become an urgent issue until the previous decade because until then we did not have a significant number of non-nationals. As a nation, we travelled the world and lived as non-nationals elsewhere. Now that immigration has become an issue, we should address it in a humane, comprehensive fashion. Having failed to do this, it must become a priority in the Department.

Will the Minister indicate a timeframe within which he will publish the heads of legislation? How can we receive all the inputs required from the various Departments and interest groups to which the Minister referred unless a text is placed in the public domain? The sooner some schedule or scheme of a Bill is presented, the quicker we can deal with it. This side of the House would be willing to co-operate because all Opposition Deputies regard it as an urgent, priority matter.

Mr. McDowell: The programme for Government commits the Government to introduce the major immigration Bill about which we are speaking. It is, therefore, not only my commitment but that of the Government to ensure the Bill forms part of the legislative programme during its lifetime. The legislative programme indicates that it is the Government's aim to publish the legislation during 2004, having regard to the consultative requirements I have mentioned. The Bill before us will effectively remove a month from the diaries of the same

group of officials who do much work on the other major project. Therefore, the process in which we are engaged today is taking place at the expense of the agenda and timetable for the other legislation.

The International Organisation on Migration has prepared a useful report which we will take into account. I ask the House to accept that there are fundamental issues involved in moving to a quota system of work permits. It occurred to me on the day I walked into my Department that the individual work permits system seemed unattractive. To move to a quota system by reference to economic necessity requires taking decisions on fundamental issues such as introducing quotas for countries of origin.

Having regard to Deputy Michael Higgins's comment about a private memorandum emanating from the Department at one stage, clearly any system of organised migration must be neutral and non-discriminatory in terms of ethnic origin. Creating the conditions to bring about such a system is difficult. These are fundamental issues rather than easy questions to which pat answers are available. Would one establish a system in which people from Sudan would be entitled to a percentage of immigration opportunities? Would one create a complex bureaucracy and advertise the system in the Republic of Sudan? Would one establish elaborate, comparative processes to decide who may enter this country? These are fundamental issues to which I am not offering solutions today, save to say that moving from an individual work permit system to a quota system would not be without difficulty on points of principle.

Mr. Costello: Why not have a European Union initiative?

Mr. McDowell: While I do not want to digress too far, in my capacity as president of the Justice and Home Affairs Council I must deal with a study commissioned by Italy which is due to come before the Council during our semester. The study addresses the question of relating our campaign on illegal migration to some form of informal assurance to countries of origin to the effect that we are operating a quota-sharing arrangement which guarantees their nationals who wish to come to Europe that they will not encounter a fortress Europe but a European Union open to legal migration of a fair kind.

The Italian initiative is not free from controversy and some Ministers are of the view that this matter is essentially one for member states to decide and that the idea of attempting a joint approach is too ambitious and would not be accepted by the electorates in some member states. This raises a number of significant issues. I agree that for a small country such as Ireland, it is probably difficult to treat quotas in a manner divorced from what is happening in the European Union generally. On the other hand, I am not sure the electorate is ready to create a European

competence in this area or if such a proposal would go down well at the ballot box.

In case Deputies feel I am unduly negative on the pace at which legislation is proceeding through the House, they should remember that this is the third Bill dealing with immigration since 1999 and that the Private Security Services Bill, to which we referred earlier and which, as far as I am aware, has the support in principle of all Members of the House, was published two and a half years ago. Finding time to take Report Stage of that Bill is not easy. On the Order of Business today, for example, Opposition speakers demanded separate debates on water quality and EU migration matters. Unfortunately, debates on specific issues, which I do not oppose because they are necessary from time to time, take place at the expense of a Stage of legislation. We need to examine this matter carefully.

It has been said there is so much outdated legislation among the Bills before this House that perhaps the Tánaiste would ask the younger Bills to look after the older Bills because some of them are getting to that stage of antiquity. I emphasise to the House that I am in favour of getting on with the legislative process. Whenever a suggestion is made that the House should sit late or sit on a Friday or whatever to deal with legislation from my Department, I am up for it and so are the two Ministers of State at the Department of Justice, Equality and Law

Reform. I have no problem whatsoever with it. I have never resisted making legislative time available.

Deputy Costello makes the good point that it is preferable in principle for Committee Stages of Bills to be taken in committee and I agree with him on that point. The physical, emotional and intellectual resources of the members of the Joint Committee on Justice, Equality, Defence and Women's Rights will be stretched to breaking point with the Barron report inquiry, the report on criminal justice problems, a series of Committee Stages of Bills and the European developments. They are all on the table of that committee and, in fairness to the members, there is very little return in terms of public appreciation for how hard they work. There is also a logistical issue.

Mr. Costello: There are very few resources.

Mr. McDowell: There is no certainty that in the autumn of this year I would have legislation enacted by this House, not simply published. The Refugee Bill was nine months going through the two Houses of the Oireachtas. If I had any moral conviction that as a matter of certainty I could time limit this Bill I would consider doing so. Any fair-minded view of the probabilities would lead one to believe that it would be very dangerous to time limit this legislation.

Amendment put.

The Committee divided: Tá, 30; Níl, 65.

Tá

Boyle, Dan.
Broughan, Thomas P.
Burton, Joan.
Costello, Joe.
Crowe, Seán.
Cuffe, Ciarán.
Ferris, Martin.
Gilmore, Eamon.
Gormley, John.
Gregory, Tony.
Harkin, Marian.
Healy, Seamus.
Higgins, Joe.
Higgins, Michael D.
Howlin, Brendan.

McGrath, Finian.
Morgan, Arthur.
Moynihan-Cronin, Breeda.
Ó Caoláin, Caoimhghín.
Ó Snodaigh, Aengus.
O'Sullivan, Jan.
Pattison, Seamus.
Penrose, Willie.
Quinn, Ruairí.
Rabbitte, Pat.
Ryan, Eamon.
Ryan, Seán.
Sherlock, Joe.
Stagg, Emmet.
Upton, Mary.

Níl

Ahern, Dermot.
Ahern, Michael.
Andrews, Barry.
Ardagh, Seán.
Aylward, Liam.
Brady, Johnny.
Brady, Martin.
Browne, John.
Callanan, Joe.
Callely, Ivor.
Carey, Pat.
Carty, John.
Cassidy, Donie.
Collins, Michael.
Cooper-Flynn, Beverley.
Coughlan, Mary.

Cowen, Brian.
Cregan, John.
Curran, John.
Dempsey, Noel.
Dempsey, Tony.
Devins, Jimmy.
Ellis, John.
Fitzpatrick, Dermot.
Fleming, Seán.
Gallagher, Pat The Cope.
Grealish, Noel.
Hanafin, Mary.
Harney, Mary.
Haughey, Seán.
Hoctor, Máire.
Jacob, Joe.

Níl—*continued*

Keaveney, Cecilia.
Kelleher, Billy.
Kelly, Peter.
Kirk, Seamus.
Lenihan, Conor.
McDowell, Michael.
McEllistrim, Thomas.
McGuinness, John.
Martin, Micheál.
Moloney, John.
Moynihan, Donal.
Moynihan, Michael.
Mulcahy, Michael.
Ó Fearghaíl, Seán.
O'Connor, Charlie.
O'Dea, Willie.
O'Donnell, Liz.

O'Donoghue, John.
O'Flynn, Noel.
O'Malley, Fiona.
O'Malley, Tim.
Power, Peter.
Power, Seán.
Roche, Dick.
Ryan, Eoin.
Smith, Brendan.
Smith, Michael.
Treacy, Noel.
Wallace, Dan.
Walsh, Joe.
Wilkinson, Ollie.
Woods, Michael.
Wright, G. V.

Tellers: Tá, Deputies Ó Snodaigh and Stagg; Níl, Deputies Hanafin and Kelleher.

Amendment declared lost.

An Ceann Comhairle: As amendments Nos. 2 and 3 are cognate, they may be discussed together, by agreement.

Mr. Deasy: I move amendment No. 2:

In page 3, subsection (1), line 13, to delete "the" where it firstly occurs.

Amendments Nos. 2 and 3 in my name are technical in nature.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. O'Dea): We have examined amendments Nos. 2 and 3 in the name of Deputy Deasy. As he has said, they are drafting amendments. The reality is that they do not add substance to the Bill. In such circumstances, we have decided not to accept the amendments.

Mr. Deasy: I would like to make one comment. The Minister, Deputy McDowell, said yesterday that he would come here today in good faith, as far as amendments are concerned.
12 o'clock The Minister of State has said that he will not accept two amendments that propose to remove a single word. Does he honestly expect us to take him seriously, as far as good faith in respect of this Immigration Bill is concerned? He is an absolute joke.

Aengus Ó Snodaigh: I would like to take up this point. I asked the Minister about today's amendments. He indicated yesterday that he is willing to accept amendments. I would like a further indication in that regard so we can plan our deliberations on this legislation. Which amendments does the Minister propose to accept?

An Leas-Cheann Comhairle: We can only take the amendments that are before the House at the moment.

Mr. Deasy: The Minister expressed—

Mr. Costello: Deputy Ó Snodaigh's point is valid. He has raised this matter already and we were anxious that the Minister would give some indication of his views. We have a limited time to deal with this legislation and there are more than 100 amendments. If the Minister could give us an idea of which amendments he intends to accept, we could speed up the business of the House, which would suit everybody.

Mr. O'Dea: Deputy Ó Snodaigh's point is reasonable. If the Minister wishes he can give that indication. He will be back shortly and I suggest this be put to him when he returns. To deal with Deputy Deasy's point, I do not understand all this nonsense about good faith. Deputy Deasy has put forward an amendment that does not add to or subtract from the Bill. It does not alter the Bill one iota.

Mr. Deasy: It is a drafting amendment.

Mr. O'Dea: Yes.

Mr. Deasy: Does the Minister of State know what that is?

Mr. O'Dea: I will accept any drafting amendment, and so will the Minister, if it improves the Bill. I do not see why I should accept an amendment just to get into Deputy Deasy's good graces—

Mr. Deasy: The Minister of State should sit down. This is pathetic.

Mr. O'Dea: —just because it is an amendment which he happened to put forward.

Mr. Deasy: The Minister of State is pathetic.

Mr. O'Dea: I will discuss and accept amendments of substance.

Mr. Deasy: What we need is a Minister of substance.

Mr. O'Dea: We have much to do.

Mr. Deasy: The Minister of State will never be a real Minister if he carries on like this.

Mr. O'Dea: Deputy Deasy has been complaining about the short time given to this legislation. If the Deputy stops wasting the time of the House putting forward amendments that mean nothing we will do more business.

Mr. Deasy: The Minister of State is pathetic.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Amendment No. 3 not moved.

An Leas-Cheann Comhairle: Amendments Nos. 4, 42, 43, 69, 84 and 85 are related and may be discussed together by agreement.

Mr. Costello: I move amendment No. 4:

In page 3, subsection (1), between lines 14 and 15, to insert the following:

" 'authority recognised by the Government' means an authority recognised for the purposes of this Act;"

Non-nationals are asked to present documents from a recognised government. That provision is contained in the primary Act of 1999. However, there are instances in which governments have not been recognised for certain reasons. For example, the Government of Taiwan was not previously recognised. Under this legislation, valid documentation such as passports and identity documents cannot be accepted. This amendment extends the definition so that non-recognised administrations will still be able to produce a valid form of identification. There will be no gap or loophole that will allow people to be refused simply because they do not belong to an internationally recognised state.

Mr. Deasy: As Deputy Costello said, there are a number of countries whose governments are not recognised. Many governments are in such a state of unrest that it is not possible for people to acquire a passport. There are also countries whose governments refuse to issue a passport. The legislation needs to recognise that people may be caught in these circumstances.

Aengus Ó Snodaigh: I agree with Deputy Deasy. There are a number of governments for which these circumstances pertain. There are times when new governments are instated or new states are founded and this Government does not necessarily recognise those governments or authorities. It does not take away from the Bill if we delete the words "issued by an authority recognised by the Government", as is intended by most of the amendments we are dealing with.

Section 4(3), which we are seeking to amend, deals with the recognition of states and international law. It allows immigration officers to refuse leave to land to non-nationals who are in possession of a travel document from a government that the Irish State does not recognise. In reality, this section will have a negative impact on persons originating in countries which are not recognised internationally, of which there are a number. For example, Somalia was previously not recognised and Tibet is currently not recognised. There are also newly independent states with which we have not yet established diplomatic relations.

We must try to ensure that documentation which identifies the bearer and has some legality internationally is accepted by immigration officers and that people do not end up being arrested or even imprisoned — people who commit offences under this legislation are liable for a fine or imprisonment. Sometimes people do not have the required documents if they are fleeing or trying to link up with family members here who are holding documentation for them. Some opportunity should be given for the documentation required to be obtained upon landing here. Perhaps there could be a method for getting in contact with a representative of the United Nations so that the UN could issue the recognised documentation.

Mr. O'Dea: I consider the insertion of the definition proposed in amendment No. 4 unnecessary as the meaning should be clear to all concerned. The issue arises when a non-national presents his or her passport or other travel document on arrival at a port in the State. The officer must determine whether the document in question is validly issued by the proper authority. Where the non-national is a member of a class of persons exempted by order of the Minister from the requirement to have a visa it can be taken that a valid passport presented by that person has been issued by an authority recognised by the Government. Where the non-national is required to have a visa, if the Irish visa sticker has been entered in the travel document, the question of the travel document having been issued by an authority recognised by the Government will have been settled at that stage.

There are some wonderful passports issued by bodies with august-sounding names such as the World Service Authority, or such fantastical entities as the Golden Republic of Ceylon, which any interested customer can buy for €50 or so, but which no immigration officer would fall for. Identity fraud is one of the most intractable issues facing immigration authorities in every jurisdiction. I know these concerns are shared by my opposite numbers in other jurisdictions, including our common travel area partners in the UK. The purpose of a passport is to identify the nationality and biographical details of the holder. It is, essentially, an identity document.

[Mr. O'Dea.]

I remind Deputies of the aftermath of the terrorist atrocities of 11 September 2001. After these events extraordinary meetings of the European Justice and Home Affairs Council took place at which an extensive and wide-ranging programme of tasks was agreed. In addition, UN Security Council Resolution 1373 of 28 September 2001 imposed significant additional obligations on all member states. These obligations require EU and UN member states to exercise the utmost vigilance when issuing residence permits and to take measures for the prevention of fraudulent use of identity documents.

Deputies should be aware that establishing identity is not an easy process. For example, a birth certificate on its own provides evidence of birth but does not confirm that the person is still alive or that the individual producing the certificate is the person named in it. Consequently, it is expected within the international community that states will go to some lengths to ensure that the issuing procedures of national passports will be rigorous and characterised by some degree of investigation on the part of that state as to the identity of the passport applicant. It is important, therefore, that some benchmark be established not alone for the security features associated with the document itself, but also for the process by which the passport is obtained in the first place.

It is for this reason that reference is made to an authority recognised by the Government. Otherwise, a situation could arise where warring factions in a troubled country could determine themselves to be a separate jurisdiction in their own right and issue passports which could be comprehended by these amendments. It should also be noted that UK immigration law has similar provisions to those in this Bill.

Amendment No. 42, in the name of Deputy Ó Snodaigh, proposes to remove the power to check for passports from an immigration officer working at a point of entry to the State. I am astounded by the notion that Ireland, alone among all the nations of the Earth, might decide not to bother doing such a thing.

Amendment No. 43, in the name of Deputy Deasy, does little better. It seeks to limit the circumstances in which an immigration officer may exercise the discretion to refuse permission to a non-national who does not have a passport. The amendment would set a number of challenges to the immigration officer faced with a non-national who has no passport or have a false or photo-substituted document. The officer would have to quiz the applicant by reference to the UN Convention on statelessness, acquaint himself or herself of recent political developments in the country of nationality claimed — if any is claimed — and inquire as to whether the person had been refused a passport by his or her government.

The aim of amendment No. 84, tabled by Deputy Ó Snodaigh, appears to exclude the requirement of a proper passport or other travel document when arriving in the State for the classes of persons listed in section 2(2). This section applies in the main to EEA nationals. There is a provision, confirmed by case law in the European Court of Justice, that EEA nationals arriving in another EEA state are obliged to satisfy the border authorities of their status as EEA nationals. The only satisfactory way to do this is by producing either a passport or a national identity document of the type issued by many continental countries. We cannot have a situation where EEA nationals arriving in Ireland are only required to say that they are of EEA nationality without backing it up with a passport or other identity document.

Under the UN Convention on the Status of Stateless Persons, a person recognised by a state as stateless who is resident in that state can obtain on request a travel document enabling him or her to move from state to state. That document will generally be issued by an authority recognised by the government. If the stateless person is resident in Ireland, the State issues the travel document. Thus the first element of the amendment is unnecessary.

If a person turns up claiming they are stateless and have no passport, any immigration officer will view such an assertion with an appropriate degree of scepticism, since such an assertion is more likely to be made an individual who wishes to conceal their nationality and identity than one who is genuinely stateless within the meaning of the convention.

On subparagraph (ii) of the amendment, the newspaper headlines of our nearest neighbour showed a government that is clearly recognised, but is evidently in a state of political unrest. I recognise that is hardly what the Deputy had in mind. With regard to subparagraph (iii), what if the government in question had confiscated the person's passport or refused to issue one in order to prevent the abduction of a child from its jurisdiction pursuant to its obligations under the relevant Hague Convention? Is the immigration officer to facilitate such action? The thinking behind the amendment is based on the mistaken reading of subsection (3) that the immigration officer in each case must refuse in any of the circumstances listed in the subsection. That is not the case as it is a discretion, not an obligation.

For those reasons, I cannot accept these amendments.

Mr. Costello: The Minister of State has given a comprehensive reply. However, he did not address my amendment. He stated that the Government's intention was to deal with documentation that was validly issued by a proper authority. However, that would be comprehended by my amendment which seeks to differ from the present position, which is that it is an authority formally recognised by the

Government. For political purposes, Taiwan and Tibet are not recognised by the Government, yet they both produce passports that are, as the Minister of State describes, “validly issued by a proper authority”. This amendment proposes that it should be an authority recognised for the purpose of this Act, thereby preventing the legislation embarrassing the nation by refusing entry to the Dalai Lama and his entourage. The amendment would also encompass passports and identification documents that are validly issued by a proper authority and would improve the quality of the Bill.

Mr. O’Dea: The general principle is that the decision to refuse entry on the basis of a document which has not been issued by an authority recognised by the Government remains discretionary in each individual case. The practice of immigration officers, on the instruction of the Minister for Justice, Equality and Law Reform, in the case of Taiwan — I am advised it is the same for Tibet — is to accept such documents, notwithstanding that Taiwan is not formally recognised by the State. However, that does not derogate from the general principle which I identified earlier.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 5, 81 to 83a inclusive, and 89 to 90a inclusive, are related and will be taken together by agreement.

Aengus Ó Snodaigh: I move amendment No. 5:

In page 3, subsection (1), to delete lines 20 to 23.

The function of this amendment is to delete the reference to “keeper”. It is related to other amendments concerned with section 10 and the requirement of hoteliers to keep a register. How will a keeper or a hotelier determine who is a non-national? Will hoteliers resort to relying on racial and ethnic profiling? Four groups, the Immigration Council of Ireland, the Irish Council for Civil Liberties, the Irish Refugee Council and the Migrant Rights Centre of Ireland, have asked how the hotelier will determine who is a non-national. What will happen if a hotelier does not believe an individual who insists he or she is Irish? Will the hotelier have to force him or her to sign the register? It is likely that Irish citizens will have to supply their passports for hotel registers to prove they are Irish citizens and not non-nationals? We should delete the reference to keepers because, if a hotelier fails to comply with these provisions, he or she can be arrested without a warrant if there is reason and may be liable to a prison sentence of up to a year, with or without a fine.

The section should be omitted as it is excessive and heavy-handed. The Minister said that having to register is common when travelling through

Europe, but it is possible that an Irish person may be refused entry to a hotel on the basis that he or she cannot prove he or she is Irish or because the hotelier is frightened of a possible fine or imprisonment. Will we end up with racial and ethnic profiling? The Minister opposes such profiling and says it does not happen, but anyone who has come through Dublin Airport in the company of people who are not white, including those born in Ireland, will see that it does happen. Racial and ethnic profiling occurs here and we are encouraging hoteliers to become involved in it.

Mr. Cuffe: My amendments attempt to reduce the bureaucracy the Bill may impose on people who provide lodgings. Despite the Government amendment, that bureaucracy will still apply to someone providing a room in their house for lodgings on a commercial basis. The Minister will be familiar with the tax exemption allowed for people with lodgers, a good provision which allows those living in a house that is too big for them to provide a room for a student or some other paying guest. My elderly aunt has been doing so for many years, but it would be an undue burden on her if having a foreign lodger meant she was obliged to keep an extensive register which would have to be available to the gardaí at the drop of a hat. It is an undue level of bureaucracy. Section 10 reminds me of travelling in eastern Europe before the fall of the Berlin Wall, when one practically had to give one’s mother’s maiden name before being admitted to a guesthouse.

While I recognise the making of regulations in connection with the Act is discretionary, this provision is very convoluted. It sends out a message to those taking in guests that having foreigners as guests will mean trouble and another layer of bureaucracy. That is not the kind of message a modern, outward-looking Ireland should send in the 21st century. We should be removing red tape and bureaucracy, and it is ironic that a Minister who prides himself on trying to do so is creating a very bureaucratic system of regulations. He is not only allowing the State significant access to the workings of hotels and lodging houses but access to the affairs of individuals who provide lodgings to foreign students out of the goodness of their hearts or for some pin money. We should not go this far.

Mr. Deasy: The basis for my amendment is the fact that property is afforded much greater protection in the Bill than a person. A garda can arrest someone under this Act without a warrant, yet, if the same garda wants to seize property, he or she must first obtain a warrant from the District Court. The Bill affords people much less protection than personal property; the Minister should address that. My amendment simply ensures that persons will have the same protections as property in the Bill.

[Mr. Deasy.]

Deputies Ó Snodaigh and Cuffe were discussing section 10, but a related matter arises in section 9. Yesterday, Deputy Higgins spoke on Second Stage about people informing on each other. He referred to a regulation in the 1940s which obliged people to inform on those they suspected or knew to have tuberculosis. The regulation was part of the Infectious Diseases Regulations but was repealed in 1981 for reasons of privacy. Deputy Higgins said yesterday that people felt it was an invasion of privacy, but I do not see much difference between that regulation and section 9(4), which states:

If a non-national who is required under this section to register or report is lodging with, or living as a member of the household of, any other person, it shall be the duty of that person to take steps ... to secure compliance with the terms of this Act in respect of the registration of or reporting by the non-national.

Some people have said this turns Irish people into immigration officers and spies and there appears to be a precedent in the form of a regulation from 50 or 60 years ago, which was ultimately found to be an invasion of privacy. If a person was suffering from an infectious disease, others were under an obligation to inform on him or her, but that regulation was struck down for reasons of privacy. There is a problem here because the provision in section 9(4) is similar.

Mr. Costello: I said on Second Stage that a ridiculous situation arises in section 10 which states: "It shall be the duty of the keeper of every premises to which the section applies to keep in the premises a register in the prescribed form ...". Section 10(5) extends that provision to any premises, whether furnished or unfurnished, in which lodging or sleeping accommodation is provided for reward.

The Minister's amendment No. 83a seeks to address this but does not succeed. It is still seriously flawed. The amendment deletes section 10(5), and replaces it with: "This section applies to a hotel or other place in which lodging or sleeping accommodation is provided on a commercial basis." The amendment is an attempt to tighten it up, but does it really deal with the situation we outlined yesterday?

For example, I referred to a bean a'tí type case where a person runs a lodging house. Under planning regulations, planning approval is not required if there is less than four units. Such a person would not even be registered under existing law. How can those people be expected to have a separate register when they do not exist on any formal register? There is no way of checking it. In budget 2003, the Minister, Deputy McCreevy, made provision for individuals to receive €7,000 or €8,000 tax free for keeping a lodger. Is a household in suburban Ireland expected to have a register of non-nationals if lodgers are kept? What is the definition of

"commercial"? If a person is in receipt of up to €8,000 from a lodger, which is tax free thanks to the Minister for Finance, it is still a commercial operation, as is the case of the bean a'tí. This provision is totally unenforceable. Why do we have legislation like this, which appears effective, as if we are cracking down on loopholes and dealing with the problem, but is meaningless. The attempt to improve the section has not addressed the problem. Would it not be preferable to delete subsection (5)?

This section is titled "hotel registers" so it could only properly deal with an area of commercial accommodation, which is registered by the State. We are creating a legal anomaly where virtually anyone who provides accommodation on a commercial basis will be subject to penalty under the legislation. There is a flaw which the Minister needs to address.

Deputy Deasy referred to the tenor and ethos of section 9(4). It is disgraceful that people are expected to inform on each other in the manner specified. It is an attempt to turn people into informers and spies. I hope the Minister is prepared to delete this subsection.

Mr. McDowell: I am glad Deputy Costello drew the attention of the House to the additional amendment to section 10, which makes clear that the section only applies to a hotel or other place in which lodging or sleeping accommodation is provided on a commercial basis. He also queried the meaning of "commercial" in this context. Ordinary rules of construction apply to a term and subsection like this. What lawyers call the *iustum generis* rule applies, which means something of the same kind. In the phrase "a hotel or other place", "other place" is always interpreted as meaning something similar to a hotel. It is not just any other place in the world, the *iustum generis* rule is applied. Since this is a penal measure, it will be interpreted by the courts in a manner which is most favourable to a person accused of an offence under it.

"Commercial" means the provision of accommodation on the basis of somebody carrying out a business in so doing. This deals with Deputy Cuffe's concern about his aunt and other people in similar circumstances. As a result of the high cost of housing, it is frequently the case that people share houses with others who can contribute to the household expenses or mortgage. This is a way of life for many young people in particular. The proposed amendment deals with the issues raised. The place has to be one which is analogous to hotel. It has also to be one which is carried out on the basis of running a business.

Until the High Court delivered its recent judgment, the law required the keeper of a hotel or inn to maintain a register of this kind. I do not know how many Deputies present travel around Dublin frequently, but I presume Deputy Costello is familiar with the city. In his constituency in particular, as in mine, there are a

number of premises one would not describe as hotels that are called hostels or some such name. Effectively, they are similar to what the Victorians and previous generations called inns. These are places of accommodation operating on a commercial basis that would not be considered hotels for the purposes of the Hotel Proprietors Act or would not be described colloquially as hotels. A particular street in the Deputy's constituency has a number of these institutions.

Mr. Costello: The Minister must tell me about it some time.

Mr. McDowell: I do not wish to start using the antiquated term "inn" for this purpose. The phraseology chosen by the draftsman is correct. For one to be under obligation under section 10, the premises of which one is a keeper must be one which either is a hotel or is a type of business analogous to a hotel. This is how the legislation will be interpreted.

It has been argued that this measure is draconian, redolent of eastern Europe and so on.

Mr. Cuffe: Worse.

Mr. McDowell: We belong to a common travel area with the United Kingdom. Provision is made under UK law for registers to be kept in places like this as well. It might be argued, and perhaps it will be when we come to revisit this whole area, that we should get rid of registers completely and let people do whatever they want when going to hotel accommodation. I do not know why Deputy Cuffe chose eastern Europe, because every hotel in any part of Europe I have ever visited has had a register. One does not have to be as old as I am to remember the film, *The Day of the Jackal*, where the main character is sought across the south of France and the *gendarmes* are rushing around checking registers to see where is their man.

Mr. Costello: The register is not used to deal with non-nationals.

Mr. McDowell: Right across the European Union, including the United Kingdom and Ireland which do not have identity documents as a matter of form, it is an obligation of somebody providing accommodation on a commercial basis to keep a register which can be checked. While this may be a relic of a distant age that should be done away with, before we do something like this, we must consider whether it is a good idea. Were I to get a rush of blood to the head, would the Garda Commissioner find that he was no longer capable of tracing people he is seeking? Would it be a good if Ireland was the only country in the EU that did not have hotel registers? While it may be a good idea and perhaps hoteliers will be wildly in favour of this, I have not consulted them.

The purpose of this Bill is to maintain continuity. I am not persuaded that it would be a

good idea, without carefully thinking through the consequences, to get rid of this procedure. I remind Deputies that this measure — which has been variously described as draconian, eastern European, Nazi or relic of the Third Reich — has been in place for 60 years. No one has said Ireland is a police state where the Minister for Justice, Equality and Law Reform spends his time scurrying from one establishment to another trying to find out who slept with whom last night in what hotel. The Department of Justice, Equality and Law Reform has better things to do than that.

We must keep a sense of proportion about this. Even in the absence of legislative compulsion, every premises that provides accommodation on a commercial basis would keep some form of register if only for the purpose of good regulation of the business. This is commonplace throughout the world. I have never felt put upon by being asked to sign a hotel register wherever I have gone. However, I have felt slightly put upon when, in some European countries, one's passport is taken and put in the hotel safe. None of this is required here.

Mr. Cuffe: They do not take your fingerprints.

Mr. McDowell: No, nor is it suggested in the Bill that fingerprints be taken in hotels.

Mr. Cuffe: Nor do they seek one's CV if one is a civil servant.

An Ceann Comhairle: The Deputy should allow the Minister to proceed without interruption. Deputy Cuffe, do you wish to make your two minute contribution now?

Mr. McDowell: This is of no relevance to hotel registers. I presume Deputy Cuffe travels to America frequently. If he does, he will have to fill out cards stating the purpose of his visit, his profession, etc.

Mr. Cuffe: At least the Minister is not suggesting that we ask whether the traveller has been convicted of moral turpitude.

An Ceann Comhairle: The Deputy should allow the Minister to continue without interruption.

Mr. McDowell: I travelled to Toronto on Progressive Democrats business some time ago. An immigration officer brought me to a room with a one-way mirror and left me there for some time.

Aengus Ó Snodaigh: Fair play to him.

Mr. McDowell: He asked me what my business was in Canada and I told him I was a Progressive Democrats Deputy. He said: "Progressive Democrats? Never heard of them." It was a relatively new party at the time and I explained

[Mr. McDowell.]
this to him. He then asked me about my profession: "What is this about Deputy? Deputy to who?" I felt completely put down by this procedure.

The State is entitled to know if a foreign state is sending someone here on official business and what official business he or she is carrying out. This is perfectly reasonable and conventional and there is nothing draconian or fascist about it. Members should remember that this is not new; this is how the law has stood for 60 years. This does not have the alarming consequences that are being claimed for it. This is conventional in international terms and it would be strange if Ireland were to use this emergency legislation to tear up migration procedures that are standard throughout the world.

Ireland has a common travel area with Britain. No person coming from Ireland is stopped and asked account for him or herself when entering Britain. This is a valuable treaty right that we have with Britain. If we were to dismantle provisions that are common to both countries without consulting the British on what the implications might be, we would be in serious trouble. There is an element of mutual support between the two sovereign states on these islands. If the price of freedom of travel to Britain is to maintain a migration system that is remotely conventional in international terms, then it is small.

Aengus Ó Snodaigh: The issue with which we are dealing shows the emergency nature of the original legislation. The provisions regarding registers, etc. were based on the circumstances prior to, during and after the Second World War. I have signed many registers on my few trips abroad. However, if a hotel register exists, it should not be limited to non-nationals. A specific non-national register is being created in this legislation. Hotel registers should be dealt with in hotel proprietors' legislation rather than in immigration legislation. Registers are used on a commercial basis and are useful both to the tax man and the hotel. This is a discriminatory register that isolates non-nationals and puts the responsibility on, and provides fines for, hoteliers. The Minister should accept the amendments that propose to delete this. That the law exists in Britain does not mean it is a good law. Ireland has suffered over many generations from Britain's bad laws.

The Minister was correct to say that the drafting of this Bill was done when those involved grabbed what existed for 60 years, tidied it up and put it into this Bill. This is only tinkering with the issue. It must be tackled properly and the only way to do this is to delete this section. There is a reference to keepers at the outset and later one to hotel registration. If the Minister for Finance desires that a hotel register be kept for tax

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purposes, then so be it as everyone will be included and it will not be discriminatory.

Mr. Deasy: Will the Minister address amendment No. 89 which proposes to amend section 13(2) where "A member of the Garda Síochána may arrest without warrant a person...,"? Will he also address the issue of section 9(4) with regard to repealing the infectious diseases Regulations? The Minister mentioned yesterday that he would reveal which amendments he would accept and it might be helpful if he would give us that information.

Mr. Costello: The more we discuss the Bill, the more apparent the anomalies become. The very stark, draconian and almost racist wording of the opening lines of section 10 state: "It shall be the duty of the keeper of every premises to which this section applies to keep in the premises a register in the prescribed form of all non-nationals staying at the premises." I do not think that any commercial entity ever knew it had to keep such a register. It was aware it had to keep a register of all people staying at the premises, but was not informed it had to keep a separate register of all non-nationals. Has this been well advertised? Will there be two registers in all commercial premises that provide accommodation throughout the country. I have not heard about it and I do not know if the Minister is aware of that. As I understand it all guests sign a hotel register and this record is available for tax purposes.

Mr. McDowell: So that a private detective can see it

Mr. Costello: I am sure there are certain people who would like to see the register open to the Garda Síochána to check on the private "goings and doings" of everybody. If every hotel is bound already to have a register, mainly for tax purposes, is there a need for the provision in legislation to have a separate register for non-nationals? That smacks of identifying them, isolating them and treating them in the manner prescribed in the Bill. It will criminalise all the other sectors. The Minister has not addressed the question of householders offering accommodation in their home for reward. The word "keeper" is defined in the first page of the Bill as being in relation to premises where accommodation is provided for reward. However, in the ministerial amendment, the Minister uses the word "commercial". If people are offering accommodation in their home under the tax initiative introduced by the Minister, Deputy McCreevy, are they doing so for reward or for commercial purposes?

Mr. McDowell: For reward.

Mr. Costello: Why not use the same wording "reward" in both instances? The Minister differentiates between the meaning of "commercial" and "reward" and, if that is so, he

should amend the wording of amendment No. 83a. The amendment states: "a hotel or other place in which lodging or sleeping accommodation is provided on a commercial basis." There is an anomaly there. There is a world of difference between the two types of registration. Under the provisions of section 9(1)(a) the non-national is obliged to register. A register of non-nationals who have permission to be in the State shall be established and maintained by registration officers in such manner as the Minister may direct.

The State maintains a register of all non-nationals. Every "two bit" inn or lodgings will have to keep on the premises a register in the prescribed form of all non-nationals staying at the premises and, to make matters worse, under section 9(3) if he or she stays for more than 24 hours, notice must be given of any intended change of address to the registration officer. The legislation is confusing, discriminatory and will be impossible to operate.

Mr. McDowell: Section 9 refers to the Garda register and has nothing to do with the hotel register. A non-national who comes to Ireland has to register with the Garda Síochána and it has to maintain a register. The Schedule to the Bill refers to the Garda register and has nothing to do with hotel registers

Mr. Costello: Why do we need a plethora of other registers?

Mr. McDowell: Deputy Costello is arguing that a separate register will have to be held, but it will not. Until now the law was that everybody had to enter his name on the register, be they national or non-national, even though any sensible hotelier or accommodation provider will register everybody who comes into his premises because it saves the reception clerk having to ask if the person is a non-national.

Mr. Costello: That is not what the legislation states.

Mr. McDowell: I know it is not what the legislation states but what I have done is that if a reception clerk omits to register an Irish citizen, it will not result in a prosecution. I am trying only to make the law less onerous on people. People will keep registers and will register all their customers. The ministerial regulation will provide for that and they will not have to separate the register into two parts. They will sign their name and enter their nationality in the next column of the register and so on, as is the case at present. If it transpires that on some occasion that yours truly goes into a hotel and omits to sign the register it will not be the subject of a prosecution or a criminal liability because I am an Irish national. That is how it will work out in practice. I believe all hotel reception clerks will do as they have always done and ask the guest to sign the

register and fill it in. It makes sense to find out who is in their hotel.

It amuses me that it is said to be discriminatory. If somebody fails to register somebody else and if it turns out that the person was an Irish citizen, because this is an immigration Bill, there will not be a criminal prosecution. Let us not lose the run of ourselves. Imagine if I was saying the contrary that everybody must be registered and that if I go to a bed and breakfast and stay the night, because a pipe burst in the roof and the person fails to register my arrival, the owner will be liable to be criminally prosecuted. If I were to say that, Members would be jumping down my throat and saying that it was an unnecessary, draconian Nazi Third Reich, eastern European, crazy idea that I wanted to keep tabs on every Irish national in the country and have the Garda Síochána snoop on them. We have alleviated an onerous obligation in respect of Irish citizens because we believe it would be unreasonable for a District Court prosecution to follow under an immigration Bill where a hotel clerk had failed to register an Irish citizen.

Could anything be more reasonable? Why then are we being treated to this nonsense, if I may say so, that this is discriminatory? The essence of an immigration law is to discriminate between nationals and non-nationals, and to do so effectively. One person has obligations, while another does not, precisely because he or she is a citizen or a non-national. If one chooses to use the term "discrimination", of course it is discriminatory in the proper sense of that term because it discriminates between two categories. I am trying to make the law easy for people to operate. I am asking hoteliers to keep a register. I know they register everybody because it makes common sense to do so, rather than cross-examining people as to their nationality when they come in. I know hoteliers will do that kind of thing. For the first time in 60 years, I am providing that if they slip up concerning an Irish national, they will not be liable to prosecution in the District Court. Could anything be more reasonable than that?

Deputy Deasy referred to the issue of there being no protection against arrest without a warrant, while on the other hand a warrant is required for searches of property. The Deputy said that this apparently affords greater protection to property than to individuals. That is one way of looking at it but if it were necessary, as has been suggested, to get a warrant to arrest people under the Bill, the whole system would be chaotic. I will provide an example. If a group of illegal immigrants are seen running across the fields from Armagh to Monaghan, and gardaí are watching them through binoculars, is it being suggested that the gardaí must rush back to Castleblaney and summon up the local District Court judge to seek a warrant to pursue those people?

Mr. Deasy: They will have to go to a judge.

Mr. McDowell: Yes, but let us be clear about it — that law would simply cease to mean anything in those circumstances. I agree with Deputy Deasy on one level: it is a fair point to say that one category of police action requires judicial sanction and another does not. I accept that distinction is there but would it be practicable to provide that one could only arrest a person suspected of committing an offence under this Bill on a warrant? The answer is that it would not, because frequently one would not even know the name of the person with whom one was dealing. One would not know who to name on a warrant. The gardaí could not run back to Castleblaney and say: “We need a warrant to arrest the 12 people we saw running across a field an hour ago, who we hope will still be hiding in the bushes by the time we get back from the District Court.” It will not work that way.

Likewise, in many cases, if gardaí or immigration officers are arresting a number of people concealed in a vehicle, they will have no idea who those people are, so they could not get a warrant. If they discovered a container-load of people entering the country illegally, as happens, they could not run to the District Court and say: “There are a number of people — we have not even checked yet how many because if we open the container they will all run away — so please give us authority to arrest them.” The world could not work that way. Nonetheless, I accept the case Deputy Deasy is making — that in this case people’s property rights seem to be superior, if one looks at it in that peculiar way, because no warrant is needed for an arrest. On the other hand, the reason a warrant is not needed for an arrest is that the law would be unworkable if it were. If, however, I were to say that immigration officers or gardaí could enter premises, including homes, with no warrant, everybody on the opposite side of the House would say this law was “Nazi”, “Third Reich”, “east European”, or whatever other appellation they wished to use. There is a distinction, which I stand over because I think it is a reasonable one. If we were to go down the road of requiring gardaí and immigration officers to obtain prior sanction from a judge in respect of a person they could not even name in a court sitting, the law would just collapse.

Mr. Cuffe: I appreciate the removal of the requirements for Irish citizens to register, which is a step in the right direction. Removing these Victorian anachronisms is to be welcomed, although it is not exactly breaking the mould of Irish politics. I also note the distinction between both types of register that will be kept.

Mr. McDowell: I am not mould breaking, I am putting a mould together.

Mr. Cuffe: Good. I thought one of the Minister’s old slogans was, “Breaking the mould”, or maybe it was one of ours.

Mr. McDowell: I am repairing a fractured mould.

Mr. Cuffe: There is no need for the Minister to discuss the internal politics of his party.

As regards the distinction between the two registers, I will discuss the register for immigration officers later, but it appears to seek details such as the length of a person’s toenails. I am amazed at the amount of detail sought in it. The problem is that we do not have any guidance as to what will be required under registration by a keeper of rooms. It is very open-ended; it could be anything. Good law should be precise and I would appreciate some Schedule setting out what might be kept by the keeper of premises. Some clarity on that matter would be welcome.

This registration requirement is not dissimilar to the requirements for somebody who is out on bail, namely, that they have to make themselves known, perhaps every day, at a Garda station. In the case of this Bill, the Minister is asking the foreign national to provide intimate details at every premises in which they may stay. That is too onerous a requirement. I appreciate the kite the Minister flew about possibly removing this requirement altogether. I would be broadly supportive of that but obviously we would have to examine the details.

There is a difficulty, however, in that once the register is in place, it might well be open to abuse. I note that it has to be made available to a member of the Garda Síochána or an immigration officer, if so requested. It is certainly possible that the system could be abused, if one wished to seek out the register continually to discover who is on it. It should be nailed down more firmly as to who would have access to the register, and in what circumstances a member of the Garda Síochána or an immigration officer could look at the information therein. Otherwise the possibility for abuse could be opened up. I would like to hear the Minister’s thoughts on that matter, in addition to getting some indication as to what details will be on the register. Could the Minister insert a Schedule to the Bill stating what will be required?

Mr. Costello: Will the Minister address the question I raised concerning a lodger who might be in a premises being subject to the tax-free benefit? Will he also address the case of a small bed and breakfast establishment in which only one or two bedrooms are being used for accommodation, and where the normal registration procedures are not required, although it is still a commercial outlet?

Mr. Deasy: Will the Minister deal with the apparent obligation to report, which is mentioned in section 9(4)?

Mr. McDowell: I will leave section 9(4) until later, if I may. As regards the lodger issue raised by Deputy Costello, it amuses me that we now regard lodging as a “post-McCreedy phenomenon”, if I may use that term. The Minister for Finance’s concession on the taxation of payments made by lodgers is a welcome and intelligent move, which has worked well. Lodgers existed long before this ever happened. They are part of history and have always existed.

The Deputy asked if I was wise in taking out the words “for reward” and substituting the word “commercial”. This was the subject of consultation with my officials yesterday. The reason we decided to take this route was to avoid the issue raised by Deputy Cuffe, that people would feel — particularly older people sharing their home with younger people or companions as is frequently the case — that they were under a duty to keep a hotel register.

We have put in place a restriction on that obligation — to hotels or other places where there is the provision of accommodation on a commercial basis. The *iustum generis* rule applies to the phrase “or other place” and that means it will be construed “analogous to a hotel”. I am not going to get into the minutiae of whether three rooms or two rooms in a house constitutes a commercial basis. Common sense on the part of the courts and the immigration staff will draw that distinction.

Mr. Costello: Let us hear the Minister’s common sense. Can he give us some direction? Can he speculate?

Mr. McDowell: If I included in a long Schedule how many cubic feet of space in any particular house could be used and how many lodgers could be in it before it crossed the line, we would be here from now until the crack of doom legislating on the matter. Let us remember this —

Mr. Costello: On a point of order, I referred to the legislation of the Minister for Finance, Deputy McCreedy, which only allows for one lodger. Can the Minister give a specific answer on that?

Mr. McDowell: I do not believe any judge, no matter how adventurous, could ever hold that a person who took a lodger into his or her house was providing accommodation on a commercial basis in the context of this particular section which is covered by the *iustum generis* construction rule which is that it would have to be analogous to a hotel. No judge would do that. If I am proved wrong I will return and humbly apply to Deputy Costello, but I do not believe that will happen. I cannot envisage an immigration officer or a garda wasting his or her time becoming involved in such a matter.

I have forgotten the matter raised by Deputy Cuffe.

Mr. Cuffe: I asked if the Minister could be more specific on the matter of the register.

Mr. McDowell: There is a provision to make regulations for what should be in a register. That provision has always existed and nobody has ever said it could have intrusive consequences. I assure the Deputy that it is only sensible to be realistic in these circumstances and to look for name, address, nationality and some minimum identificatory details. This is a perfectly sensible way of dealing with the matter. If a Minister went to town on the provision and began to include intrusive private details of an irrelevant kind, the regulations would immediately be challenged in court — as everything in this code is constantly challenged — and it would be found to be *ultra vires* the Minister. The Deputy asked whether a garda could do this for any purpose whatsoever. It would have to be lawfully done under the Constitution and in pursuit of a lawful purpose of the garda. Otherwise, it would be an unlawful act and would be suspect.

Somebody also raised the matter of fingerprints. If the Garda register did not allow gardaí to take fingerprints, we would have a ridiculous situation which is by no means fanciful. It would then be possible for any of us, if we were a non-national, to go to a garda and register under one name, go back again the next day and register under a second name, and have multiple entries on the Garda register with no means for the gardaí to work out who was who.

The great thing about modern technology is that our system is not simply an ink and pad job. Now, under technology systems such as Eurodac, if somebody puts the same thumbprint on two separate forms with separate names, it is possible to detect them and find that the person has registered previously claiming to be someone else. If we do not include elementary protections of this kind, biometric if required, the Garda register would be a sort of 19th century process in a 21st century environment. Non-nationals’ cards now have provision for a microchip on which a fingerprint can be encoded. This provision makes the card unique to the holder and enables gardaí to verify whether the card is genuine or whether the holder of the card is the owner of it.

Aengus Ó Snodaigh: The same was said about passports in the past.

Mr. McDowell: Across Europe the Justice and Home Affairs Council is squaring up to the issue of biometric identifiers in passports and visas and sooner rather than later all European passports will carry biometric identifiers, as will visas for people coming into the European Union. The Americans have set a demanding agenda on this issue.

I want to provide some detail on the issue of fraud regarding identity documents. This problem is now recognised by the 2001 UN Security Council Resolution 1373. This resolution was

[Mr. McDowell.]
 adopted in the wake of the 11 September atrocities. It requires that all member states prevent the movement of terrorists or terrorist groups by, among other things, controls on issuance of identity papers and travel documents and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents.

Yesterday, I was told I was thinking in terms of national law rather than international law. However, our international law obligations require us to do this. Between 1999 and 2001 the number of legally resident non-EEA nationals in this jurisdiction grew from approximately 30,000 to over 90,000, an increase of 200% in three years. These figures do not include asylum seekers. It would be naive in the extreme to believe that the undoubted benefits accruing to the State from the scale of this migratory flow into Ireland are not accompanied in some cases by abuses and attempted abuses of the immigration system by transnational criminal gangs who specialise in establishing false identities for immigrants for illicit purposes.

Passport forgeries, photo-substituted passports and forged work permits, for example, are a constant and growing feature of the Irish immigration landscape. I know this from personal experience because I visited the Garda National Immigration Bureau office in Burgh Quay recently where I was shown a kind of rogues gallery of forged documents. The quality of some of them is astonishingly good and the sophistication of the forgery is amazing. We know from yesterday's or Tuesday's newspapers that forged passports being found in people's possession are an almost daily occurrence.

There is a danger that people legally resident in the State who acquire possession of more than one passport can seek to register under two or more guises. This is a concern which the State must address, as must any other state. The international community is determined to address the matter.

Mr. Costello: If we are finishing with this section, will the Minister take the opportunity to let us know which amendments he proposes to accept?

An Ceann Comhairle: That does not arise at this point.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Aengus Ó Snodaigh: I move amendment No. 6:

In page 3, subsection (1), to delete lines 27 to 29.

This amendment deal with the references in the Bill to the master of a ship and the member of a crew. It is linked to the debate on section 7 which,

among other provisions, extends powers of detention to the master of a ship. For that reason, I would prefer if we deleted these references at this early stage and, subsequently, deleted section 7 in its entirety.

I wish to quote from submissions made by different groups given that this is Committee Stage and we have not had a chance to meet these groups and cross-examine them. I will not quote in their entirety the documents submitted as we would be here all day. In fairness to the groups, they were succinct in what they had to say. In the short time available to them, they did Trojan work to put their thoughts on paper and obtain agreement from their members. The Human Rights Commission submitted what it described as a preliminary observation. It looks like it will not get the opportunity to submit anything more detailed given that the legislation will have been passed before the commission has a chance to provide its full, considered opinion.

According to the Human Rights Commission section 7, which contains the references to the master of a ship and the member of a crew, grants broad powers of search and seizure of property to immigration officials at points of entry. This raises serious questions about privacy and the right to private property. Amnesty International said section 7 is of concern because it permits an officer or member of a crew to search a non-national to ascertain whether he or she is carrying certain documents. There is no requirement of reasonable suspicion that the non-national is carrying documents or that the documents must be in any way relevant to immigration concerns.

The larger document, which we all received, came from the four organisations. I have already quoted from it. It outlines that immigration officers can, with no stated purpose, force non-nationals to declare at ports whether they are carrying or conveying any letters, written messages or memoranda or any written or printed matter, including plans, photographs or other pictorial representations. Section 7(3) allows immigration officers to search, examine and retain without cause printed material of any nature. Section 4 criminalises non-nationals for failing to comply with these provisions.

Section 7 gives broad powers to the master of a ship or a member of a ship's crew whom it makes akin to members of the Garda. Section 7(3)(b) provides that an officer or crew member may search any such non-national and any luggage belonging to him or her or under his or her control. These are not immigration officials and they have no training. They may be members of the crew of a small trawler on the high seas or coming toward land, yet they have been given the power to detain people. The Bill does not outline the nature of the detention or indicate whether it is open to abuse. Are people permitted to use physical force to detain non-nationals? The Bill simply provides that they are allowed to detain on board any non-national coming in a ship from

a place outside the State until the non-national is examined or landed for examination.

This aspect of the legislation is too broad and it has not been tidied up as it should have been. The required protections have not been put in place and there is no requirement of reasonable suspicion when searching for material. The power to search luggage is not one we would ever intend to remove from gardaí or immigration officers because of the dangers of people importing drugs or whatever else. In this case however, we are providing such powers to people who are masters of ships, pilots of aircraft and, probably, masters of submarines, although such a vessel is not mentioned, or members of a crew. It could be anybody on one of the large ships coming here. It could be the stoker of the fire or a porter, neither of whom has been trained to deal with immigration issues.

This section and the references to the master of a ship and the member of a crew must be deleted and the Minister should come back with more specific provisions when we deal with the overall immigration and residency Bill. When he or she lands, the non-national has a duty and obligation to report when landing here. If he or she fails to do so, he or she breaks the law. In this Bill, we are placing an onus on people who do not have legal or other training to deal with non-nationals outside the State, before they land. The non-nationals in question might be in international airspace or international waters. My amendments should be accepted.

Mr. McDowell: If I intervene at this stage, I might be able to clarify matters. In section 7, subsections (1) and (2) deal with the master of a ship. Section 7(3) deals with the powers of immigration officers and members of the Garda. In looking at section 7(3)(b), Deputy Ó Snodaigh may be assuming for the purposes of this debate that the officer or member is an officer or member of a ship's crew. The officer or member referred to in paragraph (b) is the immigration officer or garda referred to in paragraph (a).

In that light, section 7 imposes on the master of any ship arriving at a port in the State a power to detain on board any non-national coming in the ship from a place outside the State until the non-national is examined or landed for examination under the section. The master of the ship shall, on the request of an immigration officer, detain any such non-national, whether seaman or passenger, whose application for permission has been refused by an immigration officer, and any such non-national so detained shall be deemed to be in lawful custody. That clarifies the Deputy's point.

Masters of ships have very substantial powers regarding maintaining control of what happens on board. Effectively they are the law, subject to the laws of whatever member state they are in. At sea, the master of a ship has, under customary international law, very extensive powers to detain people, to clap them in irons or whatever they

used to do. It is a necessary aspect of marine law, someone must have authority on a ship. What is contained in section 7(1) and (2) is a requirement that a master of a ship should not simply dock in a city and let all its passengers rush down on to the quayside without making provision for them to be examined by an immigration officer. The same applies to an aeroplane. One cannot simply stop on the runway, let down the emergency chute, and let one's passengers take to the countryside. One must present one's passengers and crew to an immigration officer. That is how the world works.

In case anyone thinks that is egregious or unusual, in the common travel area, precisely the same requirements are placed on the captain of a ship arriving in the United Kingdom. It is fairly clear that they have a common ancestry in old legislation which applied in both these jurisdictions. The power is not unusual or strange and recently, under the immigration legislation that I brought through the House, analogous powers and obligations were cast on the liabilities of carriers to ensure that persons whom they are carrying are brought to the attention of immigration officers.

The other point Deputy Ó Snodaigh raises is reasonable. The terminology of paragraph (b) does not require reasonable suspicion on the face of it. However, it does in the sense that every power must be exercised in a constitutional manner. That means that arbitrary or groundless searches and detentions are *ultra vires* for any officeholder under the Bill. They are unlawful, and one cannot simply start throwing dice and decide to pick out every sixth person for a search or behave in an arbitrary fashion. Using constitutional principles of construction, something that was an arbitrary violation of someone's constitutional rights would be excluded. One would therefore have to have a reasonable basis for a search. One cannot simply search people because one is feeling liverish on the day.

Under the European Convention on Human Rights Act, every power conferred on every person under every statute in Irish law must also be carried out in a manner compatible with the European Convention on Human Rights. A power of this kind to search people, which looks broad on the face of it, must be read subject to the overriding principles of the Constitution and the European Convention on Human Rights. That is, they should not be used in an arbitrary, invasive, humiliating or discriminatory manner which has no foundation in reasonable suspicion.

Mr. Costello: I hear what the Minister says. However, there is no section other than section 7 that displays so clearly how this legislation is tied up with the time in which it was produced. Subsections (1) and (2) are a preamble to what will happen in subsection (3). The powers included are extraordinary. Nothing gives that away more than the last line in page 9, subsection

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(3)(c)(iv), allowing the officer to seize or demand “any information in non-legible form that is capable of being converted into legible form”.

We are looking for spies here. That is what the legislation is about. This is the Aliens Restriction Act 1914, on which the Aliens Act 1935 was based. It goes back to that British legislation when they were trying to get hold of German spies before the Great War. Why else would they be talking about “non-legible form” — some cryptic form that can be made legible? The provisions regarding detention on board exceed what is in the carrier liability, which is that an immigration officer must in advance seek to determine that the documentation is authentic identification. As far as I remember, there is no reference to detention on board for that purpose in the legislation passed last summer. We are going a step farther here, giving Garda powers to the captain of a ship or any carrier.

The degree to which the provisions here are unnecessary is extraordinary and they must contravene the European Convention on Human Rights in their interference with non-nationals as outlined in section 7(3). I have tabled an amendment to delete that section. It will come up later, but since the debate has almost finished with it, we may as well deal with it. Perhaps the Minister will consider this. All the extraordinary powers and demands made by the officer under subsection (3), governing what happens when the non-national lands regarding all the documents, photographs, currency notes, counterfeit currency notes, non-legible material and audio or video recording seems to be unnecessary. It relates to secret documents that are expected to be smuggled and concealed on the individual. We do not need it in this legislation.

Mr. McDowell: Most provisions, but not that concerning materials in non-legible form, were there before the crisis emerged in the wake of the High Court decision. The information regarding materials in non-legible form is new, and I will come to why that is so presently.

When someone arrives, one of the functions of an immigration officer is to determine if someone presenting himself or herself at an Irish port and claiming to be someone who intends to visit Ireland as a tourist is seeking to migrate illegally to the United Kingdom. That is very frequent, and internationally, as part of the common travel area, we are obliged to stop such people. This may surprise Deputy Ó Snodaigh in particular, but effectively we act, as does the UK, as immigration officers for each other because we have a common travel area.

With the land Border between the State and Northern Ireland at the moment, it is obvious that we should have common external border controls which are mutually compatible. Otherwise the common travel area would mean nothing. One of the powers of an Irish immigration officer under this legislation and the

Aliens Orders was to refuse leave to land to someone if he or she thought, on reasonable grounds, that the person was coming to Ireland with a view to going to Britain and would be refused leave if going there directly. That we must act as each other’s watchdogs is a necessary outworking of the existence of the common travel area. A person in those circumstances can come in with documents including — this is day-to-day experience and by no means fanciful — a booking for a hotel in London that night, a job offer in the United Kingdom to work on certain premises or brochures for this place or that.

I have been reminded it could include a UK refusal stamp on a passport, documentation showing a person had been thrown out of the UK on another occasion or documentation suggesting a person is not the person he or she claims to be, but somebody else. It could also include spare passports, documents with photographs of the person with a different name appearing on them, or business cards suggesting the person operates under different names. This is the daily fodder of immigration officers at ports and airports; this is what happens regularly.

When conducting an interview, immigration officers may come across a person who says he or she is coming to visit Ireland and in the course of the interview, they become suspicious of what they are hearing and ask to see the documents the person is carrying and find he or she is *en route* to a business meeting or has a booking for a hotel in London or wherever. That is a daily occurrence. The person could have a roll of sterling notes which might or might not suggest he or she was coming to Ireland. There are a vast amount of possibilities in this regard.

There was a case, which I remember very clearly, where a number of Indian nationals were stopped at Shannon Airport. They claimed they wanted to get off the aeroplane and to come here. They, and a person who was there to meet them, had documents showing that they were all *en route* to the UK. One must be able to carry out collateral searching of people in those circumstances and draw inferences from documents in their possession, including encrypted documents and information which is in non-legible form and is capable of being converted into legible form. If, when interviewing somebody, one finds a card with a microchip inserted in it, and after reading that card, one finds the person seems to have another name on the card in question, that is relevant to the question of whether one gives the person leave to land.

None of this is fanciful, draconian or otherwise. This is the most elementary legislative underpinning for what happens day in, day out at our common external border. It is material which the United Kingdom must have as well. If we do not have this, we, effectively, disable immigration gardaí from making any intelligent assessment or deduction from the material in front of them as to whether the person is a genuine immigrant, is

who he or she says he or she is, and is coming for the purposes he or she states.

This was the law, as we all thought, until less than a fortnight ago. It operated and was used with the exception of the electronic material. This is the bread and butter of what happens in Irish immigration scenarios. I will not scrap it now, especially in a continuity Bill which is designed simply to maintain, as far as we can, the *status quo* until we bring in an immigration Bill to deal with this whole area. It would be a serious dilution and disarmament, if you like, of our immigration laws and officers if I was to agree to remove any of this material. It would be a serious, retrograde step and I do not intend to do this.

Mr. Costello: The section is broader than the Minister has suggested. It states that the officer may find out whether the person is conveying any document and may examine and detain for such time as he or she may think proper for the purpose of such examination, any documents so produced or found in the search. That covers everything. The reason I mentioned it was that one can see that the direction of what it includes is directed at spies — non-nationals who are hostile. What about private and confidential documents of a personal nature a person might have? This provision was struck down because there were not the specifics in respect of the statutory instrument. The Minister is giving total umbrella power to not only examine, but to seize, detain and to hold for as long as that particular officer may think proper. Not only is the Minister, effectively, giving the full powers of the Garda Síochána to an officer but he is even giving him or her more powers to become judge and jury. The officer will have the power to hold the person until such time as he or she believes his or her examination is completed to his or her satisfaction. I would think that is as broad a power as has ever been given to somebody and it includes powers which should not be given. It reflects an emergency situation in different times; times of warfare. This legislation is vulnerable because of that clause being retained.

Mr. McDowell: Personal documents could be relevant. A personal letter saying, “I will meet you in London tomorrow evening”, could be the answer to the question as to whether a person was coming to Ireland, and it frequently is. We cannot have a situation where the immigration officer must stop the search if anything has personal and confidential written on it and he or she must say, “I cannot look at that. I will blinker myself and look at the rest of the documents this man or woman has.” We cannot have such a situation.

Let us be clear that all legislation this House passes is subject to our Constitution and the overriding principle that it must be constitutionally construed so that somebody cannot root around somebody’s private documents in circumstances that are oppressive,

arbitrary and destructive of his or her privacy and the like on a whim. Since this power involves interfering with somebody else’s privacy and rights, to a limited extent, in every case, there is a constitutional rule of construction that in exercising those powers, an immigration officer or a garda must do so in a way which is proportionate and is invasive and destructive of people’s rights to the minimum degree necessary to carry out his or her functions.

If that was not the case under the Constitution, as I said earlier, it is explicitly provided for in the European Convention on Human Rights Act which states that any organ of the State — that includes a garda or immigration officer carrying out his or her functions under this legislation — must carry out any powers and functions he or she has under any statute in a manner compatible with the European convention. There is a fundamental rule of statutory construction that everything must be done in a way which is compatible with the European Convention on Human Rights. On top of that, there is an underlying golden rule of constitutional construction that such powers can only be used to an extent permitted by the Constitution. Therefore, purely arbitrary discriminatory searches, which are anti-constitutional in their purpose or method, are prohibited.

This legislation will be construed by any judge before whom this matter ever arises in a manner which is compatible with the Constitution and must also be construed in a constitutional manner by an officer exercising these powers. The fact that we do not recite the Constitution in every section of every Act or insert in all legislation little shrines stating that everything in it is subject to the Constitution, does not mean that this rule does not apply. The ECHR, because it is not our Constitution but has been given this new interpretative role, will apply to this Act on the day it becomes law. From the beginning, anybody exercising powers under the Act will be obliged to carry out his or her functions in a manner compatible with the European convention. I do not see where the big problem lies in this regard.

Mr. Costello: The big problem is that the non-national in question may not be around to assert his or her rights under the ECHR.

Mr. McDowell: While I accept that is true, it is the duty of the immigration officer and garda in question to comply with constitutional and European convention safeguards. Much of the less thought out criticism of this legislation seems to suggest that an elaborate legal procedure, including legal appeals and legal interventions, should be available in every immigration decision. We cannot have such a position. We have judicial review and the Minister has a power to vary any decision made by an immigration officer under the Acts. We cannot, as some people increasingly demand, effectively provide

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for everything to be dealt with by some kind of adversarial tribunal in which every issue is fought out on a quasi-legal basis before independent arbiters.

We live in a real world in which real people must make decisions on a day-to-day basis in real situations in ports, airports and so forth. The notion, one which has crept into much of the public comment on the Bill, that somehow we should change all of this and introduce a system in which a tribunal sits in perpetual session, second-guessing and supervising every decision, is not feasible.

I remind the House that human rights law training, as a recent television programme showed, is now an integral part of Templemore's training programme for all gardaí. It is not as if members of the Garda have never heard of the European Convention on Human Rights or the Constitution and only find out about them when somebody brings them to book before the courts. On a pre-emptive basis, the training of officers is based on the proposition that they must respect people's ECHR and constitutional rights in the manner in which they carry out their duties.

The notion that somehow we are to transform this country at every act of the Executive arm of the State into something which is immediately the subject of a layman's version of judicial review, and that a lengthy bureaucratic review of every decision must take place with a view to determining whether everything is in order, would reduce any state to paralysis. Some people are insatiable in their demands for creating layer upon layer of procedure to ensure that no decision is made on an *ad hoc* basis. There is a tendency to build in more and more of what are termed "safeguards". For people who are determined to ride roughshod over our immigration law, these are not safeguards but new avenues of delaying perfectly reasonable decisions about them from having any effect.

Mr. Costello: I am sorry I asked the question.

Mr. McDowell: Judicial review is very active in this area. Approximately 190 judicial review type cases are before the courts. One of these cases is the reason we are debating this legislation. It is not as if people are without remedies, nor is it the case that immigration cases do not give rise to judicial review. It is not as if I and my officials do not review internally decisions which are the subject of protest. If I were to give up all other activity, I could be occupied for 24 hours each day doing nothing other than second-guessing the decisions of the immigration service with which people are dissatisfied. While I exercise an intervening role on occasion, we must be realistic and accept that there is a limit to the process and to the extent to which we can allow every decision to give rise to endless consequences for the State. We cannot run a system like that.

On Second Stage yesterday, many Deputies engaged in bogus and unhistorical argument by stating that our current attitude, now that we are a net recipient of migration, differs from when we were a net contributor to migration. The poem about huddled masses and so forth inscribed on the plinth of the Statue of Liberty was mentioned. In the 19th and 20th centuries the United States pleaded with the huddled masses of the rest of the world to come to America. It no longer does so and it is codology to suggest that the noble sentiments inscribed on the statue, which invite the peoples of Europe to come and colonise the wide open spaces of middle America, remain as operative now as when the statue was erected or that Ellis Island beckons new immigrants.

Mr. Cuffe: I was simply suggesting the Minister should produce an immigration policy.

Mr. Deasy: Why has the United States introduced an amnesty?

Mr. McDowell: I am aware of the amnesty but I will not comment on the motivation for it. It is not true that every developed state should behave in the 21st century as states such as Australia, New Zealand, Canada and America, which were underpopulated, behaved in the 19th and 20th centuries. It is about time we cottoned on to the fact that Europe is not beckoning the huddled masses of the rest of the world to come here.

Mr. Costello: The Minister is making a Second Stage speech. My question was put not to attract a lecture but to highlight the need for more specific legislation. Judicial review or other procedures would not be necessary if the legislation was more specific fashion. The powers of detention and search are too wide and documents can be seized without any requirement to return them, except on the whim of the officer who seized them.

Mr. McDowell: Nothing can be done on a whim.

Mr. Costello: The legislation is not precise and reflects the era in which it was produced.

Mr. Cuffe: The purpose of the quotation I used yesterday was to open up the discussion on immigration policy. While I would not make a comparison between our current immigration policy and that of the United States, at least the latter has a policy. It would be useful if the Minister, in consultation with all interested groups, devised a policy instead of responding to potential immigrants as they arrive on our shores.

This Bill deals with a loophole rather than opening up a wider discussion of immigration policy. My main concern is that what shreds of a policy we have are based on economic necessity rather than on much wider grounds. It would be useful to all concerned with immigration policy if

the Government set out its priorities for the future.

Mr. McDowell: The Government intends to bring forward legislation dealing with broad immigration issues. Whether something is in statute form does not make it necessarily better or worse. As I said earlier, to attempt to reduce to statute form some notions such as economic interest, quotas for particular areas of the economy and the like, and to attempt to reduce that to some kind of system governed by statute and statutory instruments might be a foolish enterprise and one which is counter-productive in the end.

Everyone suggests there should be a really good immigration Bill which will state who can come to Ireland and in what circumstances. I do not believe it will be possible to have a Bill of that kind because it will always be necessary to make choices and deal with more people wishing to come to this country than some or other aspect of policy believes we should receive. There is a limit to what this forthcoming great restatement of our immigration law can achieve. There is a limit to whether it is wise to put all policy decisions into a statutory form, especially concerning employment.

Our unemployment level must be relevant to the question of whether we encourage or discourage inward economic migration at a given point. I do not know exactly how putting into statute some formula concerning the level of unemployment and the number of people who can come to Ireland is a feasible project.

Some people refer to "fortress Ireland". In 2002, 105,000 visas were granted by the State and 14,000 applications were refused, which is approximately an 85% success rate. As Minister, I only hear about the failures; nobody telephones me to thank me for the visa received. I only hear about the other ones. Sometimes the amount of dissatisfaction seems overwhelming, but when one examines the truth of the situation, 105,000 were granted in 2002 and 14,000 were refused. Those figures place the issue in context. This is not a fortress state.

I have no doubt that, among the 14,000, some decisions were made which some of us on reflection might think should not have been. People making estimates of other people's motivations is bound to produce a level of dissatisfaction. I want to minimise it and make it as fair as possible.

I ask the House to consider the example of people who come to Ireland and state that they wish to carry out some specific task such as visit an Irish factory. If one examines the application form from the perspective of an immigration officer, one must ask if it is reasonable that 18 people from an area of high unemployment are coming to look at a new product in a factory in Nenagh. Somebody must make a judgment on the application as to whether it is genuine or not. I hope to include in the new law some means of

allowing people to act as guarantor on a bond for the behaviour of others. For instance, if the manager of the Nenagh factory is showing the product to 15 people who have come from a region of the world where there is high unemployment and he really wants them to come, he can take some risk and not just ask an immigration officer to second-guess whether this is a bona fide transaction.

It is not an enviable task and I do not think any of us in this House would like to try to decide whether an application is legitimate or whether we are being collectively taken for fools. It is not easy work. People talk about the conservatism of the Department of Justice, Equality and Law Reform on this matter, but the figures show that 105,000 visas were granted and 14,000 refused. The great majority of people who apply for visas to enter Ireland, for whatever reason, are accepted. The number of non-nationals registered in Ireland at present gives the lie to the notion that some appalling, draconian fortress policy is being operated; it is not.

Mr. Deasy: Will the Minister state how many are renewals?

Mr. McDowell: A considerable number of visas would be renewals, I am sure.

Mr. Deasy: Is the figure of 105,000 not representative?

Mr. McDowell: The figure of 14,000 also includes renewal applications, so it goes both ways.

Mr. Cuffe: I welcome the Minister's discussion which may initiate a reasoned debate on how the issue of immigration is addressed. I welcome the reference to the state of our economy. We should be careful not to follow the example of Germany where, once the German economy was suffering, the guest workers were asked to go back to Turkey. The current work permit situation, in which the visa is tied in to the employer, often causes workers to be treated as little more than indentured servants. We must move away from those umbilical strings linking the employee to the employer. Employees must be treated with the respect they deserve. We should examine examples from abroad to find the best method and achieve an immigration policy that treats the immigrant with more respect than the current system does.

Mr. McDowell: I agree with Deputy Cuffe that there are other countries whose systems are, shall I say, tougher than ours. I emphasise to the House that, once a person is resident in Ireland for five years, it is his or her right to apply for Irish citizenship. They do not have an automatic right to be Irish citizens, but in the ordinary course of events, somebody who is long-term resident in Ireland is accorded Irish nationality. In a period of five to 12 years, they become full

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citizens of our State. We do not operate on the German system where the nationality of a *Gastarbeiter* remains frozen in that status and this also applies to their offspring. We are much more generous in our approach.

There is a certain group of people who like to tell the Irish public, through the Irish media, that we are in some way morally derelict and far behind the rest of the world in these matters. The immigration and naturalisation process is an extremely inclusive one. Unless there is some specific feature of the applicant regarding his or her behaviour, anybody who behaves remotely normally in our society and who is a long-term resident in the country has every reason to believe that he or she will obtain Irish citizenship under our citizenship and naturalisation laws.

That is by no means the international norm. I am not saying that we are the most progressive country in this regard but we are well above the median line, on the spectrum of national policies in this area, in our willingness to give long-term residents the right to nationality. Each day, I see people such as nurses and doctors who have been here for almost five years waiting for the five-year period to finish so they can submit an application form. Some of them mistakenly start the process before five years have elapsed because they know there will be delays, thereby lengthening the queue.

There is a widespread feeling in Ireland that we are mean-minded, negative and exclusionary in our approach. If one compares us to any other European country, however, I believe one will find that the vast majority of long-term residents become Irish citizens. Those who do not become Irish citizens are those who choose not to do so, for whatever reason. I have no complaint to make in that regard, other than to say that matters are much easier for the State if such people become Irish nationals. If one is an Irish national, one does not have to register with the Garda, to acquire a residency permit or to register when one visits an hotel. We want those who are long-term residents here to take up their rights as Irish citizens if they so desire.

Amendment, by leave, withdrawn.

Mr. Costello: I move amendment No. 7:

In page 3, subsection (1), line 32, after "1999" to insert "but does not include a citizen of a European Union or European Economic Area member state save to the extent (if any) as may be prescribed".

We are making some progress. Although we are still on the first page of amendments, at least we have reached the last amendment on it. This amendment proposes that the definition of "non-national", which is taken from the Immigration Act 1999, should be extended so that it, "does not include a citizen of a European Union or European Economic Area member state save to

the extent (if any) as may be prescribed." I have made this proposal because there is a considerable degree of confusion about the precise application of the restrictions and requirements the legislation imposes on non-nationals.

Section 2(2) states:

Nothing in this Act shall derogate from—

(a) any of the obligations of the State under the treaties governing the European Communities within the meaning of the European Communities Acts 1972 to 2003,

(b) any act adopted by an institution of those Communities,

A half-hearted attempt, at least, has been made to say that the provisions of this legislation do not apply to people from EU member states. The provisions seem to apply in some senses, however, but not in others. This confusion reflects the cobbled-together nature of the legislation. It is obvious that the Union did not exist when the parent legislation, the Aliens Act 1935, was drawn up. The EU has created a new relationship between its member states. It has conferred rights within the European Community that are enshrined in legislation under the treaties.

The suggestion that EU nationals should be treated as non-nationals by this State is a questionable one. It seems to me that the simplest way to clarify the matter is to include in this Bill a fresh definition of "non-national" that clearly indicates that EU nationals are not considered to be non-nationals. The legislation will be brought up to date if this is done. Such a measure would remove some of the references in the legislation that attempt to do the same in respect of derogations from legislation relating to EU treaties, institutions and bodies of legislation. Perhaps the Minister will solve this problem by agreeing to a fresh definition of the word "non-national" to take account of what I have said.

Mr. McDowell: Article 18 of the EC treaty states that every citizen of the Union has, "the right to move freely and to stay in the territory of Member States." Some people consider this right to be absolute, but it is not absolutely absolute, if I may use that phrase. It is subject to the limitations and conditions set out in the EC treaty and to the measures adopted to give it effect.

I would like to speak about entry to this State. Community law, which is constantly evolving in this area as a result of the case law of the European Court of Justice, stipulates that member states must admit nationals of other member states into their territory on presentation of a valid identity card or passport, except in very exceptional circumstances. On the basis of the community legislation, as judicially interpreted, only those persons who are carrying a valid passport or identity card have a right of residence

in Ireland. For example, community legislation does not provide for measures which member states may adopt if these documents are not available.

French people, for example, are entitled to come to Ireland but only if they are carrying a passport or ID card that we recognise. If they do not carry such an item, they do not have a right under EU or Irish law to come here. They cannot simply say, "I am French and I am coming in." There is a pre-condition that they must be documented as French. There are exceptions, therefore, to the rights of EU nationals in areas which are comprehended by this Bill. For that reason, I am not tempted to adopt Deputy Costello's approach of saying that this Bill does not apply to them. We need some means of dealing with a person who claims to be French but cannot produce documentation to prove it. If a person arrives here from France without documentation, I have to have some law by reference to which I can say, "Sorry, you cannot come in." If I was to say that this legislation does not apply to EU nationals, somebody would say, "I am an EU national, I am coming in and I am not going to prove to you that I am entitled to stay."

A number of the Bill's provisions are applicable to European Economic Area nationals — persons from the EU and the other EEA states. The provisions of section 10, for example, which relates to hotel registers, are applicable to EEA nationals. The provisions of sections 11 and 12, which relate to documentation requirements, are similarly applicable. The carrier liability provisions in section 2(1)(c) of the Immigration Act 2003 oblige carriers to ensure that all non-national passengers are properly documented, regardless of whether they are EEA nationals, when coming from outside the common travel area. If an airline such as Aer Lingus or — I have to be fair — Ryanair flies an undocumented French person, for example, to Dublin Airport from outside the UK and Ireland, it is liable to incur a penalty for doing so. There is no unrestricted right of access. If an airline produces somebody in that form at Dublin Airport, immigration officers can say that he or she does not have permission to land and can send him or her back. It is not as simple as saying that none of these provisions apply to EU nationals.

There are some very restricted circumstances in which an EU national may be the subject of a deportation. I refer to *ordres publics*, health grounds and things of that kind, which are provided for in sections 3(2)(c) and 3(2)(d) of the Immigration Act 1999. The person in question would be properly the subject of the provisions of section 4(3)(f)(i) of this Bill in such cases. For those reasons, I believe that the definition of "non-national" in this legislation is consistent with and coheres with the definitions in the 1999 and 2003 Acts. I am satisfied that the proper way to proceed in this legislation is to take account of the free movement provisions and the other

obligations of our membership of the European Union. This is being done by means of section 2(2) of the Bill, which ensures that nothing in the Bill will derogate from those obligations.

European law on this matter is not fixed, because the European Court of Justice develops it from time to time and states the implications of the right to free travel and residence. As the Deputy will appreciate, European law in this matter is, by virtue of our constitutional incorporation, superior to Irish law. I can see exactly why the Deputy put down his amendment, but rather than trying to recognise EU law while saying it does not apply to this procedure, we should adopt a wiser approach, although it may seem conservative. We should provide that it applies to EU nationals except to the extent provided in the exceptions in the Bill.

Mr. Costello: That is what I say in my amendment, which would amend the Bill to state: "but does not include a citizen of a European Union ... member state save to the extent (if any) as may be prescribed". The Minister is inserting a derogation. The provisions being inserted in this fashion are rather sloppy. My new definition would improve matters immensely.

I thought we all operated in a sort of common travel area, that borders were inoperative on the Continent and that one could move without a passport or border control in a train or car from Belgium to France or the Netherlands. I thought Ireland was one of the few countries, because of the Schengen arrangement, that still had such requirements. Many people from the Continent, when they come here, are quite annoyed that they must produce identification and documentation, because they do not have to do this in neighbouring member states. It is only because of the Schengen arrangements that there is a limitation on the common travel area. I thought all that had changed since 1997, that Ireland and UK had always had a common travel area but now, with the expansion of the EU, this had been extended to other areas. We now have restrictions in the common travel area, although they are limited to us, while on the Continent the new common travel area has no restrictions.

The Minister spoke of the case of an EU national pretending to be French but who is not really. It is equally possible that a person might pretend to be Irish. If there is doubt, one is entitled to ask questions. That does not necessarily mean, however, that we cannot have a definition that will allow the legislation to apply to EU citizens except where we specifically say it does not. This would make things much easier for us. It would clarify which areas are covered by the provisions of the legislation and which are not. It is not quite clear as things stand.

Mr. McDowell: The Schengen arrangements are similar in one sense to the arrangements between Ireland and the UK. The principle is one of free movement within a common, external,

[Mr. McDowell.]
controlled perimeter. Once one is in the Schengen area, one is free to travel across borders without formalities. However, there are radical differences between the common travel area and the Schengen area. Right throughout Europe, including the Netherlands, which used to be more liberal than other European states, there is an obligation to be documented at all times. Ireland and the UK have no such obligation for their nationals. Ireland is a bit like an egg in this respect; once one is through the outside, it is all soft on the inside. Nobody can stop an Irish citizen on the street and ask him to identify himself.

My European Union colleagues on the justice and home affairs council find it hard to believe we do not have a State register of citizens in Ireland. If any of us went to stay permanently in Belgium, for example, he would be obliged to register with his local prefecture and with the police and he would need to register his lease with his landlord. The state knows one is there. The common law system in the UK and Ireland is different. The State does not know, and affects not to care, who lives in what house. With the sole exception of the register of voters, on which one places oneself voluntarily, the State has no record of who lives where in Ireland. Even our public service number card does not carry a photograph or an address.

Mr. Costello: What about the census?

Mr. McDowell: The census is confidential. A garda cannot go down to the Central Statistics Office and demand to see information about Deputy Costello or anybody else. That is not part of our system. The census is taken every ten years as a record of where everybody is on one particular night. One is free to move house or move into and out of Ireland without notifying the Central Statistics Office.

I recently told my Dutch colleagues, who were surprised by this, that it was technically possible for a Dutch Minister to live in Dublin, commuting to work in the Hague every Monday and returning every Friday, with nobody in Ireland being aware of his or her existence, although identification may be demanded at the blue channel in the airport. We run a system of minimal State knowledge and official registration of our citizens' status.

Aengus Ó Snodaigh: How many European Ministers will be coming over?

Mr. McDowell: I do not know. It is a curious fact. An Irish citizen going to work in Belgium would need to spend about a week establishing himself with the Belgian state, going from one office to another and registering his existence. He is not free to move from A to B without informing the state of this fact.

I am making a point about Schengen. The Deputy asked about our common travel area. The UK and Ireland have an external perimeter through which one cannot pass without documentation. Ireland is not part of the Schengen arrangement. Both states demand that citizens of EU member states document themselves passing through. People from outside Europe who have flown into Rome with an Egyptian or American passport must go through a separate process when they come into Ireland. We do not just take everyone from an aeroplane on the basis that they have all come through a common perimeter at some other point.

There are good reasons for maintaining the present situation, particularly as long as identity cards are not used in this State. There are good reasons as to why this is the case. We cannot have a system equivalent to the Schengen agreement if our citizens are undocumented. The rest of the European Union would not accept that an Irish citizen can swan around France and Germany in a T-shirt and jeans, unable to prove who he or she is. However, United Kingdom authorities will not stop an Irish citizen coming off the ferry at Holyhead because they do not have sufficient documentation or the authorities want to check who they are. This also applies to the Border. There is no question of any person resident on either side of the Border having to carry documentation when he or she passes through it.

A number of people claim that it would be much more convenient if we joined the Schengen agreement. In the long term, it will be an issue with which many people will agree. However, it would not be without consequence. One consequence would be that every Irish citizen would, thereafter, have to be documented. A second consequence would be that all Irish citizens would have to notify their local prefecture, Garda station, county council, or whatever is designated when changing address. Whether we want a nanny or fascist state with big brother screens will be trotted out as the reason it should not happen.

Mr. Costello: It would be the Minister's golden opportunity.

Mr. McDowell: I am not attracted to making the carrying of ID cards mandatory. Deputies may be aware that the UK Home Secretary, David Blunkett, is working on a proposal for identification cards to be issued to every UK national, yet they would not be obliged to carry them. They will merely need to have one so that if an argument breaks out over a person's identity, they will have proof of it in the eyes of the state.

We are looking at this issue closely to see how it progresses. The possession and carriage of identity cards on a mandatory basis, tied in with allowing the police to demand their production, would not be a problem for me. However, if that power were generalised it could inconvenience

marginalised people, giving rise to a suss law. People more likely to be of Garda interest would find they were being stopped all the time. That relationship between the police and the people does not exist in Ireland, and the longer we can avoid it, the better.

Mr. Costello: Will the Minister give me a one-line reply to this question? Would it be better if the legislation did not apply to EU citizens, except where specifically stated?

Mr. McDowell: No. I do not believe that the non-application of this Bill to EU nationals would yield satisfactory results. I would be forced to introduce another Bill to put together special measures for EU nationals if this Bill was not applied to them in the way the Deputy is suggesting.

Amendment put and declared lost.

Aengus Ó Snodaigh: I move amendment No. 8:

In page 4, subsection (1), to delete lines 9 and 10.

I do not intend to press this amendment as the Minister addressed the issue in amendment No. 36. The amendment concerned the unfettered powers of the Minister to prescribe, by regulation, diseases and such. However, we can deal with the issue in its full context later.

Amendment, by leave, withdrawn.

Mr. McDowell: I move amendment No. 9:

In page 4, subsection (1), line 21, to delete “of a ship”.

This is a drafting amendment as the words “of a ship” are unnecessary.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 36, 38 and 106 are related. Amendments Nos. 37 and 38 are alternatives to amendment No. 36. Amendment No. 68*a* is consequential on amendment No. 106. Amendments Nos. 10, 36 to 38, inclusive, 66*a* and 106 may be taken together by agreement.

Mr. McDowell: I move amendment No. 10:

In page 4, subsection (2)(*b*), line 29, to delete “the” and substitute “a”.

This part of the Bill has attracted public controversy since it was published last week. Amendment No. 10 simply proposes to delete “the” and substitute “a”. Amendment No. 36, which is a Government amendment, proposes to delete paragraph (*c*) which attracted a good deal of negative comment and to substitute it with “(*c*) that the non-national suffers from a condition set out in the First Schedule”. Amendment No. 106 proposes to insert before the First Schedule,

which will mean the original Schedule will become the Second Schedule, the conditions which can give rise to a refusal of leave to land in the State. These include diseases subject to the international health regulations for the time being adopted by the World Health Assembly of the World Health Organisation; tuberculosis of the respiratory system in an active state or showing a tendency to develop; syphilis; other infectious or contagious parasitic diseases in respect of which special provisions are in operation to prevent the spread of such diseases from abroad; drug addiction and profound mental disturbance, that is to say, manifest conditions of psychotic disturbance with agitation, delirium, hallucinations or confusion.

As I indicated on Second Stage, I availed of the opportunity presented by the intervening days between the Seanad passing the Bill and now to reflect on the best approach to this question. To put it in a historical context, the Aliens Order 1946 set out health criteria for the refusal of leave to land that included references to lunatic, idiot or mentally deficient persons, terminology that sounds stigmatising and is thoroughly unconventional in modern language. In 1972 following our accession to the EEC, provision had to be made for our obligations regarding the free movement of persons. Regulations were made under the European Communities Act 1972. In 1975, an amending Aliens Order made extensive changes to the 1946 order, including the adaptation of some of the provisions of the free movement of persons regime for general application. The old and, now, offensive provision was replaced with one which drew on the Annex to the Council Directive 64/221/EEC which deals with limitations on the right of free movement between member states.

The effect was to put into the Aliens Order a new Schedule of what were described as diseases and disabilities — disability is a word which now has a connotation it did not have at that time. That is how language and attitudes move on. The new provision reflects the terminology of the directive and mirrors precisely the list of conditions set out in the annexe to the directive. Thus since 1975 there has been a uniform basis for determining whether on health grounds a non-national should be admitted to the State, irrespective of whether the person is an EU national or not. The simplest and fairest option is to have the same criteria for both and that is what the Government amendments Nos. 10, 36 and 106 propose. The amendments do not use inappropriate terminology, nor do they use terminology in an inappropriate way.

There is virtually a unanimous Opposition view that no optional power should be given to an immigration officer to refuse a person leave to land on health grounds where that is appropriate. Refusal on health grounds has rarely been employed in the past and there should be no great change in that pattern in the future. However, in the event of an outbreak of a disease

[Mr. McDowell.] identified by the World Health Authority as a danger to the public, I cannot have a situation whereby immigration officers could not keep such a disease out of Ireland. Who else is going to be at the airports if SARS or some variant thereof becomes a live issue? I would be failing in my duty to society if I accepted amendment No. 37. It would not be in the public interest to leave Ireland, alone among the countries of the world, defenceless against such an outbreak. It is the same with amendment No. 38. Whatever about the language, this concept is almost universal. Most Deputies would agree that if there was an epidemic of SARS or some other disease it would be wrong if immigration officers at airports did not have a function in relation to it.

On mental disturbance, I agree that the original language of the Aliens Order 1946 is hard to understand now. I grew up in a legal profession which dealt with “idiots” and “imbeciles” as phrases of common usage. They are now degrading terms to use about another human being—

Mr. F. McGrath: They are.

Mr. McDowell: Yes, but when they were included in legislation they were reflective of the social attitudes of the time.

To put this in context, no refusals on health or disability grounds were made in 2003. The House should accept that we had the Special Olympics in Croke Park. This issue does not arise in reality.

The term “disability”, as used in the EU, has now taken on a different meaning. It is amazing how language changes. There was a time when one was not just permitted to call African-Americans black people, one was required to do so. Now that is not acceptable and one must use the term “African-American”. What is acceptable in language changes and to some extent the law is always left behind. A particular form of tobacco was once referred to in an Act and its name was wholly unacceptable. I will not put the name of the tobacco on the record in case I have to read about it in the newspapers tomorrow, though those who are interested in the issue can go back to the budget which substituted one form of pipe tobacco for another kind.

Paragraph 6 of the Schedule deals with profound mental disturbance, which means manifest conditions of psychotic disturbance, with agitation, delirium, hallucinations or confusion. Under European law that is a ground on which a member state can refuse to give right of access to another member state. I have listened to radio broadcasts in which people have said we will be packing the mentally ill back onto aeroplanes and effectively avoiding our moral responsibilities for such people.

Mr. Costello: The Minister said it himself.

Mr. McDowell: It is as if there will be psychologists out at the airport checking people for mental illness, with the State saying those people will not get into Ireland because we do not want to foot the bill for their treatment. That is not what this is about at all.

I wanted a simple definition for the ground, for example if a person was a danger to himself or herself or to someone else. However, that is not easy, as people ask what makes a person a danger to himself or herself. Is someone suffering from suicidal ideation to be refused admission to Ireland? Common sense phraseology was not without difficulty, so in the end we decided to have a level playing field and common standard for EU and non-EU nationals coming to Ireland.

People asked when these provisions will be used. For example, if someone was released on a technicality from a French court it might be apparent to the Minister of the day, from what he or she knew of the case, that that person was a sociopathic individual who posed a serious danger to members of society. In those circumstances it is not international law that Ireland should be obliged to say, “Come in, we will take the risk.” We do not have to do that.

This is not something that will happen every day of the week, as none of these cases arose in 2003. However, I do not want to be in a position where, if Nicolas Sarkozy, the French Minister for the Interior, phones me and says that a very dangerous person is going from France to Ireland, I have to say that that is too bad as there is nothing I can do about it. The Irish people would not thank me if a person who had exhibited seriously dangerous tendencies came into Ireland in those circumstances.

Profound mental disturbance means manifest conditions of psychotic disturbance, with agitation, delirium, hallucinations or confusion. That is a very narrow subset of psychiatric ill-health and it sets a high bar at which an immigration officer must make a decision. It is not a matter of a person looking odd or being agitated, delirious or confused. The person must be suffering from profound mental disturbance, including one or other of those states.

The public is entitled to look to the Executive arm, the Government, to ask its immigration officers to protect the public in the same way that the rest of Europe protects itself. I

3 o'clock am happy with the debate on the matter. This provision is as good as we can do for the time being and at least it has the value of being part of European law. These are recognised criteria for refusal. They have not been chosen arbitrarily or inappropriately by Ireland to deal with what is necessarily a very delicate issue. However, the truth is that though sensitivities are delicate and we must be careful with our language, at the bottom of this there is a contingency against which the public are entitled to be protected.

Tuberculosis was mentioned earlier. Deputy Deasy somehow drew an analogy between the

obligation to inform, which existed under health protection legislation in the past, and the obligation cast on the owner of a premises to ensure that non-nationals residing with him or her conform with their obligations under this statute. I do not see a direct analogy between the two. Deputy Michael D. Higgins is of great value. He is a great man for searching his mental archives for interesting analogues in his debate. As far as I am concerned, there is no connection between the two. I do not see why it should not be a matter of concern to an Irish citizen as to whether a non-national residing with him or her is here lawfully. Social responsibility cuts both ways. One cannot simply say: "Somebody is in my house, it is their problem if they are here unlawfully, it has nothing to do with me." I do not think that is a reasonable way to operate. The duty against which Deputy Michael D. Higgins was railing is not a duty to inform, it is a duty not to have guests under one's roof who are here illegally. It is a fairly reasonable thing to say to Irish society that immigration law is not just a matter for gardai and immigration officers to play some game. Everybody has a duty to uphold this law. Everybody who admits into his or her home somebody who is a non-national, in whatever circumstance——

Aengus Ó Snodaigh: The Minister is wandering from the amendments.

Mr. McDowell: ——has a duty to ensure that the law is upheld. I was just thinking about one of the circumstances to which that obligation would apply. The head of a religious house should be under a duty to make sure that the non-nationals in his or her congregation——

Mr. F. McGrath: Does the Minister think Americans should inform George Bush about all the illegal Irish in America?

Mr. McDowell: I would be surprised if under American law it is perfectly legitimate for somebody to harbour illegals in their home. I would be very surprised if Americans are that relaxed about their legal provisions. I doubt it very much.

Aengus Ó Snodaigh: Can we deal with the amendments?

Mr. McDowell: Section 9(4), which forms part of the mechanism for the control of non-nationals, has been, as far as we understood it to be the case, the law since 1946. It complements the rest of section 9 and does not impose an unreasonable burden on householders in regard to non-nationals staying with them as lodgers, guests, au pairs, live-in domestic staff and so on. It will generally require no more than a question to the non-national concerned, inquiring as to whether he or she has fulfilled his or her statutory duty, or a gentle reminder that this should be done.

If a householder wishes for some reason to conceal the presence in his or her house of a non-national, it is right that the failure to take the requisite steps should be penalised. It is ripe for the exploitation of people, particularly in the case of au pairs, domestic staff and companions——

Aengus Ó Snodaigh: I do not wish to cut across the Minister, but we are dealing with the issue of health.

Mr. McDowell: In most cases, both the householder and the non-national have no desire to be otherwise than in compliance and there is no problem.

Aengus Ó Snodaigh: On a point of order, a Leas-Cheann Comhairle——

An Leas-Cheann Comhairle: What is the point of order?

Aengus Ó Snodaigh: We are not debating the amendment or section to which the Minister refers.

Mr. Costello: This issue has been an emotive one which has attracted a great deal of media attention. All of us have tabled amendments that delete the section.

I originally looked at this in terms of how the Minister presented some of his arguments. When one looks at it carefully, it is difficult to see how this section should be allowed to stand. It gives power to an immigration officer to make a blanket refusal if he or she is satisfied. That is the level of proof required. There is no requirement that any specialist, medical practitioner, psychiatrist or anybody who would be a proper judge be present to examine and make a determination.

In yesterday's debate, the Minister said that he would put a violent sociopath or similar individual straight back on a plane. There was no question of treatment or the health and safety of anybody who would be involved on the plane. This approach is just not good enough.

Deputy Twomey referred yesterday to the incredible work done by the medical profession in treating infectious diseases and its spread among non-nationals granted asylum here. They have prevented infectious diseases being passed to offspring and others in the community. Infectious diseases are not what they were back in 1911 when the legislation was first devised.

The range of specified illnesses is too broad. Tuberculosis is treated in the same terms as malaria, which we do not have in Ireland. From what the Minister said, it appears that we are free of this disease and that a non-national would be responsible for re-introducing it. This is a commonplace disease in Ireland.

Drug addiction is also a reason for refusal. It will be a great deal harder to identify and get rid of a drug pusher. Is schizophrenia a profound mental disturbance? How will it be determined?

[Mr. Costello.]

A diagnosis for it can take up to a week. The Minister has compiled a list of proscribed illnesses with which it is the responsibility of the immigration officer to deal. The manner in which this is presented is too heavy-handed.

Non-nationals should be given medical treatment if there is a suspicion that there is a medical problem. There is no requirement for this in the legislation and the Minister's approach is to put such a person on the next plane out of the country. The section is most unsatisfactory. I am not sure it is capable of being amended, and the Minister should delete it.

Mr. Deasy: I agree with a few of the matters the Minister has explained. However, I cannot go along with this as I do not think it is necessary. I return to the Infectious Diseases Regulations 1948. The relevant regulation was repealed in 1981 because there was a perception that people were spying on each other. If someone was suspected of having tuberculosis, the intention was that the individuals in a school, college, hotel, club, guest house nursing home, factory workshop, office, store or restaurant would inform the authorities of the person's condition. This was repealed because it invaded an individual's privacy. There is no need for section 9(4). It turns people into immigration officers and turns bed and breakfast proprietors into informers for the Garda and the immigration bureau. The Minister should delete this section.

Mr. Cuffe: I will confine my remarks to amendment No. 106. I am particularly concerned about the provision in the First Schedule where someone can be refused entry on grounds of profound mental disturbance. During the Order of Business it appears, on the surface at least, that many members of the Government, let alone the Opposition, suffer from "agitation, delirium, hallucinations or confusion". It is difficult to judge in a short period of time if there exists a profound mental illness or a transitory state of confusion. It is wrong to make immigration officers judge and jury on this. If we are to adopt these grounds for refusal, the necessary medical advice should be available.

There is a real danger that people not allowed into this country will be returned to countries where there are, at best, rudimentary mental health facilities. I have no doubt that we have returned people to countries where existed only the shreds of a treatment facility for persons with mental health difficulties. I am concerned at the signal we would send out if we refuse entry to people on these grounds. A Victorian resonance seems to run through the Bill. We should reconsider this — profound mental disturbance should not be grounds for denying entry to Ireland.

While I accept the point about infectious diseases, we must be careful in this area. There are obviously issues surrounding, for example,

tuberculosis, which can be a significantly infectious disease and people trying to enter Ireland have been found to suffer from it. I am not sure whether this should be extended to syphilis. I am not convinced that we should encompass in this part of the Bill people with profound mental disturbance. I am concerned about this and I urge the Minister to reconsider it. For example, if someone in a state of profound mental disturbance were entering the State with his or her family, would we refuse entry to the disturbed person and allow the rest of the family to stay? While this may have been the way things have been carried out for the past 60 years, this is not good enough for the 21st century.

Aengus Ó Snodaigh: While I am glad to see that the Minister adopted my amendment No. 38 as an element of amendment No. 106, it is a pity he added to it. After all, "disease subject to the International Health Regulations for the time being adopted by the World Health Assembly of the World Health Organisation" would have been sufficient to cover other diseases. If the WHO issued a directive stating that tuberculosis posed a threat, restrictions could be put in place.

The Minister's amendment states that drug addiction is a ground for exclusion. What drug does this refer to? Is it alcohol, tobacco or prescription drugs?

Mr. F. McGrath: We are all on drugs.

Aengus Ó Snodaigh: I did not have sufficient time to develop the amendment I tabled. There are problems with the entire section. On what will the immigration officer base his determination? Everyone who has these medical conditions will not show outward signs. Will immigration officers have the benefit of medical advice? Will medical staff be present at points of landing? Will we medically screen immigrants to ensure we catch all these diseases and expel those suffering from them, even Irish people returning with these diseases? This question must be addressed. An immigration officer does not have the benefit of seven years' study in the medical field. Some of these diseases are not easily identifiable.

I have not had time to consult with medical experts to determine whether they would be happy with paragraphs 2 to 6 of the Schedule as proposed by the Minister's amendment. I have questioned how drug addiction can be determined. Does the wording of paragraph 6 prevent people who are not a danger to themselves or others from gaining residency or temporary stay in Ireland? Are we being too prescriptive?

Owing to the rushed nature of this legislation we have not had time to properly address it and will have to look at it in the future. Will the Minister tell the House whom the immigration officers are to consult when making determinations? I hope we will have other years like 2003 where immigration officers do not have

to make such determinations and the work Governments around the world are doing in tackling poverty at source, and therefore disease, will pay dividends in the near future.

Mr. F. McGrath: The issues of profound mental disturbance and serious dangerous tendencies have been raised. What do we mean by this? I have a concern about the way issues of mental illness and disability are dealt with. An idea seems to be lodged in the minds of people, whether politicians or legislators, that individuals with a mental illness are necessarily violent, disruptive or dysfunctional in some way. The reality is that 90% of people with this illness are not violent but a small minority are. It reminds me of the debate ten or 12 years ago on children with disabilities in primary schools. Children with disabilities were perceived at that time as a problem or a potential risk to other children when they entered mainstream schools. At present there are 15,000 children with disabilities in mainstream primary schools and this is not an issue for the vast majority of them. I think it is important to iron things out and bring reality to the debate.

Section 9(4) makes provision for situations in which non-nationals stay in a household. It states, "It shall be the duty of that person to take steps...to secure compliance with the terms of this Act in respect of the registration of or reporting by the non-national." I fully respect that people must behave as responsible citizens, but would we expect the people who live and work with law abiding illegal Irish immigrants in the black economy in the US to inform the authorities? There are thousands of people living like that and many cannot come home for Christmas or family funerals. We cannot apply double standards by bringing in such legislation when we expect other countries to do the complete opposite. I think it is important to highlight this issue.

Yesterday, my colleague Deputy Twomey raised this question which arose from his experience as a general practitioner providing medical services in the Wexford area for those arriving with particular diseases. The medical personnel provide a professional service and in many cases worsening conditions were prevented by their intervention, particularly with regard to the children of those families. Medical care has improved. I compliment those who work in the medical services on their excellent work in saving lives every day. It is not appropriate for the Government to be having a go at doctors and consultants. It should be out there working with them and trying to resolve the issues. The way in which consultants are being attacked is a disgrace in view of their dedication to their job.

We have to face the reality that drug addiction is not only an Irish problem which affects Dublin, but that it is a national and international problem. We have to work together to resolve this issue and offer constructive help to addicts. We know

that Irish drug addicts travel to England and avail of services for addicts in London and Birmingham. It is a bit rich for us to raise the barriers in those cases.

The use of language is very important, and the Minister touched on this point, in dealing with this issue. It is best that words such as "aliens" and "idiots" are buried and forgotten because they were degrading. Like my colleagues on the Opposition benches, I too have major concerns about the Minister's amendments.

Mr. McDowell: I have heard what has been said and some Deputies are asking me to withdraw this section completely. If I were to withdraw this section completely, I or my successor would have to face the consequences if a situation arose which had appalling consequences for somebody and nothing was done about it because we decided not to avail of a provision which is generally available under European law in respect of the admission or non-admission of nationals to each others states, and not even to have the protection which is recognised as available to us under European law regarding people coming from anywhere else. I do not believe that is a responsible decision to take. I do not believe it is sensible to make such a decision here today, especially as I said in the context of this Bill being one which is designed to keep in being a code of law which has worked well in the past. If one deals with individual cases, it is highly unlikely that an immigration officer will come to the conclusion that somebody coming in at Dún Laoghaire or Dublin Airport is suffering from syphilis.

Mr. Costello: He is not qualified.

Mr. McDowell: It is highly unlikely that he would come to such a conclusion but there could be circumstances in which a carrier of syphilis, who had behaved appallingly irresponsibly in another state, was the subject of a notification to the authorities that he was on his way to Ireland. As Deputies know syphilis is a curable disease but it can cause terrible damage to innocent people, especially if the carrier conceals the fact that he is suffering from it. This provision is taken from European law and not invented by me. The carrier of such a condition could be somebody one would not want to come to Ireland because of his irresponsible attitude and the fact that he had infected five, ten or 15 women in a particular place. We do not want to expose Irish people to that risk. Likewise with tuberculosis, nobody knows more than I do what a scourge tuberculosis can be and I do not want in any sense to stigmatise people who suffer from it. However, again there are circumstances in which it would be legitimate for the Irish State if it had advance knowledge that somebody who was suffering from very active tuberculosis proposed to enter the State in circumstances where he or she would quite reasonably be a source of real threat to the

[Mr. McDowell.]
people with whom he or she was going to deal. In those circumstances it would be reasonable to say, "No, your privilege of entering the Irish State which the Irish State accords you on this occasion would be inappropriate."

Likewise in cases of communicable diseases, such as SARS and other types of conditions, if the situation arises that we have to deal with these types of infections, somebody will have to make decisions and the Bill provides for medical inspectors to be appointed in addition to back up the immigration officers in certain cases. I am very clear in my mind that it is responsible to provide protection of this kind and it would be irresponsible to tear it down in a hallucinatory moment in Parliament in the belief that by doing so we were being somehow compassionate. There is nothing compassionate about exposing people to SARS if one can avoid it and there is——

Mr. Cuffe: There is nothing compassionate in sending people back to where they came from

Mr. McDowell: There is everything to be said in certain circumstances for allowing the Irish State to say "No" to people coming into the country if it is suspected they are suffering from SARS

Mr. F. McGrath: Did the Minister stop the Canadians entering?

Mr. McDowell: It is not a compulsion to do this. Nobody is going to start testing people or rounding them up and behaving oddly towards them. It is simply a discretion that we have. Likewise I wish to state clearly that mental illness can have consequences for others. I am the first to understand that schizophrenia is something that would not normally be the subject of an exclusion under this Bill. Many of us know people who have suffered from schizophrenia or who are battling with it. It would not be a basis on which any immigration officer would intervene. However, if somebody, for example, the French Minister of the Interior, Internal Security and Local Freedoms, Nicolas Sarkozy, warns me that there is a dangerous psychopath who has killed before on the Cherbourg ferry on his way to Ireland, then, regardless of whether he has a

criminal conviction under French law, I believe I am entitled to take steps to protect the public and not let that person loose.

I wish to indicate that I accept amendments Nos. 54, 59 and 61. These should be accepted as amendments when the Bill is guillotined.

An Leas-Cheann Comhairle: I am now required to put the following question in accordance with an order of the Dáil of this day: "That amendments Nos. 54, 59 and 61 and the amendments set down by the Minister for Justice, Equality and Law Reform for Committee Stage and not disposed of are hereby made to the Bill. In respect of each of the sections undisposed of, that the section, or, as appropriate, the section, as amended, is hereby agreed to in Committee, that the Schedule and the Title are hereby agreed to in committee, that the Bill, as amended, is accordingly reported to the House, that Report Stage is hereby completed and the Bill is hereby passed."

Question put.

The Committee divided by electronic means.

Mr. Stagg: As only one section of the Bill was reached during the debate, and it was not fairly treated, and as only 25 amendments of 100 were reached, I demand, as a teller, a vote by traditional methods.

Mr. Treacy: It is a waste of time.

An Ceann Comhairle: As Deputy Stagg is a Whip, under Standing Order 69 he is entitled to call a vote through the lobby.

Question again put: "That amendments Nos. 54, 59 and 61 and the amendments set down by the Minister for Justice, Equality and Law Reform for Committee Stage and not disposed of are hereby made to the Bill, in respect of each of the sections undisposed of, that the section, or, as appropriate, the section, as amended, is hereby agreed to in committee, that the Schedule and the Title are hereby agreed to in committee, that the Bill, as amended, is accordingly reported to the House, that Report Stage is hereby completed and the Bill is hereby passed."

The Committee divided: Tá, 63; Níl, 53.

Tá

Ahern, Dermot.
Ahern, Noel.
Andrews, Barry.
Ardagh, Seán.
Aylward, Liam.
Brady, Johnny.
Brady, Martin.
Browne, John.
Callanan, Joe.
Carey, Pat.
Carty, John.
Cassidy, Donie.

Coughlan, Mary.
Cregan, John.
Curran, John.
Dempsey, Noel.
Dempsey, Tony.
Dennehy, John.
Devins, Jimmy.
Ellis, John.
Finneran, Michael.
Fitzpatrick, Dermot.
Fleming, Seán.
Fox, Mildred.

Tá—continued

Gallagher, Pat The Cope.
 Glennon, Jim.
 Grealish, Noel.
 Haughey, Seán.
 Hoctor, Máire.
 Jacob, Joe.
 Keaveney, Cecilia.
 Kelleher, Billy.
 Kelly, Peter.
 Kirk, Seamus.
 Lenihan, Brian.
 Lenihan, Conor.
 McDaid, James.
 McDowell, Michael.
 McEllistrim, Thomas.
 McGuinness, John.
 Martin, Micheál.
 Moloney, John.
 Moynihan, Donal.
 Mulcahy, Michael.

Ó Cuív, Éamon.
 Ó Fearghail, Seán.
 O'Connor, Charlie.
 O'Dea, Willie.
 O'Donnell, Liz.
 O'Flynn, Noel.
 O'Malley, Fiona.
 O'Malley, Tim.
 Parlon, Tom.
 Power, Peter.
 Power, Seán.
 Roche, Dick.
 Smith, Brendan.
 Smith, Michael.
 Treacy, Noel.
 Walsh, Joe.
 Wilkinson, Ollie.
 Woods, Michael.
 Wright, G. V.

Níl

Allen, Bernard.
 Boyle, Dan.
 Breen, Pat.
 Broughan, Thomas P.
 Bruton, Richard.
 Burton, Joan.
 Connolly, Paudge.
 Costello, Joe.
 Cowley, Jerry.
 Crawford, Seymour.
 Crowe, Seán.
 Cuffe, Ciarán.
 Deasy, John.
 Deenihan, Jimmy.
 Durkan, Bernard J.
 English, Damien.
 Ferris, Martin.
 Gilmore, Eamon.
 Gogarty, Paul.
 Gormley, John.
 Gregory, Tony.
 Healy, Seamus.
 Higgins, Joe.
 Higgins, Michael D.
 Howlin, Brendan.
 McCormack, Pdraic.
 McGinley, Dinny.

McGrath, Finian.
 McGrath, Paul.
 McManus, Liz.
 Mitchell, Olivia.
 Morgan, Arthur.
 Moynihan-Cronin, Breeda.
 Murphy, Gerard.
 Naughten, Denis.
 Neville, Dan.
 Noonan, Michael.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 O'Sullivan, Jan.
 Pattison, Seamus.
 Penrose, Willie.
 Perry, John.
 Quinn, Ruairí.
 Rabbitte, Pat.
 Ryan, Eamon.
 Ryan, Seán.
 Sherlock, Joe.
 Shortall, Róisín.
 Stagg, Emmet.
 Stanton, David.
 Timmins, Billy.
 Upton, Mary.

Tellers: Tá, Deputies Hanafin and Kelleher; Níl, Deputies Boyle and Harkin.

Question declared carried.

Ceisteanna — Questions.

Priority Questions.

Overseas Missions.

1. **Mr. McGinley** asked the Minister for Defence if he will report on his recent visit to Liberia and the meetings attended while there; and if he has satisfied himself with conditions, including health and safety, under which members of the Irish peacekeeping personnel are operating. [3519/04]

54. **Mr. Durkan** asked the Minister for Defence if he has satisfied himself that adequate medical

and military supplies are available to the Irish troops serving in Liberia; and if he will make a statement on the matter. [3529/04]

Minister for Defence (Mr. M. Smith): I propose to take Questions Nos. 1 and 54 together.

I visited Irish troops serving with the United Nations Mission in Liberia, UNMIL, from 21 to 23 January of this year. During my visit, I was accompanied by the Secretary
 4 o'clock General of the Department of Defence, the Chief of Staff, the PSO to the Chief of Staff, my private secretary and a senior civil servant of the Department of Defence.

The main purpose of my visit to Liberia was to observe at first hand the work of Irish military personnel serving in the area and to convey to them, on behalf of the Government and the people, our deep appreciation for the outstanding

[Mr. M. Smith.]

manner in which they continue to perform their duties on overseas service. UNMIL is a challenging assignment and the Defence Forces are to be congratulated on the expeditious manner in which they planned and undertook their first deployment to this mission.

During the course of my visit to Liberia, I met Mr. Wesley Johnson, vice-chairman of the national transitional Government, Mr. Jacques Paul Klein, the special representative of the Secretary General of the United Nations, Major General Owonibi, acting force commander UNMIL, and Brigadier General Robert Fitzgerald, chief of staff, UNMIL.

I had a very positive exchange of views with vice-chairman Johnson. He thanked Ireland for the Defence Forces presence in Liberia and acknowledged the contribution of the 430 Irish personnel to conflict resolution. He said that the transitional Government will be in place in two weeks, ready to begin the process of reform. He admitted that true democracy would only return if the civil war divisions and corruption are eliminated and human rights are guaranteed. He highlighted the importance of getting normal civil society operating again and, in particular, of education. He informed me that one of the great difficulties faced is that the current young generation is less well educated than their parents. For all of us, that is surely a sobering thought.

During my meeting with special representative Klein, he acknowledged the enormous contribution the Irish troops are making to stability in Liberia. He outlined the difficulties facing the chairman of the transitional Government in co-ordinating the three factions — the former Taylor Government, LURD and MODEL — comprising the new transitional Government. Elections are planned for 2005 and Mr. Klein emphasised the importance of preparing for this now. He also outlined the importance of quickly getting in place effective disarmament, demobilisation, reconciliation and reintegration and placing it on a firm and sustainable footing. A UN fact-finding team was in Liberia while I was there, examining and advising on this issue.

I raised with him the Government's concern regarding health facilities for UN troops, particularly level three hospitalisation and the planned pull-out of the Dutch hospital ship, the *Rotterdam*, on 18 February 2004. The *Rotterdam* is currently the provider of the level three medical cover to Irish personnel.

Additional Information not given on the floor of the House

Efforts are being made to secure an extension from the Dutch, while at the same time all other options are being examined. I assure the House that my Department, as well as the Department of Foreign Affairs, through Ireland's mission to the UN in New York, has been, and will continue to be, actively engaged with the UN to ensure

that the medical cover available to the Irish contingent is at an appropriate level.

On the second day of my visit, I visited the Irish troops at Camp Clara, headquarters of the Irish troops serving with the 90th Infantry Battalion, UNMIL. The camp, which is situated on a site of about 25 acres, had originally been a holiday resort, containing a number of chalets most of which have been looted and destroyed. The camp is a credit to the Irish Army engineers who have rebuilt some of the chalets, cleared the site and erected tents. I also visited the special operations task group, SOTG. I found morale among troops to be very high. I congratulated the Irish personnel on the success of their mission so far and observed the positive effect which their presence is already having in Monrovia and other areas since their arrival. I also sympathised with the troops on the death of their colleague, Sergeant Derek Mooney and the injury of his colleague in a motor accident on 27 November 2003.

During the course of my visit, I also met Major General Owonibi, acting force commander, UNMIL. I also met Irish missionaries who were present in Liberia during the fighting while I was visiting a hospice for HIV/AIDS victims run by the Missionaries of Charity — the Order of Mother Theresa.

I am happy to say that Development Co-operation Ireland has allocated a sum of €15,000 to the current Irish contingent to help support its particular efforts in humanitarian aid in the contingent's area of operations. To assist this work further, I have allocated an additional sum of €10,000 from this year's Defence Vote.

The safety and health of Irish personnel serving overseas is always of paramount concern to me. While no absolute guarantees can be given with regard to the safety of troops serving in missions it is my policy and practice to ensure that Defence Forces personnel are appropriately trained and equipped to carry out their mission.

In regard to the equipment being provided, a wide range of equipment and force protection assets has been deployed with the contingent. This equipment is of the highest quality. Indeed, the Mowag APC's were deployed with the Defence Forces when they served in UNMEE, where they performed very effectively. We have also deployed armoured vehicles and support weapons, heavy machine guns and a mortar platoon. Due to the equipment modernisation programmes that have taken place in the Defence Forces over the past few years, UNMIL will be the best equipped battalion ever to serve overseas.

From a health perspective, I am confident that we have taken every reasonable step to ensure the good health of our personnel on this mission. I am advised by the military authorities that the health of the Irish contingent is excellent and that there have been no serious illnesses to date. I am satisfied that all medical supplies appropriate to level one — contingent level — medical support

have been deployed with the Irish troops in Liberia. The level of medical equipment deployed is superior to any previously deployed with any Irish contingent on UN service and is considerably more sophisticated than the UN requirement. I assure the House that the Government will do whatever it can to protect personnel and return them safely to their families.

The camp, located ten kilometres from the main town of Monrovia, is very secure from both an operational and safety point of view. Extensive standard operating procedures have been put in place to ensure the health of personnel, in particular, procedures for personal hygiene, covering up fully at night to avoid insect and mosquito bites, use of repellents, maintaining hydration, etc.

What we hope to bring through our engagement with Africa is openness and understanding and a desire to support and encourage individual and societal growth. By this means, the people of Africa can have the opportunities they deserve and can strive to achieve their full potential so that the nations of Africa can take their place among the developed countries of the world. This is our objective and this is what we strive for. However, for this to happen will require ongoing political, economic and social development and support on a substantial scale from the developed world as a whole. Ireland stands ready to contribute in whatever way it can to support this development, through the provision of political, economic and social support and through its membership of and influence within the EU and the UN.

Mr. McGinley: I welcome the Minister back from his visit to Liberia with no visible signs of ill-effect. I am sure he will concur with what is commonly understood that our Defence Forces are operating in primitive conditions in Liberia. I am sure he will agree he was in Liberia during the dry season and that most of our forces there are either under canvass or in tents. Is the Minister happy with the accommodation provided? That country is heading into the rainy season. Are provisions being made to address that problem? The rains, whether monsoon or otherwise, can be very heavy. What are the arrangements or provisions for that type of season and weather?

I understand that the relatives of the troops have been busy collecting parcels and other requisites to send to their sons, daughters, husbands and so on in Liberia and that one of our naval ships was to leave Cork within the next few days. Is that still the case or has that trip been cancelled? If so, it would be very serious because so much effort went into collecting parcels and other requisites to send.

Have arrangements been made to enable troops to maintain contact with people at home as often as possible? Liberia is almost on the other side of the world and it is the most dangerous peace mission in which our forces have

been engaged. Can troops contact people at home? Are there regular mail deliveries? I understand that on such tours of duty, home leave is always arranged. Will troops have the opportunity to come home or will they have to stay there during their few weeks off?

Mr. M. Smith: The accommodation the Defence Forces have is excellent. It may well be the case that when tried under different conditions, we will have to examine the matter again and we would then have to consider, in a longer-term commitment to Liberia, the cormex. We would only address that question if it proved necessary. As we understand it, the resistance of the existing accommodation will be well able to cater for whatever is likely to happen in terms of a change in weather conditions over a period of at least two years. If anything changes in the meantime, I will address it.

I heard no complaints from the military — as the Deputy knows, I interviewed a number of them — about the facilities, the telephone arrangements for telephoning home, the free telephone service available once a month for up to ten minutes and the free postage home once a week. There was high morale across all fronts. It is probably the best equipped mission in the world. It was interesting to see the medical facilities there and the equipment which has been arranged. I assure Deputy McGinley we will keep a watchful eye on all these developments. As we see it at the moment, nothing is happening that would raise our fears about the accommodation and so on.

Mr. McGinley: Has the ship been cancelled?

Mr. M. Smith: I have no knowledge of that. I will check it immediately following questions.

Search and Rescue Service.

2. **Mr. Sherlock** asked the Minister for Defence the basis on which he decided to end the Air Corps role in search and rescue operations from Sligo; the cost of hiring and maintaining the private helicopter service that will replace it; if his attention has been drawn to the description of the decision as very regressive by the Irish Fish Producers Organisation; the duties the personnel transferred out of Sligo will now perform; and if he will make a statement on the matter.

[3483/04]

4. **Mr. McGinley** asked the Minister for Defence if his attention has been drawn to the widespread concerns in the north west arising from his decision to terminate Air Corps participation in search and rescue services; and if he can guarantee that there will be no diminution in the standard of services to coastal and island communities by the new operating company.

[3520/04]

Mr. M. Smith: I propose to take Questions Nos. 2 and 4 together.

[Mr. M. Smith.]

The Irish Coastguard has overall responsibility for the provision of maritime search and rescue services within the Irish search and rescue region. The Air Corps provides the search and rescue service, SAR, off the north west coast while CHCI, a private operator, provides the service from Dublin, Shannon and Waterford.

In the period from late September 2003, there was an unusually high incidence of sick leave among the Air Corps rear-crew, that is, winchmen and winch operators. As service continuity within the north-west search and rescue operation could not be guaranteed with the existing rear crews the GOC of the Air Corps posted 13 of the 17 personnel to other duties. The four remaining crew were due to return to duty but three opted to transfer out of search and rescue. As a result, the north west search and rescue operation was limited in that it was unable to provide a winching service. While most other aspects of the search and rescue service continued to be provided, the lack of a winching capability severely eroded the level of service on offer and potentially compromised the safety of mariners.

In view of this, I asked my officials to work with the Air Corps to determine when it might be in a position to return to full search and rescue service. This examination took place against a background where CHCI, the provider of all other search and rescue services in the State, had submitted a proposal to the Irish Coastguard indicating that it could provide a service within a relatively short time frame.

As I have said in the past, the safety of Air Corps personnel is of paramount importance. Training new winch crews and enabling them to acquire the requisite experience, including experience in theatre, would have meant that the Air Corps would have been unable to return to a 24 hour full search and rescue service until March 2005. In addition, because of the small scale of the Air Corps search and rescue operation, it would continually be at risk from the loss of small numbers of experienced personnel. In view of this, I advised my colleague, the Minister for Communications, Marine and Natural Resources, of the situation and of my decision to withdraw the Air Corps search and rescue service in the north west.

We can never lose sight of the fact that search and rescue is an emergency life saving service, which seafarers must be able to rely on in all circumstances. In the absence of the Air Corps being able to provide the required level of service, and given the level of ongoing risk of the service not being available because of a lack of trained back-up Air Corps personnel, the reliability of the service offered by the Air Corps would always be in question. The Air Corps will continue to provide its current limited service while the coastguard makes alternative arrangements for the return of a full SAR service in the north-west. It is expected that these arrangements will be in place within weeks.

This was not an easy decision. The Air Corps has a long and distinguished tradition in providing search and rescue services and I know this decision was a real disappointment for it. I am also aware of the significant efforts of Air Corps management and staff to maintain an operational SAR service in the north-west, in particular the dedication and commitment of key personnel in the north-west search and rescue operation. However, the provision of this essential emergency service requires that a full team be available 24 hours a day and seven days a week. The Air Corps was not in a position to provide this.

The issue of service standards as regards all search and rescue and other maritime emergency operations is a matter for the Irish Coastguard. I understand that CHCI provides a full SAR service to the standard required and demanded by the Irish Coastguard. As such, I see no reason for coastal and island communities to be concerned about the standard of emergency service available from CHCI when it replaces the Air Corps in the north-west. The question of the cost of the new operation is a matter for the Minister for Communications, Marine and Natural Resources.

With regard to Air Corps personnel still serving in the north-west, they continue to provide a limited SAR service pending the implementation of the new service. The arrangements for winding down the Air Corps service and the introduction of the new service are the subject of discussions between my Department and the Irish Coastguard. Air Corps personnel currently serving in the north-west, who are redeployed from Sligo to Casement Aerodrome in Baldonnel, will undertake such duties as may be assigned to them by GOC Air Corps. In this regard, it is the objective of the Air Corps to retain and develop the skills of all its personnel in the best interests of the Air Corps and the wider Defence Forces and duties are assigned accordingly.

Mr. Sherlock: Does the Minister accept that the withdrawal of the Air Corps search and rescue service from Sligo amounts to an effective privatisation of Air Corps operations? Does he accept that there is widespread concern among members of the Air Corps about its systematic downgrading in regard to search and rescue operations? Will he indicate the role the Air Corps will now play in search and rescue operations?

Mr. M. Smith: I do not accept that the circumstances described pertain. I found this decision very difficult and worked hard with management to solve the problem. The circumstances in which it was taken, however, were that the State is obliged to provide a seven day, 24 hour emergency service for seafarers, who must be confident that the service is reliable. Given that I was not in a position to meet that

obligation and the Air Corps could not provide such a service for the greater part of a year, I had no choice but to take the action I did, given that an alternative operator was in a position to provide such a service within a couple of weeks.

While I am indebted to the management of the Air Corps and those who fought so hard to solve this problem, one cannot ignore the fact that the winchmen and winch crew took their own decisions and left me partially paralysed, as it were, in terms of maintaining the service. I made the decision with the utmost regret.

Mr. Sherlock: Will the Minister indicate the cost of replacing the Air Corps operation with a private firm? Will he confirm that the cost over three years is approximately €16 million, which would be sufficient to buy several helicopters? The organisation representing fishermen in the north west, the Irish Fish Producers Organisation, has described the measure as very regressive. Why, when he addressed the issue of outsourcing the Air Corps on 4 December last in the House, did the Minister not inform Deputies of his plans?

Mr. M. Smith: I will address the Deputy's final question first. An extraordinary effort was made by the GOC of the Air Corps and senior management to rescue the service and find a solution. It was only when it was determined that we were unable to provide a full-time service for the greater part of the year that I was forced into the position of taking a hard decision. Often in politics one does not have the option of taking one's preferred decisions and when faced with safety issues, one has minimal scope.

As far as cost is concerned, the F61 has been purchased. The Department allocated considerable expenditure in the base in Sligo and training and other arrangements for the full-time service. These funds will continue to be made available for the north-west. Communities in the region can be assured that they will be afforded the facilities necessary to enable a full-time service to be provided. No additional cost will arise, apart from the expenditure incurred from the purchase of a number of utility helicopters, the maintenance of the pilots' training schemes and the operation of a limited search and rescue scheme on the island, which will not extend to mariners.

Mr. McGinley: Everyone, including the Air Corps, agrees that this decision is a terrible blow to the morale of the Air Corps, particularly the personnel who transferred to Sligo from Dublin and Baldonnel with their spouses and families a few years ago and must now, unexpectedly, up their tents and return to Baldonnel or elsewhere. No one is more aware of the excellent service the Air Corps has provided over the past 40 years than I am, coming as I do from a coastal area of County Donegal.

In addition to providing search and rescue services, the Air Corps was permanently at the

beck and call of coastal communities, providing flights of mercy and frequently taking people to the islands for funerals and wakes, responding to hospital call-outs and bringing students to and from the mainland. The service was available 24 hours a day without any cost to those who availed of it and the Air Corps was ready and willing to respond to every call.

This service has now been handed over to a private company. Will the Minister guarantee that when someone on Tory Island, Aranmore, Inishboffin or any other coastal community requests a helicopter to take an expectant mother or a person who has suffered a heart attack to hospital, the new company will be as responsive as the Air Corps has been in the past or will we have to pay for every errand and flight of mercy undertaken by the new Canada-based private enterprise? I want such a guarantee.

Mr. M. Smith: There is no question or doubt that the Air Corps has a long and distinguished tradition in search and rescue services. A private company has been providing this service in Shannon, Dublin and the south in recent years. The final rung in the ladder, so to speak, in terms of regions within the responsibility of the Department was the north-west. Over three or four years, I allocated a significant sum of €16 million, as Deputy Sherlock noted, to maintain the service and provide for and improve the base in Sligo and new training schemes. Having done this, I was placed in the unenviable position of not being able to provide a 24 hour service.

No complaints have been received concerning the private company providing this service in Dublin, Shannon and the south. I assure Deputy McGinley that the limited service to be provided on land by the Air Corps will be maintained. We will not, however, provide a service for seafarers. All other services will be maintained and the Department will purchase a raft of new helicopters which will place us in an enhanced position.

Mr. McGinley: If an islander has an emergency and calls on the new service, will there be a charge or will it be under the same conditions as applied when the Air Corps provided the service so well for 30 years?

Mr. M. Smith: It is impossible to answer the Deputy's question for the simple reason that the Air Corps is not in a position to provide that service on a 24-hour basis at present. The service which will be provided by the private source will be a matter for it, but from what I have heard throughout the country from Shannon to Dublin, it deals with emergency situations with the same competence and tradition as the Air Corps. It is important to realise that we are not in a position to provide that service on a 24-hour basis.

EU Security and Defence Policy.

3. **Mr. Gormley** asked the Minister for

[Mr. Gormley.]

Defence the agendas for the various meetings of EU Defence Ministers and of EU defence directors during Ireland's EU Presidency; and if he will make a statement on the matter.
[3374/04]

Mr. M. Smith: The EU policy area of primary concern to my Department is the development of the military aspects of the European security and defence policy, ESDP. The mandate for the incoming Presidency, which was agreed at the European Council held in Brussels in December, invited the Irish Presidency to continue work on developing the European security and defence policy within the General Affairs and External Relations Council, GAERC. The Government's priorities in this regard are outlined in the programme of the Irish Presidency of the European Union, which is fully consistent with the multi-annual strategic programme of the EU Council for 2004-2006 and the operational programme for the Council for 2004, which were drawn up jointly by the Irish and Dutch Presidencies.

My Department is progressing work in this regard at EU level using the established practice of meetings up to and including ministerial level. This will include an informal meeting of Defence Ministers of EU member states and accession countries which is scheduled to take place in Brussels on 5 and 6 April 2004, while EU Defence Ministers will also meet in Brussels on 17 May within the framework of the General Affairs and External Relations Council, GAERC.

Informal meetings at official level will also be held as and when required. The first such meeting of EU defence policy directors, which was held on 23 January, was a useful forum for senior officials from the defence ministries of the member states and acceding states to discuss the most important priorities of our work programme. Discussions took place on the development of the EU's capabilities to carry out Petersberg Tasks operations, that is, peace support, crisis management and humanitarian operations; progress regarding the creation in the course of 2004 of an intergovernmental agency in the field of defence capabilities development as agreed by the European Council held at Thessaloniki in June 2003; developing and defining a 2010 headline goal; the development of an EU rapid response capability with an emphasis on supporting the United Nations in crisis management; and relations between the EU and NATO with specific regard to the capabilities development and operational planning.

An informal meeting of senior officials with responsibility for capabilities development and armaments procurement will be held in Dublin later this month to discuss more specifically the arrangements for the creation of the intergovernmental agency for defence capabilities development.

Given the developmental nature of the European security and defence policy and in line

with established practice, agendas are normally finalised in the weeks leading up to the respective meetings. I will seek to ensure that discussions at ministerial meetings which I chair are focused on the priority issues related to progressing the Irish Presidency's work programme.

Mr. Gormley: I thank the Minister for his reply. I note in his reply that he omitted to mention conferences on conflict prevention which are listed in the detailed calendar as supplied by his Department. Can the Minister confirm that these conferences will take place on 31 March 2004 and 1-4 April 2004? Does he agree with me that the best way to engage in conflict prevention is by supporting an arms trade treaty as put forward by Oxfam and Amnesty International? What is the position of the Minister and his Department on an arms trade treaty? Will representatives of Oxfam, Amnesty International and NATO be invited to those conferences?

I believe there was a meeting of the EU defence directors in Thurles, in the Minister's own neck of the woods.

Mr. M. Smith: No.

Mr. Gormley: I received this information from the detailed calendar.

Mr. M. Smith: The meeting took place in Dublin.

Mr. Gormley: Will the Minister explain the term "defence director" and inform the House on the identity and role of the Irish defence director? I note the Minister has not mentioned the 36 meetings of the political and security committee which was instituted under Article 1.5 of the Treaty of Nice. He mentioned in his reply the co-operation between the European rapid reaction force and NATO. Will the Minister agree that the PSC is not compatible with Irish neutrality in its terms and co-operation with NATO?

Mr. M. Smith: I have rejected this contention from Deputy Gormley on many occasions. It is unfortunate there is not more time to discuss this matter. I have just returned from a visit of a few days to Liberia. If the Deputy is ever under any illusions about the necessity for a rapid reaction force to allow communities with resources to devise a way to intervene and prevent the conflicts and wars, Liberia is one stark example of that necessity. A few weeks after the arrival of the Irish troops the people were out with their little stalls.

Mr. Gormley: I have no problem with that. I supported it.

Mr. M. Smith: The Deputy cannot have it both ways. He is trying to convince the public that there is militarisation and another agenda while the Government has emphasised many times that the agenda is peace, the Petersberg Tasks and

making efforts to intervene earlier in countries like Liberia.

I am fond of pets, dogs in particular, but there are people in the Deputy's constituency who spend more in a year on their pets than these poor people have altogether. As far as armaments are concerned, the Government has made its position clear. Ireland has been a member of the United Nations for more than 50 years and worked towards these goals. We realise that the countries with a vested interest in selling armaments create significant problems in poor countries.

Mr. Gormley: I specifically asked about the Irish Government's position on the arms trade treaty and the conference on conflict prevention.

Acting Chairman (Mr. Costello): We do not have any more time. We must move on to Question No. 5.

Mr. Gormley: I ask the Minister to give just one answer.

Acting Chairman: A short answer, please.

Mr. M. Smith: I have indicated to Deputy Gormley many times that we have no problem with that but the Deputy wants to scare the people into a certain belief that does not stand up. I apologise to the Chair. The Deputy and I provoke one another.

Mr. Gormley: I try not to.

Mr. M. Smith: I wish the Deputy would try a little harder.

Question No. 4 answered with Question No. 2.

Pension Provisions.

5. **Mr. Sherlock** asked the Minister for Defence if he has plans to review the position of widows of those who lost their lives serving with the United Nations in the Congo in view of the very small sums that they received in compensation and pensions at the time; if he will consider making an *ex gratia* payment to those involved; and if he will make a statement on the matter. [3484/04]

Mr. M. Smith: No amount of money could compensate for the loss of a husband, father and breadwinner. However, the levels of benefits granted by way of pensions and lump sum to the widows of soldiers who were killed in the early 1960s while serving with the United Nations in the Congo were regarded as appropriate and reasonable in the circumstances prevailing at the time.

A new Army Pensions Act was enacted in 1960 to provide, among other things, enhanced pension benefits for the dependants of military personnel who died in the course of UN service abroad. Furthermore, the Government of the day authorised the introduction of a new scheme of extra-statutory lump sum payments for such dependants. Under the scheme, a lump sum

equivalent to €4,444 was payable to the widow of a soldier killed on UN service. This was a relatively substantial sum of money at that time.

Pensions granted at the time have been increased over the years in accordance with the standard method of increasing public service pensions. Additionally, the method of computing the widow's pension under the Army Pensions Acts in the case of personnel killed in the course of duty was specially enhanced from 1975. The benefit of this enhancement was extended to pensions already in payment. All such pensions are now increased in line with increases in pay granted to serving military personnel.

In addition to benefits under legislation and schemes specific to the Defence Forces, the widows of soldiers killed on UN service in the Congo would have been eligible for pensions under the social welfare legislation applicable at the time. All things considered, it is not appropriate to re-open this matter as suggested by the Deputy.

Mr. Sherlock: How many members of the Defence Forces lost their lives during the Congo mission of the early 1960s? Does the Minister accept that the people of Ireland were enormously proud of the role played in that country by the troops, who made a huge sacrifice? The amount of compensation provided to the widows of those who lost their lives in the Congo was as little as £3,400. Did the Minister read a recent report in *The Sunday Tribune* which suggested that a woman and her child were left destitute when the woman's husband was killed in the Congo? Will the Minister address these questions? Does he think it is appropriate that a more reasonable amount of money should be provided?

Mr. M. Smith: The Irish people are immensely proud of the role played by the soldiers who went to the Congo and participated in subsequent missions. Eleven of the soldiers who were killed in the Congo were married. Four of their widows have died and three have remarried. The current value of the lump sum given to the widows at that time is €77,000. The lump sum that is payable in similar circumstances at present is €81,000. I think most of what I have said demonstrates that the schemes are generous. If Deputy Sherlock wishes, I will consider any specific case where there is a need for greater compassion. It seems the overall scheme is reasonably generous and does not need to be reopened, but I am perfectly happy to examine any individual case of obvious hardship.

Mr. Sherlock: Does the Minister not think it would be reasonable to provide for a modest *ex gratia* payment? If this was provided for across the board, it would not break the Exchequer.

Mr. M. Smith: As I have said, I have no such intention. I have outlined the terms of the scheme, which covers pensions, lump sums etc. I do not intend to reopen the scheme. The best I

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can offer the Deputy is a re-examination of an individual case on compassionate grounds.

Hearing Impairment Claims.

6. **Mr. O'Shea** asked the Minister for Defence the number of claims for damages for deafness determined in court or settled out of court at the latest date for which figures are available; the amount paid out to date in terms of damages or legal costs; the number of such claims outstanding; and if he will make a statement on the matter. [3304/04]

Mr. M. Smith: Some 16,698 claims had been received by my Department from current and former members of the Defence Forces by 31 January 2004, in respect of hearing loss allegedly caused during military service. Some 328 claims have been determined in court and 14,681 have been disposed of out of court, mainly through settlement. This means that 1,689 claims were outstanding at the end of last month. Some €273.4 million has been paid in respect of hearing loss claims, including €91.3 million in plaintiffs legal costs.

Mr. Sherlock: I am sure everyone will agree that the end of this affair will be a good day for the Department of Defence. The failure to provide adequate protective equipment to military personnel, with the consequent damage done to the hearing of many soldiers, was one of the most unfortunate passages in the history of the Defence Forces. Will the Minister indicate when he expects all claims to have been cleared?

Mr. M. Smith: It is clear that a much more definitive health and safety regime has been in place in the Defence Forces in recent years. Arrangements in this regard are continually reviewed. I would like to say that we will finish dealing with these claims soon. The back of the process has been broken and we should be almost finished by the end of 2004. The number of claims being received each week has decreased considerably. The claims received since 1 July last are being challenged in court on the basis that this matter has been in the public mind for a considerable period of time. The remaining claims are being dealt with. The matter should be almost off the agenda within a year.

Mr. McGinley: I agree with the Minister and Deputy Sherlock that this was a sad episode in the history of the Defence Forces and it is important that we do not have a repeat of it — I am glad steps are being taken to ensure that it does not happen again. If I understand the Minister correctly, over €90 million has been paid out in legal costs. Is this a separate figure from the total of over €270 million that was paid in compensation? Is the €90 million figure part of the €270 million figure? Does the Minister agree that €270 million is a high price to pay? Has this amount been paid in full by the Exchequer or do those who receive compensation have to contribute? It is obvious that there have been

savings in recent times. The level of compensation being paid seems to be decreasing on an annual basis. It seems that the Department and the Exchequer are enjoying considerable savings. Are the savings being subsumed into the Exchequer finances or are they at the disposal of the Department of Defence, for example for the development of equipment and facilities for the Defence Forces?

Mr. M. Smith: A Learjet was recently purchased using savings from the hearing claims Vote. The VAT savings came to another couple of million euro. Legal expenses of approximately €90 million are included in the total cost of €273 million. It is a substantial amount nonetheless. A significant proportion of the €90 million figure has been paid to a handful of legal firms. There are no savings when a Department has to pay compensation in this way. The State does its best to provide a significant amount of money to meet the total cost. Although there was a saving last year, we do not consider it, generally speaking, as a saving but as a drain.

Mr. Sherlock: Does the Minister of State have a figure for the expected final cost? Have claims been made in respect of hearing damage incurred during the past five years? Is the Minister satisfied that appropriate procedures are in place to protect against damage to the health of members of the Defence Forces and to prevent the State from being exposed again to such a liability?

Mr. M. Smith: Some 54 claims were submitted each week at the peak of this process, but an average of four claims are now being received each week. Just one or two claims have been received from members of the Defence Forces who joined the forces since the late 1980s. It is clear that the system which is now in operation should have been in operation much sooner. It is part of the system of maintaining high standards in this regard. As a consequence of the fairly solid base which is developing, it is extremely unlikely that such claims will emerge in the future.

Naval Service.

7. **Mr. Eamon Ryan** asked the Minister for Defence if the Naval Service will be used again for business promotional trips abroad; when this may happen; and if he will make a statement on the matter. [3383/04]

Mr. M. Smith: My Department is considering proposals submitted by the military authorities for the 2004 programme of courtesy visits abroad to be undertaken by Naval Service vessels. As the proposals are under examination in the context of the service's operational commitments for 2004, I do not intend to give details at this stage. It is hoped, however, that a substantial promotional element will be included. In considering the 2004 proposals, I need to consider the possible increased commitment which may be required from the Naval Service to assist the Defence Forces contingent serving in Liberia, as well as its

core operational functions such as fishery protection duties. Over 90% of the Naval Service's effort is devoted to fisheries protection. It is committed to undertaking a minimum number of patrol days on such duties under the terms of the memorandum of understanding agreed between my Department and the Department of Communications, Marine and Natural Resources. The target number of days in 2003 was 1,353, an increase of 10% on the 2002 figures. Discussions on the target number of fishery protection patrol days for 2004 are due to commence shortly. The Naval Service commitment to fishery protection, together with other operational and training demands, may curtail somewhat the scope for courtesy visits in 2004.

Mr. Gormley: The Minister mentioned Liberia. Does he agree that Liberia must take precedence over promotional visits? I hope that goes without saying. While the navy personnel are certainly excellent ambassadors — I saw their public relations skills when I was Lord Mayor — would he agree that this is not a good use of resources? The *LE Róisín* recently visited Savannah, in the USA. Did Enterprise Ireland pay the Department for the use of this vessel? What sort of business arrangement was in place?

Mr. M. Smith: There have been a number of visits recently. The last major visit was to Savannah, but the previous year it was Hong Kong, China and the Far East. I am not able to provide the exact details, but reciprocal arrangements are made for certain aspects of the cost. We must bear in mind that the bill would be the same whether the vessel was used for fishery protection or an expedition for promoting Ireland. I agree with Deputy Gormley that supporting Liberia is a strong reason for the Naval Service to work outside fishery protection. It should still be possible to make an arrangement with Enterprise Ireland and the Department of Enterprise, Trade and Employment, primarily because of the success of these trips and the numbers of business people who have participated from all the countries visited. They were regarded as exceptionally successful as a business opportunity for promoting Ireland and attracting investment.

We also undertake these trips in order to provide experience for members of our Naval Service. Many of them do not have an opportunity for overseas duties, unlike the general Defence Forces, and they welcome these opportunities. Members of the navy are always anxious to be facilitated in this regard. However, I can only do this in the context of other demands. Fishery protection comes first and Liberia comes second, followed by these visits.

Mr. Gormley: Will the Minister provide information about the actual cost of these trips?

Mr. M. Smith: I will.

Mr. Gormley: I am quite sure that to hire a ship of that sort for three months is quite costly. Will Enterprise Ireland refund the Department?

Mr. M. Smith: The additional cost of the trip to Savannah last year — the costs which would not have arisen if there had been no visit to Savannah — was €12,000. I will provide the rest of the information to the Deputy.

Defence Forces Security.

8. **Ms Lynch** asked the Minister for Defence if he will report on the progress of the investigation into the circumstances in which a suspected pipe bomb was found inside the perimeter of Gormanston Army Camp; and if he will make a statement on the matter. [3298/04]

Mr. M. Smith: As I indicated previously to the House, investigations are being conducted by the Military Police and the Garda Síochána into the circumstances surrounding the discovery on 15 April 2003 of an improvised explosive device, IED, inside the perimeter of Gormanston camp. The IED, which was discovered by a member of the Defence Forces based in the camp, was disarmed by a Defence Forces explosive ordnance disposal team. Sections of the IED were taken away for forensic examination by the Garda. The remainder was destroyed *in situ* in a controlled explosion by the EOD team.

I am advised that the Garda is in the process of finalising its investigation. A report on the investigation has been requested from the Garda authorities and is expected to be forwarded to the Military Police shortly. The Military Police investigation can then be finalised. Once this is completed, any recommendations which arise from its report will be implemented as appropriate. The occurrence of such an event is obviously a matter for concern. However, I am glad to report there has been no further occurrence at Gormanston or any other barracks.

Mr. Sherlock: Why is the inquiry into this matter taking so long? It is ridiculous that it is taking so long. Do the military authorities see this as a serious matter?

Mr. M. Smith: Matters such as this are always treated with the gravest concern. I have no control over the completion of the investigation by the Garda, but I understand it is imminent. The most important thing is that the investigation is thorough and complete and that it enables the Military Police to complete its own investigation.

Written Answers follow Adjournment Debate.

Messages from Select Committees.

An Ceann Comhairle: The Select Committee on Education and Science has completed its consideration of the Education for Persons with Disabilities Bill 2003, and has made amendments thereto.

The Select Committee on Social and Family Affairs has completed its consideration of the

[An Ceann Comhairle.]
Civil Registration Bill 2003, and has made amendments thereto.

Adjournment Debate Matters.

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputy Ardagh — the need to provide the funding and resources required for a young man (details supplied) who is in great need; (2) Deputy Twomey — the ongoing bed crisis in Wexford General Hospital which again sees trolleys on the corridors outside the accident and emergency department. The issue of extra beds for Wexford General Hospital is again critical. Wexford General Hospital, under the Department of Health casemix view, is the most efficient hospital in the south-east and the seventh most efficient hospital in the country; (3) Deputy Harkin — the proposed closing of Loughan House, Blacklion, County Cavan and the arrangements, if any, that have been put in place regarding the transfer of staff and the transfer of prisoners; (4) Deputy Ferris — recent job losses in County Kerry; (5) Deputy Deenihan — the serious decline in manufacturing employment in County Kerry following the announcement of 220 redundancies in two companies recently and the prospect of further job losses; (6) Deputy Fiona O'Malley — the implications of the recent Charleroi ruling by the European Commission on the future of balanced regional development in the EU; (7) Deputy Durkan — the circumstances whereby a prisoner serving a long-term sentence was shot while on temporary release, and whether there are any other prisoners serving similar sentences who are currently on temporary or other forms of release; (8) Deputy O Fearghail — the need to expedite the delivery of affordable housing at Magee Barracks, Kildare, in accordance with the Government's decision of July 2003 and having regard to the overall development of Kildare town and previous commitments on community gain made by the Minister for Defence; (9) Deputy Naughten — the need for the Minister for Education and Science to approve funding for an extension to Elphin community college, County Roscommon; (10) Deputy Cowley — the need to make immediate arrangements for an MRI scanner at Mayo General Hospital in view of the urgent need for such a facility, such as the recent case of a person (details supplied) (11) Deputy McManus — the deteriorating situation in accident and emergency units in a number of hospitals in the country which is causing hardship for patients and serious stress for staff; (12) Deputy Crawford — to ask the Minister for an explanation of how Castleblayney College, Ballybay College and the Collegiate School, Monaghan, failed to meet the criteria to benefit from the €30 million school building funding announced on 4 February.

The matters raised by Deputies Naughten, Ardagh, Cowley and McManus have been selected for discussion.

Adjournment Debate.

School Accommodation.

Mr. Naughten: I thank the Ceann Comhairle for selecting this matter for discussion on the Adjournment. In the early 1970s there were three second-level schools in Elphin: the Convent of Mercy, the vocational school and the grammar school. Elphin was earmarked for a community school. However, the Sisters of Mercy withdrew from the second-level sector. There was talk of amalgamation between the grammar school and the vocational school and subsequently, in the mid-1970s, a system of common enrolment was put in place. There were initially two management systems and the then Department of Education funded the rental of the grammar school at an exorbitant rent. Today, there is a single management system, combined with enthusiastic young staff, and there is increased parental confidence and better morale within the school. Parents are also satisfied with the range of subjects currently on offer. The school offers transition year and the leaving certificate vocational programme as well as a range of extra-curricular activities including public speaking, debating, drama and trampolining.

The difficulty is that there is a split campus. The two campuses are half a mile apart. The school has a system in place under which subjects are timetabled so that pupils' movements between the buildings only occur at lunchtime, but this is still not satisfactory. The problems resulting from the split campus include arranging supervision, loss of time moving between schools, safety concerns, discomfort to pupils on wet days, the cost of rent and maintenance and the poor state of repair of the rented building, the Bishop Hudson grammar school. There seems to be a blatant lack of interest within the Department of Education and Science in the vocational school in Elphin, which has received no funding from the Department since 1942. It was set up initially as a junior cycle school and was never funded to teach leaving certificate subjects, as it does at present.

The social implications of the loss of pupils from the area and the demise of the community that would result if the school is not developed, are serious. Losing the school would be critical for the town's viability. The Department, as we know, has a one-school-per-town policy. The proposal put before the Department ties in with that. In addition, the Department could save money over the long term if the rent it is paying at the moment were diverted into a capital project. Parents are extremely disappointed with the lack of progress that has been made in locating Elphin community college on one single campus.

In 1999, Roscommon VEC applied to the Department for the provision of additional accommodation at Elphin community college. The schedule of accommodation works was prepared on the basis of a long-term projection enrolment of 175 pupils. The proposed extension would provide 952 sq. m. of additional

accommodation consisting of specialist rooms, library, store, general store, PE hall, kitchenette, staff accommodation, toilets and circulation social areas.

The design team was appointed in August 2000. In February 2002, the VEC was requested to prepare and submit a stage three plan which was submitted in June 2002. In the 2003 building programme, Elphin community college came under section 7, which meant that the project would not proceed further. The only exception to this general principle is a post-primary school resulting from an agreed rationalisation that can proceed in planning to the pre-tendering stage. Elphin community college fits into this criteria, as stated by the Department, and yet has been long-fingered.

On February 7 2003, the Minister for Education and Science stated to me in correspondence that the extension project to Elphin community college will be considered for the 2004 building programme, as was hoped in Elphin. However, in the 2004 allocations, Elphin community college was still at an architectural planning stage. In section 9 of the programme, which refers to the pre-planning permission stage, the community college is at band three of the post-primary categories. A band three assignation means a project is less urgent. The consequences of not supplying what is necessary are less drastic and, critically, it may be impossible to implement alternative solutions to satisfy the needs presenting. In short, it is less critical and the fulfilment of the need is more a medium-term target than short-term one.

Will the Minister of State at the Department of Education and Science, Deputy Brian Lenihan explain how it could not be a short-term target? The parents want to know, once and for all whether the Department will approve this project in principle and what the timescale involved will be.

Minister of State at the Department of Education and Science (Mr. B. Lenihan): I thank the Deputy for giving me the opportunity to outline to the House the Department's proposals for the provision of an extension at Elphin community school, County Roscommon. The 2004 capital programme was published in December 2003 and full details of individual projects are available on the Department's website at <http://www.education.ie>.

The Department has accepted that there is a need to provide additional accommodation for students of Elphin community college. I am pleased to inform the Deputy that a full design team has been appointed and architectural design of the project has commenced. An extension for the school is listed in section 9 of the 2004 school building programme. This project is at stage three of architectural planning. This stage involves a detailed sketch scheme detailing room layouts and other measures. It has been assigned a band three rating by the Department in accordance with the published criteria for prioritising large-scale projects.

The architectural design of additional accommodation is based on nine stages. The design and planning of the project is covered by stages one to five, during which the project is developed from the assessment of site suitability through the detailed design, including the obtaining of planning permission, to the point where detailed bills of quantities are prepared. At stage six, tenders are sought in line with public procurement procedures and subsequently a tender report is prepared and examined. Assuming that the outcome of the tender process is acceptable in terms of procurement procedures and providing value for money and that funds are available to meet construction costs, a construction contract is placed at that stage and the construction of the project begins. I am sure the Deputy is aware of the substantial increases allocation that have been made in the Estimates this year for school building.

Mr. Naughten: That is not much use to the people of Elphin.

Mr. B. Lenihan: Stages seven to nine cover post-contract cost control throughout the construction period, construction and practical completion of the project, including hand-over of the building to the proposed occupiers and the completion of the cost analysis in the form of the final account, ensuring that cost control was maintained.

The budget announcement regarding multi-annual capital envelopes will enable the Minister to adopt a multi-annual framework for the school building programme which, in turn, will give greater clarity regarding projects that are not progressing in this year's programme. The Department of Education and Science will make a further announcement in that regard during the year. I thank the Deputy once again for giving me this opportunity to outline the current situation to this House.

Mr. Naughten: With all due respect, that was the most pathetic answer I have heard in the House.

Mr. B. Lenihan: The Deputy should learn more about construction contracts.

Mr. Naughten: I know all about them.

Rights of the Child.

Mr. Ardagh: I thank the Ceann Comhairle for the opportunity for raising this matter on the Adjournment.

I appeal to the Minister of State with responsibility for children to put in place a care plan for a 17 year old child and who has not to date received the care and attention from this State which is his right and the State's duty. To protect his identity, I will give a short synopsis of his story in the first person:

When I was one year of age, my family first came to the attention of the Eastern Health Board social work department because my

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mother had difficulty coping with her family. When I was five years of age, I exhibited difficult and disturbing behaviour and I was referred to the child guidance department of child psychiatry at St. James's Hospital. When I was eight years of age I was first brought before the courts for failing to attend school. The school attendance officer was supportive but not successful.

In November 1996, when I was ten years of age, I and four of my siblings were taken into the care of the Eastern Health Board and spent eight days in Cherry Orchard Hospital. My mother was suffering from depression and struggling to cope with her alcohol problem. At 11 years of age, I was referred to the child guidance department of child psychiatry in St. James's Hospital but I was not offered an appointment because of my family's poor attendance history. At 12 years of age, I was again before the Children's Court for failing to attend school. A psychiatric assessment was carried out while I was in the location which recommended that I be placed in a residential unit.

Two months later, I was sent to a residential unit in County Tipperary and my progress there was greatly hampered because I ran away many times. At 12 years of age, a consultant child psychologist said I was seriously emotionally and behaviourally disturbed with a borderline to mild mental handicap and an anxious attachment to my mother. At 13 years of age, a social worker referred me and my siblings to Our Lady's Children's Hospital for various medical complaints but we did not keep any of those appointments.

At age 14, I was involved in a serious road traffic accident when I was the front seat passenger in a stolen car. I was discharged from hospital but suffered damage to the left side of my brain, affecting my cognitive and emotional faculties. My behavioural problems worsened. At 15 years of age, as a result of my deteriorating behaviour and health, a case was brought to the High Court, judicially reviewing the State's failure to provide adequate care for me. Still at 15 years of age, I was placed in the basement of St. Patrick's Institution pending my placement in a residential centre. I was placed on protection for four weeks in the basement of St. Patrick's Institution which is normally used for punishment. I was in virtual isolation as I was only 15 years and the minimum age for St. Patrick's is 16 years.

In December 2002, unfortunately my mother died. I was placed in a boys' home in Dublin but this fell through because the placement unit did not have the support that was required for me. I returned to live with my family. By now my older sister was a chronic heroin addict and her partner was an alleged drug dealer. In 2003, I was remanded in custody for a week and the judge directed that I receive immediate medical and psychiatric treatment. By the time

I came out, no assessment had been carried out at St. Patrick's Institution. I was then remanded to Clover Hill Prison where it was arranged for me to be seen by a psychiatrist from the Central Mental Hospital.

In June 2003, it was stated that I had limited intellectual ability and psychological assessment confirms that I function within the upper end of the mild range of learning disability. Furthermore, psychological assessment confirms that my powers of conceptual reasoning, social judgment and general knowledge are significantly impaired. These skills, which were already limited, were further exacerbated by the severe head injury which I sustained in the road traffic accident. I was then released from custody on 17 June 2003. I was arrested again in September 2003 and remanded to St. Patrick's Institution. At this stage, I threatened to hang myself at the thought of going to prison. I was subsequently put on 24 hour watch.

I left the family flat in October 2003 due to violence there and I started using out-of-hours homeless services for juveniles. At 17 years of age, I indicated a guilty plea on public order offences. At the time, a clinical neurosurgeon said he had serious reservations about my cognitive and emotional capacity to defend myself in a court of criminal proceedings. I was accepted for a short time in a centre in Dublin. I was thrown out after Christmas because there was no suitable accommodation for me and I appear to need a more structured and robust care than a probation hostel. I am now in Clover Hill Prison until next Wednesday, unless something can be done in the meantime.

Mo náire thú to society and the bureaucratic system which does not cope with seriously disturbed children. The Minister of State, Deputy Brian Lenihan, has been fully engaged with this case in recent days and I thank him for that. I want to ensure that in the future we care for all our children, particularly unfortunate children like the one we are discussing today.

Mr. B. Lenihan: I welcome the opportunity to reply to this matter, which has been the subject of public debate recently. It is not the usual practice to comment on individual cases. However, as detailed reports about this young man have already appeared in the media, I propose to give some up-to-date information to the House.

The 17 and a half year old youth referred to is currently the subject of criminal court proceedings and is currently on remand in custody in Clover Hill, as outlined by Deputy Ardagh. The youth has previously been in the care of the South Western Area Health Board. The young man and his family have been known to the social services since 1987, when his mother presented with a number of problems. Following an assessment in 1994 he was diagnosed as having serious emotional and behavioural disturbance. A

5 o'clock

special needs group was recommended and offered, but the offer was not followed up.

In 1998 further assessments were carried out and the young man was placed in St. Joseph's, Clonmel, until June 2000. In October 2000 he was involved in a serious joyriding accident, resulting in severe head injuries. He was transferred to the National Rehabilitation Hospital where, I understand on his discharge home, his behaviour deteriorated.

He was admitted to the Eastern Regional Health Authority's special care unit in August 2001 and he was reported to have made good progress with certain therapeutic interventions. However, during this period his mother became seriously ill and died at the time when he was being prepared for his follow-on placement and the young man refused to engage with services after this time.

Three case conferences have been held to consider alternative care options for this young man. Disability services advised that an assessment could be done to find appropriate occupation for him. However, they were unable to contact him for the assessment despite house calls. The mental health service did a domiciliary assessment and the result stated that there was no indication that he was suffering from a psychiatric disorder.

When in court recently he was deemed suitable for a probation hostel but it was decided on further examination that this would not be a suitable placement. Contrary to media reports I have been assured that it is not the case that there was no co-operation between the Department of Justice, Equality and Law Reform and the health and social work services in relation to his placement.

Following receipt of a letter from his solicitor late last week, I sought a report from the regional chief executive of the Eastern Regional Health Authority. I discussed this case with the chief executive and yesterday he provided a detailed report on the person in question. In order that the South Western Area Health Board can establish accurately this person's care requirements, the board's senior area medical officer reviewed all of his records, some of which were only made available recently. Following completion of this assessment of the medical reports by the senior area medical officer, the advice available now confirms that he requires a specialist service designed to meet his particular needs.

The authority has informed me that the area board has been in contact with a number of service providers in relation to this young man, including a facility in the United Kingdom which specialises in treating such cases. Of course the ideal solution would be to find a care placement within the jurisdiction so that linkages could be maintained with his social work team. Arrangements have been made with the National Rehabilitation Hospital to carry out a comprehensive assessment of his needs, which is to take place next week. This will facilitate the

South Western Area Health Board in its discussions with various service providers to source a suitable targeted care package for him as quickly as possible.

It must be appreciated that a case such as this does not lend itself to easy solutions. The referral process now envisaged by the health authorities will be contingent on the individual himself agreeing to co-operate and attend a service. This will need to be explored in a sensitive manner with the individual himself and his representatives.

Questions have been raised in recent media reports about the funding and resources required for this young man. The difficulties which have arisen in the case do not relate to the funding and resources required by the relevant health board to put a care placement in operation for him. I have been assured by the authority's regional chief executive that the question of providing funds should not be a hindering factor in this case. The chief executive has also assured me that the question of age is not an issue either. It has been suggested in the media that the relevant authorities and agencies were being tardy in this matter because they would have no obligations when the individual reached 18 years of age in a few months. This is not correct. The obligations of the local service to this individual do not turn on the age of the individual. He clearly requires a care placement.

The difficulty which has arisen relates to the identification of a suitable and appropriate placement which can provide the necessary care package to meet this person's complex needs. My Department will liaise with the Eastern Regional Health Authority regarding the actions being taken to bring about a satisfactory solution to the matter in the shortest possible time.

Hospital Services.

Dr. Cowley: I am grateful for the opportunity to raise on the Adjournment the pressing need for a magnetic resonance imaging device, or MRI scanner, at the Mayo General Hospital. Thankfully our first consultant orthopaedic surgeon commenced duty yesterday at Mayo General Hospital and we hope that another two consultant orthopaedic surgeons will be appointed in the near future. This is a great boost to the county because of the great distances people had to travel in the past for this essential service. Every fracture sustained, particularly those life-threatening fractures affecting old people, meant a trip all the way to Galway for a service needed in our own county. After many years of campaigning, which I started, we now have an orthopaedic surgeon and a 33-bed orthopaedic unit and an orthopaedic operating unit.

However, we need an MRI scanner. In any facility orthopaedics is the biggest user of MRI services and if we are to have a world-class orthopaedic service, which the third largest county in Ireland deserves, we need an MRI

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scanner as soon as possible. The hospital looked at the possibility of a mobile MRI scanner, which would begin as a monthly service before becoming available fortnightly and eventually weekly. However, in the long term we need a full-time scanner in the hospital. The cost would be approximately €1 million as well as building costs, but there is already room in the radiology unit where the MRI scanner could easily be accommodated.

We also need day ward operating facilities for orthopaedics at the hospital and the MRI facility is ideal for the assessment of severe injuries following road traffic accidents. It would be useful to the hospital across the board, particularly with brain and neck injuries. We had a clear example of the need for an MRI scanner recently when a young man, Christopher Flynn, had to wait for three weeks in Mayo General Hospital for a full neurological assessment and MRI scan. If he had that MRI scan it would have been a great help to the consultant in the hospital, who would have been able to pass information up the line to the neurosurgeons. He might not have had to go to Beaumont Hospital in Dublin, where thankfully he was fully assessed and received an MRI scan which proved very useful. Please God he will continue to make a good recovery, though he is still in the intensive care unit of Mayo General Hospital.

An MRI scanner would have been invaluable to consultants in treating that man's brain and neck injuries. Public patients must wait at least six weeks for an MRI scan but private patients can access the service in days. It is demoralising to see people wait six weeks or more for an urgent scan. These people are in terrible pain and one does not know if they have prolapsed discs or metastatic cancer. The MRI scanner is invaluable in that regard, with painful rotator cuff injuries, which can be very hard to diagnose correctly, and in diagnosing osteonecrosis. The alternative would be to use a bone scanner for diagnosis but that is not available in Mayo General Hospital. There is a vacancy at present for a consultant radiologist in the hospital, as the consultant who was employed in that position has left, though he had MRI scanning experience. It will not be possible to have a world class service and to retain consultant radiologists with MRI experience unless Mayo General Hospital has its own MRI scanner. I urge that this be done. Recruitment for the vacant post of consultant radiologist with MRI experience is proceeding.

MRI scanners are invaluable across the board. There is a significant population of older people in Mayo. MRI scanners are invaluable for diagnosis of intercranial bleeds and strokes so that the proper treatment can be instituted. These scanners are working to full capacity in both private and public health care. They generate little or no radiation and provide a safe and non-invasive treatment.

Last night there were 11 trolleys in Mayo General Hospital. Each day there are up to 15 trolleys in the hospital. The situation is getting worse. The winter crisis has become an all-year crisis which points to a lack of capacity. We need more beds and an MRI scanner for our new orthopaedic unit in Mayo General Hospital.

Mr. B. Lenihan: On behalf of my colleague, Deputy Martin, the Minister for Health and Children, I am glad of the opportunity afforded to me this evening by Deputy Cowley to discuss Mayo General Hospital.

I refer to the unprecedented investment in services at Mayo General Hospital over the past number of years. Phase 2 development at the hospital began in 1998. The capital cost of this development was approximately €50 million. The development included a new accident and emergency department, a medical assessment unit, a geriatric assessment unit, an obstetric and delivery suite, CT scanning facilities, a new helicopter landing facility, an improved mortuary and post-mortem room, a new information technology system and a new administration and medical records department.

The development includes provision for an increase in the number of in-patient beds at the hospital to over 300. The development provides for a completely new service to be provided at Mayo General Hospital.

As part of this development, the new 33-bed orthopaedic unit will be a particularly valuable addition to the hospital and of great benefit to the people of County Mayo. I provided funding to begin the development of this service. I understand that a new consultant orthopaedic surgeon has recently taken up his appointment with the hospital.

Phase 2 also includes a new day care facility. This reflects a shift in modern medicine from in-patient to day case work. A new psychiatric unit with accommodation for 35 patients, treatment facilities, day facilities and a crisis intervention service has also been provided.

The health strategy provides the framework for growth and development of our health services over the coming years. It addresses issues of capacity of services, and the reform and modernisation of the health system.

The Government's strategy for the development of acute hospitals is to achieve regional self sufficiency through the development of a network of regional and general hospitals. What this means is that, apart from highly specialised services which, for reasons of critical mass should only be provided on a national or supra-regional basis, the people of the Western Health Board region should be treated within the region.

The provision of services, including MRI services for people in Mayo, is a matter for the Western Health Board in the first instance. I understand that MRI services are provided at University College Hospital Galway for people in

the Western Health Board region, including those from Mayo. The Western Health Board has informed me that it is its intention to extend the operational hours of radiology services including MRI services on a pilot basis at the end of this month. This is with a view to reducing waiting times for diagnostic services, which were referred to by the Deputy in raising the matter on the Adjournment.

The Minister has asked Comhairle na n-Ospidéal to carry out a review of neurosurgical services and to prepare a report for his consideration. Comhairle has been asked to focus, in particular, on the provision of adequate capacity and consideration of equity of access to neurosurgical services having regard to best practice in the provision of quality health care. I understand that the work of the Comhairle committee on neurosurgical services is ongoing and that a report should be available later this year.

The recent investment in major projects in all of the acute hospitals in the region was aimed at achieving this goal. The further development of acute hospital services will be undertaken in the context of the findings and recommendations of the National Task Force on Medical Staffing, known as the Hanly report. I recently announced the composition of a group to prepare a national plan for acute hospital services. This group will build on the work of the National Task Force on Medical Staffing, the Hanly report. The group will prepare a plan for the interim Health Services Executive for the organisation of acute hospital services throughout the country.

Ms McManus: This morning, due to the large number of patients in the accident and emergency department awaiting a hospital bed, St. James's Hospital invoked its major incident plan. Clinicians and management at the hospital took the decision as the department could not function with 41 patients waiting on trolleys for in-patient beds. Members of the nurses organisation, the INO, described the situation this morning as unsafe.

I raise this matter because of my concern and the concern of those working in our emergency medical services about the unbearable pressure being experienced in a range of accident and emergency departments. Two days ago the chronic overcrowding in accident and emergency departments was itemised by the Irish Nurses Organisation as follows: the number of patients waiting on trolleys or chairs in Tallaght Hospital was 42, Naas General Hospital, 37, the Mater Hospital, 30, Beaumont Hospital, 28, St. James's Hospital, 28, James Connolly Memorial Hospital, 23, St. Vincent's Hospital, 13 and St. Colmcille's Hospital, 6. In total, 207 patients were involved. In the Mid-Western Regional Hospital, Limerick, 33 patients were waiting, in Cork University Hospital, there were 18 and in the Mercy Hospital, Cork, 11.

The overcrowding in accident and emergency departments is steadily deteriorating. It is worse than this time last year. Some 200 acute hospital beds are closed, bed blocking is endemic and promises made by the Minister of Health and Children and the health authorities have not been realised.

On 13 January 2004 the Eastern Regional Health Authority promised to re-open 196 acute and non-acute beds. Almost a month has passed, yet this has not happened. The Minister for Health and Children promised 3,000 new hospital beds under the health strategy, yet this year no money has been allocated for that purpose.

Yesterday the accident and emergency service at Wexford General Hospital was described as being in chaos; 29 patients were on trolleys throughout the hospital. Meanwhile the new accident and emergency department at James Connolly Memorial Hospital in Blanchardstown, due to open last June, is still closed.

In the face of this ongoing crisis the silence of the Minister of Health and Children is very disturbing. We are entitled to know precisely what the Minister is doing to relieve the intolerable pressure on our emergency health service. We are very well informed about his views on tobacco smoking but we know nothing about his approach to dealing with this pressing, distressing and potentially dangerous situation. It is simply not acceptable to have a woman in her mid-70s spend the night on a chair on a drip in one of our hospitals, yet such incidents are happening more and more frequently.

How does the Minister intend to resolve this crisis? Will he bring forward the much needed new initiative that combines speed and efficiency and includes dedicated funding for beds and staff, better management to reduce bed blocking, the inclusion of general practice units in the accident and emergency service and improved community services for early discharge cases, or does he intend to let the crisis deepen?

Mr. B. Lenihan: Emergency medicine departments can be subject to higher attendance at this time of year. This is mainly due to the high number of patients presenting with circulatory, respiratory and viral conditions, especially among the elderly community. Particular difficulties arise where an increased number of patients require admission to hospital for treatment. I fully understand the demands and pressures placed on staff working in the acute system and value the tremendous work they continue to do. The Department has been informed that, at individual hospital level, hospital management is actively involved in working with medical and nursing staff on an ongoing basis in order to deal with the current pressures. As regards the Dublin hospitals, the Eastern Regional Health Authority has reported that the protocols that are in place to deal with the increased demand on services are being fully adhered to.

[Mr. B. Lenihan.]

Many of the difficulties and delays experienced in emergency medicine departments reflect system-wide issues such as the demand experienced by each hospital, the resources available to it, as well as the structure, organisation and staffing profile of the hospital. Therefore, in tackling the problems in emergency medicine departments it is necessary to take a whole system approach involving primary care, acute and sub-acute care, and community care.

I assure the Deputy that the Department has been engaging with senior management in the various health agencies to look for solutions to these difficulties. In order to deal with the current pressures on acute services both in the shorter term and in the longer term, I would like to outline to the House some of the key actions that the Minister for Health and Children has taken. Increasing the bed capacity of the acute hospital system nationally is a key priority in improving access to acute services. More than 560 new beds have now been provided in hospitals throughout the country under the acute hospital bed capacity initiative, of which 260 beds are in the eastern region. The Department has provided funding to the ERHA and the health boards to commission the remaining beds approved under the first phase of this initiative.

There are a number of patients in acute hospital beds that have completed their acute phase of treatment and are ready for discharge to a more appropriate setting. These delayed discharges can add to the pressures on the hospital system, in particular the emergency medicine departments. Initiatives in the ERHA, such as Homefirst, Slán Abhaile and home subvention are all contributing to providing alternative care packages for older people so that they can be discharged.

The availability of suitable sub-acute beds is a particular problem in the eastern and southern regions. In this regard, additional funding of €12.6 million has been provided in 2003 and 2004 to the Eastern Regional Health Authority and to the Southern Health Board to facilitate the discharge of patients from acute hospitals to a more appropriate setting, thus freeing up acute beds. The Eastern Regional Health Authority has reported that more than 220 patients have been discharged from acute hospitals as a direct result of this funding. The Department has been informed by the ERHA that it is currently working closely with the major acute hospitals in Dublin with a view to re-opening beds that have been closed due to staffing difficulties. The ERHA is also continuing with a campaign to recruit additional nursing staff.

As part of the winter initiative, an additional 20 emergency medicine consultants have been appointed from the 29 approved. Additional appointments are being progressed by the health boards and the ERHA. The availability of senior medical staff in emergency medicine departments should facilitate rapid clinical decision-making, enhanced management, diagnosis and treatment of patients. It is accepted that the bed management function is fundamental to the consistent application of admission and discharge policy within acute hospitals. Reviews of the bed management function and nurse staffing levels in emergency departments are being progressed by the Health Services Employers' Agency in consultation with health service management representatives and the nursing unions.

The processing of patients through the emergency services of a hospital has been greatly assisted by the use of medical assessment units. One such hospital is St. Luke's in Kilkenny where innovative solutions and a hospital wide response have improved the delivery of emergency services to patients. The benefit of having a medical assessment unit on site has facilitated the rapid assessment and treatment of medical patients. Another recent development is the acute medical assessment unit at St. James's Hospital. This unit has contributed to a noticeable improvement in the delivery of emergency services at the hospital.

Improving the physical capacity and surroundings is an important element of the provision of an efficient emergency service. A number of capital developments have been completed in recent years and others are under way around the country aimed at improving emergency medicine departments. Emergency medicine departments may sometimes have to deal with injuries and conditions that are more appropriate to a primary care setting. General practitioner out-of-hours co-operatives have been established and are operating in at least part of all the health board areas, with one health board, the North Eastern Health Board, having a region-wide project. A total of €46.5 million has been allocated for the development of out-of-hours co-operatives between 1997 and 2003.

I accept that the nature of emergency medicine presents a particular challenge in relation to the appropriate measures needed to deal with the issue. As I have already said, the various problems can only be addressed on a system-wide basis. I assure the Deputy that we will continue to work with the various health agencies in looking for short-term and longer-term solutions to the current difficulties.

The Dáil adjourned at 5.25 p.m. until 2.30 p.m. on Tuesday, 10 February 2004.

Written Answers.

The following are questions tabled by Members for written response and the ministerial replies received from the Departments [unrevised].

Questions Nos. 1 to 8, inclusive, answered orally.

Defence Forces Equipment.

9. **Ms McManus** asked the Minister for Defence when it is intended to proceed with the plans to acquire a fleet of light armoured vehicles for the Defence Forces; and if he will make a statement on the matter. [3299/04]

Minister for Defence (Mr. M. Smith): The Defence Forces commenced a programme to acquire Mowag APC/light armoured vehicles in 1999. To date, 40 of those vehicles have been received, and a further 25 vehicles are scheduled for delivery this year. The total cost of the programme is approximately €84 million.

In addition to that programme, the Defence Forces have a requirement for a smaller light armoured vehicle, designated as a light tactical vehicle, which can be used to protect troops engaged in peace support operations in areas where the use of the larger Mowag APC would be inappropriate. For instance, the movement of between one and three personnel in high-risk confined areas and general surveillance work are among the key roles of the vehicle.

Funding for the programme must be considered in the context of the APC programme and the changed financial situation, and it has been agreed with the military authorities that the programme for the acquisition of the vehicles will not proceed at present. In the meantime, the Defence Forces will continue to conduct further studies regarding the type and specification of vehicle required.

Defence Forces Recruitment.

10. **Mr. Sherlock** asked the Minister for Defence the reason persons who are coeliacs are not regarded as suitable to be members of the Naval Service; if he will reconsider that policy, especially in view of the negative message that it sends out and the full role coeliacs play in other walks of life; and if he will make a statement on the matter. [3284/04]

Minister for Defence (Mr. M. Smith): Coeliac disease is an inflammatory bowel disorder which results when susceptible persons eat food containing gluten, a natural substance found in many common foodstuffs, including bread. The treatment is to adhere to a strict gluten-free diet. Strict adherence to such a diet results in complete relief from symptoms and is believed by current medical opinion to protect against complications

of the disease such as osteoporosis and malignancy. Poor dietary control, on the other hand, may result in immediate illness and major complications in later life.

The professional advice of the expert medical military authority, the Director of the Medical Corps, is that the special dietary requirements of a person with a coeliac condition cannot be guaranteed throughout the range of possible operational circumstances which can be encountered in service in the Defence Forces.

Under the range of operational conditions in the Defence Forces, it is impossible for the military to guarantee an adequate supply of gluten-free food. Therefore, coeliacs in the Defence Forces are strictly limited in the range of duties to which they can be assigned, and the condition is seen as essentially incompatible with satisfactory military service. As a result, coeliacs are not accepted for enlistment into the Defence Forces, and recruits who are diagnosed as coeliac before they have been finally approved are not considered to meet the medical standard for final approval.

When a serving member of the Defence Forces suffers late-onset coeliac disease, he or she is medically downgraded according to the severity of the condition, and appropriate restrictions on duty are recommended. He or she is normally able to serve the remainder of his or her contract. In such cases, however, the condition may preclude further extension, re-engagement or continuance of service. It is fully accepted that people with this condition can have a full and normal life in most civilian occupations. However, I am satisfied that certain restrictions must apply in the case of Defence Forces personnel based on the exceptional nature of their occupation. It is not correct to interpret the Defence Forces position as a “negative” message regarding coeliac disease. The Defence Forces policy is based on the considered professional opinion of the military medical authorities.

It will always be the case that certain medical conditions will be incompatible with the demands of military service, although those conditions do not affect suitability for civilian employment.

11. **Mr. Broughan** asked the Minister for Defence the number of medical doctors serving as officers in the Defence Forces; the way in which it compares with the establishment level; the steps being taken to fill outstanding vacancies; and if he will make a statement on the matter. [3289/04]

Minister for Defence (Mr. M. Smith): The military authorities advise that the current establishment for medical officers in the Permanent Defence Force is 51, and the current strength is 20. In common with other public sector health service providers, the Medical Corps encounters difficulty in the recruitment and retention of medical personnel. The Department of Defence, in consultation with the Director of the Medical Corps, is seeking ways to

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recruit additional medical personnel, notwithstanding those difficulties.

Over recent years, however, the Medical Corps has had difficulty in attracting more than one or two medical officers per year into the service. Part of the difficulty in attracting applicants may be due to the unique nature of military medical officer appointments. Service in the Medical Corps is not a professional training employment similar to non-consultant hospital doctor appointments or vocational training schemes in general practice.

Where no military medical or dental officer is available, suitable local arrangements are made with civilian medical and dental practitioners to ensure that the appropriate level of professional care is available to members of the Defence Forces.

Defence Forces Strength.

12. **Mr. Boyle** asked the Minister for Defence if he intends to improve Ireland's military capacity as required under the new European constitution; and if he will make a statement on the matter. [3378/04]

Minister for Defence (Mr. M. Smith): The European and international aspects of defence policy were considered in great detail in the drafting of the Government's White Paper on defence, which was published in February 2000. The roles of the Defence Forces as decided by the Government include the participation in multinational peace support, crisis management and humanitarian relief operations in support of the United Nations and under a UN mandate, including regional security missions authorised by the UN.

Ireland and the EU both recognised that primary responsibility for the maintenance of international peace and security rests with the United Nations. The EU is currently seeking to enhance and build on existing co-operation with the UN, as can be seen in the recent joint declaration on co-operation in crisis management signed by the EU and the UN in September 2003.

The draft EU constitution has yet to be agreed and remains under discussion among member states. In that regard, Article 40.1 of the draft constitution states that the common security and defence policy shall provide the Union with an operational capacity drawing on assets civil and military. The Union may use them on missions outside the Union for peacekeeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of those tasks shall be undertaken using the capabilities provided by the member states.

The development by the EU of a capability to carry out Petersberg Task operations, such as humanitarian, peacekeeping and peace support operations in support of the United Nations, is fully in accord with Ireland's policy regarding

participation in overseas missions. To that end, the EU has made great progress in developing the security and defence policy in a relatively short period of time.

We have already seen some tangible results of the EU's operational capability, through the EU police mission, or EUPM, and the military mission "Operation Concordia", both of which have been supporting the EU's stabilisation and association agreement with the Former Yugoslav Republic of Macedonia, or FYROM. We have seen the French-led EU deployment of "Operation Artemis" in support of UN Mandate 1484 in the Democratic Republic of Congo and the police mission in the Former Yugoslav Republic of Macedonia known as PROXIMA. All those operations have, even in the short time for which they have been operational, supported peace and stability in their areas of operation.

The Government is committed to the future participation of the Defence Forces in Petersberg task-type operations in accordance with the provisions of the White Paper on Defence and our national decision-making procedures. In that regard, national sovereignty remains the underlying principle regarding participation in the European security and defence policy. Ireland will only participate in operations authorised by the UN as comprehended by the appropriate legislation, that is, the Defence Act 1954, the Defence (Amendment) No. 2 Act 1960, and the Defence (Amendment) Act 1993, where there is Government approval, and where the number of armed troops exceeds 12, a resolution of the Dáil.

Article 40.3 of the draft constitution states that "Member States shall undertake progressively to improve their military capabilities". That proposal is fully in accordance with the objectives of the White Paper on defence, the major objective of which is to ensure that Ireland has a world-class military organisation. Much has already been achieved by the Defence Forces under the White Paper process regarding improving efficiencies, cost effectiveness and modernising capabilities. The Government is committed to the continuation of that process.

Our policy recognises the primacy of the UN in the area of international security. The proposals contained in the draft constitution have no implications for Ireland's participation in UN peace support operations such as our current deployment to UNMIL in Liberia.

Army Barracks.

13. **Dr. Upton** asked the Minister for Defence if the contract for the sale of Clancy Barracks has been concluded and signed; the reasons for the long delay in concluding the matter, in view of the fact that it is almost 18 months since the completion of the sale was announced; the conditions attached to the sale of the property; and if he will make a statement on the matter. [3302/04]

Minister for Defence (Mr. M. Smith): A contract of sale in respect of Clancy Barracks was exchanged on 22 December 2003 and the relevant legal formalities are progressing with a view to sale closure in March-April 2004.

In addition to the Law Society of Ireland “general conditions of sale”, special conditions relating to particular title issues specific to the property in sale apply. These include such matters as the necessity, in the case of a small portion of the property, to seek the sanction of the High Court for its sale arising from a lease covenant; the requirement for a general tax clearance certificate; and position regarding boundary walls, listed buildings and closing date.

Ministerial Transport.

14. **Mr. Gormley** asked the Minister for Defence the amount of occasions the Government jet has been used since its delivery to the Government in December 2003; the purposes for which the Government jet was used; and if he will make a statement on the matter. [3375/04]

38. **Mr. Gilmore** asked the Minister for Defence the number of official trips undertaken to date by the new Bombardier Learjet 45; the destinations in each case; and if he will make a statement on the matter. [3292/04]

Minister for Defence (Mr. M. Smith): I propose to take Questions Nos. 14 and 38 together.

In July 2003 the Government decided to approve the purchase of a Bombardier Learjet 45 light business jet for the ministerial air transport service, MATS. The Learjet operates in tandem with the Gulfstream IV in providing a ministerial air transport service for members of the Government.

The Learjet 45 arrived at Casement Aerodrome, Baldonnel, on 19 December 2003 and the Air Corps then embarked on an intensive training programme. The Learjet entered operational service as part of the ministerial air transport service on 19 January with a trip to Brussels. In the month of January it has undertaken a total of seven ministerial air transport missions.

The destinations were as follows:

Date	Destination
19 January	Brussels
20 January	Brussels
21 to 23 January	Monrovia
24 January	Zurich
25 January	Zurich
26 January	Brussels
28 January	Brussels/London

It should be noted that the GIV aircraft remains in service and has carried out 14 missions during the same period. Also, due to the demands arising from the EU Presidency it has been necessary on

four occasions to make use of the Beech King aircraft which is now primarily used in a training role. My Department does not hold details in relation to the purpose of MATS trips. This is a matter for each individual Minister.

Overseas Missions.

15. **Ms Burton** asked the Minister for Defence the arrangements which have been put in place to allow personnel serving in Liberia to remain in touch with their families at home; and if he will make a statement on the matter. [3287/04]

Minister for Defence (Mr. M. Smith): Defence Forces personnel serving with the United Nations Mission in Liberia, UNMIL, are provided with the following range of services to allow them to remain in touch with their families at home. A home connect telephone system allows personnel dial direct from Liberia via satellite to any phone, fixed or mobile. This facility is normally available from 16.00 hours daily and throughout the weekend and private telephone booths are provided within the camp for this purpose. Another service provided is that of postal arrangements. The Defence Forces have set up a PO box facility with An Post for letter post only. The post is collected twice weekly from this facility and delivered to Defence Forces headquarters for onward transmission to UNMIL; and Internet facilities are also provided for all personnel through an Internet cafe in Camp Clara, the headquarters of the 90th Infantry Battalion, UNMIL. The computers that are available to personnel have both e-mail and video link conferencing facilities. The video conference facility has been used recently by families of personnel serving with UNMIL. A radio service is also provided. I am advised that a Defence Forces VHF radio station transmits throughout the camp and includes broadcasts of Irish radio programmes.

Search and Rescue Service.

16. **Mr. Eamon Ryan** asked the Minister for Defence his views on the recent privatisation of air search and rescue services which has followed the Government’s withdrawal of the Air Corps from search and rescue; and if he will make a statement on the matter. [3384/04]

24. **Mr. Rabbitte** asked the Minister for Defence the search and rescue bases now maintained and operated by the Air Corps; the role he expects the Air Corps to play in search and rescue operations; and if he will make a statement on the matter. [3285/04]

Minister for Defence (Mr. M. Smith): I propose to take Questions Nos. 16 and 24 together.

The Irish Coast Guard has overall responsibility for the provision of maritime search and rescue services within the Irish search and rescue region. The Air Corps provides the search and rescue, SAR, service off the north

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west coast while CHCI, a private operator, provides the service from Dublin, Shannon and Waterford.

In the period from late September 2003, there was an unusually high incidence of sick leave among the Air Corps rearcrew — winchmen and winch operators. As service continuity within the north west SAR operation could not be guaranteed with the existing rearcrews, the GOC of the Air Corps posted 13 of the 17 personnel to other duties. The four remaining crew were due to return to duty, but three opted to transfer out of SAR. As a result, the north west SAR operation was limited in that it was unable to provide a winching service. While most other aspects of the SAR service continued to be provided, the lack of a winching capability severely eroded the level of service on offer and potentially compromised the safety of mariners.

In view of this, I asked my officials to work with the Air Corps to determine when it might be in a position to return to full SAR service. This examination took place against a background where CHCI, the provider of all other SAR services in the State, had submitted a proposal to the Irish Coast Guard indicating that it could provide a service within a relatively short timeframe.

As I have said in the past, the safety of Air Corps personnel is of paramount importance. Training new winchcrews and enabling them to acquire the requisite experience, including experience in theatre, would have meant that the Air Corps would have been unable to return to a 24 hour full SAR service until March 2005. In addition, because of the small scale of the Air Corps SAR operation, it would continually be at risk from the loss of small numbers of experienced personnel. In view of this, I advised my colleague, the Minister for Communications, Marine and Natural Resources, of the situation and of my decision to withdraw the Air Corps Search and Rescue Service in the north west.

We can never lose sight of the fact that search and rescue is an emergency life saving service, which seafarers must be able to rely on in all circumstances. In the absence of the Air Corps being able to provide the required level of service, and given the level of ongoing risk of the service not being available because of a lack of trained backup Air Corps personnel, the reliability of the service offered by the Air Corps would always be in question. The Air Corps will continue to provide its current limited service, while the coast guard makes alternative arrangements for the return of a full SAR service in the north west. It is expected that these arrangements will be in place within a matter of weeks.

This was not an easy decision. The Air Corps has a long and distinguished tradition in providing search and rescue services and I know this decision was a real disappointment for them.

I am also aware of the very significant efforts of Air Corps management and staff to maintain an operational SAR service in the north west, in particular, the dedication and commitment of key personnel within the north west search and rescue operation. However, the provision of this essential emergency service requires that a full team be available 24 hours a day and seven days a week. The Air Corps was not in a position to provide this.

Air Corps Equipment.

17. **Mr. M. Higgins** asked the Minister for Defence his plans for the provision of a new fleet of light utility helicopters for the Air Corps; and if he will make a statement on the matter. [3294/04]

28. **Mr. M. Higgins** asked the Minister for Defence the progress which has been made by the interdepartmental working group to seek alternative solutions for the provision of funding for helicopters required by the Air Corps; when he expects to receive the report of the group; when he expects a decision to be made on this issue; and if he will make a statement on the matter. [3293/04]

31. **Mr. Gogarty** asked the Minister for Defence further to his announcement in December 2003 for the procurement of a new fleet of light utility helicopters, when the tendering process will begin; the number of helicopters being considered for purchase; the expected cost; and if he will make a statement on the matter. [3381/04]

Mr. M. Smith: I propose to take Questions Nos. 17, 28 and 31 together.

When the decision to cancel the tender competition for medium lift helicopters was made in July 2002, I asked my officials to initiate a review of the provision of helicopters services, in conjunction with the Department of Communications, Marine and Natural Resources, to determine how best to meet the State's obligations in search and rescue, while taking account of the current financial position.

In parallel with this, a joint military-civil board was established to review the overall rotary wing requirements for the Air Corps, in particular, the possible procurement of modern light utility helicopters for the Air Corps, to replace its current fleet of Alouettes and Gazelles.

In view of the overlapping issues relating to the acquisition of both light utility and medium lift helicopters, the work of both groups was incorporated into the report of the joint civil-military board on rotary wing requirements of the Air Corps. This report was completed towards the end of last year and was the subject of detailed consideration by senior civil and military management in my Department, having regard to the costs of the overall programme, the need to prioritise investment in the context of limited

resources and the demands on the Defence Vote arising from other investment priorities.

While the report was under consideration, certain developments occurred in relation to the Air Corps search and rescue service in the north west, resulting in my decision to withdraw the Air Corps from this mission. Against this background, senior civil and military management in my Department have requested the board to revisit its report to identify any changes, which should be made, having regard to the decision on search and rescue. However, they have also recommended to me that we should immediately proceed with the acquisition of light utility helicopters, as a matter of priority, the exact number of aircraft to be determined by the board following its review of the statistical data.

Since the board is now reviewing the data to determine the number of helicopters to be purchased, I cannot state with certainty the exact number of aircraft to be purchased. However, I am advised that it is likely to be between four and six aircraft. In regard to overall cost, at this stage in a tender competition it would be inappropriate of me to speculate as to the cost involved or the resources we have identified for the procurement of the aircraft. Costing assumptions have been made by the board in the context of its analysis and report. However, this information is obviously commercially sensitive.

The specification for the helicopter is currently being drafted along with the tender documentation and I am advised that the formal competition should commence in the next few weeks.

Defence Forces Property.

18. **Mr. S. Ryan** asked the Minister for Defence the progress made to date in the investigation into the circumstances in which a number of civilians came into contact with an unexploded tear gas canister near firing ranges at the Curragh; if the device had been used by military personnel based at the US embassy; the number of occasions in each of the past five years in which such personnel have been allowed to use Defence Forces property; if terms or conditions are attached to such use; and if he will make a statement on the matter. [3307/04]

Minister for Defence (Mr. M. Smith): The matter to which the Deputy refers is the subject of an ongoing investigation by the military police. I am advised by the military authorities that the investigation will be completed as soon as outstanding statements are taken from the relevant parties.

My understanding is that the device to which the Deputy refers was discovered following the use of the range, on a courtesy basis, by military personnel from the US embassy. Military personnel are required to discharge their personal service weapons at least once a year and US embassy personnel have used the Army range

on five occasions over the past five years in this regard.

The arrangements for the use of the range are agreed in advance following a request from the US embassy. The use of the range on the day is monitored and controlled by a range supervisor from the Defence Forces, in accordance with standing Defence Forces' practices.

As it is now some time since this event occurred, I have asked the military authorities to expedite their investigation and to submit a report to me as soon as possible. Once the current investigation is completed, I will consider whatever recommendations may be made to me in relation to the ongoing management and control of military ranges.

Defence Forces Personnel Plan.

19. **Mr. Broughan** asked the Minister for Defence the progress made to date with regard to an integrated personnel management plan for the Defence Forces as recommended in the White Paper on Defence; when it is expected that the plan will be introduced; the progress of the consultation with the representative organisations; and if he will make a statement on the matter. [3290/04]

Minister for Defence (Mr. M. Smith): The White Paper recommendation for an integrated personnel management plan, or system, and other related White Paper recommendations are now enshrined in the programme for Government of June 2002.

Under the programme, we are committed to, among other things, the introduction of an integrated personnel management system, known as the IPMS, for the Defence Forces which will deal with the broad range of human resources management and development issues. These include, manpower policy and planning, equality of opportunity and treatment and the right to dignity at work, recruitment, terms of enlistment, induction, training, education and development, physical and medical fitness, career planning and guidance, promotion, the regulatory framework, retirement, and pensions. In effect, what is envisaged is the development and implementation of a fully comprehensive human resources strategy for the Defence Forces — Army, Naval Service and Air Corps. I am pleased to say that we have made very good progress.

Initial proposals for an IPMS were developed by the military authorities and then referred to the top level civil-military strategic management committee for further development. Some of the key proposals were then put to the associations representing officers and enlisted personnel late last year in the context of the negotiations on the application to the Defence Forces of Sustaining Progress. Those negotiations also involved the preparation of an action plan covering the development and implementation of a range of modernisation elements, including key IPMS elements. I am pleased to say that the

[Mr. M. Smith.] negotiations were successful in the period before Christmas and that both associations signed up to Sustaining Progress and to the implementation of the action plan over the period to mid-2005. The implementation process is now under way.

Defence Forces Training.

20. **Mr. Cuffe** asked the Minister for Defence further to Question No. 31 of 4 December 2003, if he will elaborate on the conflict scenario envisaged in the first ever joint EU-NATO crisis management exercise CME/CMX 03 November 2003 and the success or otherwise of the exercise; the military level Ireland was represented at in the exercise and NATO's involvement in the exercise; and if he will make a statement on the matter. [3379/04]

Minister for Defence (Mr. M. Smith): The European Union and the North Atlantic Treaty Organisation, NATO, conducted their first ever joint crisis management exercise, CME/CMX 03, from 19 to 25 November 2003.

The scenario for the exercise, initially developed by the EU in accordance with the principles of the UN Charter, involved a conflict on the fictitious island of Atlantia between two ethnic groups over a contested area and a request to the EU from the UN Secretary General to consider supporting the implementation of a framework agreement between the parties. This scenario led to the consideration of options for a possible EU Petersberg tasks crisis management operation under Article 17.2 of the Treaty on European Union. The exercise tested planning for an EU-led military operation with recourse to NATO assets and capabilities. It also tested civilian instruments of the EU in the context of operational planning.

CME/CMX 03, which was purely a desktop exercise, was conducted in Brussels and in national capitals. It tested a range of standing arrangements for consultation and co-operation between the EU and NATO in times of crisis, and the other relevant elements of Berlin plus arrangements at the strategic politico-military level, in the event of an envisaged EU-led operation with recourse to NATO assets and capabilities.

During the conduct of the exercise, EU-NATO meetings took place at the levels of political and security committee-North Atlantic Council, politico military group-policy co-ordination group and European Union military committee-NATO military committee, including experts from the EU and NATO in liaison with the Deputy Supreme Allied Command Europe, DSACEUR, as potential EU operation commander. These meetings took place in accordance with applicable standing arrangements for consultation and co-operation between the EU and NATO, in the event of an envisaged EU-led

operation with recourse to NATO assets and capabilities.

In Dublin, the Departments of Foreign Affairs, Justice, Equality and Law Reform and my own Department, including the appropriate military authorities, participated in the exercise. CME/CMX03 was considered to be successful. It proved a good test of EU crisis management procedures and of the standing arrangements for consultation and co-operation with NATO in times of crisis.

Naval Service.

21. **Mr. Howlin** asked the Minister for Defence the total establishment level for the Naval Service as set out in the White Paper on Defence; the current number of personnel; the steps being taken to ensure that personnel numbers are brought up to the recommended level; and if he will make a statement on the matter. [3295/04]

Minister for Defence (Mr. M. Smith): As part of the modernisation process, in December 2000, I authorised a new organisation for the Naval Service which saw an increase in personnel numbers from 959 serving at that time to a new establishment of 1,144.

The establishment and strength of the Naval Service, as advised by the military authorities, is provided below. The figures provided are as at 31 December 2003 in respect of the Naval Service. The Government remains fully committed to the policy of ongoing recruitment to ensure that an overall PDF strength of 10,500 is achieved and maintained.

It is proposed to recruit a further 14 cadets from the 2004 cadetship competition. The ongoing recruitment campaign for enlistment in the Defence Forces, which I have approved, is designed to address any shortfall in personnel in the Defence Forces, including the Naval Service.

Given the specialist nature of many of the additional positions, it was not possible to fill them until such time as personnel had completed the necessary training. It was always accepted that it would take a number of years for all appointments to be filled by suitably qualified people. Some 93 recruits were enlisted in the Naval Service in 2003 while 14 cadets and eight direct entry officers were also recruited during 2003.

In 2002, 100 recruits, nine engine room artificers and six electrical artificers were enlisted in the Naval Service. In addition, 13 qualified personnel, comprising of four watchkeeping officers, four marine engineers and five electrical engineer officers were also appointed. Some 16 cadets were also enlisted from the 2002 cadetship intake. In 2001, 62 recruits, six cadets, one marine engineer, two watchkeepers and three electrical artificers were recruited to the Naval Service.

Where the need arises, competitions are organised to recruit specialist personnel by direct entry. Competitions have been advertised in recent years for marine engineer officers, watchkeeping officers, electrical engineer officers, electrical artificers and engine room artificers in the Naval Service.

Establishment and Strength of the Naval Service

31 December 2003.

	Officers	NCOs	Privates	Total
Establishment	189	537	418	1,144
Strength	139	467	473	1,079

Defence Forces Pay.

22. **Mr. Gogarty** asked the Minister for Defence the way in which pay scales for military personnel are compared to those in other EU states; if he will provide the comparisons for all grades; if he intends to improve the pay and conditions of military personnel; and if he will make a statement on the matter. [3382/04]

Minister for Defence (Mr. M. Smith): A wide range of different rates of pay for military personnel can be found across the European Union. This reflects the enormous differences in development levels and labour market conditions between member states. The differing rates are also influenced by such matters as the conditions of entry, terms of service, workloads, taskings, superannuation provisions and the taxation and social welfare regimes that apply in the various EU countries. In addition, the nature of national defence organisations themselves is quite varied.

Rates of remuneration and conditions of employment in the Irish public sector are never set by reference to those obtaining in another EU member state. What is much more relevant is a comparison of the relative levels of pay across the various sectors of the Irish public sector. In this regard, it is my understanding that the level of remuneration in the defence sector has maintained relativity with the levels available in other public sector employments.

The Public Service Benchmarking Body was set up in July 2000 to undertake a fundamental examination of the pay of public service employees *vis-à-vis* the private sector. The benchmarking process was a genuine attempt to set pay levels for the Irish public service in the context of the Irish economy — not the economy of any other EU country. Benchmarking is an open, independent and progressive way of tackling the setting of appropriate pay levels and the process provided the Defence Forces' representative associations with an opportunity to present their case in regard to their members' pay levels.

The Public Service Benchmarking Body reported in June 2002 and announced increases in pay rates for members of the Defence Forces ranging from 4% to 15%. The first phase of the increases was paid late last year, the second phase will be paid later this month and the third and final phase is due with effect from 1 June 2005. Payment of the second and third phases is dependent, in the case of each sector,

organisation and grade, on verification of satisfactory achievement of the provisions set out in the Sustaining Progress agreement, on co-operation with ongoing change, satisfactory implementation of the agenda for modernisation and the maintenance of stable industrial relations and absence of industrial action in respect of any matters covered by the Sustaining Progress agreement.

Army Medical Corps.

23. **Mr. McGinley** asked the Minister for Defence his plans for the future development of St. Bricin's Hospital; and if it is his intention to maintain it as a primary medical provider for Defence Forces personnel. [3359/04]

Minister for Defence (Mr. M. Smith): The reorganisation of the medical corps, under the Defence Forces review implementation plan in November 1998, was embraced as an opportunity to redirect the focus of military medical care in the Defence Forces from a predominantly hospital based service to one in which primary care, occupational medicine and field support would continue to be further developed.

St. Bricin's Military Hospital is the logistics base facility of the medical corps. Its functions are to provide: a primary care facility for the Dublin garrisons; a military medical occupational medical service base for the Defence Forces; an in-patient capability for the Defence Forces both in Ireland and in support of overseas deployments; and a medical logistics base for the provision of medical equipment, pharmaceutical supplies and strategic medical supplies for the Defence Forces.

There are currently four medical officers, one dental officer and two pharmacists serving in the hospital. There are also two civilian doctors providing a part time service to out-patients. The most dominant factor influencing service delivery at St. Bricin's Hospital is medical manpower. The hospital is working to capacity given the available personnel resources. The hospital is not equipped, and would not have the staffing resources, to provide more sophisticated or other specialist services, other than those provided at present. There are no plans to change the current role of St. Bricin's Hospital. The hospital is undergoing a general refurbishment programme, including fire safety works and rewiring. The hospital complex also provides accommodation for the Army Pensions Board.

Question No. 24 answered with Question No. 16.

Defence Forces Equipment.

25. **Mr. Sargent** asked the Minister for Defence if he will report on the Government's recently agreed €10 million purchase from a company (details supplied) of the Javelin anti-tank missile system; if his Department contacted the Foyle Ethical Investment Campaign before making this purchase; if this armaments purchase is consistent with Derry City Council's recent decision to adopt a policy to reject inward investment related to the arms trade; and if he will make a statement on the matter. [3391/04]

Minister for Defence (Mr. M. Smith): In early 2000, a case was forwarded by the military authorities for the initiation of a replacement programme for the Milan medium range anti-tank guided weapon system, which was originally purchased for the Defence Forces in 1982. The primary role of the replacement system was to provide protection to Irish troops against armoured threats while serving overseas.

A tender competition was initiated in May 2000 and following a detailed evaluation of tenders by a military board, the Javelin medium range anti-tank guided weapon system manufactured by a US joint venture, Raytheon and Lockheed Martin, was recommended for purchase. A letter of agreement for the acquisition of the Javelin system was signed with the US Government in January 2003. The value of the agreement is approximately €12.7 million, inclusive of VAT. Payments under the contract are scheduled over the period 2003 to 2005. The main delivery under the contract will be in 2005. However, an advance delivery of some items will take place this year to facilitate the training of military personnel.

It is important that we continue to provide modern equipment for our personnel for training purposes and service overseas. The Javelin system is capable of being deployed with the new Mowag APCs and will provide personnel and the APCs with effective, anti-armour protection while on overseas service. The purchase of the Javelin system is part of the full package necessary to ensure that Irish troops can continue their participation in peacekeeping operations throughout the world.

As I noted earlier, the tender competition for the acquisition of the replacement system was initiated in 2000 with the letter of agreement signed in January 2003. The resolution by Derry City Council was adopted in January 2004 and related to inward investment. My duty, as Minister for Defence, is to ensure that the Defence Forces are suitably equipped, in particular for the valuable and highly regarded role they have played in peace support operations in so many parts of the world. In acquiring such equipment my Department has regard to wider national policy issues and any guidance on offer from the United Nations.

Decentralisation Programme.

26. **Mr. Boyle** asked the Minister for Defence if a survey of staff has taken place in his Department regarding decentralisation; the impact decentralisation will have on his Department; and if he will make a statement on the matter. [3377/04]

Minister for Defence (Mr. M. Smith): No survey of the type described by the Deputy has been conducted in my Department. Civil-military working groups have been set up to consider the practical aspects of the transfer of staff to Newbridge and the Curragh. In that regard, appropriate measures will be put in place to ensure there is no adverse impact on the operations of the Department and Defence Forces headquarters.

European Security and Defence Policy.

27. **Mr. Durkan** asked the Minister for Defence the extent of the discussions he has had with his EU counterparts in the area of European defence and security and the European response force; and if he will make a statement on the matter. [3395/04]

Minister for Defence (Mr. M. Smith): During the Italian Presidency an informal meeting of Defence Ministers was held in Rome on 3 and 4 October 2003 and an EU Defence Ministerial *en marge* of the General Affairs External Relations Council was held in Brussels on 17 November 2003. As I have previously reported to the House, these meetings provide a useful forum for Ministers to exchange views on the continued development of the European Security and Defence Policy, in particular the development of EU capabilities to carry out Petersberg Task operations.

Two meetings of EU Defence Ministers will be held during Ireland's Presidency. The first, an informal meeting, will take place in Brussels on 5 and 6 April 2004, while the second will be held in the framework of the General Affairs and External Relations Council on 17 and 18 May 2004.

As part of my preparations for Ireland's Presidency of the EU I met informally with a number of my counterparts both *en marge* of previous ministerial meetings and through visits to capitals. The purpose of these discussions was to exchange views on Ireland's prospective mandate for the Presidency.

Question No. 28 answered with Question No. 17.

29. **Mr. Gormley** asked the Minister for Defence the progress that has been made in the establishment of the EU's new armaments agency; and if he will make a statement on the matter. [3376/04]

Minister for Defence (Mr. M. Smith): The conclusions of the European Council held at Thessaloniki in June 2003, tasked the appropriate bodies of the Council to undertake the necessary actions towards creating, in the course of 2004, an intergovernmental agency in the field of defence capabilities development, research, acquisition and armaments. Work towards creating the agency was progressed under the Italian Presidency by way of an *ad hoc* preparation group, AHPG, comprised of senior officials from the defence ministries of the EU member states and acceding states.

On 17 November 2003, the General Affairs and External Relations Council decided to create a small agency establishment team to take work forward on the financial, legal and administrative aspects of the setting up of the agency, with a view to the team starting work in January 2004. The Secretary General-High Representative for the Common Foreign and Security Policy, Mr. Javier Solana, was invited to implement that decision.

As part of the mandate for the Irish Presidency, the European Council invited the Presidency to take forward work on the further development of European military capabilities including, “to advance the establishment, in the course of 2004, of an Agency in the field of defence capabilities development, research, acquisition and armaments”. On 28 January 2004, the Secretary General-High Representative announced the appointment of Mr. Nick Witney from the United Kingdom as the leader of the agency establishment team. It is envisaged that the team will submit proposals to the Council relating to the creation, structure and launching the agency in the course of 2004.

The Secretary General-High Representative will continue to operate to ensure that member states are kept abreast of developments. The overall aim of the agency will be to support member states in their efforts to improve European defence capabilities in support of European Security and Defence Policy. Improvements in competitiveness and efficiencies in the defence equipment sector may yield some future economies of scale which might be of benefit to the Defence Forces and I will maintain a close interest in this aspect. Participation by member states in the agency will be voluntary.

Defence Forces Reserve.

30. **Ms McManus** asked the Minister for Defence if he will report on the progress made to date with regard to the planned reorganisation of the Reserve Defence Forces; and if he will make a statement on the matter. [3301/04]

Minister for Defence (Mr. M. Smith): On 15 January 2003 I approved, in principle, the report of the reserve Defence Forces review implementation board for the implementation of the recommendations of the special steering group on the reserve, which had reported to me

in September 1999. The Permanent Defence Force is now organised in a three brigade structure and a Defence Forces training centre. The reserve Defence Force will be similarly reorganised and restructured and it is envisaged that the implementation of these changes in the reserve Defence Force will take place over a period of approximately six years.

The White Paper on Defence recognised that a notable and important feature of the existing FCA organisation is its countrywide, geographical spread. This particular aspect will, in general terms, be retained in the future. The full organisational and establishment details of the new reserve will be determined in the course of the ongoing detailed implementation process. Plans are being prepared within each brigade for the amalgamation of FCA units in line with the proposals outlined in the steering group report. The objective of this process is to ensure that better training and other facilities will be provided to members of the reserve Defence Force. No decisions have yet been taken on the location of proposed newly amalgamated units but the military authorities have advised me that all proposed amalgamations will provide an optimal environment for personnel in the relevant areas to partake in the new enhanced reserve Defence Force.

Members of the FCA are already seeing the benefits of the reorganisation process in terms of better clothing and improved equipment and more and better quality training. As the process develops we will see additional benefits in terms of a clearer role for the reserve, a better overall organisation structure, and opportunities for suitably qualified reserve personnel to serve overseas. We will also see benefits from the closer integration of the reserve with the Army.

I must emphasise I am mindful of the need to preserve and to retain the many traditional and well established strengths of the current reserve system, not least the admirable spirit of individual voluntary commitment, close social links with local communities and a good depth and scope as regards nationwide geographical spread. Planning is ongoing by the military authorities but no final decision on the amalgamation of FCA units will be taken until I have had the opportunity to examine and approve the final amalgamation proposals.

Question No. 31 answered with Question No. 17.

Defence Forces Strength.

32. **Mr. Durkan** asked the Minister for Defence if he envisages increasing the strength of the Army, Naval Service and Air Corps given Ireland’s likely commitment to overseas peacekeeping; and if he will make a statement on the matter. [3392/04]

Minister for Defence (Mr. M. Smith): The White Paper on Defence of February 2000 sets

[Mr. M. Smith.]

out a figure of 10,500 personnel for the Permanent Defence Force, comprising 930 for the Air Corps, 1,144 for the Naval Service and 8,426 for the Army. Ireland's commitment to collective security is pursued through the UN, which has the primary role to play in the maintenance of international peace and security. Ireland has a long record of participation in UN international peacekeeping, monitoring and observer missions and it is the Government's intention that the Defence Forces will continue with involvement in appropriate international missions of this nature.

In October, 1998 Ireland signed a memorandum of understanding with the United Nations on the UN standby arrangements system, UNSAS. Through the UNSAS, Ireland offered to provide up to 850 military personnel for overseas service at any one time to meet peace support and humanitarian commitments, whether UN or NATO led. A similar commitment was made in an EU context in 2000. The figure of 850 equates to some 10% of the Army and is not an inconsiderable commitment in this regard. This level of commitment was envisaged within the overall strength levels provided for the Defence Forces in the White Paper.

Ireland's commitment under UNSAS does not entail an obligation to participate in any particular mission. Requests for Defence Forces personnel to serve on overseas missions are considered on a case-by-case basis in the prevailing circumstances, within the context of UNSAS. Any decision to dispatch a contingent of 12 or more members of the Defence Forces to a specific mission must have a UN mandate, a Government decision and Dáil approval. Our commitment of 850 troops to UNSAS is the same commitment as might be deployed on EU or NATO led, UN authorised operations.

There are no proposals to effect any increase in the strength of the Defence Forces. It is my intention to maintain the established Government policy of ongoing recruitment to the Defence Forces.

EU Presidency.

33. **Ms Lynch** asked the Minister for Defence if he has an estimate of the additional costs likely to accrue to the Defence Forces as a result of additional security duties arising from the Irish Presidency of the EU; and if he will make a statement on the matter. [3297/04]

Minister for Defence (Mr. M. Smith): The Garda Síochána has the primary responsibility for law and order, including the protection of the internal security of the State. Among the roles assigned to the Defence Forces is the provision of aid to the civil power meaning in practice to assist, when requested, the Garda Síochána, which duties include the protection and guarding of vital installations, the provision of certain security escorts etc.

With regard to the EU Presidency, the Defence Forces will continue to render such assistance as may be appropriate when requested by the Garda. The level and demand for Defence Forces assistance will depend on ongoing security assessments undertaken by the Garda. As this threat can vary over time and depending on the circumstances pertaining, it is not possible to predict the additional costs which may arise in respect of security duties undertaken by the Defence Forces during the course of the Presidency.

Defence Forces Deployment.

34. **Mr. Sherlock** asked the Minister for Defence the position regarding the possible use of Defence Forces personnel in prisons in the event of industrial action by prison officers; the training which has been given to the personnel who will be used in this role; the consultation there has been with the representative organisations; and if he will make a statement on the matter. [3283/04]

39. **Mr. McGinley** asked the Minister for Defence if there are plans to deploy members of the Defence Forces to prison security in the case of industrial action by prison officers; and if he will make a statement on the matter. [3358/04]

Minister for Defence (Mr. M. Smith): I propose to take Questions Nos. 34 and 39 together.

At its meeting on 29 September, 2003, the Government set up a group comprising the Ministers for Justice, Equality and Law Reform and Finance and myself to deal with the evolving industrial relations situation in the prison service, including the putting in place of contingency arrangements in the event of industrial action. Prior to that there had been direct contacts at official level between the Irish Prison Service and my Department and the Defence Forces and I understand also with the Garda authorities. It continues to be the hope of the Government that this matter can be settled without recourse to industrial action.

However, I can confirm that a considerable amount of contingency planning has been undertaken regarding the possible use of Garda and Defence Force personnel in the event of industrial action in the prisons. I can also confirm that, in such a situation, the Defence Forces will play a significant role. Pursuant to that role, Army personnel have been engaged in a familiarisation process which has included a series of visits to the prisons.

As the Deputy will appreciate it would be inappropriate to provide details of the contingency plans being put in place. Suffice it to say that the Government has a duty to ensure that the prison system continues to operate in all circumstances.

Since the deployment of military personnel is specifically excluded from the scope of staff representation, the question of discussion or

consultation with the Defence Forces representative associations does not arise.

Defence Forces Recruitment.

35. **Mr. O'Shea** asked the Minister for Defence if he will consider setting a target for female membership of the Defence Forces, in view of the continuing low level of female personnel; and if he will make a statement on the matter. [3305/04]

60. **Mr. Durkan** asked the Minister for Defence the number of women currently in the Army, Naval Service and Air Corps; if this represents an increase or decrease over the past six years; and if he will make a statement on the matter. [3535/04]

Minister for Defence (Mr. M. Smith): I propose to take Questions Nos. 35 and 60 together.

The Government is committed to a policy of equal opportunity for men and women in the Defence Forces, including the Reserve Defence Force, and to the full participation by women in all aspects of Defence Forces activities.

Women are eligible for service in the Army, Air Corps, Naval Service and in the Reserve Defence Force and to compete for promotion on an equal basis and under the same general conditions as those which apply to men. Female officers are generally being promoted at the same stage in their career as male officers. All female personnel undergo the same training and receive the same military education as their male counterparts.

The military authorities advise that the trend for general service recruitment has been that 9% of all applicants have been female and that on

average 9% of enlistments have been female. It is obviously not possible to predict what the relevant percentages will be in any future intakes of recruits, but there is no reason to assume that this pattern will change to any great degree. Some 15.4% of applicants for the 2003 cadetship competition were female. Some 15.5% of successful candidates were female.

Under the terms of the Employment Equality Act, 1998, the Defence Forces is prohibited from introducing recruitment policies that discriminate on grounds of gender. In order to encourage increased participation by women in the Defence Forces I decided in March 1998 to reduce the height requirement for all female recruits to 5' 4" and this height requirement now also applies to male recruits.

The Defence Forces does however, take positive steps to encourage female applicants. Examples of these are: (a) advertising — where possible, all graphical advertisements and booklets produced for the Defence Forces show both male and female personnel and emphasise the fact that all applicants are assessed on an equal basis; (b) recruitment fairs — stands at recruiting fairs are generally staffed by male and female personnel; and (c) visits to schools — when the Defence Forces is invited to give talks at all female or mixed schools, every effort is made to have a female speaker.

Over the past six years, the strength of female personnel in the Defence Forces has grown from 244 at the end of 1997 to 484 at the end of 2003. In percentage terms this represents an increase from 2.11% to 4.61% of total strength.

The strength of females in the Defence Forces, as advised by the military authorities, is provided in the form of the following tabular statement.

Strength of Females in the Defence Forces

31 December 2003.

	Lt Gen	Maj Gen	Brig Gen	Col	Lt Col	Comdt	Capt	Lt	Total Offrs
Army	0	0	0	0	1	11	30	33	75
Air Corps	0	0	0	0	0	0	1	2	3
Naval Service	0	0	0	0	0	0	2	14	16

	Sm	Bqms	Cs	Cqms	Sgts	Cpls	Total NCOs	Ptes	Cadets	Total
Army	0	0	3	1	10	87	101	206	15	397
Air Corps	0	0	1	0	0	7	8	9	1	21
Naval Service	0	0	0	0	0	1	1	44	5	66

Commissioned Officers.

36. **Mr. Gilmore** asked the Minister for Defence the total number of personnel from the other ranks commissioned as officers in the Defence Forces in each of the past five years; if there are plans to increase the numbers

commissioned from the ranks; and if he will make a statement on the matter. [3291/04]

Minister for Defence (Mr. M. Smith): A total of 28 non-commissioned officers have been commissioned as officers in the Army, Air Corps and Naval Service in the past five years.

[Mr. M. Smith.]

Potential officers courses, POC, are held for non-commissioned personnel from time to time within the Defence Forces. Personnel who successfully complete such courses are commissioned as officers in the Permanent Defence Force. Participants on such courses are selected on a competitive basis. In addition, from time to time non-commissioned personnel who hold appropriate qualifications are commissioned to fill specialist appointments where vacancies arise. Eligible non-commissioned personnel may also apply for the annual cadetship competitions. The requirement for potential officer courses and commissioning from the ranks, CFR, competitions is reviewed from time to time and is being specifically addressed in the context of the integrated personnel management system or IPMS which is one of the major policy initiatives provided for in the White Paper on Defence. The IPMS will make specific and ongoing provision for the introduction of regular schemes to commission enlisted personnel as officers in the Army, Air Corps and Naval Service. A proposed IPMS has been considered by the Department's civil-military strategic management committee. Some key elements of the IPMS are now being advanced as part of the action plan under Sustaining Progress.

Draft conditions governing the appointment of enlisted personnel of the Permanent Defence Force to be officers of the Naval Service are under discussion with the representative associations. As the discussions with the representative associations are ongoing, it would not be appropriate to comment on any of the specifics of the proposed draft conditions. However, it is the intention that a potential officers course will be run as soon as these discussions are completed.

Naval Service Personnel.

37. **Mr. Howlin** asked the Minister for Defence the steps being taken to address the long periods that Naval Service personnel must spend at sea; the plans he has for a return to the two years on-two years off rotation for personnel; and if he will make a statement on the matter. [3296/04]

Minister for Defence (Mr. M. Smith): As part of the modernisation process, in December 2000 I authorised a new organisation for the Naval Service which saw an increase in personnel numbers from 959 serving at that time to a new establishment of 1,144. There are currently 1,079 serving in the Naval Service.

The Naval Service endeavours to operate a planned approach to sea-shore rotation of personnel based on a two year period of commitment to sea-going duties followed by a two year period ashore subject to the exigencies of the service. However, where there are shortages of skilled personnel within the Naval Service, it may be necessary for personnel to carry out sea-going duties more frequently.

The reorganisation of the Naval Service was designed to ensure that when fully implemented all personnel would spend alternate periods of two years in a shore-based appointment followed by two years in a ship-based appointment. In this regard, I should point out that two years in a ship-based appointment does not imply that people spend two years at sea. On the other hand, some Naval personnel are keen to spend more time at sea and, where possible, they are catered for. Overall the broad range of strategies adopted by the Naval Service including continuous recruitment, direct entry officer schemes, direct entry and internal technician schemes, are all focused at achieving sufficient numbers of trained personnel so that the planned approach to sea-shore rotation, based on a two year cycle, is maintained. This helps to ensure that Naval Service personnel do not spend long periods at sea.

I am aware of the particular difficulties regarding the deployment of Naval Service personnel, especially engineering staff, engine room artificers and electrical artificers. The position with engine room artificers is that the number of such appointments in the Naval Service was increased from 76 to 85 following the reorganisation of the Naval Service.

A total of 75 engine room artificers are serving at present. The situation will continue to improve as significant numbers of trainee engine room artificers complete their training and come on stream over the next four years. A further 30 apprentices-trainee technicians are currently at various stages in the training process. They will all come on stream over the next four years and will both meet the current shortfall and replace any further wastage that may occur. The position with electrical artificers is that the number of such appointments in the Naval Service was increased from 42 to 48 following the reorganisation of the Naval Service. A total of 33 are serving at present. A further 25 are at various stages in the training process and will come on stream in the coming years.

Given the specialist nature of many of the additional positions, it was not possible to fill them all until such time as personnel had completed the necessary training. It was always accepted that it would take a number of years for all appointments to be filled by suitably qualified people.

While the increased number of specialist appointments could not all be filled instantly, thus creating some transitional short term difficulties, I am assured by the military authorities that the arrangements in place to provide suitably trained and qualified personnel should see an early improvement in the situation.

Question No. 38 answered with Question No. 14.

Question No. 39 answered with Question No. 34.

Defence Forces Equipment.

40. **Mr. Cuffe** asked the Minister for Defence if there are arms purchases for the Defence Forces in 2003 and planned purchases in 2004, including which companies they were purchased from and the costs; and if he will make a statement on the matter. [3380/04]

Minister for Defence (Mr. M. Smith): The purchase of arms, ammunition and other defensive equipment on an ongoing basis is a prerequisite for ensuring that the Defence Forces are fully equipped to carry out their day-to-day roles at home and overseas. The amount expended on such equipment in 2003 was just over €33 million. The provision for 2004 is €34.54 million.

In addition to arms, ammunition and other defensive equipment, major equipment purchases for the Defence Forces are also provided for from this provision, with payments normally spread over a number of years once a contract is signed.

An example this year is the delivery of an additional 25 armoured personnel carriers from Mowag of Switzerland that will give the Defence Forces a total of 65 Mowag APCs. The value of the contract for the additional 25 is some €33 million inclusive of VAT with payments spread over 2002 to 2005. The acquisition of the Javelin medium range anti-tank guided weapon system from Raytheon-Lockheed Martin in the USA at a cost of €12.7 million approximately is also being provided from this provision with payments over 2003 to 2005. The ongoing programmes for the acquisition of nuclear, biological, chemical, NBC, equipment and night vision equipment, NVE, for the Defence Forces are again funded from this provision.

The Department acquires its defensive equipment from a wide range of countries and companies with the main focus being on achieving the best value for money for the acquisitions.

Defence Forces Property.

41. **Dr. Upton** asked the Minister for Defence the Defence Forces property which has been handed over or is planned to transfer for the purposes of the new affordable housing initiative agreed in Sustaining Progress; and if he will make a statement on the matter. [3303/04]

Minister for Defence (Mr. M. Smith): The Government has committed to an ambitious scale of delivery of affordable housing through Sustaining Progress affordable housing initiative and through existing affordable housing schemes. The announcement in July last year of the proposed release of Department of Defence lands at Magee Barracks, Kildare and Gormanston, County Meath, was a critical first step in ensuring early delivery of affordable housing under this initiative. In addition, the Government agreed in December 2003 to the release of a further series of State lands for inclusion in the affordable housing initiative

including Department of Defence sites at St. Bricin's Hospital, Dublin and at the Camp Field, Collins Barracks, Cork. The modalities of the transfer of these sites are under active consideration.

Overseas Missions.

42. **Mr. Sargent** asked the Minister for Defence if he will report on his visit to Irish troops in Liberia; his assessment of the military and political situation in Liberia; the problems posed by child soldiers to the Irish troops; and if he will make a statement on the matter. [3388/04]

44. **Mr. Rabbitte** asked the Minister for Defence if he will make a statement on his recent visit to the Irish contingent serving in Liberia. [3286/04]

Minister for Defence (Mr. M. Smith): I propose to take Questions Nos. 42 and 44 together.

I have already given the House a very comprehensive report on my visit to Liberia in reply to earlier questions. In relation to the political situation, there has been a relatively smooth transfer of political power from the interim Government of Mr. Moses Blah to the national transitional Government of Liberia led by Chairman Bryant. This successful transition should lead to credible national elections in 2005.

Although political in-fighting between and within the various factions could produce short-term difficulties, it has been assessed that all the factions involved are totally committed to the peace process.

A key priority is the disarmament, demobilisation, reconciliation and reintegration project, DDRR. The initial effort on 7 December while securing over 8,500 weapons, resulted in major conflict as significantly more persons turned up to hand over their weapons than had been projected. On 15 January 2004, a new plan to restart the DDRR was agreed by all the military factions incorporating a timeline to allow the faction leaders educate their fighters on all aspects of this new plan before physical disarmament would take place. The fact that so many turned up on the first day for the DDRR process would reinforce the view that there is a strong desire among the population at large for a return to normal civil society and the rule of law.

I am advised by the military authorities that, to date, no direct or indirect threat or aggressive behaviour has been directed at Irish personnel by child soldiers. It is assessed that child soldiers will remain a potential danger, as reports continue to indicate widespread drug use and alcohol abuse amongst them. UNMIL hopes to send these child soldiers to school and reintegrate them into a normal society.

Defence Forces Personnel.

43. **Ms Burton** asked the Minister for Defence the number of Defence Forces personnel tested to date under the new drug testing programme;

[Ms Burton.]

the numbers who tested positive; the action which is taken when a member tests positive; and if he will make a statement on the matter. [3288/04]

Minister for Defence (Mr. M. Smith): Drug abuse has long been recognised as a serious and escalating problem in our society. While there have been relatively few drug related problems in the Defence Forces, it is recognised that the Defence Forces, as a component of the wider community, mirror the community at large. The implications of drug abuse in an organisation where personnel have access to firearms are too obvious to require elaboration. A compulsory substance testing programme was introduced on 1 February 2002, as part of a Defence Forces substance abuse programme, following a long consultative process involving the Office of the Attorney General, the deputy judge advocate general and the Defence Forces representative associations.

Before the launch of the programme, an education programme and awareness briefings were conducted throughout the Defence Forces. All personnel were issued with a booklet devised to inform them of the purpose of the new compulsory random drug testing programme, the administrative procedures involved and the sanctions for those who test positive. All necessary measures, including pre-enlistment screening, education, compulsory random drug testing, monitoring and sanctions, will be taken to maintain a drug-free environment in the Defence Forces. The primary objective of compulsory random drug testing is deterrence. In order to provide a credible level of deterrent, the testing programme has been devised to maximise the possibility of random selection for testing. A trained drugs testing team is responsible for taking urine samples for compulsory random testing in the Defence Forces. Testing commenced on 14 November 2002 and the programme is now in its second year of operation. The target of testing 10% of the Permanent Defence Force has been achieved.

A randomly selected member of the Permanent Defence Force may be required at any time to provide a urine sample which will be tested for evidence of use of controlled drugs, the abuse or misuse of other substances or the detection of the metabolites thereof. A member of the PDF who refuses to provide a urine sample or who provides a urine sample which tests positive shall be liable to retirement, discharge or relinquishment of commission or withdrawal of cadetship as appropriate under the provisions of Defence Force Regulations. A total of 1402 all ranks have been tested to date and there have been four positive tests. Personnel with confirmed positive test results are discharged or retired in accordance with the relevant regulations.

Question No. 44 answered with Question No. 42.

Working Visas.

45. **Mr. Kenny** asked the Tánaiste and Minister for Enterprise, Trade and Employment if it will be possible to employ a person from Bali here in 2004 on a working visa when all conditions of employment are perfectly legitimate; and if she will make a statement on the matter. [3450/04]

46. **Mr. Kenny** asked the Tánaiste and Minister for Enterprise, Trade and Employment the circumstances under which US nationals can be employed here on working visas; and if she will make a statement on the matter. [3451/04]

47. **Mr. Kenny** asked the Tánaiste and Minister for Enterprise, Trade and Employment the circumstances under which Chinese nationals can be employed on working visas here when it can be demonstrated that their employment is perfectly legitimate, they are not a burden to the State and their specialist work is not provided by another EU country; and if she will make a statement on the matter. [3452/04]

48. **Mr. Kenny** asked the Tánaiste and Minister for Enterprise, Trade and Employment if it is proposed to issue new working visas to foreign nations to work here in 2004, outside the nursing profession; the circumstances under which such working visas will apply; and if she will make a statement on the matter. [3453/04]

Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney): I propose to take Questions Nos. 45 to 48, inclusive, together.

I assume the Deputy is referring to the issue of work permits after EU enlargement. From 1 May 2004, the ten accession countries will be party to the treaties governing the European Communities. Their citizens will, in general, enjoy the same rights as current EU citizens, although this will not apply to provisions in respect of labour market access. Each member state will be able to exercise discretion in respect of the extent of access to their respective labour markets during a transitional period, which was agreed at EU level. Ireland has decided to afford full labour market access to the nationals of the new member states on the same basis as current EU nationals, with effect from the date of accession. In recent months, my Department has been giving concrete expression to the provisions of the accession treaties, whereby preference must be given to nationals of the accession states over nationals of other non-EEA states. Since 31 January last, employers sending work permit applications in respect of accession country nationals no longer have to advertise the position with FÁS.

An expanded EU labour market of 25 countries will provide a widened pool of skilled labour from which Irish employers will be able to meet their ongoing skills needs. Just 35% of our

overseas labour needs have come from the accession states in recent years. Given our continuing need for overseas labour and the relatively high unemployment levels in some of the accession states, it is clear that there is ample room to improve the percentage of overseas workers coming from the states in question. If my Department is satisfied that the requisite skills are available in the expanded EU, a work permit will not be granted to bring somebody from elsewhere into the country to fill the vacancy in question. An increase in labour market participation from within the expanded EU will not only provide an opportunity to show solidarity with new member states, but it will also mean a reduced need to attract labour from elsewhere in the world.

It should be noted that my Department does not discriminate, positively or negatively, between nationals of the various non-EEA countries. A work permit granted in respect of personnel from outside the expanded EU is granted on the basis of the skills, experience and qualifications of the person in question. My Department is satisfied from its experience in recent years that the great bulk of Ireland's overseas labour needs can be met from within the enlarged EU. However, skilled, highly-paid employees can still be sourced from the wider world after May 2004. Any work permit application where the conditions of employment are not in line with employment rights legislation will be refused, as has always been the case.

Groceries Order.

49. **Mr. O'Shea** asked the Tánaiste and Minister for Enterprise, Trade and Employment the proposals she has in relation to the groceries order (details supplied); and if she will make a statement on the matter. [3474/04]

Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney): I am continuing to review the groceries order. I hope to conclude my consideration of it in the near future. I have received a significant amount of correspondence in the course of the review to date. The views of all interested parties will be taken into consideration before I decide what action is appropriate or desirable in that regard.

Job Creation.

50. **Mr. Broughan** asked the Tánaiste and Minister for Enterprise, Trade and Employment when the task force on job creation and investment in the Drogheda and south Louth area which was established by her Department following the closure of the Tellabs factory in Drogheda, County Louth in 2001 will publish its recommendations to address the significant job losses in the area in the past two years; the composition of the task force; the number of times it has met since its establishment; and if she will make a statement on the matter. [3522/04]

Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney): I established the Drogheda interagency task force in August 2001 in response to the impending closure of the Tellabs manufacturing operation in Drogheda. The task force, which operated under the chairmanship of IDA Ireland, also had representatives from Enterprise Ireland, FÁS, the Louth County Enterprise Board and Dundalk IT. I asked the force to liaise with the public and private sectors and community bodies which could assist in promoting Drogheda for investment and job creation. It held six formal meetings and was involved through its members in a number of initiatives with other parties in the Drogheda area. The final report of the task force was submitted to me on 10 October 2002. While some confidential information relating to specific companies is contained in the report, a copy without this confidential element will be forwarded to the Deputy. The main focus of the task force, which completed its work in October 2002, was on attracting a replacement industry and helping the Tellabs employees to secure alternative employment. I understand that the vast majority of the former staff of Tellabs have obtained alternative employment. I assure the Deputy that the state development agencies continue to work closely with the local bodies to promote Drogheda for new investment and development.

Defence Forces Strength.

51. **Mr. Durkan** asked the Minister for Defence if it is intended to increase the strength of the Naval Service having particular regard to possible requirements in the context of European defence and security, air, sea rescue and the fight against drugs and trafficking in human beings; and if he will make a statement on the matter. [3526/04]

52. **Mr. Durkan** asked the Minister for Defence the current strength of the Air Corps; his plans to increase the numbers having particular regard to possible requirements in the context of European defence and security, air sea rescue and the fight against drugs and trafficking in human beings; and if he will make a statement on the matter. [3527/04]

53. **Mr. Durkan** asked the Minister for Defence the number of personnel currently trained and available for air sea rescue or other emergency operations; and if he will make a statement on the matter. [3528/04]

55. **Mr. Durkan** asked the Minister for Defence if adequate trained personnel are available to meet the requirements in respect of air sea rescue or other emergency operations; and if he will make a statement on the matter. [3530/04]

56. **Mr. Durkan** asked the Minister for Defence if he intends to increase the strength of the Defence Forces; and if he will make a statement on the matter. [3531/04]

Minister for Defence (Mr. M. Smith): I propose to take Questions Nos. 51, 52, 53, 55 and 56 together.

The White Paper on Defence, which was published in February 2000, sets out a figure of 10,500 personnel for all ranks of the Permanent Defence Force. The White Paper states that the Air Corps should have 930 personnel, the Naval Service should have 1,144 personnel and the Army should have 8,426 personnel. There are no proposals to increase the strength of the Permanent Defence Force above the White Paper figure of 10,500. I intend to maintain the

	Lt Gen	Maj Gen	Brig Gen	Col	Lt Col	Comdt	Capt	Lt	Totl Ofrs	Sm	Bqms	Cs	Cqms	Sgts	Cpls	Totl NCOs	Ptes	Cadets	Total
Army	1	3	6	37	118	351	279	232	1,027	33	41	142	249	1,066	1,555	3,086	4,305	99	8,517
Air Corps	0	0	1	2	13	33	23	65	137	7	4	53	15	129	206	414	340	11	902
Naval Serv	0	0	1	2	14	39	22	61	139	7	7	76	14	200	163	467	445	28	1,079

While individual members of the Naval Service and the Air Corps have served overseas in varying roles, it is not proposed at this time to deploy the Naval Service or the Air Corps in peacekeeping operations in the future. The question of deploying the Air Corps was considered in the White Paper on Defence. Given the domestic demands on Air Corps resources, it was decided that it would not be feasible for it to operate beyond the domestic context.

The primary day-to-day activity of the Naval Service is fishery protection. This commitment represents a considerable challenge for the service, which is working hard to optimise operational performance in this regard. Against this background, it is not proposed to deploy Naval Service elements on overseas peacekeeping operations, which would serve to divert effort from the important issue of improving performance and vessel utilisation. There is no commitment of Naval Service or Air Corps resources in Ireland's declaration under the EU Helsinki headline goal or the UN standby arrangements system. The Naval Service provides a fishery protection service in accordance with the State's obligations as a member of the EU. Fishery protection patrols are complemented by assistance provided by the Air Corps in the form of aerial surveillance by the two Casa maritime patrol aircraft. Fishery protection activity accounts for over 90% of Naval Service patrol time. As the need arises, the Naval Service and the Air Corps co-operate with the Garda Síochána and the Customs and Excise in respect of drugs, arms and human trafficking operations.

The Irish coastguard has overall responsibility for the provision of maritime search and rescue services within the Irish search and rescue region. The Air Corps provides the search and rescue service off the north-west coast while CHCI, a private operator, provides the service from Dublin, Shannon and Waterford. A decision has

established Government policy of ongoing recruitment to the Defence Forces. Recruitment into the Permanent Defence Force will continue to maintain the strength at a level required to meet military needs, as set out in the White Paper. This means that a personnel level of 10,500, across all ranks, will be maintained in the Permanent Defence Force. The strength of the Army, Air Corps and Naval Service by rank is set out in the following table. The figures provided are the latest available from the military authorities and are correct as at 31 December 2003.

recently been taken to withdraw the Air Corps from search and rescue in the north-west, as the Air Corps is not in a position to provide a full 24-hour search and rescue service until March 2005. In the interim, the Air Corps will continue to provide its current limited service while the coastguard makes alternative arrangements for the return of a full search and rescue service in the north-west. It is expected that the arrangements will be in place within a matter of weeks.

The military authorities advise that the number of personnel trained for search and rescue operations is as follows:

Qualified Pilot Officers — Sikorsky	8
Qualified Pilot Officers — Dauphin	5
Winch Operators	1
Winch Men	1
Winching crew undergoing training	4
General purpose crewmen	25

Regarding other emergency operations, there are sufficient trained crewmen to operate the air ambulance service provided by the Air Corps.

Question No. 54 answered with Question No. 1.

Questions Nos. 55 and 56 answered with Question No. 51.

Defence Forces Property.

57. **Mr. Durkan** asked the Minister for Defence the extent to which the housing requirements of Army overholders have been met; and if he will make a statement on the matter. [3532/04]

Minister for Defence (Mr. M. Smith): Personnel on being discharged from the Permanent Defence Force are obliged to vacate married quarters within a short period of the date of their discharge. The provision of housing is

primarily a matter for the local authorities and married military personnel have an equal claim on such housing to other members of the community in the same income category.

The individuals overholding 54 married quarters were written to in August 2002 and requested to vacate the properties. To date five of the quarters have been vacated and one other has been purchased by the occupant. A further ten of the properties have been offered for sale and a number of those sales are likely to be finalised in the near future. My Department is continuing to examine all options, including affordable housing and voluntary and co-operative housing schemes, for the rehousing of those overholders, who would in the normal way be eligible for local authority housing. The Department will remain in contact with the overholders pending resolution of the issue.

58. **Mr. Durkan** asked the Minister for Defence the total realised from the disposal of military barracks or other installations closed down in 1998; the number of such installations yet to be disposed of; the cost of maintenance, security or other fees to date; and if he will make a statement on the matter. [3533/04]

Minister for Defence (Mr. M. Smith): On 15 July 1998 the Government approved a programme of evacuation and sale of six barracks considered surplus to military requirements. The barracks in question are located at Ballincollig, Fermoy, Castleblayney, Naas, Kildare and Clancy Barracks, Dublin. The sale of approximately 91 acres comprising Lot 1, Murphy Barracks, Ballincollig, to O'Flynn Construction for €41 million was completed in 2003. In addition, the sale of Lot 2 to the sitting tenant for €1.05 million — my Department's reversionary interest in approximately 6.2 acres of the barrack lands — was completed last year. A further area comprising more than 27 acres at Murphy Barracks will be handed over to Cork County Council for community use. Agreements have also been reached for the sale of a site, comprising about 2.7 acres, to the Southern

Heath Board and a further plot of around 1.7 acres to the Department of Education and Science; receipts in excess of €2.8 million will accrue to my Department in respect of those disposals. An area comprising 0.545 acres has been set aside on foot of a request from the Office of Public Works for a plot of ground to facilitate extension of the existing Garda station located on Main Street, Ballincollig. My Department is in correspondence with the OPW on arrangements for transfer of the lands concerned, including the matter of a consideration therefor.

A plot of 19,218 acres at the former Fitzgerald Camp, Fermoy, was sold to Cork County Council in 2001 for €973,889 for development in conjunction with the IDA. Castleblayney Military Post, Monaghan, comprising approximately 10 acres, was sold to the North Eastern Health Board for €761,843. Seven acres at Devoy Barracks, Naas, County Kildare, were ceded free of charge to Naas Urban District Council, while a further 14 acres were sold to that authority for €8,888,167. The balance of the barracks lands — one acre — was sold to Kildare County Council for €380,921. Magee Barracks, Kildare, comprises an area of 65 acres. At present approximately 15 acres of the property are being used by the reception and integration agency of the Department of Justice, Equality and Law Reform to accommodate asylum seekers and a further site comprising one acre approximately is being used by Kildare County Council as a temporary halting site for 20 persons. On 1 July 2003, the Government decided to release this property to the Department of the Environment, Heritage and Local Government for inclusion in a new affordable housing initiative agreed under the national partnership agreement, Sustaining Progress. An offer of €25.4 million was accepted from Florence Properties Limited for the sale of Clancy Barracks, Dublin, comprising 13.65 acres approximately. A contract of sale was exchanged in December 2003.

The security, maintenance, consultancy and other costs to date in respect of those barracks identified for closure in 1998 are as follows:

	Security	Maintenance and other costs
	€	€
Murphy Barracks, Ballincollig #	1,451,418	257,113*
Fitzgerald Camp, Fermoy #	330,813	42,633
Castleblayney Military Post #	131,289	10,548
Devoy Barracks, Naas #	472,654	16,959
Magee Barracks, Kildare #	123,291	15,677
Clancy Barracks, Dublin	602,619	177,036

Now sold or no longer in the administration of my Department (no further costs will be incurred by the Department of Defence).

*Includes costs relating to the integrated area action plan.

On military security duty allowances alone, it is estimated that savings to date amount to almost €2.3 million in respect of the six barracks closed.

In addition, there have been significant savings on utility costs, such as telephone, gas, and electricity charges at each of the evacuated

[Mr. M. Smith.]

barracks, which would have amounted to more than €0.350 million in the case of Murphy Barracks.

Partnership for Peace.

59. **Mr. Durkan** asked the Minister for Defence the position in relation to likely requirements arising from PfP; and if he will make a statement on the matter. [3534/04]

Minister for Defence (Mr. M. Smith): The details of Ireland's participation in PfP to date is set out in our four individual partnership programmes, IPP, copies of which have been lodged in the Oireachtas Library. Activities consist of training courses, seminars, workshops, conferences, staff exercises and table-top exercises. Ireland's fourth IPP, covering the period 2004 to 2005, has been completed in consultation with the Departments of Foreign Affairs, Environment, Heritage and Local Government, Justice, Equality and Law Reform, Health and Children and Communications, Marine and Natural Resources.

As provided for in the presentation document for PfP, Ireland also participates in the PfP planning and review process, known as PARP. In common with the other EU neutrals, Ireland is using the PARP process in connection with planning for the Petersberg tasks. The scope of our involvement in PARP is focused on enhancing interoperability and familiarity with operating procedures in a multinational environment. Participation in PfP activities is entirely voluntary and is based on the principle of self-differentiation, that is, a state selects for itself the nature and scope of its participation.

Question No. 60 answered with Question No. 35.

Departmental Funding.

61. **Mr. Hayes** asked the Minister for Agriculture and Food if he will allocate special funding towards the All-Ireland Sheep Shearing Championships 2004, which will be held in County Donegal in June 2004; and if he will make a statement on the matter. [3439/04]

Minister for Agriculture and Food (Mr. Walsh): While this Department endeavours to be as supportive as possible of important events in the agricultural calendar, the provision of financial support is exceptional and normally confined to one-off events of international significance. For national shows and competitions sufficient funds should be provided by the relevant industry interests and groups involved and through commercial sponsorship. Accordingly, there are no plans to provide funds for events such as the All-Ireland Sheep Shearing Championships in 2004.

Departmental Offices.

62. **Mr. Naughten** asked the Minister for Agriculture and Food, further to Question No. 66 of 4 December 2003, if further information is available; and if he will make a statement on the matter. [3508/04]

Minister for Agriculture and Food (Mr. Walsh): The Office of Public Works, through the Office of the Chief State Solicitor, is in the process of completing the lease arrangements for temporary accommodation in Roscommon town for my Department.

Grant Payments.

63. **Mr. J. O'Keeffe** asked the Minister for Agriculture and Food if the full amount of beef premium due to a person (details supplied) in County Cork will issue; and if so, when. [3557/04]

Minister for Agriculture and Food (Mr. Walsh): The person named lodged one application under the 2003 special beef premium scheme on 2 January 2003 in respect of 45 animals. The 80% advance payment of €4,248.00 which issued on 16 October 2003 was in respect of 34.2 animals. The 20% balancing payment of €1,386.00 together with the shortfall of €1,296.00 on the advance payment, will issue to the person named in late March or early April when the general balancing payments are scheduled to commence.

The shortfall in the advance payment of the person named came about for a number of reasons. The person named input three parcels of land on his 2003 area aid application in respect of 53.66 hectares. However, as the person named did not have the entitlement to claim one of the parcels, the area concerned was disallowed and appropriate penalties applied. Under EU rules, where an applicant makes an area overclaim of between 3% and 20% a penalty of double the difference must be applied in determining the area eligible for payment purposes. As the person named had an overclaim of between 3% and 20% this resulted in the eligible forage area found being reduced by twice the difference between the area declared and the area found resulting in an "adjusted area" of 41.21 hectares. The 80% advance payment of €4,248.00 that issued on 16 October 2003 was based on this "adjusted area".

However, EU regulations provide that where it is established that stocking density has not been exceeded, payment can be made on the basis of the area found rather than the "adjusted area". It has only now been possible to determine a final figure for stocking density for 2003 for the person named given that applicants are entitled to lodge special beef premium applications up to 31 December. This figure confirms that the stocking density has not been exceeded thus establishing entitlement to full payment on the 45 animals applied on.

EU Directives.

64. **Mr. J. O'Keeffe** asked the Minister for Agriculture and Food the position of the proposed nitrates directive; and if he will make a statement on the matter. [3558/04]

Minister for Agriculture and Food (Mr. Walsh): The implementation of the nitrates directive is in the first instance a matter for the Minister for the Environment, Heritage and Local Government. A draft action programme giving effect to the directive, which was prepared by the Department of the Environment, Heritage and Local Government in conjunction with my Department and in consultation with Teagasc, was presented in December last to representatives of the main farming organisations and other stakeholders. A period of eight weeks is being provided for stakeholders to submit in writing their comments on the document to either or both Departments. This period runs until 19 February.

Tax Reliefs.

65. **Mr. Naughten** asked the Minister for Finance the discussions that the Department of the Environment, Heritage and Local Government has had with his Department regarding the feasibility of introducing a preferential taxation system for elderly people downsizing from their family home to OPD type accommodation close to services; and if he will make a statement on the matter. [3505/04]

Minister for Finance (Mr. McCreevy): There have been no specific discussions between my Department and the Minister for Environment, Heritage and Local Government regarding the feasibility of introducing a preferential tax system for elderly people downsizing from their family home to OPD type accommodation close to services. However, there were general discussions last year on housing taxation matters between the two Departments.

Financial Services Regulation.

66. **Mr. Stagg** asked the Minister for Finance the reason section 52 of the Consumer Credit Act 1995 has not been implemented by him or the Central Bank; when it will be implemented; and if he will make a statement on the matter. [3514/04]

Minister for Finance (Mr. McCreevy): Section 52 of the Consumer Credit Act 1995 grants consumers a statutory right to discharge their obligations under a credit agreement before the full term of the agreement and also to a reduction in the total cost of credit where they avail of that right. Section 52 provided that the Central Bank could approve formulae for calculating such reductions in the case of lenders who are credit institutions and that the Director of Consumer Affairs could approve formulae in any other case. These functions have now been transferred to the

new Irish Financial Services Regulatory Authority under the Central Bank and Financial Services Authority of Ireland Act 2003.

I am advised that IFSRA, in formulating its strategy in terms of its statutory responsibilities under the 2003 Act, has identified the development of early repayment formulae as a priority and will be addressing this issue in the near future.

Both the 1995 and 2003 Acts provided for the option of prescribing formulae by ministerial regulation. This approach would merely have the effect of replacing an approved formula with a prescribed one, and might be more difficult to extend to new or unusual forms of credit as they emerge. A prescribed formula might also inhibit competition by preventing the offer of more favourable terms by creditors. I will await the outcome of the work within IFSRA before considering this option.

Garda Stations.

67. **Mr. O'Connor** asked the Minister for Finance the position regarding reports that proposals will shortly be sought for the development of the site at Tallaght Garda station; if his attention has been drawn the huge local interest in this matter; and if he will make a statement on the matter. [3454/04]

Minister of State at the Department of Finance (Mr. Parlon): A feasibility study on the redevelopment potential of the Tallaght Garda station site was drawn up by the Office of Public Works following consultation with South Dublin County Council in December 2003. A proposal to go to the market to acquire a development partner for the site is under preparation.

Any proposal to redevelop the Garda station site would require the agreement of the Minister for Justice, Equality and Law Reform having regard to the operational requirements of the Garda Síochána in the Tallaght area.

Tax Reliefs.

68. **Mr. R. Bruton** asked the Minister for Finance the amount of pension relief availed of by taxpayers classified by income range, itemising both the amount of tax relief received and the number of taxpayers in each income range. [3455/04]

Minister for Finance (Mr. McCreevy): As part of my reforms in the pensions area and with the aim of encouraging more people to increase their pension coverage, I increased the contribution limits for retirement annuity contracts in section 19 of the 1999 Finance Act for the tax years 1999/2000 and onwards. The new limits ranged from 15% of net relevant earnings for contributors up to 30 years of age to 30% of net relevant earnings for contributors over 50 years of age. Prior to this, the limit was 15% for persons up to the age 55 and 20% for those aged 55 or over. The increase was particularly significant for

[Mr. McCreevy.]

those over the age of 50, who would normally be in a much better position to fully fund their pensions than those in younger age groups who might not be able to contribute as much as they would like due to other family and financial commitments. At the same time, I also imposed an annual contribution earnings cap of £200,000 which is now €254,000. There had been no such earnings cap prior to this and the cap has not been increased since 1999.

Similar contribution limits and an earnings cap also apply in the case of the new PRSAs which were introduced by the Pensions Amendment Act 2002.

I provided for the same higher limits for employee contributions to occupational pension

schemes in section 10 of the 2002 Finance Act. The limits in these schemes are subject to the same annual earnings cap of €254,000 and contributions have also to be in conformity with the overall existing maximum pensions benefit rules applied by the Revenue Commissioners.

I am informed by the Revenue Commissioners that the only relevant information available is in respect of income tax relief allowed for contributions to retirement annuity contracts for the income tax year 2000/01, which is available to the self-employed and to employees not in occupational pension schemes.

The information is contained in the following table. Corresponding information is not available in respect of contributions to occupational pension schemes.

Income Tax 2000-2001

Retirement Annuity by range of Gross Income

Range of Gross Income		Totals		
From	To	Number of claimants	Amount of deduction	Reduction in tax
€	€		€	€
—	7,000	1,177	1,955,819	78,893
7,000	8,000	445	460,313	58,009
8,000	9,000	482	517,362	72,595
9,000	10,000	605	677,315	104,375
10,000	12,500	2,085	2,556,593	414,447
12,500	15,000	3,018	4,048,740	716,147
15,000	17,500	3,748	5,251,284	995,191
17,500	20,000	4,534	6,702,992	1,383,079
20,000	22,500	5,039	7,913,913	1,827,405
22,500	25,000	5,170	8,673,220	2,401,776
25,000	27,500	5,222	9,570,368	2,885,250
27,500	30,000	4,802	9,484,550	2,925,870
30,000	32,500	4,656	9,943,080	3,055,705
32,500	35,000	4,263	9,537,566	2,926,141
35,000	37,500	4,130	9,663,805	2,903,120
37,500	40,000	3,933	10,038,129	3,257,816
40,000	42,500	3,631	9,501,707	3,293,735
42,500	45,000	3,435	9,713,142	3,530,458
45,000	47,500	3,086	9,011,157	3,504,334
47,500	50,000	2,914	9,281,690	3,636,036
50,000	60,000	9,270	35,138,405	14,619,369
60,000	75,000	8,409	43,294,064	18,686,681
75,000	100,000	6,608	50,258,905	21,959,343
Over 100,000		11,041	250,248,583	109,779,797
Totals		101,703	513,442,702	205,015,573

69. **Mr. R. Bruton** asked the Minister for Finance the total value of funds in tax exempt managed funds such as approved retirement funds. [3456/04]

Minister for Finance (Mr. McCreevy): There is no requirement in law for the managers of tax exempt managed funds such as approved

retirement funds to provide the Revenue Commissioners with details of the amount of funds held in such investment vehicles.

70. **Mr. R. Bruton** asked the Minister for Finance if research has been done regarding the number of taxpayers receiving pension relief in any year in excess of €100,000. [3457/04]

Minister for Finance (Mr. McCreevy): As part of my reforms in the pensions area and with the aim of encouraging more people to increase their pension coverage, I increased the contribution limits for retirement annuity contracts in section 19 of the 1999 Finance Act for the tax years 1999/2000 and onwards. The new limits ranged from 15% of net relevant earnings for contributors up to 30 years of age to 30% of net relevant earnings for contributors over 50 years of age. Prior to this, the limit was 15% for persons up to the age 55 and 20% for those aged 55 or over. The increase was particularly significant for those over 50, who would normally be in a much better position to fully fund their pensions than those in younger age groups who might not be able to contribute as much as they would like due to other family and financial commitments. At the same time, I also imposed an annual contribution earnings cap of £200,000 which is now €254,000. There had been no such earnings cap prior to this and the cap has not been increased since 1999.

Similar contribution limits and an earnings cap also apply in the case of the new PRSAs which were introduced by the Pensions Amendment Act 2002.

I provided for the same higher limits for employee contributions to occupational pension schemes, in section 10 of the 2002 Finance Act. The limits in these schemes are subject to the same annual earnings cap of €254,000 and contributions have also to be in conformity with the overall existing maximum pensions benefit rules applied by the Revenue Commissioners.

I am informed by the Revenue Commissioners that statistics are only available in respect of income tax relief allowed for contributions to retirement annuity contracts. On the basis of these statistics there were six claimants who each received tax relief of an amount in excess of €100,000 for the income tax year 2000/01 in respect of their contributions to retirement annuity contract schemes. Statistics are not available in respect of contributors to occupational pension schemes claiming tax relief in excess of €100,000 on their contributions.

71. **Mr. Naughten** asked the Minister for Finance the plans he has to introduce capital gains tax and stamp duty relief for elderly people downsizing in accommodation; and if he will make a statement on the matter. [3506/04]

Minister for Finance (Mr. McCreevy): If tax concessions were introduced for older persons wishing to trade down, it would have the effect of increasing the supply of larger (and generally more expensive) houses relative to demand. This would be of benefit to people at the top end of the market. However, the demand for property relative to supply at the lower end of the market would increase and this would adversely affect first-time buyers, in particular, who would have to compete for such houses with a larger number

of people consequently. Persons trading down normally have the cash up front to pay for smaller houses and would generally have no stamp duty liability on a new house or a small liability on a second hand property.

It should also be noted that people trading down can already avail of the principal private residence relief which is a substantial exemption from capital gains tax. If the house has been occupied for the full period of ownership, full exemption applies. Otherwise, the relief granted is in proportion to the period of occupation over the entire period of ownership. This relief, combined with the capital sum received on the sale, means that most older people with large homes already have sufficient financial incentive to trade down.

I consider these reliefs to be sufficiently generous and appropriate and accordingly, I have no plans to introduce further concessions for any category of individual wishing to trade down.

72. **Mr. Durkan** asked the Minister for Finance if a tax refund in respect of rent paid will be made in the case of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [3542/04]

Minister for Finance (Mr. McCreevy): I am advised by the Revenue Commissioners that the taxpayer may make a claim for rent paid in respect of private rented accommodation. Form rent 1 was issued to the taxpayer today outlining the information required to process the claim. The information may be supplied by completion of the form rent 1 or by telephone at 1890-444425.

Tax Codes.

73. **Mr. Penrose** asked the Minister for Finance the progress made on the tax free allowances for a person (details supplied) in County Westmeath; the level of income they would have to be in receipt of, before tax would be levied on them; and if he will make a statement on the matter. [3546/04]

Minister for Finance (Mr. McCreevy): I refer the Deputy to my answer of 25 November 2003, Official Report, Volume 575, No. 3 Question No. 144, page 582.

The Revenue Commissioners inform me that the details provided are insufficient to clearly identify the person concerned. If the Deputy supplies sufficient detail to identify the taxpayer, for example, his occupation and/or his Personal Public Service Number, I will then be in a position to arrange to supply a full reply.

Pension Provisions.

74. **Mr. Gormley** asked the Minister for Finance his views of whether members of the INTO will be met to discuss the proposed changes to pension terms for new entrants to the public service; and if he will make a statement on the matter. [3554/04]

Minister for Finance (Mr. McCreevy): When I announced my pension reform package in the budget, I stated that the public service unions would be fully informed about the implementation of the reforms before their planned introduction with effect from 1 April 2004. The process of informing the public service unions is already under way, and several meetings have taken place between the public service unions, including the INTO, and officials of my Department, the Department of Education and Science and other Departments. The minimum pension age for existing public servants is not in any way affected by the Government decision.

Disabled Drivers.

75. **Mr. J. O’Keeffe** asked the Minister for Finance how many people apply each year in each health board area for a primary certificate, in respect of the disabled drivers and disabled passengers tax concessions scheme; the number refused; the number who appealed; the success rate on the appeal; the normal delay before the appeal is heard; and if there are arrangements for appeal hearings outside of Dublin. [3556/04]

Minister for Finance (Mr. McCreevy): The information requested by the Deputy is not available in my Department either in respect of applications in each health board area or in respect of total applications for a primary medical certificate in the time available. I have asked the Department of Health and Children to write to the relevant health boards requesting this information, and I will forward it to the Deputy when it has been made available.

My Department is not involved in the operation of the Disabled Drivers Medical Board of Appeal but I am informed that, in 2003, there were 251 appeals lodged to the board which held three half day meetings in 2003, and examined 25 appellants over the course of these meetings, seven of whom were successful in their appeal. There is a waiting time of over two years to be seen by the board. I am advised that the backlog of appeals approximately 500 is caused by a number of factors, in particular the general increase in applications for a primary medical certificate, and the significant number of persons who are aware that they do not meet the medical criteria specified in the regulations but who nevertheless insist on exercising their right of appeal. This is an indication of the level of demand for the tax relief under the scheme. To date, the board has held all meetings in Dublin, with the exception of two meetings that were held in Cork in 1995 and 1998.

Higher Education Grants.

76. **Mr. O’Dowd** asked the Minister for Education and Science if further financial assistance is available for a person (details supplied) in County Louth who is in receipt of a grant and studying abroad as part of their course;

and if he will make a statement on the matter. [3432/04]

Minister for Education and Science (Mr. N. Dempsey): My Department funds three means-tested maintenance grant schemes for third level education students in respect of attendance on approved courses in approved third level institutions: the higher education grants scheme; the Vocational Education Committees’ scholarship scheme; and the third level maintenance grants scheme for trainees. The statutory framework for the higher education grants schemes is set out in the Local Authorities (Higher Education Grants) Acts 1968 to 1992. The local authorities administer the schemes on behalf of my Department. The other two schemes are administered, on behalf of my Department, by the Vocational Education Committees.

On the basis of the details supplied in this case, my Department is unable to confirm whether the student in question is in receipt of a grant under one of these schemes. However, the decision on eligibility for third level grants is a matter for the relevant local authority or VEC. These bodies refer individual applications to my Department only in exceptional cases, where, for example, advice or instruction regarding a particular clause in the relevant scheme is desired. It appears that no such advice or instruction has, to date, been sought in the case of the student, to whom the Deputy refers.

If an applicant considers that she or he has been unjustly refused a maintenance grant, or that the rate of grant awarded is not the correct one, she or he may appeal to the relevant local authority or VEC. Where an individual applicant has had an appeal turned down in writing by the relevant local authority or VEC, and remains of the view that the body has not interpreted the schemes correctly in his or her case, a letter outlining the position may be sent to my Department. Alternatively, the

local authority or VEC, may in exceptional circumstances, seek clarification on issues from my Department. It is not open to me, or my Department, however, to depart from the terms of the maintenance grants schemes in individual cases.

Apart from the maintenance grants schemes and the free fees initiative, under which my Department meets the cost of tuition fees for eligible undergraduate students in approved institutions, financial support is also available to students, in approved third level institutions, through the student assistance fund. The objectives of the fund, which is ESF-aided, are to assist students, in a sensitive and compassionate manner, who might otherwise, due to their financial circumstances, be unable to continue their third level studies. The fund is administered on a discretionary and confidential basis by each third level institution and provides direct financial support to disadvantaged students to assist them to remain in college.

77. **Mr. O'Dowd** asked the Minister for Education and Science if financial assistance is available for a person (details supplied) in County Louth who is studying in Dublin; and if he will make a statement on the matter. [3433/04]

Minister for Education and Science (Mr. N. Dempsey): My Department funds three means-tested maintenance grant schemes for third level education students in respect of attendance on approved courses in approved third level institutions and one grant scheme for students pursuing post-leaving certificate courses: the higher education grants scheme; the Vocational Education Committees' scholarship scheme; the third level maintenance grants scheme for trainees; and maintenance grants scheme for students attending post-leaving certificate courses.

The statutory framework for the higher education grants schemes is set out in the Local Authorities (Higher Education Grants) Acts 1968 to 1992. The local authorities administer the schemes on behalf of my Department which reviews the schemes annually. The other three schemes are administered, on behalf of my Department, by the Vocational Education Committees. The decision on eligibility for maintenance grants is a matter for the relevant local authority or VEC. These bodies refer individual applications to my Department only in exceptional cases, where, for example, advice or instruction regarding a particular clause in the relevant scheme is desired. It appears that no such advice or instruction has, to date, been sought in the case of the student to whom the Deputy refers. If an individual applicant considers that she or he has been unjustly refused a maintenance grant, or that the rate of grant awarded is not the correct one, she or he may appeal to the relevant local authority or VEC.

Where an applicant has had an appeal turned down, in writing, by the relevant local authority or VEC, and remains of the view that the body has not interpreted the schemes correctly in his or her case, a letter outlining the position may be sent to my Department. Alternatively, the local authority or VEC may, in exceptional circumstances, seek clarification on issues from my Department. It is not open to me, or my Department, to depart from the terms of the maintenance grants schemes in individual cases.

Until such time as an application has been decided on by the relevant local authority or VEC, all inquiries regarding an individual application should be directed to the body concerned rather than to my Department.

Psychological Service.

78. **Ms Shortall** asked the Minister for Education and Science the circumstances under which parents may be asked to pay €340 for psychological assessments for their children; if all

such assessments are supposed to be offered free by the NEPS; and if he will make a statement on the matter. [3434/04]

Minister for Education and Science (Mr. N. Dempsey): In schools served by the National Educational Psychological Service individual psychological assessments are provided free of charge. Schools that do not yet have access to the psychological service provided by NEPS may avail of the scheme for commissioning psychological assessments. Under this scheme, school principals may commission individual psychological assessments from members of a panel of psychologists approved to carry out this work. The cost of the assessments is borne by NEPS.

In order to ensure equitable distribution of the available funding, there is a quota for the number of individual assessments each school may commission. The quota is two assessments per 100 students and this should be sufficient to ensure that urgent assessment needs are met. A parent could be asked to pay for a psychological assessment only if the school had used up its quota of assessments under the SCPA. Any difficulties in this regard should be brought to the attention of the manager of the SCPA in NEPS.

Schools Building Projects.

79. **Ms Enright** asked the Minister for Education and Science if he will provide funding to facilitate a safe parking area at Scoil Bhríde, Clara, County Offaly; and if he will make a statement on the matter. [3441/04]

Minister for Education and Science (Mr. N. Dempsey): Under a new initiative called the summer works scheme a total of €31 million is set aside in the 2004 school building programme for capital grants for small-scale improvement works to primary and post primary schools. This new initiative replaces all existing small-scale building project schemes and applications made under these schemes with the exception of the grant scheme for minor works, commonly called the devolved grant scheme, that applies to primary schools.

I announced details of the SWS in December 2003. An advertisement for the scheme was subsequently posted in all national print and principal or chief local-provincial print media in December. Full details of the scheme are published on my Department's website at www.education.ie. The closing date for receipt of applications was Friday, 30 January 2004. It was open to the authorities of Scoil Bhríde to apply for funding for the works in question under this scheme. Applications under the SWS are now being assessed and I will publish a list of schools to receive the allocated funding by the end of February.

Notwithstanding this scheme, I must point out that individual school authorities are responsible, in the first instance, for ensuring the safety and

[Mr. N. Dempsey.]
welfare of children and others in their care. In accordance with the Safety, Health and Welfare at Work Act 1989, it is the responsibility of school management authorities to have a safety statement in place in their schools. Schools are obliged to identify possible hazards, assess the risks to health and safety and put appropriate safeguards in place. Primary schools are given an annual allocation of €3,809 plus €12.70 per pupil under the grant scheme for minor works which can be used entirely at the discretion of school management to address basic health and safety issues relating to the school infrastructure and its external environment.

Educational Projects.

80. **Ms Enright** asked the Minister for Education and Science the assistance that is being given to the 50 schools invited to participate in the devolved funding project; his views on whether each of the schools will be in a position to fully participate in the project in 2004; and if he will make a statement on the matter. [3442/04]

Minister for Education and Science (Mr. N. Dempsey): The small and rural primary schools initiative operates on a devolved basis and allows boards of management to address the accommodation and building priorities with a guaranteed amount of funding and minimum involvement from my Department. The amount of the grant ranges between €100,000 and €350,000, depending on the pupil enrolment and the size of the school. This initiative is aimed at schools with a maximum of four classrooms.

Information meetings were held in Tullamore, County Offaly on 8 and 9 January and all the schools were invited to attend and were given an opportunity to ask questions and seek clarification regarding the terms of the scheme. I have arranged for a copy of the terms and conditions of the initiative to be forwarded to the Deputy.

Schools Refurbishment.

81. **Ms Enright** asked the Minister for Education and Science the reason Muckross Park College, which is at stage 4 of the planning and building process since early 2003, has not been advanced since; and if he will make a statement on the matter. [3443/04]

82. **Ms Enright** asked the Minister for Education and Science when he intends to address the situation whereby Muckross Park College has undersized facilities for its library, art classroom, home economic classroom, music room, computer studies room, geography room, maths room and canteen; and if he will make a statement on the matter. [3444/04]

83. **Ms Enright** asked the Minister for Education and Science if his attention has been drawn to the fact that Muckross Park College has

no indoor physical education facilities; and if he will make a statement on the matter. [3445/04]

84. **Ms Enright** asked the Minister for Education and Science if the new junior certificate science curriculum and the new leaving certificate science curriculum can be taught at Muckross Park College; if the proper facilities are available to allow all the experiments to be carried out; and if he will make a statement on the matter. [3446/04]

85. **Ms Enright** asked the Minister for Education and Science if his attention has been drawn to the fact that a number of classrooms at Muckross Park College, Donnybrook, Dublin 4 are located in pre-fabs and do not meet the best practice health and safety requirements; and if he will make a statement on the matter. [3447/04]

87. **Ms Enright** asked the Minister for Education and Science when new school buildings will be sanctioned for Muckross Park College, Donnybrook, Dublin 4; and if he will make a statement on the matter. [3449/04]

Minister for Education and Science (Mr. N. Dempsey): I propose to take Questions Nos. 81 to 85 inclusive and 87 together.

I am pleased to advise the Deputy that Muckross Park College is one of 32 additional schools that will benefit from the further €30 million investment in school buildings that I announced yesterday. These schools will bring to over 200 the number of schools with significant building projects to be authorised to go to tender and construction during 2004. My Department will be contacting the school regarding the delivery of the building project.

Schools Building Projects.

86. **Ms M. Wallace** asked the Minister for Education and Science the progress made with regard to the provision of the much needed portacabins at Laytown school, in County Meath; if all relevant documentation is now with his Department; the timeframe on the provision of the portacabins which are so urgently needed; and if he will make a statement on the matter. [3448/04]

Minister for Education and Science (Mr. N. Dempsey): The Laytown School was given the approval to engage an architect or engineer last July to develop plans for the provision of two temporary classrooms at the school. I have asked the school building unit of my Department to contact the school management as soon as possible to progress the matter.

Question No. 87 answered with Question No. 81.

Departmental Working Group.

88. **Mr. Naughten** asked the Minister for Education and Science, further to Question No. 190 of 2 December 2003, if the working group has

yet reported to him; and if he will make a statement on the matter. [3472/04]

Minister for Education and Science (Mr. N. Dempsey): The interdepartmental working group established to consider the internationalisation of education services received a total of 25 submissions. The group met a number of interested parties who made presentations and answered queries on issues that arose. The group is now in the process of drafting its report and recommendations based on the submissions and discussions held. I expect to receive the report in the near future and I propose to then bring it to Government.

School Placements.

89. **Mr. F. McGrath** asked the Minister for Education and Science the situation regarding the case of a person (details supplied) in Dublin 9; and if a resolution has been found in this case. [3473/04]

Minister for Education and Science (Mr. N. Dempsey): As I previously informed the Deputy, an official from my Department has been in contact with the parents of the child referred to by the Deputy and has advised them on their rights under section 29 of the Education Act 1998 to appeal a refusal to enrol.

Section 29 of the Education Act 1998 provides for an appeal by a parent or guardian to the Secretary General of my Department where a board of management of a school or a person acting on behalf of the board refuses to enrol a student in the school.

The National Educational Welfare Board, which was established under the Education (Welfare) Act 2000, is the single national agency with responsibility for school attendance. The principal function of the board is to ensure that every child in the State attends a recognised school or otherwise receives an appropriate minimum education. The parents of the child in question have been advised to contact the board to obtain its advice and assistance in securing a place for their child.

Third Level Fees.

90. **Mr. Naughten** asked the Minister for Education and Science, further to Question No. 662 of 30 September 2003, if he plans to review this decision; and if he will make a statement on the matter. [3509/04]

Minister for Education and Science (Mr. N. Dempsey): As indicated in my previous reply to the Deputy, I have no plans for extending the free tuition fees scheme to include part-time students at this time.

Student Support Schemes.

91. **Mr. O'Dowd** asked the Minister for Education and Science if there is financial assistance available for a person (details

supplied) in County Louth who is studying in Dublin; and if he will make a statement on the matter. [3511/04]

Minister for Education and Science (Mr. N. Dempsey): My Department funds three means-tested maintenance grant schemes for third level education students in respect of attendance on approved courses in approved third level institutions and one grant scheme for students pursuing post leaving certificate courses. These are the higher education grants scheme; the vocational education committees' scholarship scheme; the third level maintenance grants scheme for trainees; and the maintenance grants scheme for students attending post leaving certificate courses.

The statutory framework for the higher education grant schemes is set out in the Local Authorities (Higher Education Grants) Acts 1968 to 1992. The local authorities administer the schemes on behalf of my Department. My Department reviews the schemes annually. The other three schemes are administered, on behalf of my Department, by the vocational education committees.

The decision on eligibility for maintenance grants is a matter for the relevant local authority or VEC. These bodies do not refer individual applications to my Department except in exceptional cases where, for example, advice or instruction regarding a particular clause in the relevant scheme is desired. It appears that no such advice or instruction has, to date, been sought in the case of the student referred to by the Deputy.

If an individual applicant considers that she or he has been unjustly refused a maintenance grant, or that the rate of grant awarded is not the correct one, she or he may appeal to the relevant local authority or VEC.

Where an individual applicant has had an appeal turned down, in writing, by the relevant local authority or VEC, and remains of the view that the body has not interpreted the schemes correctly in his or her case, a letter outlining the position may be sent to my Department. Alternatively, as already indicated, the local authority or VEC may, in exceptional circumstances, seek clarification on issues from my Department.

However, it is not open to me or my Department to depart from the terms of the maintenance grants schemes in individual cases. Until such time as an application has been decided on by the relevant local authority or VEC, all inquiries regarding an individual application should be directed to the body concerned rather than to my Department.

School Transport.

92. **Mr. N. O'Keeffe** asked the Minister for Education and Science if he has received a report from Bus Éireann regarding school transport in

[Mr. N. O'Keeffe.]
respect of children in County Cork (details supplied). [3512/04]

Minister for Education and Science (Mr. N. Dempsey): Bus Éireann has advised my Department that the family to whom the Deputy refers reside 4.9 miles from their nearest appropriate school and 1.5 miles from the route of service to this school.

As a rule, primary school transport routes are planned so that, as far as possible, no eligible child will have more than 1.5 miles to travel to a pick-up point. Pupils living off the main route of a service are generally expected to make their own way or to be brought to convenient pick-up points along the main route. Home pick-ups were never envisaged as being part of the school transport scheme as the cost involved on a countrywide level would be prohibitive.

My Department does not propose to make alternative arrangements for the family concerned as their current level of service is within guidelines, and these guidelines also apply to closures and amalgamations. However, there is a facility available under the scheme whereby parents of eligible children may pay for a private extension of service. If the family concerned are interested in the above, they may contact my Department's school transport section, Clonminch, Tullamore, County Offaly, for details.

Psychological Service.

93. **Mr. Durkan** asked the Minister for Education and Science when psychological assessment can be arranged for persons (details supplied) in County Kildare in view of the fact that they both have special needs and are attending Scoil Na Mainistreach, Celbridge, County Kildare; and if he will make a statement on the matter. [3544/04]

Minister for Education and Science (Mr. N. Dempsey): As the national educational psychological service, NEPS, is not yet in a position to provide a service to Scoil Na Mainistreach, Celbridge, the school may avail of the scheme for commissioning psychological assessments, SCPA. Details of this scheme have been circulated to all schools and can also be found on my Department's website.

I understand that this school has not used its quota of assessments allowed under the scheme. The parents of the children mentioned should therefore approach the school principal with a view to commissioning individual psychological assessments for them under the terms of the scheme.

Special Educational Needs.

94. **Mr. Penrose** asked the Minister for Education and Science the reason the provision of a resource teacher has been denied to a person (details supplied) in County Westmeath despite

the fact that an application has been approved by his Department; if he will indicate when they will have the benefit of a resource teacher; and if he will make a statement on the matter. [3545/04]

Minister for Education and Science (Mr. N. Dempsey): I am aware of the case referred to by the Deputy. My officials will be in contact with the pupil's school shortly concerning the matter.

Schools Building Projects.

95. **Mr. Kenny** asked the Minister for Education and Science if it is his Department's policy to maintain and develop schools in the Dublin inner city area; the way in which Christian Brothers, Westland Row, conforms to this policy; and if he will make a statement on the matter. [3547/04]

96. **Mr. Kenny** asked the Minister for Education and Science the proposals his Department has for the provision of education at Christian Brothers, Westland Row, Dublin 2 as of 1 February 2004; whether this involves the refurbishment of the existing premises at Westland Row or the entering into of negotiations for a greenfield site in the Dublin docklands area; and if he will make a statement on the matter. [3548/04]

Minister for Education and Science (Mr. N. Dempsey): I propose to take Questions Nos. 95 and 96 together.

My Department is in receipt of an application for a new school from the principal of Westland Row CBS. Since the school is one of three post-primary schools serving the needs of the south inner city area of Dublin, with a combined current enrolment of 444 pupils, my Department is exploring the possibility of a single school development in the area with the relevant trustees. As part of this process, accommodation options for such a development are being examined.

The issue of a site in the area of the Dublin Docklands Development Authority, DDDA, was raised in the context of the application for a new school from Westland Row CBS. However, following discussions with the DDDA, officials from the school planning section of my Department are satisfied that a site in the docklands for a new post-primary a new school is not a viable option due principally to the limited area of the sites available.

National Council for Special Education.

97. **Mr. Gormley** asked the Minister for Education and Science his views on whether the new national special education council should include a member of the INTO; the steps he intends to take to ensure that the INTO is represented on this council; and if he will make a statement on the matter. [3549/04]

Minister for Education and Science (Mr. N. Dempsey): In establishing the new national

council for special education I did not set out to create a council which was representative of any particular sectoral interests, as I believe it is very important that the council should operate in a cohesive, non-representative way. I have put in place a group of people with a wide range of knowledge and experience in this area. I did consult with the INTO, along with other representative groups, prior to making appointments to membership of the council.

Teaching Qualifications.

98. **Mr. J. O’Keeffe** asked the Minister for Education and Science the reason teachers with Montessori degrees are not permitted to sit the Irish exam, and as a consequence continue to be regarded as unqualified and untrained in respect of any service in a post in a mainstream primary class; and if he will make a statement on the matter. [3555/04]

Minister for Education and Science (Mr. N. Dempsey): Under the terms of Circular 25/00, Montessori teachers with specified qualifications are given recognition to teach in certain settings only. These include resource teaching posts, special classes and special schools where there is no requirement to teach Irish. Access to and remuneration for these posts is on a qualified teacher basis.

The Irish examination, SCG, is designed for teachers trained outside the state whose primary teaching qualifications are acceptable for recognition purposes but who do not possess the necessary qualification to teach Irish and/or teach through Irish to the required standard.

It is not as a consequence of lacking a qualification to teach Irish that Montessori teachers are not recognised to teach in mainstream classes. It is a matter of the content and scope of their undergraduate course. The content of the courses leading to the award of the Montessori qualifications specified in the circular have not, to date, been considered as equivalent to course content delivered in the five colleges of education. However, a comparative study on course content in one of the specified Montessori courses and that delivered in the five colleges of education has now been completed. The report is currently being considered by my Department and any requirement for change in the recognition process for Montessori teachers will be determined in the course of this consideration.

Marco Polo Programme.

99. **Mr. Naughten** asked the Minister for Communications, Marine and Natural Resources the details of the applications made by his Department, or any State agency or semi-State company under the control of his Department, under the EU Marco Polo programme; the agencies involved, the funding sought and the purpose of such projects; and if he will make a statement on the matter. [3475/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): Regulation (EC) No. 1382/2003 of the European Parliament and of the Council provides for the establishment of the Marco Polo programme. This programme was introduced to reduce road congestion, improve the environmental performance of the freight transport system within the Community and enhance intermodality, thereby contributing to an efficient and sustainable transport system. The regulation provides that the financial framework for the implementation of the Marco Polo programme for the period 1 January 2003 to 31 December 2006 is €75 million.

The Marco Polo programme is intended to support actions in the freight transport, logistics and other relevant markets. These actions should contribute to maintaining the distribution of freight between the various modes of transport by helping to shift the expected increase in international road freight traffic to short sea shipping, rail and inland waterways or to a combination of modes of transport in which road journeys are as short as possible.

The regulation provides that projects shall be submitted by a consortium of two or more undertakings, established in at least two different member states or in at least one member state and one close third country. At the request of my Department, the Irish Maritime Development Office has assisted in the preparation of applications to the European Commission for financial assistance under the programme.

I am informed that two ports companies operating under the aegis of my Department submitted applications. First, Shannon Foynes Port Company, as part of a consortium with Dutch Shipping Agents, Voigt and Company and Royal Burger Group, has sought assistance of €675,000 in respect of a proposed new scheduled container service between Foynes and Rotterdam. It is estimated that the proposed service will result in 337 million tonnes-kilometres being shifted from road to the shipping mode.

Second, Dublin Port Company, as part of a consortium with the Port of Livorno, Italy, has also sought funding under the Marco Polo programme. The total amount of assistance sought is €420,000. The proposed project, titled EUROPORTCONNECT, will develop a common training education and learning needs analysis study that will establish a baseline for all training and development needs within the maritime transportation industry.

Electricity Generation.

100. **Mr. Ring** asked the Minister for Communications, Marine and Natural Resources if his Department will assist Mayo County Council to provide a scheme of public lighting at the emergency facilities services (details supplied) in Ballyglass, County Mayo. [3482/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): The provision of public lighting for Ballyglass, County Mayo is solely a matter for Mayo County Council.

Yacht Club Funding.

101. **Mr. F. McGrath** asked the Minister for Arts, Sport and Tourism if the maximum support to Clontarf yacht and boat club will be given in its application for equipment replacement for the ageing rescue fleet and junior sail training facilities; and if he will strongly support the valuable work of this club. [3552/04]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): The national lottery funded sports capital programme, which is administered by my Department, allocates funding to sporting and community organisations at local, regional and national level throughout the country. The programme is advertised on an annual basis. The 2004 sports capital programme was advertised in the national newspapers on 30 November and 1 December 2003. The closing date for receipt of applications was 16 January 2004. Some 1,300 applications were received before the closing date, including one from the organisation in question. All applications are currently being evaluated against the programme's assessment criteria, which are outlined in the guidelines, terms and conditions of the programme. I intend to announce the grant allocations for the programme as soon as possible after the assessment process has been completed.

Youth Services.

102. **Mr. R. Bruton** asked the Minister for Arts, Sport and Tourism the amount of money which was allocated in grants for facilities to youth clubs in the Dublin area last year; the percentage of overall grant allocation in Dublin and nationally which this constituted; if he has satisfied himself that the criteria for grant allocation give sufficient recognition to the work of youth clubs; and if he will make a statement on the matter. [3560/04]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): The national lottery funded sports capital programme, which is administered by my Department, provides funding to voluntary sporting and community organisations at local, regional and national level throughout the country towards the provision of sport and recreational facilities. The programme is advertised on an annual basis. The aims and objectives of the programme are as follows: to develop an integrated and planned approach to the development of sport and recreational facilities; to assist voluntary and community organisations with the development of appropriate facilities in appropriate locations that will maximise use in terms of participation in sport and recreation — the facilities should be high quality, safe, well designed and sustainable to both the user and the provider; to prioritise the

needs of disadvantaged areas in the provision of facilities; and to encourage the multi-purpose use of facilities at national, regional and community level by clubs, community organisations and national governing bodies of sport, NGBs.

As the primary purpose of the programme is to assist in the provision of sports facilities, few applications are received from youth clubs or other organisations involved in the youth services sector, responsibility for which rests with the Department of Education and Science. For example, only one application was received in the name of a youth club from Dublin under the 2003 sports capital programme. The Deputy will also be aware that the Department of Community, Rural and Gaeltacht Affairs provides capital funding towards the provision of youth facilities in disadvantaged areas under its young people's facilities and services fund.

However, an analysis of the general category of community or mixed projects in Dublin under the sports capital programme shows that a total of €4,775,000 was allocated to 19 projects in Dublin under the 2003 programme. The community or mixed category includes all projects involving shared facilities and community type facilities, including community centres and sports halls, in which youth clubs tend to be active. An overall total of more than €14.1 million was allocated to 103 projects in Dublin under the 2003 programme. Virtually every one of those projects are engaged in providing for youth sport and I would be happy that the programme caters for the needs of the youth of Dublin and of the entire country in the provision of sporting and recreational facilities, with an overall total of €266 million allocated to more than 3,500 projects since 1998.

Animal Experiments.

103. **Mr. Gormley** asked the Minister for Health and Children his views on an end to animal experiments and vivisection; and if he will make a statement on the matter. [3515/04]

Minister for Health and Children (Mr. Martin): The use of live animals in scientific research and other experimental activity is strictly controlled in accordance with the Cruelty to Animals Act 1876, as amended by the European Communities (Amendment of Cruelty to Animals Act 1876) Regulations 2002. I signed these regulations in December 2002 for the purpose of giving full effect to Council Directive 86/609/EEC on the protection of animals used for experimental and other scientific purposes. One of the objectives of the directive is to reduce the numbers of animals used for experiments by encouraging the development and the validation of alternative methods to replace animal methods. The Act, as amended, provides, *inter alia*, that an experiment shall not be performed if another scientifically satisfactory method of obtaining the result sought, not entailing the use of an animal, is reasonably and practicably available. Directive

86/609/EEC is currently under review at European level and a number of issues are being examined, including the further promotion of the development of alternative methods. My Department has nominated a representative to the technical expert working group dealing with the review.

The European Commission established the European Centre for the Validation of Alternative Methods, ECVAM. ECVAM was established to promote the scientific and regulatory acceptance of alternative methods which are of importance to the biosciences and which reduce, refine or replace the use of laboratory animals. Ireland supports the work of ECVAM and is represented on its scientific advisory committee. My Department will continue to monitor developments in this area.

Nursing Home Subventions.

104. **Mr. R. Bruton** asked the Minister for Health and Children if the pilot scheme for providing a subvention towards home care is available to persons on the waiting list for residential care required by physical or mental disability. [3458/04]

Minister of State at the Department of Health and Children (Mr. Callely): Since my appointment as Minister of State, I have been encouraging the Eastern Regional Health Authority and the health boards to introduce personal care packages for older people as an alternative to long stay residential care. Personal care packages are specifically designed for the individual concerned and could possibly include the provision of a home help service, home subvention payments, arrangements for attendance at a day centre or day hospital and other services such as twilight nursing. Personal care packages allow older persons the option to remain living in their own home rather than going into long stay residential care.

The pilot project referred to by the Deputy, which is aimed at supporting older people in the community, is currently being evaluated by the authority and the results of the evaluation will no doubt inform the authority's consideration to roll out this programme to other care groups.

105. **Mr. R. Bruton** asked the Minister for Health and Children the terms of the recent scheme introduced whereby beds in acute hospitals which were blocked by persons requiring long-term nursing home care has been vacated by means of an enhanced nursing home subvention towards the accommodation of these patients in private nursing homes; and if he plans to further extend this scheme. [3459/04]

Minister of State at the Department of Health and Children (Mr. Callely): I propose to take Questions Nos. 104 and 105 together.

As the Deputy may be aware, my Department under the bed capacity initiative allocated extra

resources to both the Eastern Regional Health Authority and the Southern Health Board to ease pressure on beds in the acute hospital system and to provide more step down accommodation for older people, who were being inappropriately cared for in acute hospital beds. A sum of €3.8 million was allocated to the Eastern Regional Health Authority and €1.7 million to the Southern Health Board in July 2003. A total of €12.5 million has been allocated for this purpose in 2004.

Dunne Inquiry.

106. **Mr. Gormley** asked the Minister for Health and Children the status of the Dunne Inquiry; when it is expected to report; and if he will make a statement on the matter. [3476/04]

107. **Mr. Gormley** asked the Minister for Health and Children if the Dunne Inquiry is in difficulty in view of the fact that it continues to miss its own deadlines for reporting; and if he will make a statement on the matter. [3477/04]

Minister for Health and Children (Mr. Martin): I propose to take Questions Nos. 106 and 107 together.

The post mortem inquiry is a non-statutory inquiry chaired by Ms Anne Dunne SC. Since the beginning of 2003, the inquiry has concentrated on the investigation of the post mortem policy, practice and procedure of the three main paediatric hospitals, that is, the National Children's Hospital, Tallaght, the Children's University Hospital, Temple Street and Our Lady's Hospital for Sick Children, Crumlin. Up to mid October, the inquiry had heard 56 hospital and non-hospital witnesses at oral hearings and had accumulated almost 3,500 pages of transcripts of oral evidence.

The chairman has informed me that the inquiry has received considerable co-operation from each of the hospitals with which it is currently dealing and that the inquiry's non-statutory nature has not thus far significantly hampered its substantive work. The chairman is mindful of the need to have her report completed as soon as is reasonably practicable following the completion of the oral evidence.

Health Board Services.

108. **Mr. Ring** asked the Minister for Health and Children the outcome of the assessment committee meeting held by the Western Health Board on 28 January 2004 for a person (details supplied) in County Mayo. [3480/04]

Minister of State at the Department of Health and Children (Mr. Callely): As the Deputy will be aware, the provision of health services in the Mayo area is, in the first instance, the responsibility of the Western Health Board. My Department has, therefore, asked the chief executive of the board to investigate the matter

[Mr. Callely.]
raised by the Deputy and to reply directly to him as a matter of urgency.

109. **Mr. Ring** asked the Minister for Health and Children the outcome of an assessment committee meeting held by the Western Health Board on 28 January 2004 for a person (details supplied) in County Mayo. [3481/04]

Minister of State at the Department of Health and Children (Mr. Callely): As the Deputy will be aware, the provision of health services in the Mayo area is, in the first instance, the responsibility of the Western Health Board. My Department has, therefore, asked the chief executive of the board to investigate the matter raised by the Deputy and to reply directly to him as a matter of urgency.

Health Board Funding.

110. **Mr. Naughten** asked the Minister for Health and Children when his Department received a request from the Western Health Board for additional resources to fund its adult audiology services in County Roscommon; the specific funding allocated by his Department to provide this service; the discussions his Department has held with the Western Health Board regarding this issue; and if he will make a statement on the matter. [3501/04]

Minister for Health and Children (Mr. Martin): As the Deputy is aware, the provision of community audiology services is a matter for the health boards or authority in the first instance. The provision of services, including community audiology services, forms part of the discussion between my Department and the health boards or authority in relation to their service plans.

Since 2000 my Department has provided additional ongoing funding of more than €2 million to the health boards or authority for a range of developments in the community audiology service. My Department has no record of any recent request from the Western Health Board for additional community audiology resources for adults in County Roscommon. However, as the provision of community audiology services in County Roscommon is a matter in the first instance for the Western Health Board, my Department has asked the chief executive officer to write directly to the Deputy regarding the community audiology service there.

Diabetes Services.

111. **Mr. Naughten** asked the Minister for Health and Children further to Parliamentary Question No. 214 of 14 November 2002 in relation to diabetes services, the actions taken to date; and if he will make a statement on the matter. [3503/04]

Minister for Health and Children (Mr. Martin):

A range of services for persons with diabetes is provided by the health services generally and many initiatives have significant benefits for persons with diabetes and in the prevention of the disease. A particular case in point is the cardiovascular health strategy, which made a number of recommendations on the prevention of heart disease and these will help to reduce the occurrence of cardiovascular disease in persons with diabetes. People with diabetes mellitus should be targeted by GPs to tackle cardiovascular risk factors. The strategy recommends that diabetics should be treated in the same manner as those non-diabetics that have had a myocardial infarct. The 47% increase in the frequency of prescriptions for cardiovascular disease for people covered by the General Medical Services (Payments) Board reflects the increase in the numbers now being detected and treated with chronic heart failure.

As regards secondary prevention, people with diabetes have a worse prognosis after myocardial infarct and should be treated intensively. In this regard, the first phase of the heartwatch programme, which is being carried out under the cardiovascular strategy with the Irish College of General Practitioners and the Irish Heart Foundation, includes up to 1,000 people with diabetes in the Midland Health Board.

The third area of prevention under the cardiovascular health strategy refers to the implementation of the health promotion aspect of Building Healthier Hearts. This, coupled with the implementation of the national health promotion strategy for 2000 to 2005, is of direct benefit to diabetics. The population approach being adopted through the implementation of these strategies to address healthy eating and increase exercise in the population, especially among children, should, in the long-term, reduce the numbers developing diabetes.

In recent years part of the €54 million funding for the implementation of the cardiovascular health strategy is providing for the appointment of 17 additional consultant cardiologists and 300 other hospital based professional staff, resulting in a substantial increase in cardiology diagnostic and treatment services and providing more accessible, equitable and better quality care for patients with cardiac conditions.

As regards another major complication of diabetes, namely, end stage renal disease which requires dialysis and possible transplantation, the evidence suggests that diabetes is the leading cause of this condition in western countries and some estimates indicate that between 30% and 50% of all patients beginning kidney dialysis are diabetics. A pilot Irish renal register which was compiled a number of years ago indicated that diabetes caused end stage renal disease in 14% of patients beginning dialysis. The incidence of this condition and, therefore, the numbers requiring kidney dialysis in the future are expected to rise

significantly as a result of the growing prevalence of diabetes and the ageing of the population in future years.

In anticipation of this and other requirements for dialysis, significant investment of approximately €20 million has been made over the past number of years to develop renal services in response to this increased demand. This investment is supportive of the development of services on a regional basis so that patients do not have to travel long distances for dialysis and has facilitated the approval of five additional consultant nephrologists with the commissioning of a number of new dialysis units around the country. Furthermore, I have established a group to undertake a national review of renal services. This group will be charged with formulating a national framework for the future development and delivery of services in this area with a consequent improvement in services for the large number of diabetics who require this treatment.

Another area of frequent complication is that of retinal eye disease, which leads to blindness. The evidence of the value of screening for this condition is strong and my Department is currently supporting a pilot screening project in the North Western Health Board which has set the following criteria: annual examination for those with diabetes; quality assurance written into the service and a programme integrated into the care plan for each patient. A total of €340,000 has been provided by the Department for this project. It is anticipated that the first patients will be screened in April 2004.

In the development of health promotion activities and materials, the Department works in partnership with the Diabetes Federation of Ireland on the development of its materials. These developments include a national media campaign, "Ireland needs a Change of Heart", which includes an all island physical activity campaign, "get a life, get active", and the recent physical activity campaign, "Let it Go"; the national healthy eating initiatives and, at regional level, a broad range of service developments and initiatives in the areas of smoking cessation, nutrition, physical activity and dissemination of good practice. These services work in co-operation with the Diabetes Federation of Ireland. The Department supports the employment of a diabetic nurse specialist by the Diabetes Federation of Ireland who has enhanced national awareness of diabetes and developed a detailed direction for early detection and prevention of diabetes and many health promotion initiatives.

The primary care strategy, Primary Care: A New Direction, intends to develop a model of care that will provide an appropriate structure to enable the shift in care from secondary specialist care to primary generalist care and deliver the full range of health, personal and social services appropriate to this setting. A primary care project that was established in the Southern Health

Board as part of the implementation of the primary care strategy and which illustrates this point is located on the Dingle Peninsula in County Kerry. The team has selected shared care of diabetes as one of its key initial priorities. It covers the entire population of the Dingle Peninsula and has been developed in co-operation with the GPs, the health board and Tralee General Hospital. The main features of the programme include the establishment of a register, the use of opportunistic screening in domiciliary and practice settings for diabetes, a quality assurance and audit mechanism and participation in the diabetes quality of life study being led by UCC. It is an example of how structured shared care in primary care can be developed in a manner which works for both hospitals and primary care and, most importantly, of how, especially in such a remote region, dependence of acute hospital care for people with diabetes can be appropriately reduced. Through further roll-out of the primary care strategy, further development of such programmes can be expected.

The national steering committee of the primary care strategy recently produced a framework for quality assurance in primary care. These guidelines have recommended that diabetes be chosen as the specific initial focus for the development of quality indicators in primary care.

I recognise that more work needs to be done. After detailed consideration and having had a series of meetings with the Diabetes Federation of Ireland to consider its strategy document, Diabetes Care: Securing the Future, I asked the chief medical officer to chair a working group consisting of officials of the Department of Health and Children, service providers and the Diabetes Federation of Ireland. The first meeting of the group took place last week. It will examine the current and predicted epidemiology of diabetes, health promotion and preventive initiatives, including screening, current service provision, including the need to achieve better integration of care using current resources and facilities and the expansion of shared care programmes, future needs in terms of service provision and staffing. The group hopes to report to me by this summer.

Nursing Home Beds.

112. **Mr. Stagg** asked the Minister for Health and Children the number of elderly persons awaiting allocation of a long-term care place in State nursing homes and public beds in private nursing homes in County Kildare; and if he will make a statement on the matter. [3510/04]

Minister of State at the Department of Health and Children (Mr. Callely): As the Deputy will be aware, the provision of health services in the Kildare area is, in the first instance, the responsibility of the South Western Area Health Board, under the aegis of the Eastern Regional

[Mr. Callely.]

Health Authority. My Department has, therefore, asked the chief executive of the board to investigate the matter raised by the Deputy and to reply directly to him as a matter of urgency.

Services for People with Disabilities.

113. **Mr. Durkan** asked the Minister for Health and Children if funding will be made available to the autistic children's support group, north Kildare/RehabCare, for after school activities and a Saturday club; and if he will make a statement on the matter. [3541/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): Responsibility for the provision of funding for services to persons with intellectual disability and those with autism in the Kildare area is a matter, in the first instance, for the Eastern Regional Health Authority. My Department has, therefore, asked the regional chief executive of the authority to investigate the matter raised by the Deputy and to reply directly to him.

Airport Development Projects.

114. **Mr. English** asked the Minister for Transport if he will consider allocating funding towards a 625 meter airstrip, hangar and reception centre in Stevenson's Field, Dromore, County Donegal for the benefit of business and tourism in the area; and if he will make a statement on the matter. [3438/04]

Minister for Transport (Mr. Brennan): The long standing policy of the Department as regards the development of aviation facilities is that private interests may provide and develop airports in whatever location they wish, provided the requirements of the Irish Aviation Authority are met and planning permission is secured. It is for the promoters to satisfy themselves that an airport can function as a viable commercial entity. This Department does not have any plans to provide financial support for the development of any new regional airports.

Haulage Licence.

115. **Mr. Hogan** asked the Minister for Transport when a decision will be made in respect of an application for a haulage licence for a person (details supplied) in County Kilkenny; and if he will make a decision on the matter. [3470/04]

Minister for Transport (Mr. Brennan): An application for a road freight carrier's licence has not been received in the name of Joey O'Neill at Ballyogen, Graignamanagh, County Kilkenny. When an application is received it should take no longer than ten working days to issue. All incorrect applications received are returned immediately to the applicant for amendment.

Rural Transport Initiative.

116. **Ms Shortall** asked the Minister for Transport the details of the allocation to Longford Community Resources Limited for the rural transport initiative for 2003 and the proposed funding for 2004; if his attention has been drawn to fact that the cost of providing the service in 2003 amounted to €95,000 but that the 2004 allocation has been reduced to €55,000; the reason the higher sum will not be paid by the Department in 2004; and if he will make a statement on the matter. [3497/04]

Minister for Transport (Mr. Brennan): My Department has not reduced the allocation for the RTI. On the contrary €4.4 million was earmarked for the initiative in the national development plan. A sum of €6 million has already been provided for the initiative in the two year period ending December 2003. A further €3 million will be provided in 2004. Specific allocations for RTI projects are made from this funding by Area Development Management Limited. It manages the scheme on behalf of my Department.

I understand from ADM that the RTI funding allocation for 2002 and 2003 for Longford Community Resources Limited was €101,349. As the project could not roll-out its services in 2002 only a minimal amount of the funding was expended that year. As a result a disproportionate amount of the two year allocation of €93,652 was concentrated on 2003. The company was also allocated €6,720 arising from the extension of the free travel scheme to the RTI in 2003. The 2004 RTI allocation for Longford Community Resources Limited is €58,064 before any allocation in respect of the free travel scheme or funding that the project might acquire from other sources.

North-South Ministerial Council.

117. **Mr. Naughten** asked the Minister for Transport further to the 2002 annual report by the North-South Ministerial Council, the progress to date on the seven areas under discussion in the transport sector; and if he will make a statement on the matter. [3504/04]

Minister for Transport (Mr. Brennan): Transport is one of the six agreed areas of co-operation under the NSMC. At the council's inaugural meeting in December 1999 it was agreed that transport co-operation would focus primarily on road and rail safety and strategic transport planning.

In December 2000 the first meeting of the NSMC on the transport sector took place. Ministers reviewed existing co-operation on transport issues and discussed the matters identified for enhanced co-operation by the December 1999 inaugural NSMC meeting. A further transport sector meeting took place in 2002 prior to the suspension of the Northern Ireland Assembly in October of that year. That

meeting focused on road safety issues. As the relevant Northern Ireland Minister was unavailable, it was not possible to hold meetings at ministerial level about other aspects of co-operation in the transport sector.

At present the two Governments are working with the Northern Irish political parties to bring about the conditions that will allow the restoration of devolved Government in Northern Ireland. Notwithstanding the fact that the NSMC cannot meet at present, co-operation and contact with the Northern authorities has continued on a practical level in the transport sector. I met Ms Angela Smith, MP and Minister at the Northern Ireland office, on 11 February 2003. Meetings have also taken place at senior official level between my Department and the Departments for Regional Development and for the Environment in Northern Ireland. The meetings focused on cross-Border road and rail developments, road and rail safety issues, the road haulage sector and the future development of Derry Airport.

The Exchequer continues to provide financial support under EU rules for the current air services between Derry and Dublin operated by the Scottish carrier Loganair.

Transport Report.

118. **Mr. Naughten** asked the Minister for Transport if he received a report from a company (details supplied); and if he will make a statement on the matter. [3507/04]

Minister for Transport (Mr. Brennan): No reports have been received in my Department from Iarnród Éireann regarding the matters alluded to by the Deputy.

Rail Services.

119. **Mr. B. Smith** asked the Minister for Transport the position regarding the proposal to extend rail passenger services to Navan, County Meath; if further consideration will be given to the provision of such a service to Kingscourt, County Cavan as there is an existing rail line that was upgraded and used for freight purposes until a few years ago; and if he will make a statement on the matter. [3550/04]

120. **Mr. B. Smith** asked the Minister for Transport if the proposal to provide a rail service to Kingscourt, County Cavan will be given detailed consideration as this proposal was not considered by the strategic rail review consultants; and if he will make a statement on the matter. [3551/04]

Minister for Transport (Mr. Brennan): I propose to take Questions Nos. 119 and 120 together.

The strategic rail review examined the feasibility of restoring rail services to Navan via two routes — a Clonsilla to Navan link and a Drogheda to Navan connection. While it

concluded that there was no economic case for reopening either link, Irish Rail is examining the possibility of reopening part of the Clonsilla to Navan line to provide commuter services for the rapidly growing communities in west Dublin and Meath.

The provision of passenger services between Navan and Kingscourt was not examined by the review. It considered that there was no evident demand for such services. No direct proposals were submitted at the time the report was being prepared arising from the public consultation process. No local policy or integrated planning framework exists in support of the development of rail links to the Kingscourt area.

Irish Rail has informed me that the line from Drogheda to Navan and Kingscourt is in poor condition and no longer in regular use. It has no plans to reopen the line.

Community Policing.

121. **Mr. O'Dowd** asked the Minister for Justice, Equality and Law Reform when he will sanction the appointment of community gardaí to deal specifically with anti-social behaviour in Drogheda; and if he will make a statement on the matter. [3435/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Garda authorities are responsible for the detailed allocation of resources, including personnel. It informed me that the personnel strength, covering all ranks, of Drogheda Garda station as at 2 February is 90. This compares to a figure of 82 on 31 December 1997 and represents an increase of 8 or 9.75% in the personnel allocated since that date.

It is the responsibility of the divisional officer to allocate personnel within a division as he or she sees fit. A community garda, with responsibility for the southside area of Drogheda, was appointed in Drogheda Garda station in 2000. The situation will be kept under review. When additional personnel become available the needs of the station will be considered within the context of the overall needs of Garda divisions throughout the country.

Residency Permits.

122. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform the actions he is taking to deal with the considerable backlog of cases awaiting decisions in his Department in respect of residency based on marriage to Irish nationals; and if he will make a statement on the matter. [3461/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): There is an ongoing increase in the number of applications received of the type referred to by the Deputy. There were 156 in 2001 and 271 in 2003. Applications of this type are dealt with on a strict chronological basis and are currently taking approximately ten months to process. The resources allocated to process such

[Mr. McDowell.] applications are dependent on the prioritised work requirements of my Department's immigration division.

Penalty Points System.

123. **Mr. Naughten** asked the Minister for Justice, Equality and Law Reform further to Parliamentary Question No. 91 of 15 October 2003, the revised dates for the introduction of the computerised penalty points system. [3502/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I refer the Deputy to my reply to Question No. 133 of 29 January.

Prisoner Transfers.

124. **Ms Lynch** asked the Minister for Justice, Equality and Law Reform the facilities available to the prisoners transferred from the Curragh to the Midlands Prison; if his attention has been drawn to the fact that they have still not received their personal belongings, including clothing; his views on whether, due to the category of prisoners involved, special measures should be put in place to ensure their protection and wellbeing; and if he will make a statement on the matter. [3518/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): On 19 and 20 of January 85 prisoners were transferred to the prison from the Curragh Place of Detention. The prison is a well equipped modern institution and the prisoners transferred are accommodated in single cells. The facilities available in the Midlands Prison are considered to be at least on a par with those previously experienced in the Curragh Place of Detention.

The logistics associated with a move are not inconsiderable. For example, standard procedure in our prisons is that all property, personal or otherwise, of those committed to custody must be recorded and searched in accordance with the regulations. The procedure also applies to the property of prisoners transferred from one place of detention to another. Due to the number of prisoners and the large volume of property the procedures required were extended over a number of days. The issue has been resolved and all of the prisoners concerned have received their personal belongings and clothing.

It is normal procedure to segregate prisoners in the system who may be at risk from other prisoners in the general prison population. The procedure has been applied in this instance and the prisoners transferred are located on a new protection landing in the Midlands Prison.

Stardust Report.

125. **Mr. Broughan** asked the Minister for Justice, Equality and Law Reform if he received a copy of the recent report on the Stardust fire of 1981 that was prepared for the relatives

committee of the victims; and if the Garda Bureau of Criminal Investigations should urgently re-examine the disaster given its conclusions. [3525/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Representatives from my Department, the Department of Health and Children and the Department of the Environment, Heritage and Local Government have held a number of meetings with representatives of the Stardust Victims Committee. During the meetings the committee stated that it had new evidence on the cause of the fire. My Department responded that any new evidence would be examined. It awaits receipt of the documentation.

Naturalisation Applications.

126. **Mr. Gregory** asked the Minister for Justice, Equality and Law Reform, further to Question No. 575 of 25 March 2003, if the application referred to has been dealt with; and if he will make a statement on the matter. [3559/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): On 29 January an application was approved and a letter issued to the person concerned.

Electronic Voting.

127. **Mr. O'Dowd** asked the Minister for the Environment, Heritage and Local Government if arrangements can be made to demonstrate the working of the electronic voting system to the general public; and if he will make a statement on the matter. [3437/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): Yesterday I launched a major education and awareness campaign on the use of electronic voting and counting at the forthcoming European and local elections. The campaign will include television, radio and press advertising; the development of an electronic voting website; the provision of a Lo-call information line; a mail shot to every household; and a nationwide roadshow that will allow voters to see and practice on the voting machine. The campaign will also seek to raise awareness of the elections and to encourage people to vote.

Local Authority Playgrounds.

128. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the number of local authorities that have appointed an officer with responsibility for development of play in accordance with the objectives of the National Children's Strategy 2000. [3485/04]

129. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government

the section of each local authority that has responsibility for playgrounds. [3486/04]

130. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if guidelines are in place for local authorities on playgrounds. [3487/04]

131. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the training for people with responsibility for playgrounds. [3488/04]

132. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the way playgrounds are funded in the State. [3489/04]

133. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the safety standards that playgrounds comply with. [3490/04]

134. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the number of playgrounds per head of population nationally. [3491/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): I propose to take Questions Nos. 128 to 134, inclusive, together.

I refer to the reply to Question No. 151 of 3 February. Section 67 of the Local Government Act 2001 empowers local authorities to promote the interests of the local community in relation to amenity, recreation and other functions. This includes the provision of playgrounds and play areas. It is a matter for each local authority to determine the extent to which playgrounds and play areas should be provided and to allocate resources accordingly. There is no specific provision for the funding of local authority playgrounds in my Department's Vote. However, it provides significant financial support to local authorities through the local government fund that is usable at the discretion of the authority.

The provision of open spaces, recreational facilities and amenity areas in local authority housing schemes is also a matter for housing authorities in the first instance. Certain facilities of this kind may be funded from my Department's capital allocations where the work is undertaken in conjunction with the provision of new local authority housing or the refurbishment of existing housing under the remedial works scheme.

In 1987 my Department issued a parks policy for local authorities. It outlined a national policy for the provision, development, administration and maintenance of a graded system of parks, open spaces and outdoor recreation areas by local authorities. In November 1998 it also advised local authorities of the need to ensure that equipment and surface materials used in local authority playgrounds and in play areas for children in new and existing local authority

housing estates conform with appropriate standards.

Decisions on the assignment of functions to, and the training of, any member of staff of a local authority are a matter for local authority managers and I have no function in the matter. The same applies to the section of the local authority that is responsible for playgrounds. In most local authorities playgrounds are the responsibility of the director of services with responsibility for the environment.

Election Management System.

135. **Mr. Boyle** asked the Minister for the Environment, Heritage and Local Government the reason no official record exists of all results of elections to local authorities that have occurred in the State since 1922; and if his Department intends to compile such a record and make such a record publicly available. [3517/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): Each local authority should have available in its records the results of elections to the authority since 1922. In addition, results for local elections since 1974 are available for reference in my Department.

Community Development.

136. **Mr. Naughten** asked the Minister for Community, Rural and Gaeltacht Affairs, further to Question No. 331 of 2 December 2003, if a decision has been made on this matter; and if he will make a statement on the matter. [3440/04]

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): I intend to introduce a scheme for the enhancement of outdoor school play facilities in small rural schools in CLÁR areas. There has been an overwhelming level of interest shown in the proposed scheme.

I am pleased to inform you that the Minister, Deputy Dempsey has made funds of up to €0.5 million available to co-fund the scheme, which will supplement the €1 million allocation from my Department this year. I am currently finalising the scheme and hope to be able to proceed the funding of facilities shortly thereafter.

137. **Mr. Rabbitte** asked the Minister for Community, Rural and Gaeltacht Affairs the progress which has been made on the evaluation of regional support agencies funded by his Department; when this will be completed and published; and if he will make a statement on the matter. [3495/04]

138. **Mr. Rabbitte** asked the Minister for Community, Rural and Gaeltacht Affairs the progress which has been made on the review of the community development support programme; when this review will be completed and published; and if he will make a statement on the matter. [3513/04]

Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern): I propose to take Questions Nos. 137 and 138 together.

I refer the Deputy to the comprehensive replies given yesterday to Question No. 151, associated Questions Nos. 153, 156, 163, 172, 173 and 185, and Question No. 205.

Social Welfare Benefits.

139. **Mr. O'Shea** asked the Minister for Social and Family Affairs the proposals he has to achieve the key target of the anti-poverty strategy to achieve a rate of €150 per week in 2002 terms for the lowest rates of social welfare to be met by 2007. [3471/04]

Minister for Social and Family Affairs (Mary Coughlan): The 2004 budget provided for a €10 per week increase in the rate of the lowest social welfare payments and these new rates came into effect at the beginning of January. This represents an increase of 8%, which is well ahead of projected inflation of 2.5%.

This level of increase ensures that the standard of living of all those in receipt of the lowest rate of payment was, once again, significantly enhanced and was a significant step towards the achievement, by 2007, of the commitment contained in the national anti-poverty strategy, NAPS, in regard to the lowest rates of payment.

Over the period since 1997, the value of all social welfare rates has increased in real terms. In this regard, the rate payable to persons in receipt of supplementary welfare allowance and short-term unemployment assistance, the lowest rates in 1997, have increased by nearly €51 per week, an increase of more than 62% compared with inflation of 26.9%.

Overall, social welfare expenditure has increased from € 5,774 million in 1997 to a projected €11,262 million in 2004, an increase of €5,488 million or 95%. Looking ahead, my priorities include making further progress towards implementing the NAPS commitment in relation to the lowest rates of payment along with the other commitments in regard to social welfare contained in the NAPS, Sustaining Progress and the Programme for Government. The progression of all of the commitments will be a matter to be decided having regard to available resources.

140. **Mr. G. Mitchell** asked the Minister for Social and Family Affairs if a supplementary welfare grant will be awarded to a person (details supplied) in Dublin 12; and if she will make a statement on the matter. [3436/04]

Minister for Social and Family Affairs (Mary Coughlan): The supplementary welfare allowance scheme which is administered by the health boards provides for a single payment to help meet essential, once-off, exceptional expenditure which a person could not reasonably be expected to meet out of his or her weekly income. These

payments, which are known as exceptional needs payments, are made at the discretion of the health boards and neither I nor my Department has any function in deciding individual cases. The principal consideration in making such a payment is that the need must be of an exceptional nature.

The South Western Area Health Board was contacted on behalf of the person in question and has advised that his application for an exceptional needs payment was refused by the community welfare officer on the grounds that on this occasion the need was not considered to be of an exceptional nature. If he is not satisfied with the decision it is open to him to appeal against the decision to the health board appeals officer.

141. **Mr. R. Bruton** asked the Minister for Social and Family Affairs if she has carried out an assessment of the introduction of a non-means tested payment to carers; and if she will make a statement on the matter. [3462/04]

142. **Mr. Timmins** asked the Minister for Social and Family Affairs the position in relation to the means test for the carer's allowance; and if she will make a statement on the matter. [3466/04]

143. **Mr. Timmins** asked the Minister for Social and Family Affairs if a person in receipt of a carer's allowance can also apply for an old age pension; and if she will make a statement on the matter. [3467/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 141 to 143, inclusive, together.

The carer's allowance is a social assistance payment which provides income support to people who are providing certain elderly or incapacitated persons with full time care and attention and whose incomes fall below a certain limit.

As with all other social assistance schemes, a means test in which the income of both the applicant and his or her partner is assessable is applied to the carer's allowance to ensure that limited resources are directed to those in greatest need.

Provision has been made in successive budgets for substantial increases in the income disregards under the scheme. From April 2004, the weekly income disregards will increase to €250 for a single carer and to €500 for a couple. It is estimated that abolition of the means test for carer's allowance could cost in the region of €180 million per annum.

In relation to paying carer's allowance concurrently with another social welfare payment, such as an old age pension, the primary objective of the social welfare system is to provide income support and, as a general rule, only one social welfare payment is payable to an individual. Persons qualifying for two social welfare payments always receive the higher payment to which they are entitled.

The Review of the Carer's Allowance, which was published in October 1998, considered the introduction of a non-means tested continual care payment to be given, following a needs assessment, to carers caring for those who are in the highest category of dependency.

More recently in 2003, I launched a study on the future financing of long-term care. The study considers a range of benefit delivery mechanisms, including the continual care payment, as well as the issue of a needs assessment. It suggests that consideration be given to a flexible system whereby, following needs assessment, the person in need of care and their carer would select in-kind services or a cash payment or a mix of both. As there are significant issues discussed in the study, including those in relation to benefit design, cost and financing of long-term care, my officials are currently preparing a consultation document to accompany the study. This document will focus all interested parties on the specific issues we need to address. I expect that this document will be ready for circulation by the end of this month.

On completion of this consultation process, a working group, which will include all relevant parties, will examine the strategic policy, cost and service delivery issues associated with the care of older people. The issue of a continual care payment will be considered, as will other proposals, in the course of the consultation process.

144. **Mr. Rabbitte** asked the Minister for Social and Family Affairs her proposals to increase financial supports provided to lone parents to bring them more in line with support provided to other carers of children; and if she will make a statement on the matter. [3493/04]

Minister for Social and Family Affairs (Mary Coughlan): I understand that the reference in the Deputy's question to "other carers of children" refers to the allowance paid to foster carers.

The one-parent family payment, OFP, was introduced in 1997 when it replaced a number of schemes for different categories of lone parent. These schemes included lone parent's allowance, deserted wife's benefit and allowance and the non-contributory widow and widower's pension for those with dependent children.

The scheme is based on the contingency of lone parenthood and the need for social welfare support for parents with children where a person has not secured adequate, or any maintenance from the spouse or the other parent. The scheme also supports and encourages lone parents to consider employment as an alternative to long-term welfare dependency while at the same time supporting them to remain in the home if that is their wish. It is generally accepted that the most effective route out of poverty for lone parents is through paid employment. Accordingly, policy under the scheme is to encourage and facilitate lone parents in moving into the paid labour force

so that they may avoid long-term welfare dependency. The main element of this policy is an earnings disregard of €146.50 per week.

Foster care, on the other hand, is part of the child protection and welfare service and is the responsibility of the Minister for Health and Children. The foster care allowance is paid in respect of children who have been taken into the care of the health board under the provisions of the Child Care Act, 1991, for their care and protection, and placed in foster care or relative care. Foster care is the main form of alternative care for those children who cannot be looked after in their own home. Under the regulations, a health board must assess the needs of a child placed in care, the suitability of the prospective foster or relative carers and draw up a child care plan. The implementation of the child care plan places significant responsibilities and duties on foster carers, whether relatives or non-relatives. The foster care allowance is paid in recognition of these additional responsibilities and the additional costs of looking after foster children. The current rates of payment are €289.50 per week per child under the age of 12, and €316.50 per week per child aged 12 and over.

I am satisfied that the social welfare arrangements in place for lone parents are appropriate and support general policy in this area which is to provide income support for lone parents while at the same time encouraging them to consider employment as a realistic alternative to long-term welfare dependency.

145. **Mr. Costello** asked the Minister for Social and Family Affairs the position regarding the new regulations governing rent subsidies for homeless people seeking to access accommodation; if the regulations will apply to local authority tenants who have been evicted for rent arrears and who would previously have been able to obtain a rent subsidy from the health board; and if he will make a statement on the matter. [3496/04]

Minister for Social and Family Affairs (Mary Coughlan): The recent changes made to the supplementary welfare allowance rent supplement scheme will not affect the ability of homeless people to access accommodation. Specific provision has been made for vulnerable groups such as the homeless, the elderly and those with disabilities.

In the normal course, rent supplement is not paid to an individual who vacates local authority accommodation. Local authority tenants who have been evicted for rent arrears are not ordinarily able to obtain a rent subsidy from the health board. This situation applied prior to the introduction of the latest regulations.

The new measures do not restrict the discretion available to health boards to deal with exceptional cases. In this regard a health board may provide assistance where, in the opinion of the board, the circumstances of the particular case so warrant.

[Mary Coughlan.]

Where a local authority tenant is evicted for rent arrears the health board would normally liaise with the local authority to examine the most suitable solution to address the person's accommodation needs. It would also consider the circumstances which gave rise to the arrears and may refer the person to the money advice and budgeting service for advice and support in addressing the problem.

146. **Mr. Durkan** asked the Minister for Social and Family Affairs the reason the supplementary rent allowance has been reduced from €898.00 per month to €536.20 per month in the case of a person (details supplied) in County Kildare; if this reduction is the result of recently announced budgetary cuts; if her attention has been drawn to the impossibility of obtaining accommodation at the lower rate and the likely hardship caused to this person as a result; and if she will make a statement on the matter. [3539/04]

Minister for Social and Family Affairs (Mary Coughlan): The supplementary welfare allowance scheme, which is administered on behalf of my Department by the health boards, provides for the payment of a weekly or monthly supplement in respect of rent to eligible people in the State whose means are insufficient to meet their accommodation needs.

Rent supplements, which are subject to a means test, are normally calculated to ensure that a person, after the payment of rent, has an income equal to the rate of supplementary welfare allowance appropriate to his or her family

circumstances, less a minimum contribution of €13. In addition to the minimum contribution each applicant is required to contribute towards his or her rent any additional assessable means that he or she may have over and above the appropriate rate of basic supplementary welfare allowance.

The South Western Area Health Board was contacted on behalf of the person in question and has advised that she had been in receipt of a reduced rate of basic supplementary welfare allowance pending the outcome of her application for one-parent family payment. The rate of supplementary welfare allowance was reduced by the value of her maintenance payments. On the basis of her income at that time she was required to pay towards her rent only the standard minimum contribution of €12, increased to €13 from 5 January 2004. Her net income after paying her rent and receiving rent supplement was €129.60 per week.

She was subsequently awarded full rate one-parent family payment and, accordingly, the amount of rent supplement payable fell to be revised to take account of the change in her financial circumstances. As rent supplements are subject to a means test, the reduction in the amount of rent supplement in this case is a direct result of the increase in the individual's income and is not related to any recent changes to the scheme. Following the revision, her net income after paying her rent and receiving rent supplement is now €138.60 per week. The board has confirmed that the person in question is currently in receipt of the maximum amount of rent supplement appropriate to her family circumstances.