



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*  
(OFFICIAL REPORT—*Unrevised*)

Wednesday, 12 May 2004.

Leaders' Questions ... ..	533
Ceisteanna—Questions	
Taoiseach ... ..	542
Requests to move Adjournment of Dáil under Standing Order 31 ... ..	557
Order of Business ... ..	558
Health (Amendment) Bill 2004:	
Second Stage ( <i>resumed</i> ) ... ..	566
Referral to Select Committee ... ..	586
Ceisteanna—Questions ( <i>resumed</i> )	
Minister for Communications, Marine and Natural Resources	
Priority Questions ... ..	586
Other Questions ... ..	598
Adjournment Debate Matters ... ..	610
Estimates for Public Services: Message from Select Committee ... ..	610
Education for Persons with Disabilities Bill 2003:	
Order for Report Stage ... ..	611
Report and Final Stages ... ..	611
Private Members' Business	
Management of Public Funds: Motion ( <i>resumed</i> ) ... ..	662
Message from Seanad ... ..	697
Adjournment Debate	
Schools Building Projects ... ..	700
Child Care Services ... ..	704
Questions: Written Answers ... ..	709

# DÁIL ÉIREANN

—  
*Dé Céadaoin, 12 Bealtaine 2004.*  
*Wednesday, 12 May 2004.*  
 —

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

*Paidir.*  
*Prayer.*

## Leaders' Questions.

**Mr. Kenny:** Perhaps I might revisit a matter discussed yesterday. It is perfectly clear that, when the Irish people voted on the Good Friday Agreement, they did so on the clear understanding that the killers of Detective Garda Jerry McCabe would not be covered by the early release provisions and that they would never benefit from them, instead serving their time. Assurances were given to the nation and the Dáil by the Taoiseach, the Tánaiste and the Minister for Justice, Equality and Law Reform that those killers could never benefit from the early release provisions. Clear and unambiguous statements were made by all three.

Over last weekend and yesterday, the Taoiseach and Ministers clearly shifted their position. The Taoiseach now talks about early release being considered if the achievement of acts of completion were assured. The Tánaiste says that early release would be considered only after the IRA had been disbanded and all paramilitary and criminal activities stopped. However, the leader of Sinn Féin, Mr. Gerry Adams, who was party to those discussions, says that the killers involved, who pumped 12 bullets into the body of Detective Garda McCabe, would be walking the streets if the October deal had been agreed, with a single act of decommissioning. That has caused revulsion among the ordinary, decent citizens of this land.

My question to the Taoiseach on behalf of the people is whom are we to believe. It should be much easier to believe the Taoiseach of our country rather than have to find out what has been going on behind our backs from the leader of the Sinn Féin Party, which has known links to the Provisional IRA. Was that deal on the table last October and if those events had come to a satisfactory conclusion, would those killers now be walking our streets?

**The Taoiseach:** I will revisit just some of the points I made yesterday. I said that what we wanted and needed to achieve was still the same, the complete ending of IRA paramilitarism, decommissioning, the ending of the IRA, acts of absolute completion and the end of the conflict. Those are the issues we have been negotiating for

the past two years or so. At the time of the Good Friday Agreement the cases were still pending and people had not been charged. However, we said that the McCabe killers would not be included under the Good Friday Agreement, neither are they. That was over six years ago and we did not release the prisoners under that scheme. Had that been the case, they would have been set free in 1998 or 1999, as all the prisoners in Northern Ireland were. That question answers itself, they were not released.

What was being considered was the context in which the possible release of the killers of Jerry McCabe might arise. It was to happen only in the context of acts of total completion, as I have said — that term means arms decommissioning and an end to all forms of paramilitarism by the IRA, which means that the IRA will have moved definitively away from violence to the end position. I made that clear in the debate in the House last year when I said that there was no doubt about the object or purpose of the IRA and Sinn Féin statements on 21 October. We had consistently made it clear that a complete transition to a peaceful and democratic society in Northern Ireland was required. I do not want Deputy Kenny to say that it was the mere matter of a single act of arms decommissioning. That was not the arrangement last year, and no one was trying to achieve that. It was only one part of the total process of what we were trying to negotiate in April and October. We are still trying to negotiate that and have not been successful.

The events of 21 October did not unfold in a way that instilled the confidence necessary to complete the sequence of events that would have given completeness to the process under negotiation all last year. Yesterday I said that it involved a complex set of undertakings with a range of elements which would emerge as a sequence of agreed statements and supporting actions, some by the Government, some by Sinn Féin, some by the IRA and some by Unionists. Everyone was playing his or her part in a sequence and process negotiated over the year. Our goal was clear, a way forward on all outstanding issues, bringing closure to those once and for all. It remains the agenda of the Government to try to achieve that, if we ever can. However, we did not achieve that position.

Deputy Kenny asked whether, having achieved all that, we would have honoured our commitments. Yes, we would have done so. If all those points had been agreed, we would have honoured our commitments. However, that did not happen. I emphasise that we are not talking about one point but about a whole sequence and range of issues.

**Mr. Kenny:** The Taoiseach has caused further confusion because he has not answered the question. When he says the IRA has moved to end position, that is different from what he said in recent days to the effect that it was a long way from that. He has not said, in honouring his

[Mr. Kenny.]

commitments, whether or not this was moved on to the table last October. I would remind the House of what the Tánaiste said. She said in Volume 466 of the Official Report on 11 June 1996:

There is no room for ambivalence in relation to such issues. Anyone who falls short of condemning what happened on Friday last, the murder of a member of the Garda Síochána and the serious injury of another, cannot call themselves democrats. One is either for or against violence. There is no grey area in between.

Last weekend the leader of Sinn Féin told us he felt cheated. However, the people who can rightly feel cheated are Anne McCabe, her family and the late Garda McCabe's relatives, friends and colleagues. I accept the Tánaiste was absolutely clear in her comment. She said yesterday that the release of these killers would only take place after all had been laid down, guns decommissioned, an end to racketeering, abductions and kneecappings — matters which the Minister for Justice, Equality and Law Reform has lectured us about in terms of the IRA and what it does.

The Taoiseach knows that the IRA and Sinn Féin are two sides of the one coin. When he says, "We would have honoured our commitment," does that mean that he moved the release of the McCabe killers on to the table for last October and that in the words of Mr. Gerry Adams, "They would now be walking the streets"? In other words, would the IRA have gone away? Does the Taoiseach believe it would have gone away last October if this sequence of events had occurred? Am I to believe the words of my Taoiseach, the leader of our country, or am I to believe Mr. Gerry Adams? Which is it? Was this on the table last October or was it not?

**An Ceann Comhairle:** I would ask the Deputy to give way to the Taoiseach.

**The Taoiseach:** I know that Deputy Kenny is trying to establish that there are some differences in viewpoints on this. There are not.

**Mr. Connaughton:** "Yes" or "No".

**Mr. P. McGrath:** "Yes" or "No".

**The Taoiseach:** I will make it very clear. I have a minute in which to make three brief points.

**Mr. English:** One answer.

**The Taoiseach:** If I can answer——

**An Ceann Comhairle:** I will ask Deputy English to leave the House. The Taoiseach is entitled to have his reply heard without interruption. I am sorry. The Deputy will be asked to leave the House.

**The Taoiseach:** The Government has been consistent in what it has been seeking to do. We have set out in paragraph 13 of the Joint Declaration that we have been trying to bring paramilitarism to an end. We have stated that six years after the agreement transmission to exclusively democratic means must be completed and that ongoing paramilitary activity, sectarian violence and criminality masquerading as a political cause are all corrosive of the trust and confidence necessary to sustain a durable political process.

**Mr. J. O'Keeffe:** Why does the Taoiseach not answer the question?

**The Taoiseach:** That is what the Government has stated. We have said that paramilitarism and sectarian violence must be brought to an end, regardless of from which community they come. In this instance we were talking about the Provisional IRA. We said we needed to see an immediate, full, permanent cessation of all military activity, including military attacks, training, targeting, intelligence gathering, the acquisition or development of arms or weapons, other preparations for terrorist campaigns, punishment beatings, attacks and involvement in riots etc. Moreover, the practice of exiling must be brought to an end and exiles must be free to return safely home. Sectarian attacks and intimidation directed at vulnerable communities must cease. We have stated in reply to a fair question from Deputy Kenny that all this must be signed up to totally and completely——

**Mr. Connaughton:** Categorically.

**The Taoiseach:** ——and within a process of verification by the Independent Monitoring Commission, which was not then in existence — its establishment was agreed at last, 12 months ago last March — and that then we are prepared to honour our commitments. Other commitments had to be dealt with by others, particularly the British Government as regards "on the runs", OTRs. That might have affected us. We have also parliamentary scrutiny, demilitarisation, decommissioning and a host of issues.

I would make the point that I have some experience of Northern Ireland. I am not an expert, but I have some experience. If people expect us to bring it to finality but want the minutiae of the negotiations with people who are extremely difficult to deal with disclosed, I do not think we will ever bring it to an end. It is easy for people, not just Members of the House to take one item in isolation, but we will not be able to deal with it. Both the Tánaiste and I, as much as anyone else, have enormous issues of concern about the release of the four people who killed Garda McCabe.

**Mr. Coveney:** It shames his family.

**The Taoiseach:** However, we are trying to stop the killing of hundreds and thousands of people that has continued for over 30 years. We are trying to end that once and for all. We could sit back and say in effect: "Well, it will drift on and it might never happen again." However, we can see what has happened elsewhere, in the Middle East and other places, and we are not prepared to let matters drift. We want to bring the peace process to finality, not play any games. That is what we are endeavouring to do.

**Mr. Rabbitte:** I read in this morning's newspapers about the Taoiseach in Poland, on CNN and Sky News. I understand that he is big in China today, and that is all good for the country. Does he get any opportunity to have a look at our modest home-grown, under resourced little station in Donnybrook and in particular did he see the programme that showed the acute distress of some families attempting to cope with children who have intellectual disabilities? There are hundreds of families in the same circumstances. They probably all have two things in common. One is that they are all contemplating legal action against the State because they have no right to specialist services; and most of them have considered suicide as the only way out of the dilemma in which they find themselves.

It is difficult to imagine what it must be like for families in those circumstances, unless one has experienced it. My own most recent direct experience is of a mother with two autistic children. My office spent many hours every week on her case over 13 months before we got some modest minimalist relief for her. There are hundreds of families like that. There are 1,633 awaiting residential places, 682 looking for day care services and 1,400 awaiting respite care.

Will the Taoiseach say why the State has no strategy in this area? Why is there such an acute shortage of specialist staff, for example, in speech therapy, where the embargo is biting? Why are there day centres — as well as other centres for residential as well as respite care — that cannot open because staff are not provided? There is an embargo. The money is not provided in a country that can waste €52 million on a failed electronic voting experiment, or €15 million for horses at Punchestown. Yet we have families in these circumstances desperate for relief. Sunday and Monday, Tuesday and Wednesday, every day is the same.

Where is the disability Bill? Why is it not being published before the election? Why does it keep slipping? Why has it been promised virtually every month since the election and in An Agreed Programme for Government? The last commitment was that it would be published before Christmas. I am afraid it will not now be published until after the elections, because it will not live up to the promises the Taoiseach solemnly made in the programme for

Government, in terms of the remit of that Bill to give people legal enforceable rights.

**The Taoiseach:** Before I answer some of the Deputy's questions, I saw some of the programmes he mentioned on our national television station which is not under resourced, as he said. It is resourced better than ever. I saw some of these cases. As long as one family remains in such a plight, a job has still to be done. This Government recognises that. For this reason we have substantially increased resources every year. We are now spending well more than €1 billion. Five years ago, in 1999, the figure was about half a billion. We agreed last December that additional resources were required.

There are difficulties in getting professional staff. As Deputy Rabbitte knows, most of these staff come from abroad. We have recruited people and been actively engaged in recruitment campaigns. While there were some problems about the embargo we have sought to find ways around it for this sector. The Minister of State at the Department of Health and Children, Deputy Tim O'Malley, was successful in acquiring additional resources for staff and services this year. They have been engaged in discussions on how to surmount these problems.

There are approximately 1,700 additional residential places mainly based in the community. These figures include residential respite places in recent years. There has been a 37% growth in the number of people with intellectual disabilities living in full-time residential places in communities. There has been a 165% increase in the provision of intensive places designed to meet the needs of individuals with challenging behaviours, including those whose behaviour may arise as a result of a dual diagnosis of intellectual disability and mental illness. There has been a 47% reduction in the number of people accommodated in psychiatric hospitals, which is a significant achievement. There has been a continual expansion in the availability of residential support services, in particular service-based respite provision. That has grown by 255%, an additional 443 people have received those services in the past two years. Substantial improvements are occurring.

It is true that not everyone who needs a residential place has got one. We continue to try to improve that situation. The assessment of needs for the coming years spells out the figures we must achieve. Of the 1,633 people who require a residential place over the next five years according to the last index, 96% are already in receipt of day places. Therefore, we must continue to try to ensure they have the opportunity to get residential places as they require and as the age profile advances. We are committed to that.

I can also give the figures on sensory disabilities and others, if people wish, but Deputy Tim O'Malley has spelt those out. We are committed to producing not only a disabilities

[The Taoiseach.]

Bill we believe is better than any similar legislation anywhere in the world but one on which we can garner as much support as possible.

**Mr. Rabbitte:** Once again the Taoiseach takes shelter behind the billions of euro spent on this and that. Does he disagree with the Disability Federation when it says that in the last two years no service provider has been able to afford new residential, educational or respite places? Is that the case? If it is, what is the point in talking abstractly in billions of euro? The reality we saw on television last night and the night before shows the circumstances in which people are living. We have heard on three occasions of the commitment to sell off land that would be ring-fenced for investment in services for people with disabilities, first from Deputy Cowen before he escaped the health portfolio, then from the Taoiseach, except he said the land at St. Ita's hospital would be sold off for social housing.

**An Ceann Comhairle:** The Deputy must conclude.

**Mr. Rabbitte:** The Ceann Comhairle is very strict with me but not quite so strict with the Taoiseach.

**An Ceann Comhairle:** The Deputy has gone well over time on his first question and he was the Member who raised the question of Members going over time.

**Mr. Rabbitte:** I apologise and I agree. Will the disabilities Bill be rights based as committed to by the Taoiseach? It is a simple question. Will the Bill be published before or after the election but, most importantly, is it rights based? Does it give people affected the right to enforce access to different services and education?

**Mr. Gormley:** The answer is "No".

**The Taoiseach:** There are two answers. There are 1,700 additional residential places, which answers the first question.

**Mr. F. McGrath:** There are 3,000 people on the waiting list.

**The Taoiseach:** I am not saying there is no one on waiting lists or that the age profile does not bring in more people but there are additional places.

**Ms McManus:** Not this year.

**An Ceann Comhairle:** Allow the Taoiseach to speak without interruption.

**The Taoiseach:** Which question am I answering now? It is very hard to know. Deputy Rabbitte gets a minute to ask me a question but I must answer six people.

**Mr. J. O'Keeffe:** Will the legislation be rights based?

**Mr. Crawford:** That is the question.

**The Taoiseach:** I do not wish to cite figures only but we are spending €1.2 billion on the service which I assume is being used for something. I assume the staff, whose numbers we continually increase, are doing something. The legislation gives a right to people if the system fails them to appeal to the end position. However, I am conscious that NESC and others have said the legislation should not try to achieve legal certainty or constitutional rights although those appeal mechanisms exist. We should be trying to achieve assessment of need, service statements in redress, genetic testing, public service employment and try to give people the services they need, not just their legal rights. The legislation does that very well and it gives them the right to appeal.

**Mr. Sargent:** The Green Party expresses its absolute revulsion at the gross breaches of human rights being witnessed in Iraq, especially following the barbaric killing of Mr. Nick Berg and sends heartfelt sympathy to his family. On the topic of human rights it is appropriate and essential that we also question the record of China. What exactly did the Taoiseach say to Mr. Wen Jiabao, the Chinese Prime Minister, during his visit to Ireland? Amnesty International reports that in each year between 1997 and 2001, the Chinese Government executed 15,000 people, judicially or ex-judicially. However, 69% of capital crimes as defined in China's criminal law are non-violent.

Is the Taoiseach mindful of the many followers of Falun Gong in Ireland who are being persecuted for religious reasons? As one practitioner said at a meeting of the Oireachtas Joint Committee on Foreign Affairs Sub-Committee on Human Rights, China tortures and kills followers of Falun Gong as the ancient Romans tortured and killed Christians. Is the Taoiseach aware of the various methods used to persecute the Falun Gong in China including rape, gang rape, throwing stripped female practitioners into male prison cells, using electric batons on practitioners' sensitive body parts, imprisonment in water cells where the practitioners are immersed in dirty water with no light and stretching and tying practitioners' limbs to the four corners of a metal bed? I could go on had I the time.

Did the Taoiseach condemn human rights abuses in China when he met the Chinese Prime Minister? Did he mention Tibet, which has asked that the Irish Presidency establish an EU ambassador to Tibet given it is illegally occupied? What exactly did he say to the Chinese Prime Minister?

**The Taoiseach:** I raised both issues and several other issues last night in a two-hour meeting with the Chinese Premier, Mr. Wen. Deputy Sargent knows the Tánaiste and I have lobbied hard to secure the release of Falun Gong members who had been here for some time as students and suffered severely under the regime, and that our diplomatic efforts were successful. I have met members of Falun Gong several times and am well aware of what they have said.

Last night I endeavoured to follow the recent EU line which has tried to encourage the Chinese to engage in the process rather than be in denial and to reach an understanding on how these activities can be eliminated in some of the 23 regions where the problem is particularly bad. I stressed, as did many of my EU colleagues in this five country visit, how we believe the Chinese authorities can achieve this. I emphasised the importance for China of this issue if it wants to make progress in other areas. I believe China is doing so and wishes to do so.

I pointed out that China has to work with the EU and other countries on this issue. This has been the case, even from the time I met Premier Zhu Rongji. They realise this and are making efforts to move on and co-operate with other bodies. It is the view of Amnesty International and others that we will make no progress if we continue to lecture them without trying to engage with them. Last night I emphasised what I believe the EU strategy on human rights and the dialogue on this between the European Union and China can do to enhance their position. It has already helped them to get membership of the WTO. They are also interested in a number of other issues.

I only raised the issue of Tibet briefly yesterday because it was raised in the Troika meeting last March where some progress was made on it. They have agreed a process on Tibet. The Minister for Foreign Affairs, Deputy Cowen, has been particularly active on that during our Presidency, in the Troika in March and since then.

Premier Wen Jiabao informed me last night that they would engage in the EU human rights dialogue in a constructive and meaningful way. We will have to see if that happens, but that was what he stated and I have to accept that they will do that. He also said that to the other five European leaders he met over the past week.

**Mr. Sargent:** I did not ask the Taoiseach if he had lectured anybody, I asked him if he condemned human rights abuse in China, yes or no? The reason I ask is that it seems it is not just the Chinese who are in denial, because it says in today's edition of *The Irish Times* that the Taoiseach raised human rights issues and expressed satisfaction that progress had been made. Certainly those who are suffering and the people who are in contact with us and Amnesty International have not been expressing satisfaction. I ask the Taoiseach once again if he condemned human rights abuses in China.

Second, will he tell us what was the reason, as there has been much speculation, that the press conference that was to be held last night was not just called off, but was called off over a tannoy so that nobody could be asked, face to face, why it was called off? Will the Taoiseach outline why there is a reluctance to have questions asked of the Chinese Prime Minister about any number of issues to do with China? Goodness knows there are many in that large country. Essentially, people want to know if the Taoiseach condemned human rights abuses in that country.

**The Taoiseach:** We express our concern and revulsion at human rights abuses anywhere.

**Mr. Gormley:** Did the Taoiseach condemn human rights abuses?

**The Taoiseach:** We did that again. To clarify the matter for Deputy Sargent, what I said last night is that I was glad there was positive engagement on the most recent session of the EU human rights dialogue which took place in Dublin at the end of February. Following that, we got the release of three detainees who were on the list of the EU. I communicated to the Prime Minister that we would try to deal with the other people on that list. The human rights groups who are concerned about China also praised that initiative. We must be consistent.

There is no doubt that the protection of human rights is a challenge for every administration. I am not saying that Deputy Sargent said that they should not be lectured to, but for decades China refused to engage with the various human rights bodies. They have now agreed to do so, which is a considerable achievement, and will respond to requests, not my requests but those which human rights bodies asked us to raise. We got that commitment last night, which is important.

## Ceisteanna — Questions.

### Social Partnership.

1. **Mr. Sargent** asked the Taoiseach when he will next meet the social partners; and if he will make a statement on the matter. [8598/04]

2. **Mr. J. Higgins** asked the Taoiseach when he next expects to meet the social partners; and if he will make a statement on the matter. [9099/04]

3. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on his involvement in talks on the next phase of the social partnership agreement; when he will meet the relevant parties; and if he will make a statement on the matter. [10497/04]

4. **Mr. Kenny** asked the Taoiseach when he will next meet the social partners; and if he will make a statement on the matter. [10543/04]

5. **Mr. Rabbitte** asked the Taoiseach the matters discussed and conclusions reached at the meeting with the social partners in his Department on 29 March 2004; his views on the prospects of a new pay deal for private sector workers in view of the meeting; and if he will make a statement on the matter. [10701/04]

6. **Mr. Rabbitte** asked the Taoiseach when the next quarterly meeting of the social partners under the Sustaining Progress process is planned; and if he will make a statement on the matter. [10702/04]

7. **Mr. Rabbitte** asked the Taoiseach his views on whether there should be a successor national agreement to Sustaining Progress; and if he will make a statement on the matter. [10703/04]

**The Taoiseach:** I propose to take Questions Nos. 1 to 7, inclusive, together.

Social partnership has been of enormous benefit to Ireland, both socially and economically. Since the programme for national recovery in 1987, the stability it provides has allowed for record levels of growth and enhanced social inclusion. In recent times of more moderate growth, the processes of social partnership have helped maintain competitiveness and a pro-jobs environment while enhancing a co-ordinated and comprehensive approach to inclusiveness issues. I assure the House that I am committed to the implementation of Sustaining Progress, which is operative to the end of 2005 and to the development of further national agreements in future.

As I indicated to the House, considerable progress continues to be made in implementing the wide-ranging set of commitments in Sustaining Progress. This was borne out by the fourth progress report, which was produced for the last social partner plenary meeting held on 23 April 2004. I was represented at that meeting by officials from my Department. The agenda for that meeting included a presentation on the spring European Council and the Tripartite Social Summit which preceded it; a presentation on the recent overview of waste management plans; and an overview of the arrangements for the mid-term review of the wider policy aspects of Sustaining Progress. The fourth progress report on the implementation of Sustaining Progress was also presented to the meeting. A copy of the report and relevant Powerpoint presentations have been laid in the Oireachtas Library. The date of the next quarterly plenary meeting of the social partners is 13 July 2004.

I will attend that meeting with the Tánaiste and the Minister for Finance. While the agenda is not set, I envisage that it will address the mid-term assessment of the ten special initiatives contained in part one of the agreement. The review of the interim pay terms contained in part two of the agreement was formally initiated on 29 March 2004. This meeting was attended by representatives of the Irish Congress of Trade Unions, the Irish Business and Employers

Confederation, the Construction Industry Federation and relevant Departments, including my Department.

The parties set out their opening positions in some detail, by reference to their assessment of current and prospective economic conditions. It was agreed that the discussions would be managed in a way that would accommodate differing interests and concerns of the private and public sectors within the framework of a single agreement.

While SIPTU did not participate in the meeting because of concerns about the clarity of assurances already given in regard to employees in State companies, the framework of partnership continues to offer the best environment for dialogue around the future of State companies. It is one in which I hope, on reflection, it is possible for all parties to participate.

The future of the State sector is closely linked to the health of the wider economy and I believe that the current round of pay talks have a crucial role in restoring our competitiveness and maintaining employment across all sectors. For that reason, and recognising their valuable contribution to the social partnership process to date, I encourage SIPTU to join in the pay negotiation process and to utilise the other talks processes in regard to specific companies.

I stated publicly that I share the view of the SIPTU general secretary that the challenge faced by social partnership is that of reconciling the objective of a dynamic, competitive economy with that of fairness and promotion of workers' rights and interests in the workplace. I believe that the resumption of the pay talks provides a pathway to the best possible framework for ensuring such a balance.

Since the first meeting to review the pay terms took place on 29 March, the Secretary General of my Department has met ICTU officials, including SIPTU representatives, and ongoing contact has been continuing in an effort to provide a basis for the resumption of talks. I am confident that this will occur in the immediate future.

The overall objective of the pay review talks, from the Government's point of view, will be to ensure a pro-competitiveness and pro-jobs outcome, while at the same time, ensuring industrial relations stability.

**Mr. Sargent:** One of the issues dealt with to some extent yesterday relates to the social partners. The commitments on social housing often comes up in discussions about the social partnership. Does the Taoiseach not agree that very little progress has been made in this area? Going by the figures collected by CORI, 130,000 people in over 48,000 households are on waiting lists for social housing, a growth rate of over 76,000 since 1996.

A total of 10,000 additional units of affordable housing were agreed under Sustaining Progress. Will the Taoiseach indicate why no planning applications have been lodged or no architects

appointed? Will the Government bring some level of radical overhaul in this area to ensure a future for social partnership? Would such a radical overhaul, perhaps, include some of the recommendations from the All-Party Oireachtas Committee on the Constitution which appropriately recommended that social housing be included in the definition of public infrastructure, that it should be seen as part of the infrastructural needs for society and provided for in the same way as other basic infrastructure? Does the Taoiseach agree that there is a lack of adequate progress in the provision of social housing and that it is time to reintroduce Part V of the Planning and Development Act 2000 to ensure that 20% of new housing developments include social and affordable housing? Are we not looking at a serious lack of progress in this area?

**An Ceann Comhairle:** It might be more appropriate for the Deputy to table a detailed question on housing in that regard to the Minister for the Environment, Heritage and Local Government.

**Mr. Sargent:** This is the issue that arises most when we discuss social partnership.

**An Ceann Comhairle:** A detailed question on this matter tabled to the Minister for the Environment, Heritage and Local Government would be more appropriate.

**Mr. Sargent:** I will do that.

**The Taoiseach:** It might be best if I confine my reply to Part 5 of the Act, given that Deputy emphasised that. Sites have been identified. They are an addition to the provisions of Part 5 of the Act in the normal sense, although I do not have the figures in that regard. The sites have the potential to yield more than 6,000 units. The precise number of units can be determined in planning individual projects. There are about 24 developments. They will take account of site characteristics and the need for sustainable development. The objective will be to maximise the output of affordable housing. It may be appropriate to incorporate a mix of housing and other facilities to ensure a good living environment for the purchasers. Once the initial planning phase is over, specific planning permission for the project will have to be obtained and developed as well as procurement to deliver the project before construction can begin. We will ensure that these processes take place in parallel to the greatest extent possible to ensure early delivery. These processes must be followed for statutory reasons.

The Department of the Environment, Heritage and Local Government and the contacts group will ensure that the momentum to progress the initiative is maintained. The social partners have agreed, in principle, the eligibility criteria that

will apply to the initiative. It will be broadly similar to that provided in Part 5 of the Planning and Development Act 2000, as amended. The criteria will be based on ability to pay and will be location sensitive. The details have to be finalised with the parties to the pay agreement and, when finalised, they will be published.

On the matter of the timescale for the delivery of this initiative, agreement on this was reached last July. The Government put forward a number of sites in July and December. There is an issue regarding some of the sites possibly not being suitable and some of them may be switched to engage some of the developers. Mr. Des Geraghty will play a part in that to try to drive the process forward with the social partners. The sites are available and it is a matter of making the process happen as quickly as possible. I hope that can be done. Like all such processes, it moves more slowly than one would like. It is not yet a year since we identified the sites, but the process needs to be driven. Several meetings have been held since Christmas with all those involved and I hope that will have helped to quicken up progress in this area.

**Mr. Sargent:** This is another broken promise.

**Caoimhghín Ó Caoláin:** On the same issue, on the previous occasion the Taoiseach addressed this subject in the House on 11 February, he indicated he was confident that construction would commence before the year's end. Is he still confident that we will see a commencement of building projects under the affordable housing initiative, which was such a key provision in Sustaining Progress?

The Taoiseach indicated that agreement with the ICTU on the eligibility criteria has been reached. He briefly indicated some elements of that. Can he elaborate on the criteria agreed? Can he advise the House of some of specifics and detail?

The Department of the Environment, Heritage and Local Government was quoted in the media on 16 April as stating that a delivery model was still being developed with the social partners, but no agreement had been reached on who would provide the initial funding to hire builders. Is this the case? Is this another situation where bureaucracy is delaying the implementation of an important and welcome initiative? Will the Taoiseach elaborate and advise the House on that?

**The Taoiseach:** This is one area where the system, at least in so far as the Government is concerned, has delivered. We have now achieved 60% of what was proposed. However, Deputy Ó Caoláin has a point regarding the bureaucracy involved. I find that difficult because I thought the land would have been the major issue, but we have provided land. The eligibility criteria have been agreed. Funding should not be a problem, but that is not covered in my note and I will check



[The Taoiseach.] that. This initiative needs the involvement of the local authorities and planning is required for the projects. It also needs the Department of the Environment, Heritage and Local Government and some of officials who are in the social partnership group to work together. I know officials in the smaller group have been driving this forward, but they need to deal with the planning process. Part 5 of the Act, the mechanism for providing that, is in place.

Des Geraghty is being brought in to try to knit the group together. He was very involved in his previous career in drafting this initiative and he will try to pull the people together. I hope that will help to overcome the bureaucracy. Deputy Ó Caoláin has a point regarding the bureaucracy; the system is in place and we now need to pull it together and drive it on. Deputy Sargent, who has left the Chamber, made the point that we are spending €1.8 billion on these schemes this year. Therefore, there is not a resource problem.

The first scheme under this initiative was launched in Finglas a few weeks ago. It is a modest one. I am glad to see the first scheme under construction. It will consist of 150 houses, 35 of which will be for senior citizens. If such projects were in the private sector, I am sure the builders would be quick to take them up and get on with the work. We should be able to achieve the same in this regard. These are all open sites; they are not complex. Therefore, we should be able to move the process forward reasonably quickly.

I was at an opening of an affordable housing scheme the other night and I do not understand why every time we go to build another development, we have to redesign it and we need another group of architects. I do not understand why in these cases we cannot use the same set of plans for a new site. I get frustrated every time I am told that new plans are needed because of drains or something else. I am no engineer or architect. Anyone who knows me would know that I would not build much, but I do not understand why the process involved is so convoluted.

**Mr. Rabbitte:** The Taoiseach is good at putting up the old hanging baskets.

**The Taoiseach:** Just about. That is about as good as I am.

**Ms McManus:** Perhaps the Taoiseach should wear different suits.

**The Taoiseach:** When it comes to affordable housing, if a scheme is adequate, wins awards and everyone is happy with it, why can the plans for such a scheme not be applied to other such schemes?

**Mr. Kenny:** The same is true in the case of schools.

**Caoimhghín Ó Caoláin:** What about the eligibility criteria?

**The Taoiseach:** The criteria have been agreed and they are to be announced by the social partnerships. It may be that the funding issue, which the Deputy raised, is delaying matters, but I will check that.

**Caoimhghín Ó Caoláin:** Will the Taoiseach circulate me with his findings?

**Mr. Kenny:** Given the remarkable revelations at AIB last week, does the Taoiseach agree that the consumer's voice is weak or that the consumer has no voice regarding the current decision-making framework and that a strengthened Office of the Director of Consumer Affairs with an office holder along the lines of a consumer rights enforcer, which Deputy Hogan has promoted for some time, should be a representative at future social partnership talks to ensure that the necessary checks and balances can be put in place to protect the consumer? Does the Taoiseach favour that kind of strengthened position? Will he comment on that?

I note that MANDATE last month reported that 1,800 shop workers in the Republic are assaulted every year and that 7,500 are victims of verbal abuse. This comes on foot of anecdotal evidence that the level of racist abuse directed at shop workers of different ethnicity is becoming increasingly prevalent. Does the Taoiseach believe that the next social partnership agreement should examine devising methods to combat this growing phenomenon? Will he or some of his officials call in representatives of MANDATE to discuss its report and to ascertain its view on how this could be achieved?

**The Taoiseach:** On the first issue, a good aspect of the legislation on the Irish Financial Services Regulatory Authority, IFSRA, and the related legislation, which we discussed yesterday and which I understand will be cleared in the Seanad next week, is that it has a consumer element to it. From the point of view of people's concerns about the consumer interest, it is good that they are involved. I do not have a difficulty with this. I do not know which organisation will be involved or which way we will proceed but those representing consumers' interests should be heard.

I am not aware of the details regarding the second issue to which the Deputy referred. However, I will ask the officials involved in the social partnership negotiations to follow up on that issue. More generally, I am aware that there is a growing problem regarding how, in our multi-ethnic society, people deal in the large shops. While they are not markets, I accept that there is a problem. This matter has been raised with me by a number of individuals and I have been informed that perhaps because there are so many people of other nationalities living here, there is

a certain friction which was not evident previously. We must work to ensure this does not develop into a larger problem. I have spoken to many individuals who work in stores about the matter. As the people concerned are not all Irish, there is obviously a problem as regards multiculturalism, with which we must deal. I imagine that is what is causing the concerns to which the Deputy referred. I will ask the officials to discuss the matter with MANDATE.

**Mr. Rabbitte:** Does the Taoiseach agree that the reason we cannot proceed with delivering on the commitment in Sustaining Progress to provide 10,000 additional affordable housing units is not really to do with architects or bureaucracy but a lack of will on the part of the Government to drive the implementation of the programme? We are entering the second half of the period to which the agreement refers and not one brick has been laid or a single house built. There does not seem to be any political will to deliver on the promise to provide these additional houses, despite the manner in which the numbers on housing waiting lists are increasing, almost exponentially, every year.

The Taoiseach stated he had attended the opening of a housing scheme the other night. Is he referring to the scheme at Finglas where the affordable houses in question are being built under Part 5? Will he indicate whether the Government is seeking to do what it did with the RAPID programme? When the Government pulled the rug, in financial terms, from under the programme, the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, travelled around the country relabelling projects that were coming on-stream in any event as being part of the RAPID programme. It seems that the Taoiseach went to Finglas and gave 150 houses that were being built in any event Part 5 designation, thereby making them part of the social housing provision of 10,000 units. Is it not the case that if the Government seriously wanted to drive implementation of the programme in the light of the acute nature of the housing crisis at that level, the houses in question would be beginning to become available now?

**The Taoiseach:** I referred to two sites. At Finglas, the building work is only starting. The housing scheme I opened recently, which was completed by the organisation Respond, comes under the heading of voluntary housing and does not relate to the affordable housing programme. I am not trying to confuse matters. The Finglas scheme comes under the affordable housing initiative.

The Government provided 6,100 sites in two tranches, the first in July last year and the second in December. Those sites are now available. There has been a debate between the social partners since last September until now regarding the scheme and the model to be used and, as I informed Deputy Ó Caoláin, I understand

agreement has been reached. The Government provided the sites. In this instance, I was of the opinion that this would have been a major contribution on its part. There are almost 3,000 sites in Dublin city and county, 1,000 in Cork, 350 in Meath, 350 in Kildare and approximately 100 in Waterford. We are trying to obtain others. If the model is agreed and the local authorities and the Department of the Environment, Heritage and Local Government are involved, we can proceed.

Private developers state it takes five years from the purchase of a site to the sale of the first house. We made the announcement on 13 July last, approximately ten months ago. However, I hope it does not take five years to deliver the houses. We should be able to make further progress in trying to drive matters forward. I do not want them to be drawn out. I have asked my Department, the Department of the Environment, Heritage and Local Government and the local authorities to work together. I have also asked the former president of SIPTU who is involved in the scheme to try to assist us in bringing people together and driving matters forward. It is because we are trying to make progress that we are doing this. The sites are available and the scheme is in place. Therefore, we should be able to proceed. That is the position.

I do not believe there has been a delay. The model outlined under Part 5 is in place. It has been agreed that this model, which was used in the Finglas affordable housing scheme, can be extended to the other 6,100 sites. The Finglas development does not come within those 6,100 sites.

There are difficulties which I do not quite understand and on which the Deputy might need to table a question to the Department of the Environment, Heritage and Local Government. In some instances, local authorities have indicated that some of the land provided is not suitable because of a lack of adequate facilities nearby. They have suggested that swaps should be arranged with developers for more suitable sites which would all work to proceed more quickly. If this is done in the correct way, I have no difficulty with it. I am not sure of the details but if it means developers swapping sites for more suitable adjacent sites, there should be no problem.

I hope to be able to identify more State-owned sites to be made available. If the land is available, the model is in place and the various groups work together, we should be able to make progress on this matter.

**Mr. Rabbitte:** It is difficult to believe building a house in 2004 is a matter of rocket science. I do not understand it.

I return to the question of whether there is likely to be a new social partnership agreement, the absence of SIPTU from the negotiations and the issue of State companies. SIPTU absented

[Mr. Rabbitte.]

itself as a result of what has been happening with Aer Rianta and Dublin Bus and the disposition of the Minister for Transport in respect of these issues. Is the Taoiseach in a position to indicate where we stand regarding the inclusion of SIPTU in the negotiations, particularly as it affects the Aer Rianta situation? Since last July legislation to break up Aer Rianta has been promised on a number of occasions, particularly in November, but has not yet been forthcoming. Has the Government been reconsidering this matter?

I had the privilege yesterday of visiting an Irish multinational, Keenans, in Borris, which is an immensely impressive engineering company. Aer Rianta is effectively an Irish multinational company with a considerable reputation outside this jurisdiction. If it was operating in the private sector, the Government would be building up its capacity as an Irish multinational but what we are actually doing is breaking it up into three different companies for a stated objective that none of us can understand.

**An Ceann Comhairle:** A question please, Deputy.

**Mr. Rabbitte:** Is it not the case that the Minister for Transport, Deputy Brennan, has been unable to publish the business plan we began discussing last July? It would facilitate the full re-entry of SIPTU to the negotiations if the Taoiseach could provide assurances on the future of Aer Rianta. Why are we persisting with dismantling the company? Does the company's international reputation not mean that it is a significant player in the area? By breaking it up it will become insignificant and one or two limbs of it will prove unprofitable and be parcelled out to the private sector as SIPTU fears. Will the Taoiseach say whether he can rein in the Minister for Transport who takes an ideological approach to these issues? They keep driving press releases, but not much else is driving in this country.

**An Ceann Comhairle:** The Deputy should confine himself to questions.

**The Taoiseach:** As Deputy Rabbitte knows, I have been dealing with this issue, either directly or indirectly, over the past 12 months. There are a number of aspects to the issue. I have given repeated assurances that there will be no diminution in the tenure of the terms of the conditions of employment of workers in State companies, specifically CIE and Aer Rianta. Talks have resumed today in the case of these two companies.

Talks have been going on in one form or another for the past ten years and actively for the past five years seeking certain reforms. A new paper is up for discussion today and hopefully those involved can enter the talks in a spirit of dialogue and try to come to conclusions as quickly as possible. The process is there for that

reason and I have tried to help to get that engagement.

It is really about changing the stated position of the 1932 Act before it is done for us by the European Court or elsewhere. This was first highlighted about 20 years ago but we are still talking about it. At all times I have tried to keep the dialogue going but it is time to come to conclusions on the matter. I wish both the unions and management well in the deliberations. I do not seek to mention figures but urge those involved to get on with the talks and discussion of the papers put forward by the Department.

I have stated in my agreement that there is no conflict between the objectives of the reform of either sector with good and secure employment in the other. With the appropriate engagement of both sides that can be achieved. I have set that out and hope it is helpful to SIPTU.

Aer Rianta, which is a good company, has considerable difficulties in that regard. The Government has no intention of privatising Aer Rianta. However, it has problems and is not so financially strong, as has been pointed out. The unions are aware of this because they got the 40 page document to examine a few weeks ago. Reforms are necessary as believed and argued for by the regions, particularly Cork and Shannon. They believe that if they were allowed to operate as separate agencies, they could do a good job. That case has been made to the Minister and he has gone along with that.

Deputy Kenny raised the issue yesterday of the alternative view that private investors want to construct an independent terminal on a Dublin Airport site. They say if they can do it independently with unionised labour, they can bring in — I forget the exact figure — approximately 5 million additional customers and an enormous amount of work. As Deputy Rabbitte knows, that is totally opposed by Aer Rianta workers who are opposed to private development in any form in this area. It is a difficult issue because it seems that if we had an independent terminal and all these extra people, they would bring added value to the city. I have endeavoured to get some facilitation——

**Mr. Rabbitte:** Many transport economists agree with the unions on this issue. Why duplicate or create a competitive model at the airport when it could be done more economically and efficiently as another public sector terminal?

**An Ceann Comhairle:** Allow the Taoiseach to reply without interruption.

**The Taoiseach:** As the Deputy knows, three independent reports, two large and a smaller one, were produced on this issue. The former Secretary General of the Department of Finance, Mr. Paddy Mullarkey, chaired the group which produced the most recent one, which was a comprehensive report. It came out in favour of an independence. It is a hotly fought issue. I have

talked to staff and to people in the airport on the matter. This issue feeds into the matter of the splitting up of the company. The talks are ongoing and are trying to find a resolution to the issue.

Now, because of those difficulties, we are not moving forward with the independence of the airports although we have good people lined up to drive this change in the regions to make it happen. On the point made by Deputy Kenny yesterday, none of the 13 companies where people want to invest privately has got going. I understand the fear of Aer Rianta staff is that if there was another terminal, their jobs would go and the cake would not grow. However, quite frankly, I do not think that would happen because all the indications are that tourism numbers and travel will increase. This year Dublin Airport, in spite of the conflict, has 19 new destinations, all of which are doing well. For travel in and out of Dublin also, the capacity figures are far higher than in most other countries. The most lucrative line in Europe at present is the Dublin-London line.

If we do not move on, we will stifle growth and large numbers of hotels and other industries in the area will be affected by that. We are trying to come to conclusions and to keep the workers satisfied. It is not a question of trying to privatise Aer Rianta, either split up or collectively, in any form. It seems we will lose out on other opportunities if we cannot find a way forward.

**Mr. Rabbitte:** There are economists who say that—

**An Ceann Comhairle:** I want to call Deputy Sargent. Deputy Rabbitte has had three supplementary questions. If he wants to pursue the matter he should submit a question to the Minister for Transport.

**Mr. Rabbitte:** —the most efficient use of resources is to expand the facilities that are there.

**Mr. Sargent:** I am concerned, and would like to know if the Taoiseach is also concerned, that the future of social partnership is being seriously jeopardised. Regardless of the Taoiseach's penchant for dialogue, to which we listen for long periods here, does he agree that a pledge of 10,000 additional units is a copper-fastened agreement? It is something that cannot simply be dismissed by an approach which says there are difficulties or problems with the drainage or that not being a builder he would not understand them. It is a pledge based upon the best advice of experts at the time and was not lightly entered into. Does he agree that there is a need to look not just at that pledge but also at 13 other pledges which were not followed through in terms of the agreement and on which CORI prepared a paper? Is there not a need, if he has any hope of another social partnership, to record exactly what went wrong, where it went wrong and what the

Government will do to compensate for it, and to set out dates for when, for example, the 10,000 units will be built? As matters stand, the credibility of another partnership is in jeopardy.

**An Ceann Comhairle:** The Deputy should confine himself to questions.

**The Taoiseach:** I think Deputy Sargent misunderstands this.

**Mr. Sargent:** I am not the only one.

**The Taoiseach:** There was no expert opinion on this. The trade unions asked whether the State would provide 10,000 sites they could be used in the lifetime of the next programme, and the State has identified well over 6,000. Working with the social partnership we were to devise the criteria, the scheme and the process, and we are fully engaged in this. I am not involved in the construction. Our part was to provide the sites and to deal with the process involved. Local authorities, working in partnership with some of the private sector developers, will have to build the schemes. We have provided the land, the resources, the scheme and the process. We made a first announcement ten months ago and hopefully we will get on with it.

Deputy Sargent is right that building the units does not involve rocket science. However, developers will say that from the time they purchase a site until they build a house, with our plan and process, it will take them five years. In many cases it takes far longer but they say the best they can do is five years. Therefore, after ten months, we have not fallen behind. However, I would like to see them built quickly and hope we do not have to wait five years. I accept that bureaucracy should not allow this to be held back. I want to see progress.

#### National Security Committee.

8. **Mr. Kenny** asked the Taoiseach if, in view of the recent atrocity in Madrid, he plans to convene a meeting of the high level group chaired by his Department to monitor the aftermath of the September 2001 terrorist attack in the United States; and if he will make a statement on the matter. [8970/04]

9. **Mr. Sargent** asked the Taoiseach if the high level group on terrorism has met since the Madrid bombings; if not, when it intends to meet again; and if he will make a statement on the matter. [9109/04]

10. **Mr. McGinley** asked the Taoiseach if the National Security Committee has met since the Madrid bombings; the membership of the committee; if it has reviewed the threat level from international terrorists to this country since Madrid; and if he will make a statement on the matter. [9568/04]

11. **Mr. Rabbitte** asked the Taoiseach when the high level group, chaired by his Department,

[Mr. Rabbitte.]  
established after 11 September 2001 last met; if the group has considered the implications of the Madrid bombing; and if he will make a statement on the matter. [10706/04]

**The Taoiseach:** I propose to take Questions Nos. 8 to 11, inclusive, together.

The tragic events in Madrid have re-emphasised the need for continuing vigilance against the threat of international terrorism. The security services continue to closely monitor developments, in consultation with security services in other countries.

The National Security Committee is concerned with ensuring that I and the Government are advised of high-level security issues and the responses to them, but is not involved in operational security issues. It is chaired by the Secretary General to the Government and comprises the Secretaries General of the Departments of Justice, Equality and Law Reform, Defence and Foreign Affairs, the Garda Commissioner and the Army Chief of Staff, and their respective deputies.

The committee met on 16 March in the aftermath of the Madrid tragedy and again in April. In addition, its members maintain close contact on an ongoing basis.

**Mr. Kenny:** In the aftermath of the Madrid terrorist authority the Minister for Defence requested a review of the State's security measures. Was that carried out and is there an outcome to it?

Is the Taoiseach not concerned that Ireland's approach to emergency planning is very fragmented, coming as it does under the control of the National Security Committee, the Office of Emergency Planning, the Task Force on Emergency Planning and the interdepartmental group under the control of that task force? Are there any proposals to streamline this?

In respect of the very welcome celebrations which the Taoiseach hosted for the EU enlargement ceremonies, was there any contact with any other European Union states on the question of providing assistance or extra protection to this State in the event of a warning about a possible terrorist attack?

**The Taoiseach:** This group of questions brings together the role played by Departments and the security issues with which the Garda Síochána and the Army deal. The Garda and the Army now have extensive contact with Europol and Eurojust. There are procedures whereby there is almost daily contact and exchange of information and intelligence with Europol and Eurojust. The system works very tightly. The National Security Committee feeds into Government. The arrangements are fairly tight.

On the enlargement celebrations, any information would feed through. Obviously the Garda paid close attention to the movements of certain people in making preparations.

Furthermore, there has been constant and very close monitoring since 11 September 2001 of a large number of international groups and operations. The Garda and the Army are increasingly involved in close co-operation with Europol and Eurojust. One can never say a system is perfectly tight, given what happened in Madrid and the fact that a number of groups are creating considerable concern in Europe and beyond. I know this from my colleagues. However, co-operation is at an all-time high in so far as we can effectively work on these issues.

**An Ceann Comhairle:** Three Deputies submitted questions. If the House agrees, we will take questions from each and a final reply from the Taoiseach.

**Mr. Sargent:** I listened to what the Taoiseach said regarding monitoring and I find it difficult to accept. Does the Taoiseach believe we as an island are mindful of the enormous lack of monitoring around our coast at ports, harbours and ferry access points? The number of stolen cars leaving this country suggests it is possible for people to go through without too much fuss or monitoring.

**An Ceann Comhairle:** The Deputy should ask a question.

**Mr. Sargent:** Would the Taoiseach agree that terrorist monitoring in the aftermath of September 2001 is more focused on what might be called "spectaculars" rather than on the day to day groundwork monitoring that seems to be more in evidence at football matches than at ports? Would the Taoiseach not agree that there is a significant need to monitor our coast? Is that being done? It is certainly not in evidence at the ports and harbours in my constituency.

**Mr. McGinley:** Would the Taoiseach agree with the generally accepted view that, in the event of an attack similar to 11 September 2001, we would not have the capacity to defend our airspace? Has this been addressed by the National Security Committee? Is there any understanding between ourselves and any of our neighbours that assistance would be provided in the event of such an attack to defend our airspace and our people?

**The Taoiseach:** In answer to Deputy Sargent's question on general security regarding drugs and stolen products, there is enormous cross-over of intelligence inside and outside the country between the Garda and customs agencies. Europol and Eurojust track the movement of drugs, sometimes successfully, sometimes not so successfully. Regarding rings involved in car theft and other issues there is very close co-operation. I presume the Deputy is referring to a number of major investigations currently under way and there is a two-way trade on these issues.

Shortly after the events of 11 September 2001, the Government set up the Office of Emergency Planning to co-ordinate the work of the various emergency agencies in preparing contingency plans. The Task Force on Emergency Planning which is chaired by the Minister for Defence meets frequently to discuss these issues, which include issues of airspace.

In the event of a major disaster the level of expertise and infrastructure that would be required is far greater than we would have. Other European countries would always assist, if requested, in the event of a tragedy in what would be considered to be crisis management relationships. The possibility of requesting assistance or aid is available to us under present arrangements. As we have seen, a number of far more sophisticated and larger countries than ours do not have these capacities. If a major incident occurred we would have to seek assistance. Such an atrocity happened some years ago involving an Air India aeroplane off the Cork coast and we were assisted from outside. The level of co-operation between the Task Force on Emergency Planning and Europol and Eurojust is at an all-time high, as is the number of people involved in justice and home affairs issues compared to a few years ago when it was not a big issue. Today it is by far the biggest issue on the European agenda, given the astronomical extent of resources being put into emergency planning and emergency frameworks.

#### **Requests 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 number of notices under Standing Order 31. I will call on Deputies in the order in which they submitted their notices to my office.

**Mr. Neville:** I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the neglect of citizens with intellectual disability and the failure of the Government to form a national strategy to deal with this neglect or to provide adequate funding to provide urgent and necessary services for the intellectually disabled; the failure of the Government to publish rights-based legislation as promised; the fact that 450 people with intellectual disabilities are in inappropriate institutions built in a bygone era to provide care for the mentally ill; and that more than 3,000 people are on waiting lists for respite and residential care and therapeutic services.

**Caoimhghín Ó Caoláin:** I seek the adjournment of the Dáil under Standing Order 31 to discuss the following matter of urgent national importance, namely, the daily revelations about the murder of civilians and the torture and degrading treatment of prisoners by occupation forces in Iraq, and the need for the Government

to end immediately its shameful collaboration with the US and British war on the people of that country and to deny the use of Irish airports to the military forces of the occupying powers.

**Aengus Ó Snodaigh:** I seek leave to move a motion for the adjournment of the Dáil under Standing Order 31 for the following specific and important matter requiring urgent consideration, namely, the need to allow Deputies to make their opinions known on the occasion of today's visit to Ireland of the Chinese Premier; the need for China to open unconditional negotiations with the Tibetan Government in exile; the need to express our deep concern that China's human rights record has deteriorated rather than improved, particularly in respect of Tibet; the need to allow us to call for the immediate release of Tibetan political prisoners, including Tenzin Delek Rinpoche and the Panchen Lama, Gedhun Choekyi Nyima; and the need to allow us to express our support for Tibetan self-determination.

**An Ceann Comhairle:** Having considered the matters raised, I have decided that they are not in order under Standing Order 31.

#### **Order of Business.**

**The Tánaiste:** The Order of Business today will be No. 14, Health (Amendment) Bill 2004 — Second Stage (resumed); and No. 15, Education for Persons with Disabilities Bill 2003 — Order for Report, Report and Final Stages. It is proposed, notwithstanding anything in Standing Orders, that the resumed Second Stage of No. 14 will, if not previously concluded, be brought to a conclusion at 1.30 p.m. Private Members' business will be No. 36, motion re management of public funds (resumed) to conclude at 8.30 p.m.

**An Ceann Comhairle:** There are two proposals to be put to the House. Is the proposal for dealing with No. 14 agreed?

**Caoimhghín Ó Caoláin:** It is not agreed.

**Mr. Kenny:** It is not agreed. The Government has proposed to impose a guillotine on Second Stage of the Health (Amendment) Bill 2004. Fine Gael has objected consistently to guillotines and it does so now again.

**Mr. Stagg:** There is no need for a guillotine in this case. Plenty of time is needed to debate this important Bill fully. The Labour Party opposes the guillotine.

**Mr. Sargent:** The Green Party opposes the guillotine. The Health (Amendment) Bill 2004 will significantly affect the administration of the health system. It would be irresponsible to try to guillotine a Bill that needs to be debated fully.

**Mr. Naughten:** Hear, hear.

**Caoimhghín Ó Caoláin:** The Health (Amendment) Bill 2004 is important because it seeks to remove democratic accountability from the determination of health care delivery. I object

strongly to the proposal to impose a guillotine to conclude Second Stage of the Bill.

Question put: "That the proposal for dealing with No. 14 be agreed."

The Dáil divided: Tá, 66; Níl, 52.

Tá

Ahern, Dermot.  
 Ahern, Michael.  
 Ahern, Noel.  
 Andrews, Barry.  
 Ardagh, Seán.  
 Brady, Johnny.  
 Brady, Martin.  
 Brennan, Seamus.  
 Browne, John.  
 Callanan, Joe.  
 Callely, Ivor.  
 Carey, Pat.  
 Carty, John.  
 Cassidy, Donie.  
 Cooper-Flynn, Beverley.  
 Coughlan, Mary.  
 Cregan, John.  
 Curran, John.  
 Davern, Noel.  
 de Valera, Síle.  
 Dempsey, Noel.  
 Dennehy, John.  
 Devins, Jimmy.  
 Ellis, John.  
 Fahey, Frank.  
 Finneran, Michael.  
 Fitzpatrick, Dermot.  
 Glennon, Jim.  
 Grealish, Noel.  
 Hanafin, Mary.  
 Harney, Mary.  
 Haughey, Seán.  
 Hoctor, Máire.

Jacob, Joe.  
 Keaveney, Cecilia.  
 Kelleher, Billy.  
 Kelly, Peter.  
 Killeen, Tony.  
 Lenihan, Conor.  
 McCreevy, Charlie.  
 McDowell, Michael.  
 McEllistram, Thomas.  
 McGuinness, John.  
 Moloney, John.  
 Moynihan, Donal.  
 Moynihan, Michael.  
 Mulcahy, Michael.  
 Nolan, M. J.  
 Ó Feargháil, Seán.  
 O'Connor, Charlie.  
 O'Donnell, Liz.  
 O'Donovan, Denis.  
 O'Flynn, Noel.  
 O'Keeffe, Batt.  
 O'Keeffe, Ned.  
 O'Malley, Fiona.  
 O'Malley, Tim.  
 Parlon, Tom.  
 Power, Peter.  
 Power, Seán.  
 Sexton, Mae.  
 Smith, Brendan.  
 Treacy, Noel.  
 Wallace, Dan.  
 Wallace, Mary.  
 Wright, G. V.

Níl

Boyle, Dan.  
 Broughan, Thomas P.  
 Burton, Joan.  
 Connaughton, Paul.  
 Connolly, Paudge.  
 Costello, Joe.  
 Crawford, Seymour.  
 Cuffe, Ciarán.  
 Deasy, John.  
 Deenihan, Jimmy.  
 Durkan, Bernard J.  
 English, Damien.  
 Enright, Olwyn.  
 Gogarty, Paul.  
 Gormley, John.  
 Harkin, Marian.  
 Hayes, Tom.  
 Healy, Seamus.  
 Higgins, Michael D.  
 Howlin, Brendan.  
 Kehoe, Paul.  
 Kenny, Enda.  
 Lynch, Kathleen.  
 McCormack, Pdraic.  
 McGinley, Dinny.  
 McGrath, Finian.

McGrath, Paul.  
 McHugh, Paddy.  
 McManus, Liz.  
 Mitchell, Olivia.  
 Naughten, Denis.  
 Neville, Dan.  
 Ó Caoláin, Caoimhghín.  
 Ó Snodaigh, Aengus.  
 O'Dowd, Fergus.  
 O'Keeffe, Jim.  
 O'Shea, Brian.  
 O'Sullivan, Jan.  
 Penrose, Willie.  
 Quinn, Ruairí.  
 Rabbitte, Pat.  
 Ring, Michael.  
 Ryan, Eamon.  
 Ryan, Seán.  
 Sargent, Trevor.  
 Sherlock, Joe.  
 Shortall, Róisín.  
 Stagg, Emmet.  
 Stanton, David.  
 Timmins, Billy.  
 Twomey, Liam.  
 Upton, Mary.

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

Question declared carried.

**Mr. Kenny:** There has been much comment in the past few days about production of the disability Bill, and the matter was raised again this morning. Has the Government considered or approved the Bill? Will we see it before the local elections?

**The Tánaiste:** The Government has considered the Bill on a number of occasions. It is on the Cabinet agenda and was discussed at the meeting yesterday. One outstanding issue remains.

**Mr. Kenny:** I assume that issue involves whether the legislation will be rights-based.

**The Tánaiste:** No, that is not the issue.

**Mr. Durkan:** The Minister would not tell us.

**Mary Coughlan:** Much as I would like to——

**Mr. Rabbitte:** With regard to the overcharging by Allied Irish Banks and the general lack of focus on the consumer dimension as distinct from the prudential, will the Tánaiste tell us the attitude of Government to the Whistleblowers Protection Bill? The Government approved the Bill in my name on 15 and 16 June 1999. It was referred to a select committee and the Tánaiste said she might want to amend it. Five years later, it has not emerged from Committee Stage. Will the Tánaiste say if the Government intends to move ahead with that Bill?

**The Tánaiste:** As the Deputy is aware, we have introduced whistleblower-related legislation by means of the Competition Act. Section 50 of that Act indemnifies whistleblowers who bring matters relating to price fixing, cartels and so on to the attention of the Competition Authority.

**Mr. Rabbitte:** That is different.

**The Tánaiste:** It is very similar. A huge legal issue has arisen with regard to this matter and it is still under consideration by the parliamentary counsel. It relates to Irish people working for subsidiaries overseas and the indemnification that might arise in such circumstances. It is important that we resolve the legal issues, and the Government intends to bring the legislation forward.

**Mr. Sargent:** Will the Tánaiste clarify what the Taoiseach said yesterday? I asked about the national infrastructure Bill — there is also a critical infrastructure Bill. Will the Tánaiste tell us the planned publication dates of those Bills? I understand that the Cabinet intended last month to discuss the date of the national infrastructure Bill and that the Taoiseach had in mind a date in autumn.

Will the Tánaiste articulate on the national infrastructure Bill and the critical infrastructure Bill?

**The Tánaiste:** The Minister for the Environment, Heritage and Local Government has circulated the heads of the critical infrastructure Bill which is on the agenda for Government. It will be discussed by it either next week or the week after. The national roads infrastructure Bill is expected later this year.

**Mr. R. Bruton:** I seek the guidance of the Chair on a very important issue — decentralisation. The Chair may be aware that there is no strategic plan for decentralisation and that the implementation committee is not answerable to the Dáil. We have had no Committee Stage type debate in the House, where Members could analyse the Government's proposals and their effectiveness. How will they hold the Government accountable for the way in which decentralisation is implemented? It is important that the Dáil has a proper and well thought out role.

**An Ceann Comhairle:** The matter does not arise on the Order of Business.

**Mr. R. Bruton:** Where can I raise the issue?

**An Ceann Comhairle:** In questions to the Minister for Finance.

**Mr. R. Bruton:** Let us be honest, a question to the Minister for Finance will be dealt with in six minutes. This issue cannot be dealt with in six minutes, as it represents a whole change in the way the public service works.

**An Ceann Comhairle:** It can be raised in Private Members' time.

**Mr. R. Bruton:** That, again, would be a sterile debate. We need a Committee Stage type debate where we could analyse the matter and question the Government on it.

**An Ceann Comhairle:** The Deputy will have to find another way of raising the issue.

**Mr. R. Bruton:** It is a farce that we cannot have a proper debate.

**Mr. M. Higgins:** Yesterday the Tánaiste seemed sympathetic to the idea that we should have a discussion in the House on the appalling situation in Iraq following the disgusting spectacle of a person being executed on television which was preceded by disgusting photographs. The issue is the status of the Geneva Convention. Will the Government provide time for a discussion on the status of compliance with the Geneva Convention, particularly in Iraq and the deteriorating situation in the Middle East? The Minister for Foreign Affairs is due to answer



[Mr. M. Higgins.]  
parliamentary questions next week but we need substantive time to discuss the issue.

**The Tánaiste:** I totally share the view expressed by the Deputy on this matter and it would be a good idea to provide time for a debate. Perhaps the Whips could discuss the matter this evening.

**Mr. M. Higgins:** I thank the Tánaiste.

**Caoimhghín Ó Caoláin:** I welcome the Tánaiste's response to Deputy Higgins. The publication of the Ombudsman (Amendment) Bill which had been signalled for late 2004 on the legislative programme has now been put back to early 2005. In the light of the recent report of the Ombudsman——

**An Ceann Comhairle:** There are many Members offering.

**Caoimhghín Ó Caoláin:** ——is the Tánaiste confident it will be published in early 2005?

**The Tánaiste:** As I understand, it will be published in 2005. I do not think we can fast-track it.

**Mr. Crawford:** I attended a meeting in Kingscourt last night on the issue of disability, which was highlighted in a recent television programme. When will the Comhairle (Amendment) Bill and the disability Bill be introduced?

**The Tánaiste:** Both Bills will be published simultaneously.

**Mr. Crawford:** When?

**The Tánaiste:** Shortly.

**Mr. Costello:** Anybody who has been reading the newspapers recently should be aware of a rather nasty leak——

**An Ceann Comhairle:** Does the Deputy have a question on legislation, as we cannot enter a debate on what is in the newspapers?

**Mr. Costello:** ——on the DIT development in Grangegorman which is about to commence. This was leaked previously about two years ago, before the last general election, but I am sure that the Tánaiste knows that the development cannot start unless the Grangegorman Bill is published and passed by the Oireachtas. Will she indicate when it is likely that the Bill will come on stream?

**The Tánaiste:** The Bill was recently approved by the Government and will be published shortly.

**Ms Flynn:** On promised legislation, given the inadequate services available for people with disabilities and the fact that 450 people are

currently housed in inappropriate accommodation——

**An Ceann Comhairle:** A question on the legislation, please.

**Ms Flynn:** When the disability Bill comes before the House, will it be accompanied by adequate capital funding to ensure the people concerned can be transferred to suitable accommodation?

**An Ceann Comhairle:** The first question is in order.

**The Tánaiste:** As I said, the Bill will be published shortly.

**Mr. Durkan:** Perhaps the Chair may be able to assist the Minister for the Environment, Heritage and Local Government who ill-advisedly spent almost €60 million of taxpayers' money on a whim.

**An Ceann Comhairle:** Does the Deputy have a question on legislation?

**Mr. Durkan:** To prevent prosecution or action being taken against him for outlandish behaviour, where is the Diplomatic Relations and Immunities (Amendment) Bill in order that the Minister may claim diplomatic immunity for his behaviour?

**The Tánaiste:** I do not think the Minister for the Environment, Heritage and Local Government qualifies under the Bill.

**Mr. Sherlock:** Today I am more specific on this question to the Tánaiste than I was yesterday.

**An Ceann Comhairle:** Will the Deputy name the legislation as we have to make progress?

**Mr. Rabbitte:** I see a look on the Tánaiste's face which says, "Oh my God"

**Mr. Sherlock:** Tog do leath aimsire anois, a Cheann Comhairle. I want to ask this question to which I want a response or a written answer. On the Health (Amendment) Bill, is it the Government's proposal to introduce changes to the Health Act 1970, in particular section 8 where the role of the general hospitals will be changed in anticipation of implementation of the Hanly report? Is there a proposal to bring forward legislation to change the role of the hospitals?

**The Tánaiste:** Somebody else has said in different circumstances that I can look into my heart and know what someone is going to say or think. I knew the Deputy would raise the Health (Amendment) Bill which is currently before the House. There will be many more Bills brought before the House to introduce the Government's radical plans to reform the health service.

**Mr. Rabbitte:** I was right.

**Mr. Boyle:** In the light of the report on financial institutions encouraging elderly investors to move from secure to unsafe deposits, will the Insurance Intermediaries (Amendment) Bill be brought before the House?

**The Tánaiste:** It is not possible to indicate at this stage.

**Mr. Glennon:** In the light of the comments by the Tánaiste yesterday on the Hanly report being part of Government policy and as a first stage the Health (Amendment) Bill is currently before the House, will she outline when the other amending legislation to implement the Hanly report in full will come before the House?

**The Tánaiste:** Later, in the autumn of this year. I said the Hanly report was central to the Government's health reforms.

**Mr. Glennon:** Which Bills will be brought forward?

**The Tánaiste:** There are a number of them, together with the Health (Amendment) Bill.

**Mr. Broughan:** My question is addressed to the Chair. I want to raise in the Chamber an issue that has been discussed a number of times at the Committee on Procedure and Privileges. Later today the Minister for Communications, Marine and Natural Resources will answer questions tabled to his Department but the Chair, as previously, has ruled out a raft of Labour Party questions on the grid code, electricity prices and so on.

**An Ceann Comhairle:** The questions were ruled out on the basis of the Standing Orders which apply to all parties.

**Mr. Broughan:** The Chair rules out Labour Party question on the spurious ground that there is a regulator.

**An Ceann Comhairle:** That matter does not arise on the floor of the House.

**Mr. Broughan:** These are important issues of policy.

**An Ceann Comhairle:** The Ceann Comhairle is obliged to implement Standing Orders as laid down by Members of this House.

**Mr. Stagg:** The Chair is misinterpreting them.

**An Ceann Comhairle:** I invite Deputy Stagg to submit to the Chair in writing where the Chair misinterpreted Standing Orders, if that is the way he feels, and the Chair will respond to him.

**Mr. Stagg:** We have told the Chair several times at the Committee on Procedure and Privileges.

**An Ceann Comhairle:** I invite the Deputy to submit in writing where the Chair has misinterpreted Standing Orders and the Chair will be absolutely delighted to reply to him.

**Mr. Stagg:** The Chair is just doing what the Department asks him to do each time.

**Mr. Rabbitte:** Will the Chair give guidance to the House on the matter raised by Deputy Bruton? How else can we raise the matter of holding the Government to account on the decentralisation programme? How do we scrutinise and supervise its implementation?

**Mr. McCormack:** On 11 June 2004.

**An Ceann Comhairle:** Deputy Rabbitte knows the ways such matters can be raised in the House. It is not a matter for the Order of Business.

**Mr. Rabbitte:** I agree.

**An Ceann Comhairle:** Private Members' Business is for the express purpose of allowing ample debate on issues the Opposition wants to raise. There are parliamentary questions and the Adjournment Debate. There are many ways in which it can be done.

**Mr. Rabbitte:** The Ceann Comhairle misunderstands.

**An Ceann Comhairle:** We are not having a debate on it. We are moving on to No. 14, the Health (Amendment) Bill 2004, Second Stage (Resumed).

**Mr. Rabbitte:** I know how to raise it. How do we supervise and hold the Government to account?

**An Ceann Comhairle:** If the Deputy is not happy with the procedures, I suggest he speaks to the Dáil reform committee to find a way.

**Mr. McCormack:** The people will do it on 11 June.

#### **Health (Amendment) Bill 2004: Second Stage (Resumed).**

Question again proposed: "That the Bill be now read a Second Time."

**Mr. Durkan:** I forgot to say on the previous occasion that I propose to share my time with my colleague, Deputy O'Dowd.

I oppose the proposal to abolish the health boards on the basis that it is ill-thought out and an elimination of one of the few remaining elements of democracy in the health service

[Mr. Durkan.]

whereby locally elected public representatives can have an input on behalf of the people. It is a continuation of the Government's policy of centralisation rather than decentralisation, which is not what the health service needs.

**Mr. O'Dowd:** This Bill does away with democracy. The county council health committees on which members of local authorities and the health interests were represented used to meet, but they were abolished in favour of regional health boards. These boards have not worked successfully in every case but, in every board, there is a voice for democracy, elected representatives and all the other special interests, including doctors, psychiatric nurses and other health professionals. This Bill does away with all that and hands over power, lock, stock, and barrel, to officialdom and faceless chief executives and their staff. Although they are excellent people in every way, from the day this Bill is enacted, they will not be responsible to a transparent and democratic process in terms of decision-making which can be challenged.

In Dundalk, a consultant surgeon is on duty and on call in the hospital 24 hours a day, but this service is being transferred to the Our Lady of Lourdes Hospital in Drogheda. That decision is being challenged and discussed by the board. When this Bill is enacted, such discussion will not be possible. The Minister for Communications, Marine and Natural Resources, Deputy Dermot Ahern, who is from the constituency, has called for a mediator to mediate in the dispute between the population of Dundalk and the North Eastern Health Board. The Minister is powerless if he cannot discuss this proposal with the Minister for Health and Children at the Cabinet table and insist that it does not proceed. Dundalk hospital must be kept on call and there must be a full consultant surgeon service in it at all times.

When this Bill is enacted, intervention will not be possible. There will be a wasteland of officialdom. There will be no way the decisions of health boards can be held accountable to locally elected representatives or even to this House. The Minister for Health and Children is destroying the part of the health service which can be held responsible and where elected members and the health professionals, including doctors and nurses, can challenge and discuss issues. I cannot believe the Minister, Deputy Martin, who allegedly does so much for the public — the man with the nice smile and the progressive views — is putting the boot into representative democracy, handing over the running of the health services to officialdom and removing the possibility of public debate.

This Bill is also missing another opportunity. I refer to the Neary affair and the setting up of a judicial process in which all the issues surrounding what happened in the Our Lady of Lourdes Hospital will be transparently and fully

examined. Everyone is happy with what the Minister has done, with the judge and her team who have been appointed and with the professionalism and integrity of everybody concerned. The women concerned suffered appallingly and grievously at the hands of Dr. Neary. However, the compellability of witnesses is a serious matter. Patient Focus and many others believe this Bill must be amended to allow for the compellability of witnesses if there are any who are reluctant. Let us hope there are none but, if there are, at present they cannot be compelled to attend and give evidence. There is no power to find out what happened and what was the truth behind the decision-making processes in the Our Lady of Lourdes Hospital at that time. There is no mechanism to compel everybody to attend and to be respond to the issues raised.

Patient Focus announced last week that it would not participate in this important inquiry. It is not that it does not want to but it believes that if all witnesses cannot be compelled to attend, the inquiry, despite the professionalism and integrity of everyone concerned, is pointless. I urge the Minister to examine this issue before the Bill proceeds to the next Stage and to table an amendment to allow for the compellability of witnesses in this case. I know there are constitutional issues in this regard which have been discussed. However, the truth about what happened must be the prime objective. The women concerned believe everybody must attend. The Minister of State, Deputy Brian Lenihan, said last week that if a witness does not turn up or is not helpful to the inquiry, the judge can report it to the Minister who will report it to the Government. Implicit in that statement, I presume, is an expectation that the Government would act decisively should such a situation arise. This inquiry cannot proceed if Patient Focus and the women concerned do not participate. That is the kernel of the issue which is in the Minister's hands. I urge him to change his mind.

The Hanly report is being debated throughout the country, especially in towns such as Ennis, Nenagh and Dundalk. Thousands of people will protest on the streets about the Hanly report and what it will do. The core of democracy is the ability of elected representatives to debate and challenge officials and officialdom on issues, regionally and locally, but this Minister is taking the power of representation away from them. When the power is wiped out by the Government, there will be chaos and political anarchy because there will be no mechanism through which people will be able to vent their frustrations or make their arguments.

That is why this Bill is a sham. It is a disaster which is handing over representative democracy lock, stock, and barrel. There will be no place for the public. There should be no place for the Minister in this House if this Bill is enacted. Will Government Deputies remain forever mute on

and absent from this debate? There will be no debate if this Bill is enacted.

**Mr. B. O’Keeffe:** I welcome the Bill. Anybody who examines the composition of the Department of Health and Children and the health boards and at the way services have been delivered will see a lack of integration between the Department and the health boards which leaves much to be desired. Over the years, many of us have examined what was happening to the delivery of health care, but how many of us have wondered whether we were obtaining value for money in this respect? How many people are satisfied that adequate funding is going to the coalface where patient services are delivered? The Minister has access to all three reports, which indicate that change is needed since so much has moved on in terms of health care.

I recall that last year health board representatives appeared before the Committee of Public Accounts, of which I am a member. On one occasion, a health board representative predicted that in June the board would have a deficit of €13 million. In December, however, we discovered that the same health board had a surplus of €6 million. More recently, representatives of three health boards appeared before the Committee of Public Accounts. The Mid-Western Health Board and the Western Health Board each had a surplus of €15 million, while the South Eastern Health Board had a surplus of €6 million. If these boards were functioning well and were properly managed, why did they need to have such surpluses at the end of the year? Could some of that money have been used to deliver extra services in each of those three health board areas? The only conclusion one can come to is that the money should have been used to that end.

How many people were aghast to find not only that information technology systems were incompatible between the various health boards, but were also incompatible with the Department of Health and Children? There would be real difficulties in planning for the future if statistics were not up to date and there was no integrated IT system.

The Bill examines health board structures, in addition to going to the heart of the Department of Health and Children. A proper restructuring of that Department is both timely and necessary. I was a member of the Southern Health Board for several years and its chairman for two years. While it is easy to criticise, it should be emphasised that there are outstanding people working in the health services. Outstanding contributions have been made on health boards by members of the medical profession and political appointees, including local authority members.

The democratic deficit has been mentioned and that issue should be examined seriously. In the past, when there was a move to close certain railway lines, there was a similar move to close

some hospitals. However, the fact that local representatives were sitting on health boards meant that many hospitals were kept open, and they are thriving to this day. I would not like to see the removal of elected politicians from health service management structures. I am glad the Minister for Health and Children has indicated that there will be a democratic input into the four regional boards he is to establish, including the involvement of local politicians. That is an important matter upon which the Minister should lay great emphasis when finally deciding what form those structures will take.

There has been a media frenzy over the question of removing politicians from health boards and their cost, which of course was minuscule. It is strange that there was no media frenzy about the role of medical personnel on health boards and how well they were able to look after the interests of their own people, sometimes to the detriment of delivering services. As regards new structures that are to be established, I would like to think that the medical profession will not be in as strong a position as before when they could influence — adversely, at times — decisions that should have been progressive and in the interest of patient care.

The Brennan report is an outstanding publication because it got to the facts and highlighted financial control inadequacies within the health boards. The report reflected badly on the control mechanisms that operated within health board structures. It showed that some health boards did not even know the number of people who were employed. It showed that during the Celtic tiger era, large numbers of people were taken on, many of them in central services, but was the same percentage of personnel taken on to deliver patient care?

The proposed new structures are well worth introducing. They should be given a new focus, direction and dedication towards delivering patient care. The opposition has talked about the dangers of centralisation but let us look at the facts. Under the old system, health boards had individual departments for payroll services, human resources and information technology. Such services were, thus, being unnecessarily duplicated across the country. The new centralised structures, including the hospital agency, community care and mental health services, will have a dedicated focus so that health services will be run far more efficiently. All the expertise required for one particular area of health care will be centralised. That is a good thing which everyone will welcome.

An integrated IT system is certainly to be welcomed. If the ESB can have a national payroll, why can the various health agencies not have one? Is there any reason we cannot have a central purchasing agency for the health service, including all our hospitals? Is there any reason why health boards and health agencies had to advertise separately rather than centrally? The

[Mr. B. O'Keeffe.]

centralisation of certain areas of the health service will bring about major improvements.

No doubt, however, there will be a big question over staffing. I estimate that approximately 5,000 people are involved in the centralised services. The Minister for Finance has indicated that there will not be redundancies, as such, within the system but that is a problem Mr. Kelly will have to face. There will be people who are surplus to requirements when the new management structure comes into place. He has adopted a sensible approach by embarking on a process of consultation with staff and unions. Many of these people can be retrained to operate at the coalface of health service delivery.

I also wish to deal with the issues of the hospital agency, community care and mental health services. We should welcome the placing of all acute hospitals and the delivery of acute services under one umbrella. The co-ordination and integration of those services and the re-direction of patients from Dublin to other centres of excellence is something we support and espouse.

Difficulties can arise, however, if proper integration is not maintained. If a consultant in an acute hospital indicates that a patient can move on to a step-down facility and separate agencies with separate funds are responsible for each facility, what guarantee is there that the patient will be transferred? We must achieve proper integration. Last year, 1,200 acute beds in University Hospital, Cork, were tied up by patients whose families refused to move them from those beds, resulting in 1,200 fewer operations for those on waiting lists. For the new structure to work, there must be integration to ensure ease of access to step-down facilities for patients who are fit to move from acute beds.

An issue raising its ugly head is the funding of mental health services. In the three reports that have been produced there was little emphasis of funding for this area. In some of the presentations we have received in the Oireachtas Committee on Health and Children, it was stressed that there must be a focus under the new arrangements for the funding of mental health services. We are all aware that hospitals gobble up funds. We told Mr. Kelly, therefore, that under the new funding arrangements in 2005 for the various agencies, money for mental health should be ring-fenced. That cannot be forgotten.

There will be problems establishing the new structures. Some health boards chief executive officers will not be appointed to the new regional boards and staff wonder how they will be assimilated into the new system. Mr. Kelly is a wily operator. He is embarking on a process of consultation with staff and has appointed 30 people to examine the options open to him. He is ensuring the path to change is made easier by consulting those affected.

In terms of location, the Minister of State should remind the Minister for Health and

Children, a fellow Cork man, when he is planning the decentralisation of health services that there is a great town in Cork South-Central called Ballincollig.

**Mr. Naughten:** The Minister is from a different constituency.

**Mr. Deenihan:** The rehabilitation hospital should be located there.

**Mr. B. O'Keeffe:** A developer has recently taken over the Army barracks and there is plenty of space for the offices that the new health authority will need. The Minister of State should outline to the Minister the advantages of such a relocation to the Cork hinterland.

**Mr. Callely:** I am very fond of Cork.

**Mr. Deenihan:** He will look after Cork North-Central first.

**Mr. Callely:** I will look after Dublin North-Central first.

**Mr. B. O'Keeffe:** We should not underestimate the enhanced role envisaged for the Oireachtas Committee on Health and Children under the new structures. Its members will take over many of the roles played by the representatives on the health boards. The new boards will spend a great deal of time appearing before the committee and the Committee of Public Accounts.

The Hanly report raised practical issues but anything related to the health services will always cause an emotional reaction, particularly local hospitals, often because of misinformation and people playing politics. The report recommended the upgrading of the ambulance service to ensure that rural areas have a service second to none. That should be prioritised by the Minister.

I had difficulties with the recommendation in the Hanly report that all hospitals should continue to provide accident and emergency cover, with the same numbers envisaged using it. In many accident and emergency units, 29% of those attending should not be there but should be treated at their general practitioner's surgery. We must examine the number of people who are being sent to accident and emergency who could be treated in surgeries. Instead of tying up accident and emergency for those who require treatment, we should consider a role for the GP service within the accident and emergency area and under the supervision of a consultant to deal with minor accidents as they arrive.

We must examine appointments. If a new hospital agency for community care is established, do we also need Comhairle na nOspidéal? It takes nearly two years to appoint a consultant. The local health board makes a recommendation to the Department of Health and Children for funding for a post and that is acknowledged by the Department. A message is then sent to the health board to state that the

funding is in place. The health board then must go to Comhairle na nOspidéal and this takes a long time. In Cork, where there are voluntary, private and public hospitals, the head of Comhairle na nOspidéal will ask if services can be shared. I recommend that we examine the future existence of Comhairle na nOspidéal. It is surplus to requirements.

**Mr. Naughten:** I wish to share time with Deputy Deenihan.

**Acting Chairman (Mr. McCormack):** Is that agreed? Agreed.

**Mr. Naughten:** I welcome the opportunity to speak on the Bill before us. The Health (Amendment) Bill 2004 is critically important to the future of health services around the country. The fact that the Government is pushing through this legislation means it will be the first step in the implementation of the Hanly report. Let us consider the downgrading of hospitals such as the county hospital in Roscommon in my own constituency and Portiuncula Hospital in Ballinasloe which adjoins it. The legislation before us will give the Minister a free hand after the local elections to implement the closure and downgrading of accident and emergency units around the country. The Minister will have the power to implement those measures without recourse or referral to any public representative anywhere. That is what this legislation intends.

The law does not abolish the health board structures, as some on the Government benches seem to believe; it merely removes the health board members, the only people who might question the planned downgrading of facilities and the fact that many communities will be left without any service. The Minister is removing the current arrangements before any alternative can be put in place. That is the clearest indication yet that the Government is prepared to implement the Hanly recommendations throughout the country, closing accident and emergency units.

On the Government benches there seems to be the misapprehension that this legislation will establish the health services executive. I heard my colleague, Deputy Finneran, on local radio yesterday saying that the Health (Amendment) Bill 2004 would set it up. If one looks at what is in the Bill, one sees it abolishes the membership of the ERHA, the area health boards and the health board itself, while retaining the boards as legal entities. The legislation provides for the termination of the office of all members of the board and for their reserve functions to be transferred to the CEO and the Minister for Health and Children. The other issue concerns the acquisition and disposal of property, which was a reserve function of the board members. That is now being transferred to the CEOs and the boards must get the consent of the Minister for Health and Children before they dispose of property. There is no mention of the

establishment of any health services executive in the legislation. That has been trotted out to the backbenchers on the Government side in the hope they will support the legislation when it is voted on later this afternoon.

We must have a reality check. The Hanly report is being implemented, and while Members on the Government benches will say there is no mention of such and such a hospital in the first Hanly report, there was also no mention of Our Lady of Lourdes Hospital in Drogheda. The Hanly report is being implemented as we speak. The Drogheda hospital is being downgraded and the Hanly report will be implemented over the coming weeks.

In the House yesterday and again today, the Tánaiste stated the Hanly report was central to the Government's health reform policy and that the Health (Amendment) Bill 2004 was the first phase in the report's implementation. That is the reality and anything else said by Members in this House is a misrepresentation of the truth. This Bill will solve nothing in the health service. It will not solve the health crisis and will remove the current arrangements without putting any alternatives in place. No one will be accountable or answerable regarding value for money or greater efficiency, both of which are needed in the health service. I know the Minister is hoping he will avoid any opposition to the implementation of his measures by introducing this legislation. That will not happen since there will still be very strong local opposition to the proposals to downgrade many of the smaller accident and emergency units around the country.

Another misconception trotted out is that hospitals such as University College Hospital in Galway, Sligo General Hospital and those in Limerick and Dundalk will all be upgraded. Government Deputies have failed to say there will also be an increase of one third in admissions to accident and emergency units because smaller hospitals will be downgraded. Patients will end up lying on trolleys, not only in the accident and emergency units and corridors leading to them but, as is happening in Dublin at the moment, in the backs of ambulances, since there will be no room in the accident and emergency units. What is happening in Dublin will be replicated across the country by the proposals because the Government has not set aside one extra cent for the implementation and expansion of the services and facilities in the regional centres of excellence about which it speaks.

Facilities such as those at Roscommon and Portiuncula will be downgraded by the implementation of this legislation. The Minister has gone around the country and given commitments to Nenagh and Ennis, making U-turns as he did so, but he has not given similar commitments to any of the other smaller hospitals around the country. There is no doubt people in such counties as Roscommon will be left as second-class citizens once this legislation is enacted because locally-available services will be

[Mr. Naughten.]

downgraded and transferred up to 70 or 80 miles away, requiring a journey of two and a half hours, while we do not even have a decent ambulance service. There are currently no plans to upgrade any of those facilities.

Let us take one example of this farcical situation, the county hospital in Roscommon. Before the last general election, the Government allocated €7 million to upgrade the accident and emergency unit, to make it a state-of-the-art facility. We need €2.6 million to be sanctioned by the Department of Health and Children to provide the additional 36 staff required at the county hospital but the Government will not provide that. It has provided the building and the capital investment, and that is welcome, but it is not prepared to provide the current expenditure that will maintain the service. The plan is to close it in the short term. There is no radiologist on call after 6 p.m. or at weekends as the Department will not provide the resources to ensure that service is provided.

It is critically important for the future of the county hospital in Roscommon that a third consultant physician be appointed. We all know the Royal College of Surgeons recommendations coming on 1 July will mean that, if there is not a third consultant in each accident and emergency unit around the country, with the required ratio of junior hospital doctors, Roscommon will not be able to provide a 24-hour service. Taken in the context of what is being proposed under the European working time directive, that will compound the problem in Roscommon and impact on hospitals such as Portiuncula.

To date, the Department of Health and Children has not once recognised the catchment of Portiuncula Hospital in Ballinasloe. Not only does it cover much of east Galway and the southern part of County Roscommon, it also covers southern Westmeath, west Offaly, north Tipperary and many parts of Longford. However, no recognition has been accorded regarding the funding provided. Portiuncula Hospital is the only one on the N6 national primary route. The Government, in its spatial strategy, is talking about developing Athlone as a city. Nothing has happened in that regard because one cannot have a city unless one has a hospital. With the proposal to downgrade the maternity and accident and emergency services at Portiuncula Hospital, it will be farcical to talk about a city in Athlone without having such facilities close by.

That is the reality. The whole system is breaking down and nothing is happening to change that. Once this legislation is passed, no one will be accountable for these services. I will give another example of the farcical situation with which we must deal over the coming weeks. The Plunkett Home in Boyle, which is under the Minister's competency, provides services for the elderly. The Western Health Board has had discussions with staff, including a gardener and an ambulance driver, about transferring them

from their current jobs of mowing the lawn and ferrying people in and out of the home to providing patient services. The ratio of staff to patients in the home is inadequate. The solution is to contract out the service previously provided and let the gardener look after patients along with the cooking and cleaning staff. That is what is currently being proposed.

At least public representatives are accountable to the electorate as regards this. As and from the enactment of this legislation and the local government elections on 11 June, no one will be accountable. Health care should be brought close to home and it should not be contingent on wealth or geographic location. The Hanly report does not allow for that. In fact the opposite is the case and the communities around the country, including the people of County Roscommon, will be short-changed by this.

**Mr. Deenihan:** As the Minister of State said, this Bill is very much an interim measure. He promises to bring forward more expansive legislation later in the year. The legislation and the changes to be implemented on the way health services are organised are based closely on the three reports with which we are all familiar: the Prospectus report, which was an audit of structures and functions in the health system; the report of the commission on financial management and control systems in the health system, from the Department of Finance; and the national task force on medical staffing, now referred to as the Hanly report.

We all agree and have been calling over the years for better systems, a more patient friendly health system, better value for money and so on. However, as Deputy Mitchell said in her contribution on Second Stage, this legislation removes all accountability from the system based on elected representatives and fails to replace it with an alternative. The whole area is totally grey as regards what is to be put in place and what the structures will be. I inquired this morning from people involved in major functions in the health board as to what the new hospital agencies group will do about the health service executive, the new hospital services agencies and what the implications will be for hospital clusters. They certainly did not know. Obviously, there is a lack of clarity and no certainty on this issue. The only certainty with this legislation is that it takes local representatives out of the equation.

Listening to Deputy Naughten, I probably had not read this into the Bill, but it appears that the function is to take local councillors — in particular local Fianna Fáil representatives — off the health boards, so that it will make it much easier, both for the health authorities and the Government to close hospitals and reduce services around the country if the Hanly report is to be put in place. Deputy Naughten made a convincing argument in that regard.

*1 o'clock*

Like all other Deputies I will take the opportunity to refer to my area and to Tralee General Hospital in particular, which has been in the news recently. It is rather unprecedented for a hospital consultant to write a personal letter to the local Government Deputy and accuse him of not being aware of what was happening in the services in the hospital. The letter also implied that the Government had no particular interest in Tralee General Hospital and was not concerned about it. Tralee General Hospital is overwhelmed with patients. There are not enough consultants to deal with the number of patients being admitted; and there are not enough beds. This is impacting enormously on the health of the people of Kerry. For example, for the past two years because of closures there has been a reduction in elective procedures. Patients who should have been dealt with under elective procedures are now being admitted as emergencies, which is putting more pressure on the consultants, on beds and other resources. Recently I met someone who had to wait six hours in the accident and emergency department in Tralee. That is not the fault of staff. It is due to lack of resources and staffing.

There were plans for a new accident and emergency unit, but I understand these have been scrapped. With the health board gone, there will be no representatives from Kerry as such, not that the incumbents did a great job. We have six elected representatives, five of them from Fianna Fáil — including the two Healy-Raes, who I presume are Fianna Fáil. They did not constitute a sufficiently strong voice for Kerry, but at least they were there. The people could identify with and refer to them.

A ward will be closed in Tralee for three months over the summer period. No non-urgent patient will be seen in the out-patient section during that period. At present up to 2,000 patients in this category are waiting to be seen, many of whom would have undiagnosed cancers. The Minister of State may be aware that in one instance a legal case is pending because of cancer remaining undiagnosed owing to a patient not being seen. In addition, the population of Kerry swells over the summer months, in July, August and September, in particular. When one considers a hospital facility in Kerry it does not cover just 126,000 people, but the large tourist population that visits the country on a continuous basis. The level of service provision in Kerry must be considered totally different from other counties that would not have the same influx of tourists.

Hospital authorities and administrators are worried that under any new arrangement the current budget for the hospitals of €57 million will be left in place. This is just not adequate. There are now threats of mass protests and marches on the Dáil from other politicians in the constituency. I do not want that to happen. I am just saying to the Minister of State and his officials that Tralee General Hospital should be

looked at again. A top official from the Department of Health and Children should be sent to Tralee to look at the provision of service there and the hardship that the closure of the ward during the summer would cause. The proposed closure is bad for patient care and disappointing for the staff. With proper funding for the hospital the closure would not be necessary. Last year the hospital was under funded by about €2.5 million, and this year it is under funded by about €1.5 million. A day surgery ward was provided and equipped, but it lies empty and unused because there is no money to staff it.

As I mentioned, elderly patients with broken hips and those who may require major surgery for cancer have had their operations delayed because of the lack of intensive care beds. A high dependency unit has been equipped and would solve the intensive care problem, but there is no budget to staff it. I saw recently in the *Sunday Tribune* that something like 1,500 people are to be appointed across the country to the health service, for hospitals and various matters. Approximately €400 million will be provided. Perhaps these figures are exaggerated. They came from Government memos. This is happening throughout the country at a time when the services in Tralee are being cut back and the hospital there is not receiving its fair share.

Kerry has the highest rate of cardiac illness in the country and, until now, Ireland had the highest rate in the European Union, although this may change with the accession of new member states. There is no cardiologist in Tralee. An appointment was promised but this has not happened. Last week on Radio Kerry I promised the people of Kerry that I would ask the Minister to send an official from his Department to Tralee general hospital to discuss what is happening there with the consultants and the manager.

**Mr. Connolly:** As the last remaining health board and Oireachtas Member I welcome the opportunity to speak on this Bill which regrettably I cannot support. This morning I received a call from a distressed mother in Monaghan whose 17 year old son is in hospital there. The consultant physician describes the boy's condition as urgent and advises transfer to Beaumont hospital but that cannot happen unless he has private health insurance. If I thought that abolishing health boards would eliminate such problems, I would endorse the Bill, but these problems will recur. There is a need to change health board structures. When the boards were established more than 30 years ago, they comprised four representatives from each county council in an effort to soften the blow of removing the responsibility from the councils. Many would argue that there was a better health service under the county councils and when there were fewer executives.

Health board members are blamed for the failure of the health service. They are being



[Mr. Connolly.]

presented as the rogues in the set-up. That is wrong and false. We will have health service problems in future. Getting rid of health boards will not get rid of the problems. Up to 97% of health spending is predetermined before it gets close to the health board. Even if all health board decisions for the remaining 3% were wrong, that would not explain the pathetic state of the health service. Instead of abolishing the boards we should reconfigure the service. The health boards have given us good service. Board members were watchdogs seeing where services were delivered and, more importantly, where they were removed and objecting to that. Executives no longer seem to manage the health services. Whenever a decision is required, they set up a committee, look for a report and this becomes a policy. Too many health board members are prepared to endorse rather than question these committee reports and recommendations.

There are 11 chief executives running the health boards and they have 55 deputies. If one were to transfer that structure to Birmingham, which has a similar population, people would say the system was failing because it had too many executives and not enough hands-on employees. Health board cutbacks usually start from the bottom with the carers or home helps, never at the executive level. Those positions are always full. If we want to ensure value for money, we should cut back at that level. Rather than abolish health boards we should ask whether these executives are necessary. For example, who runs the services in Ennis and Nenagh? Is it the chief executive of the local board?

The same might be asked of the north-east because the Ministers seem to take a large slice of the action whenever it moves into their back yard. They do not want these things happening and that is why the Hanly report has been conveniently sidelined for a short time in Ennis and Nenagh. This is a type of band-aid solution to carry the Government over the forthcoming elections, but the agenda will not go away.

The Minister for Communications, Marine and Natural Resources, Deputy Dermot Ahern, who comes from County Louth, this morning demanded inquiries and action by the chief executive of the health board into problems there. No one is listening. The abolition of health boards will not change this.

**Minister of State at the Department of Health and Children (Mr. Callely):** I thank all the Deputies for their contributions to this debate and I and my officials have noted the views expressed. It is unfortunate that the Opposition opposes this Bill because I and most people in the House believe it is necessary to have the required radical reforms of the health services. That is why I do not understand the opposition to the Bill.

**Mr. Naughten:** When we see them we will support them.

**Mr. Callely:** The provision and delivery of our health services is a core priority of the Government. Many positive developments are happening in the service and the Government has made a good beginning, but we acknowledge the need for and wish to achieve a great deal more to improve and enhance the delivery and provision of all services to meet a first-class world standard.

I am equally frustrated that the Opposition complains about the services because, while we all agree that the present situation cannot persist, no real alternative has been proposed.

**Ms O. Mitchell:** We apologise for not running the country on behalf of the Government.

**Mr. Callely:** The existing structures have been in place for approximately 30 years, except perhaps in the east where the former Eastern Health Board, now Eastern Regional Health Authority and the three area boards, was established. In that time there have been significant changes in society, medicine and its delivery, technology, diagnostic equipment and the way we do our business. That is all the more reason for us to have the appropriate reform of the health structures that have served us well for the past 30 years.

The primary purpose of the reform programme is to improve patient care by providing a responsive and high-quality service while also providing an improved working environment for all those employed in it. While it is acknowledged that the current structures have served us well for the past 30 years, it must now be recognised that change is needed to ensure that the health services are responsive to the needs and challenges of delivering high quality services in the changing environment of the 21st century.

This is the first of two Bills which the Minister for Health and Children intends to bring to the House this year to provide the legislative basis for the reform programme. The Bill before the House today is only an interim measure which is being put in place to ensure the smooth transition from the existing structures to the new structures which will be established by the second Bill. That legislation will provide for the establishment of the Health Service Executive to replace the Eastern Regional Health Authority and the health boards. It will also provide for the establishment of the Health Information and Quality Authority. The legislation will provide for improved governance and accountability as well as planning, monitoring and evaluation.

In this context I wish to deal with some of the points made by Deputies during the course of the debate and to assure the House that the Government takes seriously the issue of democratic accountability throughout the system. This is why the Minister outlined his plans to the House last week to include accountability at all levels of the system as a central part of the reforms. He specifically mentioned his plans to

put in place appropriate mechanisms to support the development of structures at regional and local level between locally elected representatives and the Health Service Executive with a view to including provisions for these mechanisms in the legislation being drafted.

**Mr. Naughten:** When the damage is done.

**Mr. Callely:** I support the view, as I said previously, that locally elected representatives should have a meaningful role in the new structures being proposed.

**Mr. Durkan:** Not just a superficial one.

**Mr. Callely:** The Minister has pointed out that the provisions are likely to include the establishment of a series of regional fora to facilitate local representatives in raising issues of concern with the new executive about health services within the region concerned. These fora would allow local representatives to comment on and raise issues regarding the development and delivery of local health services. Members would also have the facility to raise particular issues with the executive.

The overall objective of putting in place such arrangements is to ensure the voice of local public representatives will continue to be heard on the development of health services. These mechanisms will complement and reinforce the role of this House and the Joint Oireachtas Committee on Health and Children in holding the system to account at national level. There is no question, therefore, of relying on the Dáil to replace the democratic input of public representatives at regional level.

The health strategy set out as one of its objectives greater community participation in decisions about the delivery of services. The health boards executive, in association with the Department of Health and Children, issued guidelines to the health boards on community participation which set out the principles and framework for structures for such participation. To date, most of them have set up consumer panels which deal with a wide range of issues such as the development and delivery of services. Two boards have also established regional advisory panels for older consumers and their carers. The Minister clearly stated his intention to establish these structures on a statutory basis in the Bill which he intends to bring before the House later this year. In addition, he indicated that as part of the Bill he would establish a statutory framework for complaints procedures in line with the commitments given in the health strategy. This will further underpin the level of accountability throughout the system. However, as well as ensuring greater accountability, it must also be recognised that there is a need to address the management of the system.

A number of colleagues raised the issue of management. The previous speaker referred to

the number of executives in the health service. He appeared to suggest that the proposal should be abolished and that everything else should be left in place. I am not sure if that is the way we should go about our business; cherry-picking some from the system and leaving others.

**Mr. Connolly:** I said the numbers of executives should be reduced.

**Mr. Callely:** Deputy Naughten referred to a commitment to introduce legislation on the Health Service Executive. The Minister could not have been clearer; he made a definite commitment to introduce legislation to establish the executive later this year.

**Mr. Durkan:** He also made a commitment to provide 200,000 medical cards.

**Mr. Naughten:** The Minister of State should show me where that reference is included in the Bill.

**Mr. Callely:** The Deputy should have listened to what was said. It is not included in this Bill. We said it would be included in the next Bill.

**Mr. Naughten:** I agree, that is the point I made.

**Mr. Durkan:** We do not trust the Minister of State.

**Mr. Callely:** Why is Deputy Naughten raising the matter?

**Mr. Naughten:** Evidently, the Minister of State was not listening to me.

**Acting Chairman:** Please allow the Minister of State to continue without interruption.

**Mr. Durkan:** Can we rely on that promise?

**Mr. Ring:** No.

**Mr. Callely:** The issue is clear. The Bill only provides for the interim period between the date this Bill comes into operation and the establishment of the executive.

**Mr. Durkan:** I have my doubts.

**Mr. Callely:** Deputy Deenihan referred to the removal of public representatives with no indication of what structures would replace the current system. That is not true.

**Mr. Durkan:** It is.

**Mr. Callely:** He also indicated that it was a means and mechanism to close hospitals. Any level-headed individual listening to the debate would consider a person indicating the Government will close hospitals—

**Mr. Durkan:** They would be right.

**Mr. Callely:** —in need of hospital attention.

**Mr. Durkan:** We will give the Minister of State all the attention he requires.

**Mr. Naughten:** The reality is that hospitals will be downgraded.

**Ms O. Mitchell:** They will be turned into nursing homes.

**Mr. Callely:** Some may need a long-stay institution, rather than a nursing home.

**Mr. Naughten:** Will gardeners be taking care of people?

**Acting Chairman:** The Minister of State should be allowed to reply without interruption.

**Mr. Durkan:** When the Minister of State begins to hallucinate, we will know what the problem is.

**Acting Chairman:** Please allow the Minister of State to continue without interruption.

**Mr. Callely:** It is necessary to terminate the office of members of health boards to prepare for the replacement of health boards with the Health Service Executive next year. As Members of the House are aware, it is stated in the Health (Amendment) (No. 3) Act 1996 that it is the function of health board members to approve a service plan for the board for the following year. Without in any way questioning the integrity of health board members, it has to be acknowledged that it is against all principles of good governance to have a body making decisions regarding budgets and services for which it would have no responsibility for implementing. I would like to hear the argument if that was planned. It is for this reason that the arrangements set out in the Bill are being put in place for the short period of time prior to the establishment of the executive. I hope this clarifies the position.

I had the privilege of serving on a health board and a health authority with a number of Members of the House, including my good friend, Deputy Olivia Mitchell. We did much good work in the Eastern Health Board and the Eastern Regional Health Authority. Other Members of the House such as Deputy Durkan have also given great commitment to serving on local health boards. I pay tribute to every health board member over the past 30 years or so who contributed to the excellent work carried out to meet the needs of the area in which they served.

I totally dissociate myself from the remarks of Deputy Fiona O'Malley, particularly those regarding the role of health board members. She referred to the 263 members of health boards and also the accounting procedures of particular health boards. As someone who has considerable experience of serving on health boards since 1985 and working with executives and board members, I have nothing but the height of admiration and

respect for the vast majority who served on them. I am amused by her comments and question the reason the Progressive Democrats continued to nominate health board members up to recent times if that was the party's policy in this regard.

**Ms McManus:** Why does the Minister of State not ask them? He is serving in government with them.

**Mr. Callely:** We had and have a tremendous Eastern Health Board, Eastern Regional Health Authority and three area health boards.

**Mr. Connolly:** Why abolish them then?

**Mr. Callely:** We have had a great input from board members and great commitment from executives and chief executives who have done a tremendous job working together in partnership. There was concern in different circles when the Eastern Health Board was restructured to form the Eastern Regional Health Authority. We should learn from our experiences and ensure we get it right. This will facilitate the modernisation of the management of the service and enable it to deliver services in a more efficient and effective manner as well as helping to strengthen governance and accountability across the system. I am running out of time.

**Mr. Naughten:** So are health services.

**Acting Chairman:** Please allow the Minister of State to reply without interruption.

**Mr. Callely:** The issue of funding was raised. The spending figure for capital and revenue this year will be more than €6.5 billion higher than the level of funding provided in 1997.

**Mr. Durkan:** We now have a worse service than we had then.

**Mr. Callely:** We will spend €10.4 billion which is close to—

**Mr. Durkan:** How could the Government achieve that? The service has been reduced and we have to pay more for it. Houdini would not have managed to do that.

**Mr. Naughten:** The way the Government has squandered money is a disgrace.

**Mr. Callely:** —a 200% increase in funding.

**Acting Chairman:** The Minister of State must conclude.

**Mr. Callely:** I have been interrupted. The Deputies opposite do not like hearing the truth.

**Mr. Naughten:** We pay more money but we get less service.

**Mr. Durkan:** Will the Minister of State apologise to the House? I am surprised at him. Some €6 billion is being spent, but people are getting a reduced service

**Mr. Callely:** That figure is just shy of a 200% increase in funding. This extra investment has brought about record levels of activity in acute hospitals—

**Mr. Naughten:** There has been an appalling squandering of money by the Government parties since they took office in 1997.

**Acting Chairman:** The Minister of State's time has concluded and I am obliged to put the question.

**Mr. Callely:** —and provided a range of additional services across all care programmes.

**Mr. Naughten:** We do not have any service, but more money is being paid for it.

**Acting Chairman:** I ask the Minister to conclude.

**Mr. Callely:** This level of funding and activity confirms the Government's commitment—

**Mr. Durkan:** It does — just about.

**Mr. Callely:** —to strengthening and further developing the health services which will be enhanced by the reform programme.

The new structures—

**Mr. Naughten:** What new structures?

**Mr. Durkan:** There are no new structures.

**Mr. Callely:** —are essential to ensure that health services are responsive to the needs and challenges of delivering services in the changing environment in the years and decades to come.

**Mr. Durkan:** The Minister of State will not conclude.

**Mr. Callely:** This interim Bill is only a small but important part of the reform programme—

**Mr. Naughten:** There is a downgrading of services throughout the country.

**Mr. Callely:** —and marks a further step in the process of the implementation of the programme.

**Mr. Durkan:** It is a process of elimination.

**Mr. Callely:** It is a further sign of the Government's commitment to the delivery of a reformed health service—

**Mr. Naughten:** As outlined by the Hanly report.

**Mr. Callely:** —which is designed to maximise the level, quantity and quality of care provided to patients and clients.

Question put and declared carried.

#### **Health (Amendment) Bill 2004: Referral to Select Committee.**

**Minister of State at the Department of Health and Children (Mr. Callely):** I move:

That the Bill be referred to the Select Committee on Health and Children pursuant to Standing Order 120 (1), and paragraph 1(a)(i) of the Orders of Reference of that committee.

Question put and declared carried.

*Sitting suspended at 1.35 p.m. and resumed at 2.30 p.m.*

#### **Ceisteanna — Questions (resumed).**

##### **Priority Questions.**

##### **Fisheries Protection.**

32. **Mr. Coveney** asked the Minister for Communications, Marine and Natural Resources the restrictions that will be put in place on Spanish fishing vessels within the new Irish Box area off the south-west coast of Ireland; if negotiations have been completed with the Spanish on this matter; and if not, if it is his intention to finalise the issue before the end of the Irish Presidency of the EU. [13853/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The system to apply to the new Irish Box area and to western waters generally relates to the management of fishing effort in defined areas and fisheries. In order to implement this system effectively, maximum annual fishing effort limits will apply to each member state operating in the relevant area or fishery. Such restrictions on fishing effort will apply to all fishing vessels, Spanish and otherwise, whether operating in the new Irish Box area or elsewhere in western waters. The question of negotiating or having bilateral discussions with any given member state does not, therefore, arise.

This matter remains a Community issue and in accordance with the agreement reached last autumn, the Commission presented its proposal in March to establish fishing effort ceilings. This proposal is based on detailed historical fishing data presented by member states for the agreed reference period of 1998 to 2002. It sets down a fishing effort ceiling for the new Irish Box in

[Mr. D. Ahern.]  
respect of demersal, crab and scallop fisheries and will apply to all vessels over ten metres in overall length operating within the box.

The Commission's proposal is currently being considered in detail by a Council working group. This technical work is proceeding satisfactorily. Particular attention is being paid to ensuring that a number of valid methodological changes over the previous effort regime will be reflected in the new regime. Of special note in this regard is the inclusion of additional smaller vessels in the new system and also a revised definition for a fishing day. My Department is maintaining close contact with industry representatives to ensure they have a full understanding of the terms of the Commission proposal and I am seeking to have any concerns raised by them examined to ensure the new regulation delivers the necessary protection for the waters around Ireland and, in particular, in the new Irish Box.

The main task now is to complete this technical work and ensure, in the process, that there is no increase in actual fishing effort by foreign fishing vessels in waters around Ireland generally and particularly in sensitive waters off the south and west coasts. I am working to finalise this issue before the end of the Irish EU Presidency and I will be seeking Council agreement at the June Fisheries Council.

**Mr. Coveney:** This is a somewhat complex issue and I will, therefore, try to simplify it so the Minister can clarify a few matters. The question refers to the new Irish Box area. This comprises approximately one third of the original Irish Box which encircled their entire country. The new box covers an area on the south-west coast. There is also an area which was formerly non-restricted included in the new Irish Box which was not contained in the old Irish Box. As a result, there is some confusion about the new levels of fishing effort that will be allowed in the new Irish Box. I refer here, in particular, to the fishing effort of the Spanish fleet.

I agree with the Minister that the rules have changed somewhat. It will no longer be a case of restricting the number of vessels allowed into the area. The new measurement will be in kilowatt days. Will the Minister be seeking independent verification from the Commission of the figures that will be supplied by individual countries and which will form the basis for the new restrictions to be put in place within the preservation area of the new Irish Box? There are those in the Irish fishing industry who are sceptical as to whether the figures that will be supplied by certain member states in respect of past fishing effort in the new area, and particularly the part of it that was not in the former Irish Box, will be accurate. Is there a proposed system or framework under which independent verification from the Commission would be required as to the accuracy of these figures? In other words, did these boats

formerly fish in this area or did they fish further west? That is the key issue.

I welcome the Minister's statement that he wants to ensure there is no increase in Spanish fishing effort, in particular, in the new area. However, the essence of the problem lies in the accuracy of the figures that will be supplied. Independent verification is definitely required in that regard. I also welcome the fact the Minister intends to conclude the deliberations on this matter, which is crucial to the Irish fishing fleet, before the end of the Irish Presidency of the EU.

**Mr. D. Ahern:** The Deputy is correct to state this is an extremely complicated matter. That is why discussions at official level with the Commission and the various delegations from the member states are ongoing. We will hopefully be able to reach political agreement in respect of this matter and sign off on the regulations in June. If not, a fall-back position exists. It is the view of all member states that it should be concluded during the Irish Presidency.

I do not know what the Deputy is seeking in terms of independent verification of the figures. The fishing industry is aware of what is happening and has been kept informed of what is being discussed at present. The figures submitted by various member states, including Ireland, obviously have to stand up to scrutiny by the Commission. These figures will ultimately determine the level of fishing effort for each country.

**Mr. Coveney:** Have we reached the stage where the level of Spanish fishing effort proposed for the new area is approximately 80% of that carried out by the Irish fleet? Ireland has approximately 7 million kilowatt days. Is it correct that Spanish entitlement will be in the region of 80% of that of the Irish fleet? Is that what the Minister is aiming for?

**Mr. D. Ahern:** No. There is no absolute position as yet in regard to any of the figures. The fishing vessels of the Spanish fleet are somewhat bigger than their Irish counterparts, while there are similar numbers of each. The larger the vessel, the greater the fishing effort it can exercise. We are happy to allow matters proceed towards June while ensuring there will be no increase in fishing effort and the levels which obtained previously will remain in place.

I assure the Deputy that these figures are being mulled over closely by all delegations. There is a fair bit of work to be done between now and the June Council.

### **Industrial Relations.**

33. **Mr. Broughan** asked the Minister for Communications, Marine and Natural Resources if he has held talks with ESB management or unions in regard to proposals for industrial action at the company; his views on whether industrial action will result in widespread electricity black-

outs throughout the country; the efforts he is making to avoid such industrial action; and if he will make a statement on the matter. [13875/04]

35. **Mr. Kehoe** asked the Minister for Communications, Marine and Natural Resources the role he intends to play to ensure that industrial action is avoided within the ESB in June 2004, yet at the same time ensuring that the ESB can move forward in a competitive and efficient way. [13854/04]

**Mr. D. Ahern:** I propose to take Questions Nos. 33 and 35 together.

I do not have primary responsibility for industrial relations issues within Government and I have not held discussions with either the ESB management or the unions since the result of the recent ballot undertaken by the ESB group of unions was announced.

Prior to taking the ballot, my Department acceded to the request from the ESB group of unions to enter into discussions on shareholder and policy issues and has had a number of discussions with the group of unions in recent months. While further meetings are not planned, my Department is available to continue discussions at any time.

I am aware that the ESB group of unions has submitted claims which, at first sight, seem to be inappropriate in the context of national competitiveness and the partnership approach to pay in the economy. It is understood that a claim has been lodged for an 18.5% pay rise. Discussions on this matter are being dealt with in accordance with the established industrial relations procedures and machinery in the company.

It is my understanding, however, that the ballot which was recently undertaken by the ESB group of unions provides a mandate for industrial action in circumstances where the company proposes or proceeds with structural or organisational change which impacts on staff without prior agreement. While I view the results of the ballot with concern, it is clear the mandate is a conditional one. Therefore, it is premature, at this stage, to speculate on the impact on customers and the country generally of any industrial action. I have instructed my officials to keep me fully briefed on the situation as it develops.

**Mr. Broughan:** I reiterate the point I made to the Ceann Comhairle this morning on the Order of Business about questions on the energy market and electricity, specifically two questions the Labour Party asked about the grid code, as related to wind and about which we got some news today, and escalating electricity prices. As the Minister will agree this House is the place to discuss major policy issues. It is not for the Ceann Comhairle to fob us off with the fact that we have a regulator. We will end up with a host of regulators as every Department will have one and, if it is left with nothing to discuss, the House will have no function.

I am glad to hear the Minister is concerned about the result of the ballot and the fact that ESB workers are so aggrieved as to be considering industrial action. Does he agree that he has a heavy responsibility for this situation? In his two years in the job he has not set out clearly national policy on the future of electricity generation and the electricity market nor has he brought forward the electricity Bill, which I understand will be published in early 2005. We have no opportunity, even in committee, to discuss the fundamental issues arising for our economy.

I welcome the fact that we will deal with the funding Bill next week or the week after. However, will the Minister agree that he is responsible for dealing with the issues? Is the uncertainty about the future of generation, the transmission network, distribution and the supply chain not his responsibility? Does he agree that he should spell out to the nation and the work force where he intends to bring the energy and electricity market, something he has failed to do so far?

On the issue of Eirgrid, why has the Minister not requested the ESB to come forward with the infrastructure agreement, which we were led to believe was on the table some time ago, dealing with the decoupling of Eirgrid and the ESB? That agreement should deal with the transfer scheme and issues that affect workers, especially defined pension and other rights. Is this not a key area of the Minister's responsibility?

We hope there will be no industrial action which will lead to black-outs. However, we learned today that the CER has criticised the ESB because several of its generation plants are only running at 74% to 76% efficiency and capacity. There is a fundamental problem in that area which the Minister has failed to address. Is it not time he took the lead in this area and told the House where he expects future electricity generation and market to develop, especially since we are not far from 19 February 2005, when the market will be deregulated for every household and firm in the country?

**Mr. D. Ahern:** I am not sure of the question in that rant. Government policy on energy has been clearly stated. The Deputy's question relates to the issue of the ESB ballot. Government policy regarding any move to give a further shareholding to the ESB, from its existing 5% up to 14.9%, can only happen in the context of a sale or outside investor process, which in effect means privatisation. Is the Deputy exhorting a privatisation agenda on behalf of the Labour Party?

The reality is that the public own the shares in a semi-State company. I cannot simply hand over the shares to the unions or the private sector without the proper conditions being met. However, my position on the future of the ESB is well stated. I am not in favour of privatisation. I have said that if there is any sale of the ESB,

[Mr. D. Ahern.]

there will be no sell off of the infrastructure which will remain in State ownership.

The Deputy mentioned Eirgrid and the CER. We expect the difficulties relating to Eirgrid will be sorted shortly and when they are, we will be able to put the agreements together for the complete division from the ESB into Eirgrid.

**Mr. Broughan:** The ESB gave us an outstanding briefing on infrastructural development in the Dublin region just a few minutes ago, for which Deputies of all parties are grateful. The Labour Party is bitterly opposed to any attempt to privatise the ESB. The history of Telecom and Eircom open up the appalling vista of the privatisation of our national grid. We are opposed to that. As the Minister responsible, is it not Deputy Ahern's job to lay out clearly the future development of electricity generation and the electricity market here? On the matter of Eirgrid, he should indicate clearly which elements of the ESB will be part of the national grid and explain how it will operate.

The Minister has a heavy responsibility. We are approaching the February, 2005 deadline, but so far, he has not met his responsibility.

**Mr. Kehoe:** Who is responsible for the ESB and is it the Minister's responsibility to ensure the country has sufficient energy? I thought the State had a majority share in the ESB. It is scandalous that the Minister cannot come into the House and outline exactly what is happening in the company. I cannot believe that he has not met the unions or management.

On 18 December, when the unions considered holding a ballot on industrial action, the Minister suggested a series of bilateral talks between, first the unions and his Department and second between the unions and the ESB. We are again faced with industrial action, but the Minister says it is not his responsibility. Is there any truth in the suggestions he made on 18 December? I am not sure whether the Minister has had private talks with the ESB, but can he say precisely what issues are being fought for between the unions and the management? Perhaps the Minister would outline answers to those questions.

**Mr. D. Ahern:** Regarding the ability of this House to discuss price issues — and this was referred to in earlier supplementary questions — the Oireachtas passed the legislation setting up the Commission for Energy Regulation and independent regulation of a fully liberalised market.

**Mr. Broughan:** We are not there yet.

**Mr. D. Ahern:** We cannot have it both ways. We cannot pass legislation along those lines and then say we cannot discuss these issues. That is the case regarding electricity, gas and telecom prices. Regardless of who was in Government,

this House abdicated its responsibility to invest properly in infrastructure. Governments postponed sanctioning ESB price increases. These are now independently granted by the CER. That is why the ESB is able to invest significantly in infrastructure and ensure that we do not experience black-outs as happened in the USA, UK and Italy. People may be assured that the infrastructure here has the necessary capacity even though electricity demand here is twice the EU and OECD averages given the rate of economic growth here.

Regarding the differences between the ESB unions and management, the unions want a pay increase of 18.5% and an increased share-holding in the company but to date no case has been made as to why the taxpayer should hand over extra share-holding to the ESB group of unions. I have met the ESB group of unions on quite a number of occasions. What I said in my reply was that I had not met them since the result of the ballot.

#### **Commission for Energy Regulation.**

34. **Mr. Eamon Ryan** asked the Minister for Communications, Marine and Natural Resources when he intends appointing the proposed three person energy regulation commission; if the work of the three regulators will be divided on the basis of energy pricing, security of supply and environmental issues; and if he intends extending their remit to include the regulation of fossil fuel products other than natural gas. [13861/04]

**Mr. D. Ahern:** In recognition of the critical role which the Commission for Energy Regulation discharges and the importance of the energy sector to the economy's competitiveness, I decided to expand the commission from one member to three members. This is in line with existing legislative provisions in the Electricity Regulation Act 1999 and is consistent with the expansion of the Commission for Communications Regulation in January 2003.

Since its establishment in July 1999, the role and work of the commission has grown enormously. It now includes responsibility for gas, as well as electricity regulation, and is charged with a range of onerous duties arising from the EU liberalisation agenda. This is the appropriate time to increase the membership of the commission. Officials from my Department have been in contact with the Department of Finance about the requisite ministerial consent to the terms and conditions, including remuneration, of the appointment of the additional members.

The next step will involve the Office of the Civil Service and Local Appointments Commission hosting a selection process for the new energy commissioners. I hope this process will be conducted without delay.

The commission is independent in the performance of its functions, and how it proposes to allocate responsibility within its organisation is a matter for it alone, whether the commission

comprises one member or three members. However, I have publicly stated that I want an expanded commission to focus more directly on environmental, consumer and competitiveness issues.

The commission's functions are specified in the Electricity Regulation Act 1999, as amended, and no consideration has been given to extending its remit to include the regulation of other fossil fuel products at this time.

**Mr. Eamon Ryan:** The Minister still has not said when the commission will be in place. Perhaps he is unable to say. He says the matter is now with the Department of Finance and will go to the Civil Service and Local Appointments Commission. I am keen that the Minister should put a date on it. In what quarter does he expect this three person commission will be in place?

The Minister rightly stated that environment was one of the areas of concern. Last week I attended a conference on climate change organised by the EPA in Dublin and attended by leading scientists from around the world. Listening to them, if I were in charge of energy regulation I would require the grid company and others to tell me in three months' time how they would make Ireland's energy 60%, 70%, 80% renewable. I would not want to hear the problems. I would want to hear the solutions, and I would want them in three months' time.

Is it not the problem that the Minister does not have the power to regulate and direct? Unlike the position in telecommunications where he can and has in the past year issued regulations and policy directions, with regard to the energy regulator it does not matter what he or we think; there is no ministerial power to issue directions if we have serious concerns regarding, for example, climate change and the need to change our energy policy accordingly regardless of what engineers say is or is not possible. There may be occasions when we as policy makers must tell the engineers we want to hear not about problems but solutions.

When does the Minister expect the three person commission to be in place? Is it possible in introducing the electricity Bill to return certain powers to the Oireachtas or the Department given that there are certain issues where it is necessary to issue directions and tell the people involved in a particular industry that for broader policy reasons they are required to take a certain direction? Will the Minister consider such a change?

**Mr. D. Ahern:** In answer to the first question, it is not within my remit to say when the three person commission will be appointed. I would like to think it will be in a relatively short time, that is, in a few months. It is up to the Civil Service and Local Appointments Commission to determine that and, obviously, it depends on the calibre of the candidates who come forward.

On the issue of renewable energy, since I came into office there has been quite a significant

increase in interest in this, particularly in the context of the AR6 contracts. To a certain extent we are the victims of our own success. There are significant technical issues to be addressed. I called together the industry and all the other interests in this area, including the ESB, the regulator and other companies on a renewable energies group which met for the first time this week with a very short time frame to build on the consultation process and the recently issued consultation document on renewable energy.

Regarding directions, I have already pre-empted the Deputy. Legislation is being prepared to give the Minister power to make further directions in the area of energy analogous to the directions already being given and quite successfully implemented in the telecommunications area. That legislation will be brought forward as soon as possible. I would not like to think it would be 2005 before it is brought forward. We had to bring forward quickly the funding legislation relating to the ESB. However, the other legislation is being given priority and it will include power for the Minister to make directions.

**Mr. Eamon Ryan:** I welcome the announcement that the Minister will reintroduce those powers in recognition that the legislation was flawed in that regard. I find it remarkable that the Minister can say we are the victim of our own success when I see the development of biomass and biofuel products in other countries, the development of wind resources, the investment by other countries in new technologies such as wave and tidal technologies where we should take a massive lead, and when I see every block being put in the way of development of renewable energy by the main State companies, the regulatory authorities and by the Minister. I see nothing but failure and lost opportunities in terms of development of cleaner energy technology.

The Minister says I admitted there were technical difficulties. I see nothing but opportunities in this area and I find it remarkable that the Government is not pursuing those opportunities and issuing directions to the State companies and to his Department to make sure we avail of them.

**Mr. D. Ahern:** The Deputy is extremely naive if he believes there are no technical difficulties in, for example, putting a massive amount of extra wind on to the grid.

**Mr. Eamon Ryan:** The Government is blind to the opportunities.

**Mr. D. Ahern:** If the Deputy does not understand that, I suggest that he should meet those who are involved in the industry. Such people know the difficulties—

**Mr. Eamon Ryan:** I will meet them tomorrow



**Mr. D. Ahern:** It is high time that the Deputy met them.

**Mr. Eamon Ryan:** It is high time the Minister saw the opportunities.

**Mr. D. Ahern:** People in this House——

**Mr. Eamon Ryan:** The Minister sees nothing but difficulties.

**Mr. D. Ahern:** If elected politicians in the House have the same sort of idealistic view about renewable energy

**Mr. Broughan:** The Minister is full of hot air.

**Mr. D. Ahern:** There are difficulties in respect of renewable energy

**Mr. Eamon Ryan:** Where is the biomass?

**Mr. D. Ahern:** There are difficulties in respect of technical matters.

**Mr. Eamon Ryan:** Where are the biofuels?

**Mr. D. Ahern:** There are difficulties in respect of pricing for the future.

**Mr. Eamon Ryan:** Where is the wave technology?

**Mr. D. Ahern:** Those who are pushing renewable energy

**Mr. Eamon Ryan:** Where is the tidal plan?

**Mr. D. Ahern:** ——should tell the people that renewable energy will actually cost them more.

**Mr. Eamon Ryan:** It will bring huge wealth to this country.

**Mr. D. Ahern:** It will hit people in their pockets.

**Mr. Coveney:** Like peat.

**Mr. D. Ahern:** We have heard the usual Green Party obfuscation.

**Mr. Eamon Ryan:** There are huge opportunities.

#### Postal Services.

36. **Mr. Broughan** asked the Minister for Communications, Marine and Natural Resources if his attention has been drawn to the call from An Post staff at the recent Communications Workers' Union conference in Galway, for an inquiry into the previous mismanagement of the State postal service; if he has plans to recommend such an inquiry; and if he will make a statement on the matter. [13876/04]

**Mr. D. Ahern:** I am aware of comments made at the recent conference of the Communications Workers' Union in Galway. In light of the current financial difficulties faced by An Post, I am convinced the most effective means of ensuring its long-term future is to focus on the critical challenges it faces rather than to concentrate on past performance and management. I trust this view is shared by all stake holders in An Post. Deputies are aware that the Joint Committee on Communications, Marine and Natural Resources has examined An Post's problems on two occasions since the start of 2003. Unlike the management of An Post, the Communications Workers' Union chose to not attend the most recent meeting of the joint committee devoted to examining the company's financial situation, which was held earlier this year. I do not propose to call for an Oireachtas inquiry into the matter, as to do so would be a matter for the Oireachtas itself.

**Mr. Broughan:** I would like to return briefly to the issue of alternative energy sources before I ask supplementary questions about the postal service. We tried to raise the grid code and other issues relating to wind generation, but we were not allowed to do so. Despite the Minister's comments, such policies are matters for the House. One could probably fuel a small generator — perhaps 2 MW — from the hot air the Minister generates on the other side of the House.

Does the Minister agree that the An Post workers are right to feel a deep sense of grievance about the managerial regime that existed before July 2003? The result of An Post's first loss of €7 million in 2001 was that the chief executive was rewarded with an additional €100,000 in salary and a bonus of €21,000. Is it not right, therefore, that workers are aggrieved?

With regard to the Minister's area of responsibility, where is the An Post strategic recovery plan? The House discussed the plan when there was a crisis about two months ago. Where does the Minister think it will go? What is his role? Does he still hold monthly meetings with the board of An Post? Does he continue to monitor closely what has happened to the company?

Does the Minister agree that the 2003 An Post report, which Deputies received a few weeks ago, makes quite frightening reading? The chief executive of An Post, Mr. Donal Curtis, said that its finances are on a knife edge and he predicted a difficult future for the company. Does the Minister share the reaction of many Deputies to the report? How does he envisage that the recovery plan will roll out? Mr. Curtis said there will be a reduction of 40% in managerial posts. He is looking for a reduction of 1,450 in staff and major changes in the sub-post office network, which provides a vital social service throughout the country. He also spoke about other services. For example, he constantly referred to the cost of

delivering to rural Ireland, which many of us would have thought of as the purpose of An Post. Does the Minister expect the price of a basic postage stamp to increase significantly in the near future?

**Mr. D. Ahern:** I understand that An Post will apply, if it has not already applied, to the regulator for an increase in the price of a postage stamp. My officials and I continue to meet the board of An Post almost on a weekly basis to discuss the company's precarious financial position. Although it is an independent company, my Department has to conduct financial scrutiny to ensure that its problems do not get worse. We would like to see an improvement in An Post's financial circumstances.

The Deputy also asked about the recovery strategy. Discussions with the Labour Relations Commission are ongoing. There is a deadline of Friday of this week, but I anticipate that the discussions will continue thereafter. I ask the Deputy to use his influence to get the CWU to come to the Oireachtas to make its case to the joint committee. It had the opportunity to make its case before the strike, but it chose not to do so. The management of An Post attended a meeting of the committee. We can all blame individuals and groups of individuals for what happened in the past, but we should accept the situation as it is and look forward. The Deputy has criticised a particular person, but the reality is that the situation was overseen by a board, of which four members are worker-directors, as well as a management team. Having examined the difficulties faced by An Post as part of the recovery strategy, it is clear that difficult decisions will have to be made, not only about price increases but about restructuring the organisation.

**Mr. Broughan:** The Minister placed the Postal (Miscellaneous Provisions) Bill on the legislative programme last autumn. When does he expect that the Bill and the projected ESOP for the work force will be brought forward? Another controversial aspect of the report relates to the universal service obligation and the quality of service. The rating given to An Post for its next-day delivery of the basic postal service by its invigilators, PricewaterhouseCoopers, is far more impressive than that given to it by ComReg. ComReg has claimed that An Post has a next-day success rate of 74%, but An Post claims that the rate is 94%. Who is telling the truth about the quality of service?

**Mr. D. Ahern:** We have to accept ComReg's figures because they are derived by means of a comparison with An Post's EU partners. The company's figures for next-day delivery are not as good as we were originally led to believe.

The Deputy mentioned that the legislation to provide for an ESOP is on the legislative programme, but it has not made progress because

certain indicators of the commitments that were made under the agreement have not been reached. This matter is being discussed as part of the ongoing discussions between the Labour Relations Commission, the trade unions and the management of An Post. As I have said previously, the Government favours the issue of the transformation agreement, although an absolute proviso has been included on behalf of the taxpayer: the savings commitments that have been made have to be met before there is any transfer of shares. We are willing to examine these issues in the context of the restructuring of the company.

### Other Questions.

#### Mobile Telephony.

37. **Mr. Deenihan** asked the Minister for Communications, Marine and Natural Resources the meetings he has had with mobile phone companies in the past year; the issues discussed; and if he will make a statement on the matter. [13622/04]

**Mr. D. Ahern:** I have held numerous meetings with the CEOs and senior management personnel of all the mobile operators in the past year. The meetings have taken place on a one-to-one basis, as part of deputations or at general business or social engagements. The discussions at such meetings related to general developments in the marketplace, policy, regulatory and technology issues. I meet the relevant telecoms representative groups such as ALTO, which represents alternative operators in the communications market in the fixed, wireless, mobile and cable sectors, on a regular basis. I also meet the relevant IBEC representative bodies such as the Telecommunications and Internet Federation and the Telecommunications Users Group regularly.

**Mr. Coveney:** I would like to probe a matter we discussed at the Minister's most recent Question Time. I asked a question after a schoolgirl in Cork had pornographic images sent to her phone by someone in Dublin. The Minister said at the time that new legislation was not required to deal with the sending of explicit pornographic imagery via mobile phone from one user to another and, in particular, from an adult to a minor. The Minister said he would discuss the matter with mobile phone companies. What discussions have taken place and what progress has been made?

**Mr. D. Ahern:** Question No. 44 deals with this issue and a full response has been provided to that. All the required legislation is in place. The Irish Cellular Industry Association has had discussions on these issues with the Department of Justice, Equality and Law Reform. That association liaises with the companies in

[Mr. D. Ahern.]  
developing software to block the sending of pictures with adult content. My officials and I have had discussions with individual companies on these issues and, with the advent of 3G, third generation, phones, I am looking closely at what structures we might put in place to prevent the passing of pornographic material on those which are even more powerful than existing camera phones. The intent is to ensure that we will be able to delete pornographic images or prevent them reaching the phones. In the event that they do reach them, we will strongly consider a registration system for 3G phones, as referred to in the House some time ago, so that they are not used for prohibited purposes.

**Mr. Broughan:** Will that include card phones?

**Mr. D. Ahern:** In some countries where 3G phones are already available they contain adult pornographic content which is used as a marketing tool. I am aware of some discussions among international companies as to the possibilities in that area.

**Mr. Coveney:** Is the Minister talking about screening?

**Mr. D. Ahern:** We will be using every opportunity and every piece of legislative power to ensure that this does not happen in Ireland. I have already received assurances from companies in Ireland that they will not be putting adult pornographic content onto phones as a marketing tool. In a 3G context, however, that will not exclude the possibility of pornography being sent from cell phone to cell phone. We are looking closely at that issue and will discuss it further with the companies.

**Mr. Coveney:** Does that apply also to sending photographs by mobile phone? As the Minister is aware, most young people now buy camera phones if they can afford them. Does the Minister's concern also extend to the sending of pornographic photographs by phone from an adult to a minor? That is a serious issue.

**Mr. D. Ahern:** We would all abhor that. The sending of child pornography images or any pornographic images by phone is covered by the Child Trafficking and Pornography Act 1998 which provides for an offence carrying a maximum penalty of 14 years for anyone who knowingly produces, distributes, prints, publishes, imports, exports or sells child pornography. Mere possession of child pornography can attract a penalty of five years in prison. It is similarly an offence under section 13 of the Post Office (Amendment) Act 1951, as amended by the 1983 Act, to send by phone any message or other matter which is grossly offensive or of an indecent, obscene and menacing character.

I assure the Deputy that legislation is already in place. Due to the ever-changing technology,

from a legislative and co-operative point of view with the industry we must ensure that such offences cannot take place. The companies are willing to help and have programmes in place regarding the type of software they consider. I have already received representations from a number of private companies in Ireland who believe they have the appropriate technology, although it is as of yet untried worldwide. We are examining the 3G situation and will hold discussions with the companies to ensure that in an increasingly complicated situation, the 3G technology is not used in the way the camera phone technology has been used.

**Mr. Broughan:** Will the Minister introduce regulations to ensure that unregistered card phones, which comprise 20% of the total, are registered and that the area will be controlled? A constituent brought to my attention reports in the *International Herald Tribune* and *The New York Times* on a conference of pornographers held in Amsterdam last month in which companies such as Vodafone, O2, Orange, MM and Virgin Mobile were all represented and were seeking to maximise revenue from the pornography area. Vodafone has said that it wants to maximise such profits in ten of its 16 markets. The reports go on to say that Britain is the first country to develop a self-regulatory code of conduct in the area. Can the Minister say that he will ensure in whatever is being planned that the young people of Ireland will be protected from such misapplication of commerce and from the attempts of operators to misuse this technology?

**Mr. D. Ahern:** We have been aware for some time that there are companies discussing these issues, and we know of the recent meeting in Amsterdam. It was as a result of that and our knowledge in this respect that we have had discussions in the Department and with various groups in this area with a view to introducing a code of practice and considering issues such as the registration of new phones. We cannot retrospectively register existing camera and card phones.

Regarding 3G, which will probably be the most difficult area to deal with if it is successful, we will be able to insert the required legislation and apply the code of practice. To be fair to the companies in Ireland, they are adamant that they do not wish their services to be used for the transportation of pornographic material.

38. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources if he has satisfied himself that mobile phone technology here is keeping pace with international developments, standards and requirements; if the quality of coverage is on par with that available in other jurisdictions with which this country competes economically; if he has proposals for improvement; if he has had discussions with the telecommunications

regulator in this regard; and if he will make a statement on the matter. [13654/04]

142. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources when he expects the 3G mobile phone communications to become available; and if he will make a statement on the matter. [13891/04]

**Mr. D. Ahern:** I propose to take Questions Nos. 38 and 142 together.

There has been significant development in the mobile phone sector in Ireland over the past five years. With a penetration rate in excess of 83%, Ireland compares favourably with the rest of Europe. The products and services on offer in Ireland also compare favourably. Services such as SMS and customer support provided by operators are considered to be among the best in Europe and beyond.

Various operators in Ireland, including Vodafone, O2, Meteor and "3" all have specific statutory obligations to meet in terms of coverage and quality of service. Responsibility for monitoring and enforcing these obligations rests with ComReg, which informs me that there is good compliance with same. The roll-out of 3G services is also well advanced and issues such as handset availability, battery life and so on are now being resolved. It is expected that the roll-out of 3G in Ireland along with much of the rest of Europe will commence in the final quarter of this year.

As the Deputy is aware, there is one particular area relating to roaming in Border areas about which I am concerned. I have asked ComReg to report to me quarterly on progress on this issue, which I believe is both intrusive and potentially costly for those living along the border. Progress on this issue will also require support of the regulatory authorities in Northern Ireland and, in this context, I am pleased to note that ComReg and Ofcom are jointly working on this issue. I will meet my Northern Ireland counterpart next week to discuss matters regarding energy and telecommunications. One of the issues I will raise is cross-Border roaming.

**Mr. Coveney:** I welcome the statement by the Minister that Northern Ireland and the Republic are discussing the question of roaming.

I understand the Minister has issued a directive to ComReg to ensure there is sharing of network coverage among the networks, in other words, if one of the mobile operators had poor coverage, or if a new operator entered the market place, there could be enforced sharing of network coverage. How far are we down the line towards that objective? I know the two largest operators in the country are anxious to resist this but it is essential, if we are to have true competition and more players in the mobile phone market in Ireland.

Is the Minister satisfied that roaming charges for Irish customers are competitive internationally? When Irish people use their

mobile phones abroad, are they being over charged? If so, has the Minister raised the issue with ComReg?

**Mr. D. Ahern:** As the Deputy is aware I have already issued some significant directions to ComReg on the key objective of competitiveness, with particular focus on competition in the fixed and mobile market. I have already directed ComReg to examine using its powers to mandate national roaming on a fair commercial basis on the existing GSM networks of other mobile operators, with significant market power. It is now up to ComReg to deliver on that.

**Mr. Coveney:** At what point are we on that?

**Mr. D. Ahern:** There was opposition during the consultation process before I issued the directive on this. It is up to ComReg to progress the matter, which it is doing. Perhaps, the Deputy will invite ComReg to make a presentation on it to an Oireachtas Committee. ComReg is working to implement that directive.

**Mr. Durkan:** Will the Minister indicate to the House whether he intends to direct ComReg to take action on the quality and extent of service and the degree to which the quality of coverage in the past ten years has fallen behind that provided in member states?

My question No. 142 refers to 3G mobile phone technology which has been promised for some considerable time. However, as with other promises from the benches opposite, it seems vague in defining the actual operating date.

**Mr. D. Ahern:** ComReg is the arbiter and has obligations under legislation on the quality of service. It is an open market and it is up to the operators to provide a level of service that will yield a return in an open competitive market.

**Mr. Durkan:** The operators do not have to provide a service.

**Mr. D. Ahern:** There are operators and it is a very good service by all accounts. Earlier I gave an incorrect percentage figure on the market penetration of mobile phones. In fact, 87% of the population has a mobile phone, an increase of 8% in the past 12 months.

**Mr. Durkan:** The Minister did not reply to question No. 142.

**Mr. D. Ahern:** I have answered that already Deputy in a previous reply. The 3G technology will come on the market in the last quarter of this year.

**Mr. Coveney:** Is the Minister concerned about the level of roaming charges?

**Mr. D. Ahern:** I raised this issue initially because I am acutely aware of it. The Deputy

[Mr. D. Ahern.]  
enjoys the luxury of living in Cork where roaming charges do not apply. Where I live, it is an added burden on those with mobile phones and that is I why I am trying to have it sorted out.

**Mr. Coveney:** I was referring to roaming charges when the phone is used in Europe.

**Mr. D. Ahern:** I know that Members, such as Deputy Eamon Ryan and Deputy Coveney have a Dublin and Cork centric, but there is the rest of the world outside Dublin and Cork.

**Mr. Coveney:** The Minister is referring to the all-Ireland market, but I am concerned about roaming charges when people go on holiday or on business to France, Germany and Spain and elsewhere. Will the Minister clarify the position?

**Mr. D. Ahern:** Discussions have taken place at EU on roaming charges but as the Deputy will understand, it is a significantly much more difficult issue to solve. It has to be solved at EU level and discussions are ongoing on roaming charges. People have the option of staying with the network they have in the Republic.

**Mr. Coveney:** I asked the Minister if he thought the mobile phone operators were competitive.

#### **Fisheries Protection.**

39. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources if steps taken at EU level are adequate to safeguard fish stocks with particular reference to threatened species; if he has satisfied himself that regulations made are being fully adhered to; and if he will make a statement on the matter.  
[13653/04]

**Mr. D. Ahern:** Within the framework of the Common Fisheries Policy (CFP), the EU has taken a number of specific steps in recent times to address certain whitefish stocks of particular interest to Ireland. Long-term stock recovery plans have been introduced for Irish sea cod, northern hake and cod in the west of Scotland.

The Commission has also tabled proposals for recovery plans for sole in the Western Channel and Bay of Biscay and for southern hake and Norway lobster. In addition to these tailored stock recovery programmes, the position of fish stocks generally in western waters will also be assisted by the implementation of the new western waters regime. This regime will impose limits on the effort employed by member states fleets in important fisheries around Ireland and additional measures will apply to a biologically sensitive area to the south and south-west of Ireland.

In so far as adherence to the various EU regulations is concerned, the CFP contains provisions for member states to take the inspection and enforcement measures necessary to ensure compliance with its rules. It also

provides for member states to follow up on infringements and to impose sanctions where appropriate.

Effective enforcement of conservation rules is a priority for all member states and each member state has a clear responsibility to monitor and control fishing activity within its respective jurisdiction. The challenge of achieving effective control and enforcement of fisheries rules is ongoing and requires close collaboration and co-operation between member states. I am pleased to say the level of such co-operation is increasing and this is helping to generate increased confidence that the rules apply to all fishermen on an even-handed basis.

The need for effective control and enforcement will remain a critical component of the CFP and will drive Ireland's approach to fisheries policy generally.

**Mr. Coveney:** Certainly, since I became fisheries spokesperson for the Fine Gael Party, there is real concern that common regulations and enforcement across the European Union does not exist. Abuses of the system and breaking the law on fisheries regulations are not enforced in a common way across the European Union. While Ireland hosts the presidency of the EU, is the Minister taking initiatives to try to move towards common regulation and enforcement. I accept a greater level of co-operation is developing but fishermen want to see that if fishermen in Portugal, Spain, France, Britain or northern Europe are breaking the rules, they are treated in the same way. We need to work towards that target.

In regard to alternative or scientific conservation measures, for example mesh size, net shapes and possible set aside areas in fishing and spawning ground, what are we doing to promote more accurate and scientific ways of conserving fish stocks as an alternative to the more blunt form of conservation which has been introduced to reduce fishing or to reduce quotas? Are we moving towards the concept the Minister previously raised in committee, EU regional committees formulating regional reports and recommendations for different fisheries and species in EU waters?

**Mr. D. Ahern:** On the latter question, if the Deputy is referring to regional advisory councils, they will be set up and incorporated into EU law during the Irish Presidency. We will discuss them at the next two formal meetings of the Fisheries Council. In regard to the evenness of sanctions against individual countries by the respective authorities, even before I was in this Ministry, I often heard there were different levels of surveillance and sanctions by different countries. Ireland, no more than any other country, has been subject to complaint by other member states and, indeed, beyond in regard to its activities. It is incumbent on all nation states to implement the

laws and to ensure even-handedness. As I said, there is better co-operation at EU level.

I am sure the Deputy is aware that recently a judgment was registered against France for breach of the rules and I understand a substantial fine may be imposed on it by the EU. The Commission has also signalled its intention to take action against the UK and Spain for breaches of the rules. It is fair to state that no member state can claim that all its fishermen obey the rules at all times. We must ensure we do our level best to ensure enforcement. I know the Deputy is not, in any way, suggesting we take our foot off the pedal in that respect.

**Mr. Durkan:** Is the Minister satisfied conservation rules are being universally enforced? Is he happy with the degree to which the conservation rules are being enforced by all member states? Has he made complaints at Commission level or Council of Ministers level in this regard?

**Mr. Coveney:** In regard to the regional advisory committees, which I strongly welcome and which I am glad will be put in place before the end of our Presidency, will the industry be represented on those committees?

**Mr. D. Ahern:** Yes. That is the whole idea behind the regional advisory councils of which Ireland has, over recent months, been a great supporter on the basis that, for the implementation of new rules, from now on we need to have tie-in from industry representatives. To a certain extent, that will bring them into the loop in regard to decisions.

On fishing, technical and conservation measures, one of the successful meetings which the Irish Presidency has had was that held in Dundalk on the issue of environmentally-friendly fishing methods. As a result of that meeting, which was instigated by us, the Commission will bring forward an action plan on environmentally-friendly fishing methods — apart from the usual issues of quotas and technical measures which might sustain stocks — and to incentivise in other ways, financial or otherwise, fishermen who demonstrably embark on environmentally-friendly fishing.

Over recent years, there has been an “us” and “them” situation with the Commission, the scientists and the fishing industry on different sides. They are all, in effect, involved in megaphone diplomacy with each side blaming and no side believing the other. Recent efforts at Commission and Council levels is to bring these parties together so that they can commonly and in partnership agree structures and hopefully adhere to them. There is a genuine understanding in the fishing industry that, while its economic situation must be sustained, there is a need to ensure conservation of stocks for this generation and future generations.

On the question of whether I am happy with the position, I am not happy. As I said, no member state, including Ireland, can validly state that all fishermen are adhering to the rules every day. As Minister, I must enforce the law, and be seen to do so, at every opportunity. It is a matter for my officials and the Naval Service to implement.

#### **Electricity Generation.**

40. **Mr. Gormley** asked the Minister for Communications, Marine and Natural Resources if his Department has carried out an analysis of the possible use of waste wood products from the forestry industry as a fuel mix in peat and coal powered electricity generation stations; and the level of substitution he views as possible in each case. [13691/04]

98. **Mr. Gormley** asked the Minister for Communications, Marine and Natural Resources the joint research projects being undertaken with the Department of Agriculture and Food, Teagasc and the farming organisations to develop the potential of renewable energy and biofuel sources from agriculture and forestry resources. [13692/04]

99. **Mr. Gogarty** asked the Minister for Communications, Marine and Natural Resources his Department’s policy on the potential use of wood pellet technology for heating and small scale electricity generation plants. [13690/04]

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** I propose to take Questions Nos. 40, 98 and 99 together.

In December 2003, my Department, in association with Sustainable Energy Ireland, SEI, set up a bioenergy strategy group, BSG. The primary objective of the group is to consider the policy options and support mechanisms available to Government to stimulate increased use of biomass for energy conversion and to make specific recommendations for action to increase the penetration of biomass energy in Ireland.

Biomass can be subdivided into waste categories and purpose grown energy crops, including short rotation forestry and miscanthus grass. The use of biomass as fuel for generation of both electricity and heat are within the remit of the BSG. The BSG is holding a series of meetings each exploring a different aspect of the exploitation of biomass energy, one aspect of which is the potential use of wood pellet technology.

Input to the group is from a wide range of interested parties, including those in the wood processing industry, Teagasc and the Department of Agriculture and Food. The BSG will produce a strategy report for publication. It will contain a road map for the development of biomass energy with the identification of staged, achievable targets and recommendations for future action. It is expected that this report will be available at the

[Mr. Browne.]  
end of this year and will link in with the Department's renewables consultation process and newly formed renewables development group.

Ireland has an excellent growing climate and an ongoing supply of raw material for wood fuel. Wood residues are already being used to produce heat for sawmills across the country and the wood energy market is poised for growth, with a number of commercial start-ups and a supply chain emerging. Wood residues can be broken down into four categories: pulpwood residues; sawmill residues; forest residues; and recycled wood. Responsibility for commercial development would be a day-to-day decision for the commercial companies involved.

Sustainable Energy Ireland has commissioned a report to investigate the potential for co-firing biomass in peat and coal powered stations. In this case, biomass includes, for example, wood, straw, tallow, meat and bonemeal. This study will be completed in May and preliminary findings indicate that there is good potential for the co-firing of biomass at power stations. I will forward details of the study to the Deputies when it is published later this month.

SEI has also published two studies entitled, A Resource Study on Recovered Vegetable Oil and Animal Fats and An Assessment of the Renewable Energy Resource Potential of Dry Agricultural Residues in Ireland. I will forward these to the Deputies for information.

**Mr. Eamon Ryan:** I have the latter report so the Minister of State does not need to send it to me. However, I am keen to hear how much wood we can put into the peat-fired power stations. The Minister might claim it as an area of outstanding success where again we have been a victim of our success but it was interesting to hear the Minister of State mention the creation of a new strategy group to look into this matter and bring forward recommendations. Is the Minister of State aware of the recommendations in the report for the energy panel by Forfás? That report was carried out in conjunction with the Irish Council for Science, Technology and Innovation about seven years ago. It set out a clear strategy for investment in biomass technology and the use of waste wood and wood pellet technology as being an immediate priority given our energy circumstances. Did the Department act on that report? Why are we coming back to the issue again?

I refer to wood pellet products. I attended a conference on renewable energy in Austria last year. The adaptation of technology there was remarkable in terms of heating purposes and small scale generation. Have we looked at other countries to see why they are able to generate biomass, fuel-driven products, biomass wood pellet products and these other technologies which they are rapidly developing and which we are now only assessing yet again as a possible

option? Seven or eight years ago, the State body responsible for the area recommended that this was exactly the technology we should develop? Why has this technology stagnated in the seven years since the Government first took office?

**Mr. Browne:** I am aware of the report to which the Deputy referred. Sustainable Energy Ireland is already providing funding for technical demonstrations through the renewable energy research development and demonstration programme. Grainger sawmill in Cork is an example of a wood-fired power plant. That 1.8 megawatt electrical power plant will open shortly, fuelled by sawmill residues. My Department is working closely with Sustainable Energy Ireland and other potential developers in this area, to ensure that such developments continue.

**Mr. Coveney:** When it comes to renewable energy, whether it concerns wind, biofuels, biomass or woodchips, why does Ireland seem to lag behind the rest of Europe? The reality is that in other EU countries, including Scandinavia, Germany, France and Spain, industries have already been developed to use the climatic conditions for wind power or, in this case, growing plantations for the use of wood biomass. Other countries are five years ahead of us, while we are still undertaking studies and producing reports. If we are serious about this, why are we not moving ahead? We do not need to reinvent the wheel because the template already exists in other countries for us to follow. Surely we should just get on with it.

**Mr. Broughan:** I echo the comments of my colleagues. Is the Minister putting all his eggs into the Corrib field basket? Does he expect to find massive energy resources off the west coast? Does he consider that Ireland does not need to invest in alternative energy, as the other countries referred to have been doing?

**Mr. Eamon Ryan:** Unfortunately, the resources from the Corrib gas field would only run this country for about 18 months, if we were to rely on it.

**Mr. Broughan:** That is not what the Minister says.

**Mr. Eamon Ryan:** That is what I have been told.

**Mr. D. Ahern:** Where does the Deputy stand on it?

**Mr. Eamon Ryan:** Whatever about the development of wood pellets as a finished product, what detailed talks has the Minister had with Coillte concerning the amount of waste wood available from current and future forestry production? Will the Minister outline whether his Department has carried out talks with the IFA or other farmers' organisations whose members are

facing a bleak future due to changes in the Common Agricultural Policy and the lack of clear vision as to what crops can be provided. What talks is the Minister having with the IFA to set out a bold future for Irish agriculture in developing these high-value products?

**Mr. D. Ahern:** That is not what Fine Gael says about it.

**Mr. Eamon Ryan:** Will the Minister reply?

**Mr. D. Ahern:** How will the Green Party sit with Fine Gael in Cabinet, if they ever get there?

**Mr. Eamon Ryan:** Is the Minister talking to the IFA?

**Mr. D. Ahern:** The Green Party wants to abolish the CAP.

**Mr. Eamon Ryan:** I think the Minister will find that we are *ad idem* on this item.

**Mr. D. Ahern:** The Green Party wants to abolish the CAP, while Fine Gael wants to keep it.

**Mr. Coveney:** There is huge opportunity for agriculture in energy crops.

**Mr. Eamon Ryan:** Fianna Fáil is the problem in this matter, not Fine Gael.

**Mr. D. Ahern:** God help Ireland.

**Mr. Browne:** I have been very much involved with the IFA in County Wexford and the County Wexford Marts concerning alternative crop growing projects. Sustainable Energy Ireland is funding a major project in this area for growing rafolium.

**Mr. Eamon Ryan:** It is a test crop.

**Mr. Browne:** Of course other European countries are ahead of us because their stronger economies were developed much earlier than ours. Over the past ten years, however, the Department has put great effort into the development of alternative energies.

**Mr. Coveney:** If there were tax incentives, it would happen overnight.

**Mr. Eamon Ryan:** We are the victims of Fianna Fáil.

**Mr. Browne:** I assure Deputies that we will continue to work with Sustainable Energy Ireland which, in turn, is working closely with Coillte on the issues that have been raised. We will continue to progress this development into the future. A major energy conference was held today in Dublin, attended by delegates from all over the world who had come to see how we are dealing

with energy issues. They had meetings with representatives of Sustainable Energy Ireland and other groups involved in this area.

*Written Answers follow Adjournment Debate.*

#### **Adjournment Debate Matters.**

**An Leas-Cheann 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 the Member in each case: (1) Deputy Neville — funding for mental health services; (2) Deputy Deenihan — the importance of retaining the Jeanie Johnston sailing vessel in public ownership; (3) Deputy Ó Snodaigh — the urgent need for the Minister for Health and Children to explain his decision to refuse to review the rules governing the granting of foster care allowances as requested by the Ombudsman in her annual report last week; (4) Deputy Michael D. Higgins — the urgent need for the Government to seek an independent international inquiry into reports of systematic torture and degradation of prisoners in Iraq by the United States and other coalition forces; (5) Deputy McCormack — to raise with the Minister for Social and Family Affairs the discontinuing of the crèche facilities grant to parents who have returned to full-time education; (6) Deputy Richard Bruton — the failure of the Minister to commit to the purchase of a site for a school (details supplied) which has been reserved by Dublin City Council at Santry; (7) Deputy Shortall — the urgent need for the Minister to approve the purchase of a site at Castletimon for a school (details supplied); (8) Deputy Burton — the ongoing crisis at Blanchardstown — James Connolly Memorial — hospital and the failure of the Government to fully commission the new building including the accident and emergency unit, theatres and the intensive care unit; (9) Deputy Boyle — to discuss the failure of the Government's so-called "decentralisation" programme that is seeing a proposal for Department of Agriculture and Food offices and specialised laboratories in Cork city to be moved to Macroom; (10) Deputy Hogan — the need for the Minister for Transport to ensure that the agreement reached between the National Roads Authority and the Irish Farmers Association in respect of road developments is fully implemented; (11) Deputy Harkin — to ask the Minister for Finance if he will extend the deadline of 28 May 2004 for payment of moneys owed on non-resident accounts.

The matters raised by Deputies Boyle, Richard Bruton, Shortall and McCormack have been selected for discussion.

#### **Estimates for Public Services: Message from Select Committee.**

**An Leas-Cheann Comhairle:** The Select Committee on Transport has completed its



[An Leas-Cheann Comhairle.]  
consideration of the following Revised Estimate for Public Services for the year ending 31 December 2004 — Vote 32.

**Education for Persons with Disabilities Bill  
2003: Order for Report Stage.**

**Minister for Education and Science (Mr. N. Dempsey):** I move: “That Report Stage be taken now.”

Question put and agreed to.

**Education for Persons with Disabilities Bill  
2003: Report and Final Stages.**

**An Leas-Cheann Comhairle:** Amendments Nos. 1, 2, 3, 38, 46, 49, 62, 109, 209 and 210 are related. Amendments Nos. 37, 45, 48, 52, 58, 63, 103, 104, 147 and 173 are a related cognate group. Amendments Nos. 53, 59, 64, 104 and 106 are a related cognate group also. Amendments Nos. 1 to 3, inclusive, 37, 38, 45, 46, 48, 49, 52, 53, 58, 59, 62 to 64, inclusive, 103 to 106, inclusive, 109, 147, 173, 209 and 210 may be discussed together by agreement.

**Minister for Education and Science (Mr. N. Dempsey):** I move amendment No. 1:

In page 5, to delete lines 7 to 34 and substitute the following:

“AN ACT TO MAKE FURTHER PROVISION, HAVING REGARD TO THE COMMON GOOD AND IN A MANNER THAT IS INFORMED BY BEST INTERNATIONAL PRACTICE, FOR THE EDUCATION OF PEOPLE WITH SPECIAL EDUCATIONAL NEEDS, TO PROVIDE THAT THE EDUCATION OF PEOPLE WITH SUCH NEEDS SHALL, WHEREVER POSSIBLE, TAKE PLACE IN AN INCLUSIVE ENVIRONMENT WITH THOSE WHO DO NOT HAVE SUCH NEEDS, TO PROVIDE THAT PEOPLE WITH SPECIAL EDUCATIONAL NEEDS SHALL HAVE THE SAME RIGHT TO AVAIL OF, AND BENEFIT FROM, APPROPRIATE EDUCATION AS DO THEIR PEERS WHO DO NOT HAVE SUCH NEEDS, TO ASSIST CHILDREN WITH SPECIAL EDUCATIONAL NEEDS TO LEAVE SCHOOL WITH THE SKILLS NECESSARY TO PARTICIPATE, TO THE LEVEL OF THEIR CAPACITY, IN AN INCLUSIVE WAY IN THE SOCIAL AND ECONOMIC ACTIVITIES OF SOCIETY AND TO LIVE INDEPENDENT AND FULFILLED LIVES, TO PROVIDE FOR THE GREATER INVOLVEMENT OF PARENTS OF CHILDREN WITH SPECIAL EDUCATIONAL NEEDS IN

THE EDUCATION OF THEIR CHILDREN, FOR THOSE PURPOSES TO ESTABLISH A BODY TO BE KNOWN AS THE NATIONAL COUNCIL FOR SPECIAL EDUCATION AND TO DEFINE ITS FUNCTIONS, TO CONFER CERTAIN FUNCTIONS ON HEALTH BOARDS IN RELATION TO THE EDUCATION OF PEOPLE WITH SPECIAL EDUCATIONAL NEEDS, TO ENABLE CERTAIN DECISIONS MADE IN RELATION TO THE EDUCATION OF PEOPLE WITH SUCH NEEDS TO BE THE SUBJECT OF AN APPEAL TO AN APPEALS BOARD AND TO PROVIDE FOR RELATED MATTERS.”.

On Committee Stage I said that I would try to accommodate, as much as I could, the amendments put forward by Opposition Deputies and suggestions for improvements to the Bill. I know it is difficult but I hope the Deputies opposite will accept that we have incorporated a number of the positive suggestions they made. I look forward to a workmanlike session on these amendments.

Deputy O’Sullivan raised on Committee Stage the declaration of principles, and they are contained in amendment No. 16. We had a good discussion on that and having considered the matter I think the most appropriate location for these provisions is in the Long Title at the beginning of the Bill. The amendment I have proposed refers to international human rights, inclusive education and the involvement of parents, all of which can be accommodated here.

Deputy O’Sullivan also referred to equality of access and the individualised assessment of needs. These are already comprehensively dealt with in the body of the Bill. In particular, I draw her attention to sections 2, 3, 4 and 13. References to progressive achievement and rights-based systems are inherent in the thrust of this Bill and are therefore not necessary elsewhere.

Having listened to concerns on Committee Stage regarding the negative connotations — in fairness, Deputy Stanton was very consistent in this regard, as were other Deputies — of the phrase “educational disability”, I have decided to remove this definition and replace it with a more accepted and less divisive term, “special education needs”. Amendments Nos. 2, 37, 45, 48, 52, 58, 63, 103, 105, 109, 147, 173 and 210 have the effect of replacing the term “educational disability” with “special education needs” in various parts of the Bill. Amendment No. 209 brings the amended Education Act definition of disability into line with this new approach. For that reason it is unnecessary to accept amendments Nos. 3, 38, 46, 49, 53, 59, 64, 104 or 106. I hope Deputies will accept that the thrust of their amendments is incorporated in the amendments I have tabled.

I do not accept amendment No. 62 because I believe the council or the health board should have the power to refuse a request for an

assessment when it genuinely believes there are insufficient grounds to support the view that a child has special educational needs. If it had to carry out an assessment in the belief that none was required it would make a mockery of the statutory system we are attempting to establish and constitute a misuse of limited resources. A parent can appeal a decision to refuse and under another amendment I have tabled a decision on this must be taken within six weeks.

In keeping with the spirit of Deputy O'Sullivan's amendment, we have gone as far as we can and the rights of parents and children are adequately protected in the formula I have devised.

**Ms Enright:** I welcome many of the amendments the Minister has tabled. He obviously listened to the discussion on Committee Stage and to the submissions made to the Committee on Education and Science by interested groups. The Minister has made many and significant improvements with some of his amendments.

The debate on this Bill will end at 1 p.m. tomorrow and we want to get through it as far as possible. We object to the guillotine but we will not speak for too long on any point so we may finish the Bill. Our focus has been on the support that should be given and the child's needs, not on the disability, and the Minister reflects that in some of his amendments. The definition of "special needs" the Minister is including significantly improves the previous wording and is informed by international best practice, something we argued for on Committee Stage as well.

**Ms O'Sullivan:** I also welcome many of the Minister's amendments. It demonstrates that when there is good interaction between the Minister and the Opposition on Committee Stage, legislation is strengthened. Many of the improvements we see today result from that interaction.

I am glad the Minister has chosen to replace the word "disabilities" with the words "special needs" in the legislation. The Bill was previously inconsistent because both expressions were used. It improves it and is more correct in describing those children whose special needs would not be described as a disability. We want to be as inclusive as possible and to widen the definition of educational disability, particularly in response to the concerns expressed by the Dyslexia Association and those representing people with ADD and ADHD that they might not be included in the original definition. We have all tried to ensure the legislation is inclusive.

The Minister referred to some of my amendments in this large group. It is difficult for all of us to figure out which amendments are included when we have just received the list.

**Mr. F. McGrath:** Exactly.

**Ms O'Sullivan:** Amendment No. 16 contained the declaration of principles. I take the Minister's point that he has incorporated most of those principles in the title of the Bill. I am disappointed, however, that amendment No. 64, which suggested that parents should have an absolute right to an assessment of need, was not accepted. When Government Members spoke of rights based legislation, they consistently said there is a right to an assessment of need but if this amendment is not accepted there is no absolute right because if the councils decide there is no genuine case for an assessment they can refuse to carry it out. The parents, therefore, do not have an absolute right and I am disappointed that the Minister will not accept the amendment addressing that.

In this Bill we will spend a great deal of time talking about the right to an assessment of need, how that assessment should happen and who should be involved. The Department of Education and Science, however, is moving away from the direction of the Bill. The Minister has decided to move towards a weighted system where children with milder special needs will not be assessed in the immediate future but schools will be expected to cater for their needs under a weighted teacher allocation system. If a school is a particular size, it will be expected to have a particular number of children with special needs and to cater for them within pre-ordained guidelines. This moves away from the concept of each child being treated as an individual when it comes to special needs.

Until now, children had the right to a psychological assessment, although schools, depending on the number of children in the school, could only have two per 100.

*4 o'clock* At least, however, it was available.

While there are currently delays — 7,000 children have been assessed but not had their needs addressed — it has been the case until now that the children are treated as individuals and the schools are not meant to fit into a formula of how many special needs children will attend in a given year. Why is the Minister moving in that direction when the legislation treats children as individuals? I have been contacted by schools with up to seven children in one class who have been assessed and are awaiting service. Those schools would not be able to cater for all the children's individual needs under the system proposed to begin in September.

The Minister must address this issue because if people will not believe this legislation will make a difference to their children if the Department of Education and Science moves in a totally different direction from it.

**Mr. Stanton:** I welcome the changes the Minister proposes to the Bill, they are in line with the recommendations we made on Committee Stage. However, there is still some work to do.

[Mr. Stanton.]

I agree wholeheartedly with what Deputy O'Sullivan has said in amendment No. 62. I cannot envisage a situation where parents would submit their child to an assessment unless they felt there was a real need. The problem with what the Minister has included in subsection (5), whereby a health board or the council may refuse to accede to a request under subsection (3) if it is of the opinion that there are insufficient grounds to support the requesters' opinion that the child has an educational disability, is that parents will have to prove a case before they can have an assessment carried out. That means we are back to where we were before, whereby parents would have to have an assessment carried out first, perhaps at great cost, and present the findings to the council or health board in order that one of them could carry out a second assessment.

I can understand the Minister's point of view that he is afraid of spurious claims for assessment. However, one of the rights that we have to include in such legislation is that to an assessment. Perhaps, before the Minister brings the Bill to the Seanad, he should examine this, if he is not going to accept the amendment. He should look and see. In the Bill he is essentially saying *prima facie* evidence of some sort should be produced. How else are those making the request to present their case? I am sure that the Minister can see the problem. If a parent of a child is of the view that the child has a special need, he or she must present evidence of some sort to the council or health board to back it up. What kind of evidence is required is not specified. Will the child need a psychological or some other form of assessment?

I would be happy if the Minister could address that issue and perhaps let us know his thoughts on it. It is a real problem, especially if the parents do not have much experience of dealing with officialdom and those who carry out assessments and so on. As the Minister is aware, some parents are overawed by officialdom. If a parent feels his or her child is not learning as he or she should and a request is made, perhaps some kind of preliminary assessment could be incorporated to see whether a further in-depth assessment is needed. We must put something in.

The Bill is much improved with the Minister's amendments and so on. We improved it on Committee Stage working together, and major improvements are now coming. However, there is one issue that must be teased out. There should be a right to some form of initial assessment if a parent feels his or her child needs such an assessment.

I am delighted that the term "educational disability" has gone. It made no sense, and many were annoyed, worried or anxious about it. The term "special educational need" is much better. The Minister is leaving in his own definition of "disability", which seems to be exactly the same as that for "special educational need". I wonder whether it is required. As such, it may need to be

re-examined. I do not have too much of a hang-up about it but I know that the NDA was of the view that the definition of "disability" in the Education Act 1998 was better. What the Minister proposes is not a medical definition but is exactly the same as that for "special educational need". I am not sure whether that is necessary. Perhaps the Minister will look at the matter again.

The fact that we are calling this the Education for Persons with Disabilities Bill 2003 means that we may need to define "disability" somewhere. The Minister is changing the definition under the Education Act 1998 by inserting this one. I wonder about this. I am not totally happy about it but at the same time the Bill is much improved overall. We have no problem with many of the amendments brought forward, since we proposed them ourselves.

**Mr. Crowe:** I welcome the extremely positive changes to the Bill and also the fact that the Minister engaged on Committee Stage. This reflects the amount of work done on the Bill and the involvement of the many groups which came along to the committee. It was a pointer for the future that the Bill was much more inclusive. It helped to settle many of the groups and individuals who came along to the committee that they were listened to and given an opportunity to be heard. The Bill is now much more inclusive and revolves around the individual rather than the group. The big worry for parents is whether sufficient resources will be put into backing up the Bill. That is a significant worry for many families and groups. People are expecting us to deliver on their great expectations and the Bill.

I have a difficulty with the definition. While the Education Act 1998 was very medical in its definition, it was also very broad, particularly in the last section, where it talked about "a condition, illness or disease which affects a person's thought processes, perception of reality, emotions or judgment or which results in disturbed behaviour". That definition was much more open than what the Minister is proposing in the Bill. However, I welcome the fact that there have been changes. I have not taken in all of the motions that he has accepted, as I was late coming in, but there are substantial changes.

There is a great deal of work to be done on the Bill and, like other speakers, I am concerned that a guillotine is being applied. We have already spent a great deal of time on it, and an extra few days would have benefited the Bill. It would have helped those listening at home better understand its intricacies. The fact that we are not spending more time on the Bill represents a missed opportunity.

**Mr. F. McGrath:** I welcome the discussion and debate on the Education for Persons with Disabilities Bill 2003 and generally agree with my colleagues' remarks. I welcome the positive aspects of the proposed legislation. However, I

remind the Minister and everyone involved in the debate that we must constantly remind ourselves to focus on the needs of the child. That must be the priority in the legislation. While I welcome the improvements, I still think we have a long way to go regarding the education of children with disabilities.

I welcome the Minister's remarks where he spoke of listening to the voices of the parents of children with disabilities and the strong influence of human rights, which is a progressive step. On a cross-party basis, that is the direction in which we should be moving regarding children with disabilities. We are talking about rights and listening to the voices of parents. From a parents' perspective, it is tough going and difficult enough without having bureaucratic barriers put in front of one all one's life. I know this from direct experience. I welcome the strong emphasis on the needs of children.

Regarding the debate on special educational needs, I have no major baggage about the term "disability". However, from a teacher's point of view, all children have special educational needs, even those without a disability or learning difficulty. In my experience, there are many extremely bright and intelligent children in primary schools who are excluded. From an educational point of view, they are often neglected and left to move ahead on their own because they are so good. I would like to ensure a good teacher, and anyone with a broader view of education, knows that every child has special needs, and believe it is important to do so.

The right to an assessment of needs has to be guaranteed. I support Deputy O'Sullivan on this issue. It is important that we do not leave that open or woolly in any way. It has to be guaranteed because that is the way we will deal with the issue from the parents' viewpoint.

We must also remind ourselves as regards this Bill that there are thousands of children with disabilities and special educational needs. The purpose of the legislation is to intervene and to try and provide a service for these children. There are children with Down's syndrome, dyslexia or who are blind and who have other educational needs and disabilities. That has to be the focus of today's amendments. It is important we remind ourselves that many children with disabilities are making a positive contribution to the education system. It is not all bad news, as is often perceived. A child with Down's syndrome can have a positive impact on other children in a primary school setting. That must be recognised. We must also consider the impact of a child with a physical disability and the way that sets up teams within the school. These young children can make friends for life from their time in school. I know from direct experience as a parent of a child with a disability that there is much positivity surrounding this issue. We should not always see children with disabilities as a problem but they have special educational needs.

Irish society and the education system should focus on these matters as well. I urge the Minister to look at the needs of the child throughout the legislation and in today's amendments. As regards the Education Act 1998, I take the point about its medical aspects. However, I wish to ensure that children with Down's syndrome, dyslexia and other disabilities are included in the legislation and in the amendments.

**Mr. N. Dempsey:** I thank the Deputies who contributed and who have generally been positive in their responses to the amendments I have tabled. For the benefit of those Deputies who did not make it for the beginning of the debate, I started by acknowledging the positive contribution that Deputies across the House made to this Bill on Committee Stage. I would reiterate that the amendments I have put down in many cases are as a result of the discussions we had and the proposals made by the Deputies opposite. I agree with Deputies that this is what Committee Stage of a Bill should be and we should be positive and constructive in receiving and listening to amendments put forward. I hope the Report Stage amendments reflect that and indeed the contribution made by people outside the House, both directly to the committee and to individual Members.

I agree with Deputy Finian McGrath that the focus in this Bill has to be on the needs of the child. In fairness, I believe that has been the focus on all sides since the process started. I could not agree more about the last point he made concerning the positive impact that children with special needs can have on schools. We have all seen good examples of that. It opens up and enriches children to have a child with special needs in the school and perhaps makes them more tolerant and open to difference.

I would like to address the particular concern raised by Deputy O'Sullivan about the weighted system removing the right to assessment and appeal. I assure the Deputy it does not do so. What it does is provide resources to schools before they even know, in some respects, whether or not they have children with special needs in their midst. It gives the schools the opportunity to deploy the resources they have. It is at that stage that many aspects of the Bill will come into play. If parents are not satisfied that the needs of their children are being met, if the principal is not satisfied that the child is making as much progress as he or she should, they can respond as well and look for the assessment. They may also look to the individual education plan for any child in their care to decide exactly what will be provided for him or her. I reassure the Deputy that the change to the weighted system is not going to take away the individual education plan or anything else for children. It is designed to put resources into the school to allow it to plan in advance for the needs of children coming in.

We will talk about the definition of disability in the next group of amendments, so I am not

[Mr. N. Dempsey.]  
going to go into that. Another point that has been raised that we will have to agree to disagree on is the question surrounding the absolute right of assessment. I do not know how often it might happen but we have to guard against an absolute compulsion being put on a health board or council to carry out an assessment when it is known, based on evidence, that there is insufficient grounds to support the view that the child has special educational needs. That is not a decision that is going to be taken lightly by the schools, etc. I accept what Deputy Stanton says that parents will not lightly look for assessments either. However, there are and there will be cases involving parents who, for one reason or another, might not be too objective as regards their own children. They will always rightly look for the best for themselves but they may be unreasonable in looking for an assessment. If there are insufficient grounds I do not believe we should use scarce resources by compelling the council or the health board to provide an assessment. To be quite frank, schools, the council and those involved in this will err on the side of being overly cautious because of the danger of litigation and so on. There is sufficient protection as regards the provision of assessments.

**Ms Enright:** I want to raise two matters. As regards the Minister's final point, if Deputy O'Sullivan's amendment is not accepted, will there still be an appeal mechanism for parents if the child could not get—

**Mr. N. Dempsey:** Yes.

**Ms Enright:** The second matter comes under the third group of amendments and involves the new definition of "special educational needs" and "disability". Amendments Nos. 209 and 210 refer to this issue. If the Minister is defining disability in the same way as he is defining special educational needs, I would much prefer his new definition of the latter, but I still have the old concern as regards disability. The Equal Status Act and the Employment Equality Act use the older definition of disability. I am not necessarily sure section 51 is now relevant. Maybe it is and, if so, I am sure the Minister will explain why. Perhaps he could think about this and respond. The phrase "special educational needs" already has a different meaning within the 1998 Act, although the one put forward by the Minister is better. However, the disability definition is again changed and I would prefer to see consistency in so far as that is possible.

**Ms O'Sullivan:** The Minister makes the point that some parents might look for an assessment and there might be no need for it. On the other hand, from my experience of health boards, they are quite capable of refusing assessments as well and perhaps without adequate reason. A certain

level of subjectivity is inevitable on the part of parents and the health board.

I am still not happy the Minister is not accepting this amendment but I take the point that there is a right to an appeal to the appeals board. However, I do not share the Minister's faith in either the health boards or the councils and fear they would see this as an opportunity to reduce the number of cases for which they must provide resources.

**Mr. Stanton:** On amendment No. 210 the Minister says "disability" means "disability". That is the effect of the amendment. All the other words qualify "disability" so it means enduring disability, physical disability or sensory disability. It is not really a definition. That is why I say the other definition is more objective, although it is medical. The gap between the Minister's proposal and our suggestion is not great and it probably needs only a little more tweaking to get it right.

The Minister must agree that parents know their children better than anybody and may feel their child has a special educational need but cannot fully articulate that or provide solid evidence beyond saying the child is not progressing. I have encountered such cases. When the Minister brings this to the Seanad would he consider, to address Deputy O'Sullivan's point in amendment No. 62, providing for a preliminary assessment or *prima facie* evidence whereby a preliminary assessment can be made? This would not require large resources. As it stands, a parent can make a request which can be refused leading to upset. If even one case slipped through the net where the parents were right but could not provide evidence that would satisfy the health board or the council, it would be one case too many. Besides, we do not know how high the health board or council will set the bar on the level of evidence required. If parents feel there is something wrong is that sufficient to start an assessment process or must they go away and have another assessment and present written evidence from a psychologist or speech therapist? We need clarification on this.

**Mr. Crowe:** Amendment No. 62 was rejected on Committee Stage. It would remove the right of a council or health board to refuse to assess a child on the basis there are insufficient grounds for believing he or she has an educational disability. The Bill allows for a council or health board to refuse to carry out an assessment of the child if requested to do so, if it believes there is no evidence to support the claim the child has special needs. There is little indication of where it will obtain the evidence on which to make the decision if no assessment is carried out. I was not convinced by the Minister's efforts to claim otherwise on Committee Stage.

The parents who see their child every day of the week, every month of the year and want an assessment carried out must be seen as having good grounds for making such a request. A health

professional, however skilled, who sees a child for only a few minutes every month cannot replace the opinion of a worried and conscientious parent. The argument for the safeguard of using the independent appeals process if an assessment is refused was advanced on Committee Stage for rejecting this amendment. It is worrying that the Minister is proposing an appeals board. When the Opposition expresses doubts about or highlights an issue it does so because it believes the issue might cause problems later. That is the basis on which we are proposing this. It is not clear that the appeals board can sort this out. Why make parents go through the appeals process if they believe a child has special needs? The parent should be able to request an assessment from the health board or the council. If that is refused it will go to the appeals board. There should be an automatic right to have an assessment conducted.

**Mr. F. McGrath:** Deputy Stanton raised a very important point on the question of the parent's view, feelings or gut instinct. I know from personal experience that parents have often been ahead of the professionals in diagnosis. In one case of a severely mentally handicapped child the parents had a hunch there was something wrong but it took two years and two assessments before the professionals arrived at a diagnosis. There are children with intellectual disabilities whom we cannot afford to exclude. We must constantly listen to the views of parents because their diagnosis and gut feeling is correct in 99% of cases I have encountered. Many of these were very serious cases in which the child looked physically all right but after two or three assessments was found to have a severe intellectual disability. It is important the Minister take this on board.

**Mr. N. Dempsey:** I do not have a great deal to add to my earlier comments except that in the overall context of this debate there is a presumption in the Bill in favour of the child and the parents, and in favour of action. To allow the amendment under discussion would make way for exceptional cases but I am not suggesting every parent in the country will abuse the situation. In a case where the council or health board has found that a child does not have special educational needs, under amendment No. 62 the parent, regardless of that previous decision, could continue to apply and seek assessments for the child. That is the other extreme.

**Ms O'Sullivan:** They would have to wait 12 months.

**Mr. N. Dempsey:** No. The child does not have to wait 12 months under the system we propose. The health board will be involved with a child aged less than four years. While health boards are less than perfect there are provisions in place for medical and developmental assessments to take place as the child grows. If something shows up

in those the council or health board would have to believe that there were developmental grounds to support the view and developmentally they would have evidence to support that. The council and the school will have the child assessed. No one can seriously suggest that if a teacher or school principal thinks a child has special educational needs he or she would not immediately send the child for assessment. The teachers will want that because it means extra resources for the school. The thrust of the Bill and the system, imperfect as it is, will not allow a child with genuine needs pass through the system. The Bill will consolidate and ensure that does not happen.

Amendment agreed to.

**Mr. N. Dempsey:** I move amendment No. 2:

In page 5, to delete lines 40 to 42.

Amendment agreed to.

Amendment No. 3 not moved.

**An Ceann Comhairle:** Amendments Nos. 4, 10, 13 and 15 are cognate and will be discussed together by agreement.

**Ms Enright:** I move amendment No. 4:

In page 6, line 1, to delete "construed" and substitute "read".

This technical amendment was discussed on Committee Stage. The Law Reform Commission has called for greater use of plain language in the drafting of legislation. The proposal was adopted in previous legislation. The Minister undertook to raise the matter with the Office of the Parliamentary Counsel and come back to us on Report Stage. In light of that, I urge the Minister to accept these four amendments.

**Mr. N. Dempsey:** I raised the matter with the Parliamentary Counsel and was informed that in certain contexts the word "read" is preferred to "construed". However, in this case, the parliamentary counsel's office said that it is appropriate to use "construed". For that reason, I do not propose to accept the amendment. As the Deputy said, it is a technical amendment and, in this case, the more obtuse wording is preferred.

Amendment, by leave, withdrawn.

**Mr. Crowe:** I move amendment No. 5:

In page 6, between lines 1 and 2, to insert the following:

"'disability' has the same meaning as it has in the Act of 1998;"

This amendment was introduced on Committee Stage. It concerns the definition of educational disability. Although some support was evident for it, it was defeated. We continue to have concerns

[Mr. Crowe.]

about the definition of disability. We must compare the definition of educational disability contained in the Bill with the existing definition in the Education Act 1998, the Equal Status Act 2000 and the Employment Equality Act 1998 to see which is more inclusive and progressive. The definition in the 1998 Act was justifiably criticised on Committee Stage. However, I contend that the definition in the 1998 Act is better and broader than that contained in the Bill. I acknowledge the improvements introduced by the Minister in January.

One of the problems raised on Committee Stage that has not been addressed is the definition of the word “enduring”. I understand Deputy O’Sullivan intends proposing an amendment in that regard. The phrase “physical, sensory, mental health or intellectual impairment” is more restrictive than the definition in the 1998 Act. The definition in section 2(1)(e) of that Act which refers to “a condition, illness or disease which affects a person’s thought processes, perception of reality, emotions or judgement” is broader. The proposed definition may not cover a child’s inability to learn because of emotional problems. There is merely an indication that future impairments can be prescribed from time to time. Section 2(1)(d) defines disability as “a condition or malfunction which results in a person learning differently from a person without the condition or malfunction”. Again, that appears to be a more inclusive definition than the one proposed.

The Minister has failed to make the case that the proposed change to the definition of educational disability in the Bill is an improvement on the existing definition. The alteration is a retrograde step. I urge the Minister to accept the amendment.

**Ms Enright:** I will repeat what I previously said on the definition of disability, as the Minister did not have an opportunity to answer. Deputy Stanton made a similar point regarding the definition of special educational needs. Does the Minister consider the definition of disability in the Bill to be the most appropriate one in light of fact that it is different from the one in the Education Act 1998 which is the one many groups have come to know and use? Disability does not change and I do not see the need for a change in its definition.

**Mr. N. Dempsey:** I agree that there should be consistency between the Bill and the Education Act 1998. We are trying to achieve that, especially in regard to the definition of disability. I remind Deputies, whom I am sure listened carefully, and some tabled amendments in this regard, that a number of people who made submissions were not satisfied with the definition of disability in the 1998 Act.

With due respect to Deputy Crowe, I do not think going back to that definition would satisfy

many of the people who made submissions. I would prefer to address the matter the other way around, which is what I am doing here. It is intended that the definition of special educational needs proposed in the Bill would be the common definition, rather than that contained in the Education Act 1998. From now on, it would apply in both Acts.

Amendment No. 12 is based on the social rather than the medical model. I believe it is a fair interpretation of what people said to me on Committee Stage. Again, because of what Deputies and various groups said, it is an attempt to move away from negative or pejorative language. We had a lively and considered debate on the use of phrases such as “disability”, “educational disability” and the one which exercised Deputy Stanton, “impairment”. There was an overwhelming feeling that such phrases conjured up negative connotations from which we needed to move away.

At the time I undertook to examine what was said and to try to incorporate the spirit of that into the legislation. I gave it careful consideration and brought forward a series of amendments to deal with the issue. The primary effect of the amendments is to remove the term “educational disabilities” from the Bill and replace it with the term “special educational needs”. The services available under the mechanisms of the Bill still relate only to those children whose special needs arise from a disability as opposed to some other cause. One of the difficulties we discussed was the possibility of people claiming to have a special educational need who may not have a disability. We are removing from the proposed legislation what was perceived to be overly negative language and introducing a less divisive term.

The Title of the Bill will be changed to the Education for Persons with Special Educational Needs Bill. The power of the Minister to prescribe various disabilities or special educational needs is being removed. The application of the Bill will be allowed to develop organically, objectively and more dynamically than would have been possible if we were relying on regulations to be made to include certain conditions as they became apparent.

The term “intellectual disability” in the definition of special educational needs has been replaced with “learning disability” which is considered to be broader and more contemporary. This arises from an amendment tabled by Deputy O’Sullivan on Committee Stage. I hope Deputies will consider the changed definitions meets much, if not all, the concerns raised by them. Later amendments will provide an opportunity for more detailed discussion of the matter.

**Mr. Stanton:** I warmly welcome what the Minister is trying to do. The only word in the amendment about which I have a concern is the word “enduring”. This matter has been raised previously. I refer to what it means because it is

not defined. People can have conditions that they experience periodically but they would not be enduring. The Minister might reconsider the use of this word.

In the definition of disability, the Minister is saying that “disability” means disability. I accept it is qualified, but I am not sure whether it could give rise to problems in legal circles at a later date. The Minister does not say what “disability” means; he says that “disability” means disability. That leaves it up to others to try to define what “disability” means in this context and that may give rise to legal problems elsewhere. I point out those two matters to be helpful to the Minister.

**Mr. N. Dempsey:** I am not being disrespectful to the Deputy, but we will deal with the definition of the word “enduring” in a later amendment. I am aware of the point the Deputy made regarding the definition of “disability”. We went into it in some detail with the parliamentary counsel who is quite satisfied, as are we, that it will not give rise to a legal difficulty.

Amendment, by leave, withdrawn.

**An Ceann Comhairle:** Amendments Nos. 7 to 9, inclusive, and amendment No. 12 are related to amendment No. 6 and may be taken together by agreement.

**Mr. N. Dempsey:** I move amendment No. 6:

In page 6, to delete lines 2 to 6.

My amendment No. 12 replaces the definition of educational disability. I tabled it in response to the strongly expressed views of members of the committee in this regard. It also reflects the concerns highlighted to me and, I am sure, to Members opposite by different interest groups. Amendment No. 6 is consequential on that new definition.

On Committee Stage, Deputy O’Sullivan raised a concern that the inclusion of the word “enduring” could have the effect of excluding disabilities that are not permanent. Deputy Stanton raised that point in the discussion on the previous amendment. I have given this matter some thought and while I accept that the answer is not clear-cut, it is much better, in my view, to retain this word than to delete it. My advice is that if we remove the word “enduring”, temporary or transient conditions would be included. That is not the intention of any Member in this context. It is not the intention of this legislation to allow for temporary or transient conditions; it is designed to assist children who will be at a significant disadvantage if they do not receive certain inputs to meet their needs. If we remove the word, ultimately it could be counter-productive.

I said previously that there is always the pressure point in that we must operate within limited resources. With the resources at our disposal, we must ensure that we target those who

are genuinely in need and meet the needs of those whose needs we set out to meet in this legislation. A concern of Members would be whether in doing that in the way I am doing it we would perhaps unintentionally exclude children with special needs, for example, a child with attention deficit disorder. The answer to that is “no”. The word “enduring” does not mean the same as the word “permanent”. It means something which lasts or continues in existence. ADD clearly falls into this category and, therefore, would and should be recognised.

On balance, it is better to retain the word “enduring” than to delete it. For that reason, I do not propose to accept amendment No. 8. I want to ensure that the specific resources available to provide for children with special needs are used for that purpose rather than to provide for the needs of people with a transient condition.

The removal of the Minister’s powers to prescribe other conditions, as outlined originally and as inserted by way of an amendment on Committee Stage means that amendments Nos. 7 and 9 are no longer necessary.

**Mr. Stanton:** I accept what the Minister said. However, one of the major problems an increasing number of children face in school is depression. I am not sure whether this definition would encompass that condition. One can have periods of depression. I am not sure whether the condition could be said to be enduring. Some people can suffer from depression once in their lives and never again. People can suffer from different forms and levels of depression. Perhaps the Minister’s definition of “special educational needs”, which refers to a person learning differently, would cover that condition. There are also other conditions from which people can suffer periodically and which may not be enduring. The latter part of the Minister’s definition states “or any other condition which results in a person learning differently from a person without that condition”. If that incorporates the condition such as the one I described, I would be happy with the Minister’s amendment.

**Ms O’Sullivan:** I welcome the taking on board by the Minister of our concerns regarding the definition. We can now accept that dyslexia is categorically included in the definition. That was one of the major concerns raised on Committee Stage on behalf of a number of people who addressed us, and we all received many letters about that issue. I am satisfied that this definition includes dyslexia.

In regard to my amendment No. 8 which proposes the deletion of the word “enduring”, the Psychological Society of Ireland’s submission states that the notion of an enduring impairment implies that improvement is not likely to occur, which runs counter to psychological and educational principles and experience. I take it the society is saying that, in some situations, a



[Ms O'Sullivan.]

person with a learning disability who has the correct treatment or correct educational assistance can overcome it and that it therefore may not continue to endure. That was the society's concern about the word "enduring" — that it has negative implications. I do not know if there is any other way of taking on board that valid point or whether it could be included in some form in the definition to imply that while a condition may endure for a while, it need not necessarily endure indefinitely if it is correct addressed. That was from where I was coming when I tabled that amendment. I do not know if when the Bill goes to the Seanad that point could be taken on board because the Psychological Society of Ireland is expert in these areas and has a direct interest in this legislation.

**Ms Enright:** Following on from the previous point, I have a concern about the retention of the word "enduring". It could leave the Bill open to question not by parents but by service providers who might want to test it and they could base their case on the inclusion of the word "enduring". The prime time to assist many of these children is from the age of three to seven, but when a child is aged three or four and assessments are only beginning to be made, it is not easy at that early stage of a child's development to establish if a condition is enduring. I would not like a situation to develop where, because of that, a child was found not to be eligible for extra assistance or special needs assistance. A situation could also arise where a person might be involved in a car accident, a sporting accident or whatever and could encounter difficulties for one, two or three years before eventually recovering. However, this would not diminish the fact that he or she would require assistance for the period in question. I accept the Minister is trying to ensure those who need assistance most will receive it. However, it does not necessarily follow that there are certain people who have a lesser need.

I welcome the inclusion of dyslexia in the definition. Its absence from the original definition was identified as a major stumbling block. Like Deputy O'Sullivan, I am satisfied it will now be covered.

**Mr. Crowe:** When this matter arose on Committee Stage, the Minister charged us with arriving at a different wording. Unfortunately, we have not been able to do so. However, he accepted there is a certain vagueness around this word and that problems may be created in the future.

The Minister referred to transient conditions. Will he provide some examples of such conditions? Has he identified particular illnesses or difficulties students might have which would be identified as transient conditions?

**Mr. N. Dempsey:** As regards Deputy Crowe's point, if one accepts what Deputy Stanton said earlier one could say that depression might be transient. That is one of the difficulties with this matter. I presume a physical illness people might contract which might keep them away from school or their place of learning for a particular period would be described as a transient condition. In the past, TB and other illnesses affected people's learning over a period.

I understand the difficulties Deputies have encountered in respect of this matter. I have wrestled with it and, in response to Deputy O'Sullivan's concerns, I will wrestle with it even further before the Bill is taken in the Seanad. We have substituted the term "enduring" for that of "permanent". On Committee Stage, there was a discussion regarding whether we should leave either or both words out and simply refer to a physical, sensory, mental health or learning disability or any other condition which results in a person learning differently to others.

I will be honest and state that I am not absolutely definite we are doing the right thing. In the event that this matter ever arises in the courts, the point Deputy O'Sullivan raised bears repeating for the record, namely, it is certainly not the intention of the Oireachtas that the use of the term "enduring" or any other term would be negative in nature. As Deputy Enright stated, if it could be stated that a particular condition might disappear after three or four years, it would not be our intention that someone carrying out an assessment for the purposes of this legislation would be in a position to say that an individual's condition was not enduring and that he or she would not be given access to certain facilities or be treated as a person with special educational needs.

I prefer to leave matters as they stand at present. However, if somebody can arrive at a better wording between now and the taking of the Bill in the Seanad, I would be prepared to reconsider the position.

Amendment agreed to.

Amendments Nos. 7 to 10, inclusive, not moved.

**An Ceann Comhairle:** Amendments Nos. 11 and 73 to 75, inclusive, are related and amendment No. 74 is consequential on amendment No. 75 and all may be taken together by agreement.

**Mr. Stanton:** I move amendment No. 11:

In page 6, between lines 20 and 21, to insert the following:

“'psychologist' is a psychologist employed by or approved by the National Educational Psychological Service;”.

This amendment was tabled because of our concerns regarding the fact that a definition of

psychologist is not provided. The National Educational Psychological Service, which is doing a great job and adheres to particular standards, used to be involved in this area. As I understand it, there is still no statutory definition of psychologist and anybody can erect a sign and call themselves a psychologist. I accept it is somewhat extreme but I would be happy if psychologists were either approved or employed by NEPS. This would at least put some sort of controls in place and people would know they are dealing with someone who is an educational psychologist and who has experience and qualifications in the area of education. This would mean psychologists would have to be approved by NEPS before they could work in this area, which would regulate matters. The Minister stated on Committee Stage he would give further consideration to this matter and I look forward to hearing his views.

**Ms Enright:** Parents are employing private psychologists — I refer here to individuals outside those whose services are paid for by the Department of Education and Science or NEPS — and their reports are sometimes not accepted by NEPS or the Department as a basis for providing services or whatever to their children. If the amendment was accepted, this would not happen because psychologists would either be employed or approved by NEPS. If a psychologist was deemed suitable by NEPS and hired or contracted on a private basis by a parent, his or her assessment could be accepted.

**Mr. N. Dempsey:** I propose, in amendment No. 72, to include a requirement in section 5 that a person carrying out an assessment will not only have the expertise but also the qualifications which the council or the health boards consider appropriate to carry out an assessment. This will meet the concerns expressed by the Deputies. It is more appropriate that the council or the health boards make the decision in this instance, particularly as they will have the statutory duty to have assessments carried out.

I have considered amendment No. 73 and I am happy the phrasing currently contained in section 5(1) is correct because it is an either/or situation. If we substitute the word “shall” for that of “may”, it would mean there would be no discretion and everyone listed in the section would have to be included.

The effect of amendments Nos. 74 and 75 would be to require a psychologist to form part of every assessment team. That might not be necessary in every case. Therefore, I do not want to accept the amendments. For example, a student who is deaf will have special educational needs and will require equipment and other assistance in order to enjoy the benefits of education. However, a student's deafness might not give rise to any psychological issues and, therefore, the presence of a psychologist may be unnecessary.

Given that the council will have the expertise in these particular assessments, it is better to leave it to it as to who should form part of the assessment team rather than including a statutory obligation which might be unnecessary.

**Mr. Stanton:** I accept that and agree the Minister's amendment covers much of our requirements. One of our concerns relates to amendment No. 74. Section 5(1)(c) gives the impression that the only person who would carry out an assessment would be a teacher from the school nominated by a principal. We feel it is necessary to have a psychologist involved to ensure an outsider's view for the reason that all special needs assessments have a psychological impact on children.

I accept the Minister's point that it would be all right to have the council and the health board adjudicate on the matter. However, perhaps he would re-examine the situation where the teacher from the school might be the only person to carry out an assessment. The section provides that the council could decide on that. All special educational needs assessments have a psychological impact. Therefore, an educational psychologist is eminently qualified to oversee the process or to be involved at some level. That is the reason we tabled the amendment.

From my experience of dealing with educational psychologists from the Department and NEPS, I have great respect for their expertise. I hope the Minister will have another look at this.

**Mr. N. Dempsey:** I will have another look at the section, which says “one or more”. I accept the Deputy's point that the “one” could be just the principal or a teacher. I will have another look at the section to see if it needs amendment. The other side of it is that the parents will have the right to appeal and this would probably cover the difficulty.

Amendment, by leave, withdrawn.

**Mr. N. Dempsey:** I move amendment No. 12:

In page 6, between lines 31 and 32, to insert the following:

“‘special educational needs’ means, in relation to a person, a restriction in the capacity of the person to participate in and benefit from education on account of an enduring physical, sensory, mental health or learning disability, or any other condition which results in a person learning differently from a person without that condition and cognate words shall be construed accordingly;”.

Amendment agreed to.

Amendment No. 13 not moved.

**Mr. N. Dempsey:** I move amendment No. 14:

[Mr. N. Dempsey.]

In page 6, to delete line 35.

The purpose of this amendment is to remove the definition of “support services” as defined in the Education Act. This issue arose on Committee Stage. The reason I want to remove it is that I am concerned that using that definition will confine the meaning to those services for which the Minister for Education and Science is responsible for ensuring are provided. In the context of this Bill, the support services that need to be provided may range wider than those the Minister would normally provide. We are talking in terms of services provided by health boards, other education and health service providers and others. By removing the definition, the word “services” will have the widest possible meaning.

On Committee Stage, Deputy O’Sullivan and other Deputies spoke about defining services. There was merit in the arguments put forward, but this amendment widens the scope so that services are not defined but cover any service a child needs. It puts the child and his or her needs at the centre of the legislation rather than sticking to legalistic definitions.

**Ms Enright:** I accept this amendment leads to a widening of the term “services” rather than a limitation. In the relevant section of the Education Act the term “services” is extremely defined. I realise it is not just the Department of Education and Science which will have to provide what is required in the section.

Amendment agreed to.

Amendment No. 15 not moved.

**Ms O’Sullivan:** I move amendment No. 16:

In page 7, between lines 13 and 14, to insert the following:

“2.—It is hereby declared that in enacting this Act, the Oireachtas has had regard to the following principles:

(a) legislation in the area of education of persons with disabilities must be based on international human rights standards;

(b) the overall objective of such legislation must be equal access to effective and adequate levels of education;

(c) education should be provided within the mainstream education service or in the least restrictive alternative;

(d) education services should be based on an individualised assessment of need;

(e) parental involvement and where possible, involvement of the person with disabilities should be a central element of the process;

(f) delivery of services should be based on the principle of progressive achievement;

(g) a rights-based system of enforceable remedies are an essential component of any system of redress.”.

We have already, to some extent, referred to this amendment in the Long Title of the Bill in which the Minister has incorporated some of the concepts of this amendment, which I welcome. Not all are included but I suppose it is better to get half a loaf than no bread. I will, therefore, withdraw the amendment.

Amendment, by leave, withdrawn.

**Mr. F. McGrath:** I move amendment No. 17:

In page 7, between lines 13 and 14, to insert the following:

“2—The Minister shall prepare, publish and lay before the House an annual report on the progress of the implementation of the policies and principles of this Act commencing one year from its passing through the Oireachtas.”.

I ask for support on this amendment which I think is important. It concerns accountability and the provision of a progress report. It is important that the Minister for Education and Science delivers to the Houses of the Oireachtas an annual report of services for children with disabilities. The Department must ask itself serious questions. We ask teachers to produce a summer and Christmas report and to hold a parent-teacher meeting. Therefore, on three occasions during the year, the professional teacher provides reports to parents. It is not too much then to ask the Minister to be accountable to the Oireachtas.

It is also important that we are able to assess the policies, principles and progress of the implementation of the Bill. Some 7,000 children are on waiting lists for help. If this amendment were made, we would be able to see a year later how many of those had received help or back-up services, how many are getting on well within the system and how many were still in need of the service.

This amendment is important because it is concerned with accountability. We cannot ask other people to be accountable and provide a public service if the Minister and Members of the Oireachtas are not prepared to do the same. I urge other Deputies to support this amendment.

**Mr. Crowe:** This amendment is concerned with annual reporting. The Minister made it clear that he shares our impatience with the target of five years for the implementation of the Bill. Both he and the Opposition would like to see it implemented sooner. Now that we have a timeframe, it is important that we adhere to it. It would be useful in fulfilling the timetable of

implementation if the Department furnished the House with a report of the work done in implementing the provisions of the Bill on a year by year basis.

The need for an annual report is an issue that arose from discussions with many of the groups involved at the beginning of this debate. People have significant expectations of this legislation, especially those with young families and groups dealing with disabilities. The issue concerns a monitoring system, resources and a plan for the implementation of the legislation. The amendment is sensible and I am interested in hearing the Minister's views on it.

**Ms O'Sullivan:** I support this amendment. Implementing it should not be too onerous on the Minister. Under section 34, the council must prepare a report and, under section 37, the appeals board must also prepare one whenever required to do so by the Minister. It is a good idea to combine those and compile an overall report. Presumably the Minister's part of that would relate to the policy area whereas the implementation area would be contained in the report of the council. I support what has been said.

**Mr. N. Dempsey:** That the teachers present are anxious to have so many reports of progress is welcome.

**Mr. F. McGrath:** We have been doing them for years. In my school we had to produce three reports every year.

**Mr. N. Dempsey:** Deputy O'Sullivan mentioned that section 34 provides that reports must be made. Section 23 also provides for a roadmap to the implementation of this Bill. Following consultations with the relevant interest groups, the council must prepare an implementation report outlining the steps that must be taken in order to implement the Bill's provisions. In addition, section 24 requires the council to prepare and submit to me annual reports on its activities which must be laid before the Houses of the Oireachtas. I believe that meets the thrust of amendment No. 17 tabled by Deputies Crowe and Finian McGrath. The amendment does not add anything to that. It is also provided that members may invite the council before the committee at any stage to deal directly with the implementation of the Bill. Deputies also have the right to invite me to come in on an annual basis and hold me accountable in this House or at the committee for the implementation of the Bill. I have no difficulty with that. I believe, therefore, that what the Deputies are trying to achieve is already provided for in the Bill.

**Mr. F. McGrath:** I disagree with the Minister's response. I also take issue with his remark concerning teachers and reports. There are

thousands of teachers, particularly in primary schools, who are accountable and professional. This applies particularly to teachers in disadvantaged areas. They work with the Minister's officials on excellent projects aimed at being accountable and professional, planning for their schools, participating in projects such as Breaking the Cycle. There is a strong public service ethos, even though that is often not reported in the national media and in some of the debates. There are people who want to be accountable and professional and who have a strong public service ethos. In the most disadvantaged schools there are examples of good practice and professionalism when working with parents. Most of us who work in disadvantaged areas know that one does not demand respect, one must earn it. Many local teachers and staff have a very strong relationship with families who live in poor communities and must live with drug abuse, violence and all sorts of anti-social problems. Such relationships should be rewarded. My point is that we are all in favour of accountability. Public servants are paid by the taxpayer and should be accountable. That is the ethos I want to present in amendment No. 17.

Amendment put and declared lost.

**Mr. Stanton:** I move amendment No. 18:

In page 7, between lines 13 and 14, to insert the following:

"2.—The Minister shall ensure that the policies and principles of this Act have been fully implemented and are enforceable within 3 years after the commencement of this Act."

The purpose of this amendment is to provide for the full implementation of the Act and enforcement of its principles and policies within three years of its enactment on the signing of a commencement order by the Minister. That will mean that all provisions of the Act must be fully in place within three years, unlike other Acts, for example, the Youth Work Act 2001 which is languishing somewhere and is not being enforced. This legislation is important and many people will be depending on it. This amendment should, therefore, be accepted so that the Act will be implemented quickly and the excuse of lack of resources cannot be used, as has happened in the context of the Youth Work Act which was passed by the Government but regarding which nothing more has happened. That is my concern. That is why I would like to see this or a similar provision inserted in the Bill. Such a provision would ensure that no matter what Minister was in office — it might be not be as warm-hearted a Minister as the Minister opposite — the provisions of this Act will be enforced, driven by a legal requirement if that is possible.

**Ms Enright:** I support the amendment. The Youth Work Act is one example of an Act that

[Ms Enright.]

is not enforced. There are others, for example, the Education (Welfare) Act 2000 which set up the National Educational Welfare Board. I accept the Minister's point that the board is offering one figure in terms of the number of employees and he is offering another. However, if we provide for implementation and finalisation within a set period of time the staff would have to be there, whoever agreed on them, so that the full roll-out could happen. I would not like to see this Bill left in the same position as the others. It is important that a certain time limit is imposed and three years is reasonable. The Minister mentioned five at the launch of this Bill. The number of years could be negotiated so long as it is not too high. However, there must be a definite timeframe.

**Ms O'Sullivan:** I support this amendment. The Children Act is another Act where it is taking a long time to implement the various sections. It is important that there are deadlines and that these do not become meaningless Acts that are not implemented to make a difference to children's lives.

**Mr. Crowe:** I support this. I have no problem with the Minister changing the timeframe to five years. However, there must be a target and it must be agreed. Otherwise I would be concerned that it would drift on and on. There must, therefore, be a timescale.

**Mr. N. Dempsey:** I agree that a timeframe is important. We have included a five-year timeframe in section 23 of this Bill. I ask Deputies on the other side of the House to accept that this timescale is realistic. There is only one thing worse than passing legislation here and not implementing it over a particular period of time, and that is passing legislation with unrealistic targets. We have examined this in great detail, precisely because of the point the Deputies are making, to determine what would be a reasonable roll-out time for the Bill. We also went to the bother, before the Bill was put in place, of implementing the equivalent of some sections of the Bill in setting up the National Council for Special Education and employing special education needs organisers and so on. Some of the work provided for in the Bill is, therefore, already done. However, it is the considered opinion within the Department, which I share having gone into it in detail with the officials concerned, that it will take five years to implement. There is no point raising the expectation that this will be done within two or three years when we know that may not be possible.

I said on Committee Stage that I would aim to implement it within three or four years. However, when putting something like this into law one needs to be careful. I believe five years is reasonable. Progress could be made in a shorter timeframe than that but it must be remembered

that the first year of this will be taken up in consultations involving the council, the Department, the voluntary groups, parents and so on to ensure it can be done and that there is an implementation plan.

I thank Deputy Crowe for his support. He would like a shorter period but I will not hang that on him. Most people would like a shorter period but five years is realistic.

**Mr. Crowe:** That will come back to haunt me.

**Mr. N. Dempsey:** I will not hang it around the Deputy's neck. He was being reasonable and the issue is important.

**Mr. F. McGrath:** I often complain to the Minister about his policies in respect of children with disabilities, special needs assistants and resource teachers. In fairness to the Department of Education and Science, the process has already started. I know from direct experience that some schools have the services now. I do not think the three-year target is out of the Minister's range, given that he has started the process and announced that 350 new jobs are coming on stream shortly. I have noticed in the last six or seven months that resources have been put in place in schools in some of the most disadvantaged areas in the country. I understand the Department's cautious view but I think we can do it within three years now that the process has started.

**Mr. N. Dempsey:** I agree to accept three years as a target but I will leave the legislation as it is and retain the five-year target so we do not bring ourselves into disrepute. I hope we can do it as quickly as the Deputy says.

**Ms Enright:** I appreciate the Minister's perspective on this matter. There is not much we can do if the Minister wishes to retain the five-year target. There is no point in pursuing the amendment. We all know where we will be in three years' time but we do not know who will be sitting where after that. I would not like us to be here in three and a half years' time to discuss a second education for persons with disabilities Bill because somebody thinks they have five years to deal with it. I will take the Minister at his word, which is that he intends to do everything possible to implement the policies and principles of the Bill within three years. We will keep our eye on it.

**Mr. N. Dempsey:** I am sure Deputy Enright will honour that commitment if the impossible happens and she is over here.

**Ms Enright:** Indeed.

Amendment, by leave, withdrawn.

**An Leas-Cheann Comhairle:** As amendments Nos. 20 to 22, inclusive, are alternatives to

amendment No. 19, amendments Nos. 19 to 22, inclusive, may be discussed together, by agreement.

**Mr. N. Dempsey:** I move amendment No. 19:

In page 7, to delete lines 14 to 21 and substitute the following:

“2.—A child with special educational needs shall be educated with children who do not have such needs unless the nature or degree of those needs of the child is such that to do so would be inconsistent with—

(a) the best interests of the child as determined in accordance with any assessment carried out under this Act, or

(b) the effective provision of education for children with whom the child is to be educated.”.

Deputy Gogarty argued on Committee Stage that referring to the education of children with disabilities alongside those without disabilities focuses more on the physical act of being present than on genuine participation in the education process. The Deputy's view was echoed by other Members who contributed to the Committee Stage debate. His concerns have also been raised by a variety of interest groups. I have considered the matter carefully and taken on board the views of others. I have examined a number of precedents in other countries, including the Individuals with Disabilities Education Act in the United States.

The amendment I have proposed will provide for a simpler and clearer section 2. It states, “a child with special educational needs shall be educated with children who do not have such needs”. The critical emphasis is on participation rather than presence, which is in line with the thrust of what was said on Committee Stage. My amendment covers Deputy O'Sullivan's proposal in amendment No. 22.

I have given further thought to the proposals in amendments Nos. 20 and 21, tabled by Deputies Enright and Stanton. Section 2 of the Bill represents a statement of principle and policy. It colours the exercise of other functions under the Bill, such as carrying out assessments, drawing up education plans and designating schools. It is clear that parents and special educational needs organisers play a critical role in identifying educational inputs, including the setting of a child's education. The roles of parents and the proposed national council for special education are emphasised in the Bill. The inclusion of a further reference in this section would serve only to confuse what should be a relatively straightforward statement of policy which seeks to strike the right balance. The balance would be upset and the statement would be obscured by the introduction of other players in this section. We have tried to transmit our message, which is about inclusiveness and parental participation, by making amendments based on the discussion we

had on Committee Stage. The Bill is the better for such changes.

**Ms Enright:** The purpose of the amendments proposed by Deputy Stanton and I was to impress on the Minister the need to ensure that parents and special educational needs organisers are involved and that a multidisciplinary approach is adopted. I take the Minister's point that he wants to make a policy statement in this section. Can the Minister explain why the words, “in an integrated and inclusive environment”, have not been retained in his amendment? I cannot see how the Bill can be said to be improved by the removal of the words. Perhaps the Minister can give a reason for their exclusion that was not apparent when I read the Bill. We would all welcome the promotion of “in an integrated and inclusive environment”. The parents of many children with disabilities want them to be educated in such an environment, where possible. I wish to restate my concerns about section 2(b), which I outlined on Committee Stage. I am concerned about how the section will operate in practice. Who will make the judgment call about the effects, if any, of the school environment on other children? Principals and teachers will be placed in a difficult position.

**Ms O'Sullivan:** I welcome the new wording of section 2 which is an improvement on the original. We had quite a long debate on Committee Stage about the balance of rights between the child with special needs and the other children in the class. My amendment No. 22 attempts to strike such a balance, so the interests of the child in question and those of the other children will be catered for in the same statement. My amendment proposes that they be seen as of equal importance. I do not think the Minister has gone that far in his amendment but I would have liked him to do so. Deputy Gogarty also has concerns in that regard, although he is not here to express them today. I welcome the fact that amendment No. 19 constitutes an improvement on what was previously in place, but I share Deputy Enright's concern that the phrase, “in an integrated and inclusive environment”, has been omitted. I wonder why the words have been removed from the section.

**Mr. F. McGrath:** I support amendments Nos. 21 and 22 because they are balanced and important. Most people will agree that parents, psychologists, special educational needs organisers and class teachers work together as a team, in the interests of children with special educational needs, to make the right decisions about the placement of such children. Such co-operation should be accepted as good practice. We have to accept that some children are disruptive and have a lack of social skills in some situations. We need to make decisions about such children. It is important to balance the rights of both sets of children in the classroom. We should

[Mr. F. McGrath.]

face the reality that parents and teachers know the best and most progressive way forward. Amendment No. 21 recommends that, “the provision of education will take place, after consultation and with the agreement of the parents and with the special educational needs organiser in a way which is in the best interests of the student”. There is merit in such a suggestion. I accept the Minister has taken some of the views of Deputies on board but it is essential we get the balance right.

**Mr. Stanton:** This is an important section and it is important that we get it right. It was useful to include the words “integrated and inclusive” in the original section. Deputies were especially concerned on Committee Stage that the word “inclusive” be included. It is possible to educate children with other children in a way that is not inclusive. If they are in the same room, it is possible that they are sitting in a corner or at the back of the room. They may not be included. It is important that they be included. Maybe it is implied in what the Minister says when he uses the term “with children”. I agree with the Minister that it is far simpler to say that the child with special educational needs shall be educated “with children”. That does not necessarily mean however that the education will be inclusive. We might need to interpret “inclusive” as well. At the time when we changed the word “integrated” to “inclusive” I thought that was an improvement.

The decision to educate children with special needs along with other children is very important, and is one in which parents should be involved, and no doubt would be. I take the Minister’s point that it may upset matters if it is to be written in as we have proposed, but it is such a crucial decision for many parents of children with and without special needs that one must have consultation. If the Minister is saying elsewhere that consultation and involvement of parents are an integral part of the Bill, I am happy to accept that, provided it impacts positively on this section.

The second part of the Minister’s proposed amendment says that a child with special needs shall be educated with children who do not have such needs, unless the nature or degree of those needs of the child are such that to do so would be inconsistent with the effective provision of education for children with whom the child is to be educated. That means that the rights of the child with special needs are not equal to those of children without special needs, because one could turn that around. One could say that a child without special educational needs shall be educated with children who have such needs unless the level of need or nature of those children is such that it would be inconsistent with the effective provision of education for the children with whom the child is educated. In other words, if I have a child with special needs,

or without special needs, how is one to distinguish between the rights of the two?

I can see the problem, and the concerns. It is a tricky question. If one were to turn it around and say that children without special needs cannot be educated with children with special needs, that in effect is what the Minister is saying. We must treat all children equally. There may even be a constitutional difficulty here. I can see the concerns that parents might have. Deputy O’Sullivan’s amendment goes some way towards meeting that concern, and the Minister should consider the matter again, and perhaps tell us what advice he has been given, possibly from the Attorney General’s office. Is there a potential conflict involved?

**Mr. N. Dempsey:** Regarding the inclusive environment, the thrust of the debate we had on Committee Stage basically involved Deputy Gogarty, who was strongly supported by other Members, suggesting that inserting the phrase “a child with special educational needs should be educated in an integrated and inclusive environment” could mean that the child might merely sit in the classroom, but not necessarily be included in the educational process. Deputy O’Sullivan asked why we removed that element. We did so because we felt that is what people were looking for. Though it may cause some difficulty for people noting minor amendments on the hoof, I have no difficulty with the amendment including “a child with special educational needs shall be educated”, and adding in at that point “in an inclusive environment”. That would re-insert “in an inclusive environment”. It is not necessary, but if Members feel it adds to the Bill, I am happy to make the addition. In other words, my amendment No. 19 would read in part “A child with special educational needs shall be educated in an inclusive environment with children”, and so on.

Deputy Stanton also made a point regarding the balance of rights. This amendment says that a child with special educational needs “shall be” educated. That does not involve the word “may” or any other such word. It is an imperative that a child “shall be” educated. We are defining two reasons when a child might not be educated in the inclusive environment we talk about. The first relates to it being not in the best interests of the child. The second is causing some of the difficulty, referring as it does to the adverse effect on the provision of education for other children in the classroom, some of whom could have special needs as well. There is a balance of rights, and from our point of view the balance of rights of one child being able to affect the education of ten, 15 or 20 others does not involve a constitutional issue. Once we are making provision for the child with special needs elsewhere, the constitutional issue does not arise. Some of the Deputies are aware of the discussions at various teacher conferences and management conferences about the rights of the

98% of children who for one reason or another do not cause difficulties in schools.

The amendment we now have, as it stands, with the slight amendment made, meets the balances we have been discussing and ensures that children with special needs shall be educated in an inclusive environment, except in two specific cases: where it is not in the best interests of the child, or where it is not in the best educational interests of other children. As amended, that is a reasonable provision.

**Mr. Stanton:** I welcome the Minister's proposed amendment to his amendment, adding the phrase "in an inclusive environment". Regarding amendment No. 19(2)(b), I can see the difficulty, and from personal experience I understand it. Has the Minister considered how this might work in practice? Who will make the decision regarding the inconsistency? Will it be the school principal or the special needs organiser? What guidelines are there, or will be in place, to guide the decision makers?

In one school it might be quite acceptable to have a child with certain special needs in the classroom, while in another school nearby there might be different standards, levels and expectations, with different teachers and experiences. That latter school might have major difficulties in accepting such a child into the classroom. Do the rules kick in before the child arrives in the classroom? What happens if difficulties arise when such a child is in the classroom, and the principal apologises to the parents and explains that the child cannot attend the school any longer because a certain teacher is protesting, or the parents of another child in the school feel that its child's needs are being adversely affected? Who makes the judgment, how is to be made and what criteria are involved? Are there appeal mechanisms? Is the judgment to be made before the child is in the classroom or when the child is there?

If a decision is taken and a child is removed from the classroom, what happens to the child in those circumstances? Will there be a mechanism to allow the child to return to the classroom following some form of appeal? Will the appeals board or the Council be involved? These are real issues and I am not aware of a mechanism in the Bill to deal with such situations in practice. It is fine in theory but I do not see the practicalities laid down in the Bill. This could lead to litigation and major difficulties. Principals, in particular, need to be clear as to their role and responsibility. If a principal is to make this decision, he or she may be open to all forms of pressure and litigation and would need backup and support. With respect, it is not as simple as what the Minister might think it is. This is a very sensitive area for everybody concerned.

**Ms O'Sullivan:** Clearly this is an issue of balancing rights. In section 2 we are dealing with the general principles of inclusive education

which I think is linked to how schools are designated in section 10. Perhaps when we come to deal with section 10, we will look at the practicalities of the issues raised by Deputy Stanton. Everyone is aware from the real world that some schools may try to avoid having children with special needs because obviously it will create some difficulties and may make it a little harder for the teachers and add to the provisions that the school has to make. I am well aware of this, particularly in the context of the present issue in Limerick of the entry of children to school. Section 10, however, states: "The Council may designate the school which a child with special educational needs is to attend". The issue may be addressed further when we will deal with that section. At this point, I would still prefer to have the balance I have sought to achieve in amendment No. 22 inserted, but to some extent the Minister has met my concerns. Will he outline how he will deal with a school that would use the provisions of section 2 not to accept a child because letting the child into the school might affect the effective provision of education for children with whom the child is to be educated. This is what Members are concerned about.

**Mr. N. Dempsey:** I will answer the points generally. As Deputy O'Sullivan mentioned the designation of schools arises in section 10 and the procedures under section 29 of the Education Act are also available to deal with issues. In response to Deputy Stanton who raised a number of points on the decision-making process, it depends on the circumstances but generally speaking, the principal of the school in consultation with teachers and parents, and in some cases, in consultation with the special education needs organisers, will make the decision. The principal may make the initial decision to offer the child a place when he or she starts school. Obviously if difficulties arise for a child in the school, a wider group of people will be involved. At all stages, thanks to the cases that were put forward and amendments tabled, I do not think there is any circumstance in which a major decision on a child's education can be made without an input from parents. The council will draw up guidelines on these matters. Even at this stage, the council is attempting to draw up some of the guidelines and to seek clarification on policy issues from the Department. In deciding whether a school should be designated, the principal will have a role. There will have to be procedures in place to ensure there will be adequate participation and consultation locally and if the issue cannot be handled locally, the provisions of section 29 of the Education Act will come into play. This should prevent the types of scenario the Deputy fears.

Under the weighted system that will be introduced, each school will have to give an undertaking that it will take special needs pupils. We will not provide resources and resource teachers for schools where a policy operates that



[Mr. N. Dempsey.]  
they will not accept pupils with special needs. The combination of all three—

**Ms O'Sullivan:** Will this apply to second level schools?

**Mr. N. Dempsey:** It will apply to second level schools.

Amendment No. 19, as amended, agreed to.

Amendments Nos. 20 to 22, inclusive, not moved.

**An Leas-Cheann Comhairle:** There is an error in the numbering of amendments Nos. 23 and 24. Amendment No. 24 will now be amendment No. 23 and amendment No. 23 will now be amendment No. 24. Is that agreed? Agreed. Amendments Nos. 24 to 28, inclusive are alternatives. Amendments Nos. 29 to 31, inclusive, are related. Amendment No. 31 is an alternative to amendment No. 30. Amendments Nos. 23 to 31, inclusive, will be discussed together by agreement.

**Mr. N. Dempsey:** I move amendment No. 23:

In page 7, to delete lines 22 to 27 and substitute the following:

"3. — (1) *Subsection (2)* applies where the principal of a school—

(a) having been notified by the parents of a student in the school that they are of the opinion referred to in this paragraph and been requested by them to take the measures specified in *subsection (2)*, considers that opinion to be well founded, namely, an opinion that the student is not benefiting from the education programme provided in the school to children who not have special educational needs to the extent that would be expected of the student, or

(b) otherwise forms such an opinion in respect of a student in the school.

(2) Where this subsection applies, the principal of the school shall take such measures as are practicable to meet the educational needs of the student concerned."

We go back to a topic we discussed earlier on decision making and parents. During Committee Stage debate, we discussed at length the necessity for the involvement of parents in decision making. That was emphasised again and again by all members. To try to meet those concerns I tabled a number of amendments on Committee Stage and I am proposing a number of amendments today. The effect of amendments Nos. 23 and 29 is to make it very clear that parents may request the principal of a school to take measures to meet the child's needs, where

they believe that their child is not benefiting from the ordinary school programme to the extent that a child without special needs would be expected to. If a principal refuses, or fails to take that particular action, then the parents retain the right under section 4 to seek an assessment of their child by the council. That is designed to meet the concerns raised by the Deputies in amendments Nos. 24, 25 and 28.

In regard to amendment No. 26, section 18 of the Bill provides that the principal can delegate his or her functions to a teacher in the school. It also states that the special educational needs organiser attached to the school must give all reasonable advice and assistance to the principal and teachers. That provision meets the concerns raised by Deputy O'Sullivan's amendment.

I am concerned about amendment No. 27 and do not want to accept it in that it could bring a level of uncertainty by referring to additional support without referring to the basis on which it is decided that support is needed. Obviously, all children can benefit from receiving additional resources, however, the purpose here is to address a situation where a child is not benefiting from a regular school programme to the extent expected. To equalise or remedy the situation, learning support measures should be applied. If they fail, an assessment and education plan should be prepared.

Amendment No. 30 simply reflects the change in terminology from educational disability to special educational needs. That meets the alternative amendment No. 31 tabled by Deputies Enright and Stanton.

**Ms Enright:** The reason Deputy Stanton and I tabled the amendment was our concern that in the Bill, as it stood, the principal was, in some way, being asked to adopt a wait and see approach and that it could have been a little slow. We again emphasised the idea of partnership and consultation among parents, special educational needs organisers and so on. I fully concede the Minister's amendment No. 24 is better. I welcome the fact that parents can take the initiative rather than having to wait for the initiative to be taken by the principal.

I refer to what the Minister said about the weighted system and to the 350 new resource teachers who will be employed in September. What effect, if any, will that have on what is being done in the Bill? That is a concern. When reading through the Bill in preparation for today, it came to my mind that it seemed we were looking at the possibility of the 350 resource teachers. There is a concern among principals and teachers that they are being put in a position of perhaps making an assessment of a child's need without having the requisite qualifications to do so. There is also a strong concern among parents that if their children are given resource hours, or hours with these new 350 teachers, without the assessment, they may not get what they really need.

A further concern has been expressed to me by parents and perhaps the Minister can address it. I am open to correction on this but if a child in, say, fourth, fifth or sixth class in primary school is not assessed — I know when the Bill kicks in this might change — and he or she comes under the weighted system, will there be problems for that child when he or she reaches second level because he or she has not been formally assessed? There is a fear that it will be virtually impossible for such children to get the extra resources or help they need at second level.

**Ms O’Sullivan:** My main concern about this section was that the parents’ opinion was left out and that the principal would decide that the child was not benefiting from the educational programme, but the Minister has taken that point on board in his amendment.

I still have concerns in regard to my amendment No. 27. The reason I proposed to insert the words “requires additional support or” is that a child might benefit to some extent from the educational programme but not to the extent he or she should. I suppose most children in school will benefit to some extent and that is why I thought that if we inserted the words “requires additional support or” before “is not benefiting from the educational programme”, we would include children who are benefiting a little but who need the support. That was the purpose of the amendment because the suggestion otherwise is that it is only children who are not benefiting from the school system who will need the extra support or the educational plan. That was my concern which I would like the Minister to address.

**Mr. N. Dempsey:** I think Deputy O’Sullivan and I are saying the same thing. We are both trying to address a situation where a child, who is not benefiting from the regular school programme to the extent expected, would be helped. The Deputy’s wording might cause a difficulty, but we are both saying the same thing. It addresses a situation where a child is not benefiting from the regular programme to the extent expected. People are then entitled to look for the extra resources, whether teachers or otherwise.

On Deputy Enright’s point about the assessment and so on, the weighted system will not override the provisions of this Bill and the rights of people to assessments. I assure Deputies that the weighted system, provided it is reasonably applied by schools, will make people, including the national educational psychological service, the inspectors and so on, available to carry out assessments more quickly than at present. It will avoid the situation where the national educational psychological service, in particular, and even the psychological services scheme are snowed under because every child who requires anything must be assessed. It will be a huge

improvement but it will not mean that individuals cannot look for assessments. A parent will be able to look for an assessment and the child with special educational needs will be entitled to the individual educational plan about which we spoke. I assure Deputies that the weighted system will not replace what is in this Bill, which will become law.

**Ms O’Sullivan:** On a technical point, the word “do” has been left out of paragraph (a) of the Minister’s amendment No. 23. It should read “children who do not have special educational needs”. It is a typographical error.

**Mr. N. Dempsey:** That would need to be formally put in an amendment.

I move amendment No. 1 to amendment No. 23:

To insert “do” in paragraph (a).

Amendment to amendment agreed to.

Amendment No. 23, as amended, agreed to.

Amendment No. 24 not moved.

Amendments Nos. 25 to 28, inclusive, not moved.

**Mr. N. Dempsey:** I move amendment No. 29:

In page 7, line 29, to delete “*subsection (1)*” and substitute “*subsection (2)*”.

Amendment agreed to.

**Mr. N. Dempsey:** I move amendment No. 30:

In page 7, line 32, to delete “an educational disability” and substitute “his or her having special educational needs”.

Amendment agreed to.

Amendment No. 31 not moved.

**An Leas-Cheann Comhairle:** Amendments Nos. 32, 33, 78, 79, 112, 157 and 166 are related. Amendment No. 79 is an alternative to amendment No. 78. Amendments Nos. 32, 33, 78, 79, 112, 157 and 166 may be taken together by agreement. Is that agreed? Agreed.

**Mr. Stanton:** I move amendment No. 32:

In page 7, between lines 34 and 35, to insert the following:

“(3) At the end of each school year a report will be sent to the parents of every student attending school which shall include a statement by the principal or class teacher which will indicate, in the opinion of the principal or the class teacher if the student has or may have a special educational need.”.

[Mr. Stanton.]

Amendments Nos. 32 and 33 aim to ensure that schools will be pro-active with regard to informing parents that children may have special educational needs. The intention is that at the end of a school year a report would be sent to parents, as happens now with end of year reports. That report would include a statement alerting parents to the possibility that there may be a special educational need. Schools should be alert to the possibility of special educational needs and if they were of the view that might be so, they should let parents know about it. The amendment seeks to overcome the possibility that a child with a special educational need of a minor nature, might be ignored in the classroom setting. I am not using the word "ignored" in any judgmental sense, but for want of a better word. By inserting a requirement that principals and teachers must be alert to the possibility that there may be a special educational need, it means the school would be pro-active so that the child would benefit as a result.

Amendment No. 33 would oblige teachers to inform the principal if they felt there was a problem with such a child in the school. I have come across a situation where a child had a hearing problem in the classroom and, although he was well able to compensate for it by lip-reading and in other ways, he was not achieving his potential. Nobody knew what was wrong and the child became frustrated. He did not realise the nature of the problem because that was how he had always experienced life outside the classroom. It was discovered almost by accident that he had a hearing problem and once that was corrected the child blossomed. The amendments are being moved to alert schools to the possibility that special educational needs, such as the one I outlined, may exist. If teachers are of the view that such needs should be supported, the school should be pro-active in that regard. The Minister may have other suggestions to make. There are concerns about how parents might react to statements that their child has a special educational need. On balance, however, it is better to inform parents, which formalises the situation so that schools will no longer be able to delay dealing with such matters. The vast majority of school principals and their staff will do this anyway, but these amendments would deal with borderline cases where there may be a special need to which people have not been alerted. It may be a behavioural problem rather than a special needs one. In the case I outlined earlier, it was a behavioural problem that arose from a special needs issue. The amendments have been tabled in good faith for those reasons.

**Mr. N. Dempsey:** As I said on Committee Stage, a requirement such as the one in amendment No. 32, imposes an overly onerous burden on our schools. The thrust of what the Deputy is trying to achieve is met in the Bill as it stands. This is particularly the case in section 3

which imposes not just an obligation on a school, but a legal obligation on each school and its principal to take clearly defined steps where he or she forms the view that a person has special needs, or that a child is not benefiting from education to the extent that would be expected. That covers the thrust of this amendment and meets its requirements fully. It may not be all that helpful to be prescriptive in how this is done.

Amendment No. 33 is implicit in this section. If the Deputy examines my amendment, it will be clear that parents can inform the principal they believe their child may be experiencing difficulties. Section 18 permits a principal to delegate any functions conferred on him or her by the Bill to a teacher in the school. The laudable aims in the Deputies' amendments are catered for legally and statutorily as the Bill is currently framed.

Deputy Crowe and Deputy Finian McGrath suggested that in making available the statement of the assessment's findings to other parties, the council or health board should inform the parents to whom this information is being given. I agree with that and think it will improve the transparency of the system. My amendment No. 78 attempts to accommodate Deputy Crowe's amendment on this matter.

Deputies Enright, Stanton and O'Sullivan have suggested that where an education plan is to be amended following a transfer between schools, parents should be consulted before any amendment is made. I believe, as the Deputies do, that this would promote a greater involvement of parents in the decision making process affecting their children. I wholeheartedly support this type of amendment. Under amendment No. 112, which I propose, the principals of the respective schools will identify if amendments are necessary. The principal of the new school will inform parents of the proposed amendments and the parents will then have a right to require the new principal, if they so desire, to consult the special educational needs officer. That makes the system much more transparent and, I hope it will meet the concerns of Deputies.

On Committee Stage, it was suggested that some of the council's functions should be widened in the areas of information advice and consultation, to include the training colleges, the NCCA, school management bodies and the teaching council. I am responding positively to those amendments. Amendment No. 157 confers on the council a function to disseminate information on best practice to any person or body that it considers appropriate. That should meet some of Deputy Stanton's concerns about raising awareness in schools.

On Committee Stage, Deputy Crowe made the point that the council's duty to advise on the entitlements of children with special needs should be extended to include their parents. Amendment No. 166 does that.

**Ms Enright:** I accept the latter amendments to which the Minister has referred. I realise that amendment No. 33 is catered for later on, but I am concerned about amendment No. 32. We cannot frame a Bill to deal with every individual situation but I have been approached by parents with children who have different levels of special educational needs, including dyslexia. The reports their children receive at the end of the school year include comments from teachers, such as “must try harder” or “should pay more attention”, whereas that is not the issue. The reason they are not doing better is because they have a need that is not being catered for. Perhaps this is not the best way of going about it. I do not know if it is mandatory for schools to issue reports but most of them do. I have raised concerns about the training of teachers to deal with special needs many times but there must be a way both the teacher and the parents can be made aware of the possibility of a child having a special educational need. A mother might know her child has dyslexia and the principal might have the assessment but the teachers are closed off from the idea and are still writing negative comments in the child’s report. If a need has been identified there should be a section in the report to show that. There are assessments and discussions with the parents but there should also be an annual record to show any possible need so the parents can be notified and kept informed of progress.

**Mr. N. Dempsey:** We are not at odds. There is a statutory obligation under section 3(1) that where the principal of a school who is of the opinion that a student is not benefiting from the education programme provided in the school to children who do not have special educational needs to the extent that would be expected of the student, he or she shall take such measures as are practicable to meet the educational needs of the student and that must be done in consultation with the parents. I take the Deputy’s point about raising awareness of this and that is why the later amendments deal with the NCEA and others. The full package of amendments meets the concerns expressed.

Amendment, by leave, withdrawn.

Amendment No. 33 not moved.

**Acting Chairman (Mr. Carey):** Amendments No. 35 is an alternative to amendment No. 34 and they will be taken together by agreement.

**Mr. N. Dempsey:** I move amendment No. 34:

In page 7, to delete lines 35 to 43 and substitute the following:

“(3) Without prejudice to *section 5(5)*, an assessment referred to in *subsection (3)* shall be—

(a) commenced as soon as practicable, and in any case not later than 1 month, after the principal has reached the opinion referred to in that subsection,

(b) completed as soon as practicable, and in any case not later than 3 months, after the principal has reached that opinion, and

(c) carried out in accordance with such guidelines relating to persons who are to carry out assessments under this section and the form that those assessments are to take as may be issued from time to time by the Council,

and references in this section to the carrying out of such an assessment include references to the preparation of a statement of the findings in relation to the assessment.”.

We spent a long time discussing time limits on Committee Stage and a number of Deputies suggested reducing the three month timeframe in which to complete an assessment and I undertook to review all of the time limits within the Bill. Having looked at it and having taken advice, an outer limit of less than three months is unrealistic as a target to set for all assessments. For that reason I will not accept the amendment.

This should be viewed in the context of the weighted system that will be introduced and the automatic response being beefed up. Children will no longer be left in school without some assistance. I accept the concerns that we should not allow things to drift and that assessments should be carried out as quickly as possible. For that reason I proposed the amendment which will require an assessment to begin within one month and to be completed as soon as practicable after that and no later than three months. We are giving a timetable as to when it should start and finish. That will not cut down on the overall time it may take to complete an assessment in all cases but it should help to focus minds and to get the ball rolling so the assessment will also be finished early.

The amendment also provides that the carrying out of an assessment includes the preparation of a statement of findings as a result of that assessment. The statement must be prepared within the three month period and I hope that addresses the concern that significant time can be lost through delays in drawing up the statement of findings.

This amendment addresses the problem some people foresaw of an assessment being done and then it taking another three months for it to be made available. I have tried to condense the timeframe as much as possible so that everything is complete within the three months and the assessment is not delayed any longer than one month.

**Mr. Stanton:** I am happy with that provided the principals are given the resources to carry this

[Mr. Stanton.]

out. They would be happy to be in a position to do what the Minister intends here but they must have the resources.

This also depends on when the principal reaches an opinion. If he decides not to reach an opinion for six months, nothing will happen for six months. That is the only flaw in the Minister's thinking but I am sure almost every principal will reach an opinion as quickly as possible.

**Ms O'Sullivan:** I was reading article in the INTO magazine on this Bill. It asked what the main prerequisites would be for effective delivery of provisions at school level to ensure the implementation of the Education for Persons with Disabilities Bill. In response it outlines those aspects Deputy Stanton mention — staffing, planning time, resource provision, professional development, appropriate guidelines and ensuring proper co-ordination between the various service providers. Clearly, the body representing teachers is concerned that it gets the resources to meet the time limits in the legislation. Will the Minister give an assurance that the resources will be available?

**Mr. N. Dempsey:** I assure the Deputy that the INTO, being the good trade union it is and knowing how well it looks after its members, will not be slow about looking for those resources. We have already done some preliminary work to examine the resource implications, quantify them and include them in the Estimates process to ensure we can implement the Bill quickly and offer as much assistance as we can to the schools.

**Mr. Crowe:** I raised the question of the timescale on Committee Stage. Three months is an entire school term and the assessment could take weeks or even months. I am concerned it will drift and drift. I accept that the Minister is introducing new measures but there is a concern about delays and that is why I tabled an amendment on Committee Stage. There is a need for compromise on this area. Many of the parents who have contacted me are worried the assessment will be allowed to drift and I do not know if the Minister's amendment will address their concerns. They are worried about the length of time involved before a child is assessed.

Amendment agreed to.

Amendment No. 35 not moved.

**Mr. Stanton:** I move amendment No. 36:

In page 7, line 45, after "(3)" to insert "or by any other person qualified to carry out such an assessment".

Parents might decide to have an assessment carried out privately. A child might be in hospital or somehow undergo a professional assessment of his or her educational needs. If such an assessment is carried out, is there a need for a

second assessment in accordance with section 4(3)? This amendment obviates the need for a second assessment in accordance with subsection (3) to be produced by parents, a school or whomever. The assessment is already there. Let us suppose that a child was ill and had been in hospital, where medical practitioners had provided a written assessment of his or her situation. Surely there would be no need for a second one, and the first could be accepted by the educational authorities, provided that it had been carried out by a qualified person, as the amendment stipulates.

**Mr. N. Dempsey:** On Committee Stage I essentially expressed the view that, while each assessment must be tailored to the child, it must still be carried out in accordance with the guidelines issued by the council. The effect of the amendment, if accepted, would be to allow assessments not subject to those guidelines to be used in, or form the basis of, an education plan. Throughout the discussion, we have all talked about trying to ensure that assessments are carried out by properly qualified people and professionals with proper, recognised qualifications. Accepting this amendment would undermine the consistent, best practice models which the Bill will guarantee and which we all want to try to achieve. For that reason, I do not propose to accept this amendment. There should be consistency in the assessments, and they should all be done in accordance with the guidelines issued.

**Mr. Stanton:** The situation could arise where the top consultant in the country provides an assessment regarding a child's special educational need in one of the country's top hospitals. Is the Minister saying that such an assessment should be set aside and should not be taken into account at all, with a second assessment produced by someone not nearly as qualified? Why put a child and his or her family through a second process of assessment when one might already be available from an eminently qualified hospital psychiatrist, psychologist or whomever? Can the Minister not consider a situation where those assessments could be taken into account, thus telescoping the process? Perhaps the council could put guidelines in place so that such assessments could be taken into account and accepted so as not to put families through the trauma, trouble, expense and whatever else of having assessments carried out.

The Minister is always talking about the limited resources available to his Department. Why go to the expense of having a second assessment carried out when there may be a first one carried out by an eminently qualified person available that might be used and accepted? Perhaps the Minister might go away and look at this suggestion. In the past I have witnessed situations where people tried to overrule the highly qualified though they were not anything near as qualified themselves. It gives rise to a conflict.

The Minister might be able to save everyone time and trouble, and his Department expense, if he considered this amendment. He need not accept it now, since he has probably given it no thought hitherto, but he might consider it for the Seanad, perhaps consulting others on it first. It is a reasonable suggestion, and I am surprised he has uncharacteristically shot it down straight away.

**Mr. N. Dempsey:** We may be talking at cross purposes. As long as an assessment is carried out in accordance with the guidelines issued by the council, it can be used and will be accepted by it. The Deputy's amendment is not necessary to ensure that. However, we must guard against the current practice whereby people get private assessments done. People are conducting assessments with no reference at all to the guidelines we have in place under our circular recommendations. Unfortunately, that causes grief to parents if someone recommends 25 or 40 hours of one-to-one tuition and NEPS, applying the guidelines, decides that it should be 15 hours. The amendment is not necessary to achieve what the Deputy seeks. If the assessments are carried out in accordance with the guidelines, they will be acceptable.

**Mr. Stanton:** I will not press the amendment, but I ask the Minister to think about this question before the Bill reaches the Seanad. I will leave it at that.

Amendment, by leave, withdrawn.

**Acting Chairman:** Amendment No. 37, in the name of the Minister, arises from committee proceedings. It has already been discussed with amendment No. 1.

**Mr. N. Dempsey:** I move amendment No. 37:

In page 7, lines 45 and 46, to delete "an educational disability" and substitute "special educational needs".

Amendment agreed to.

Amendment No. 38 not moved.

**Acting Chairman:** Amendment No. 39, in the name of Deputy Crowe, arises from committee proceedings. Amendments Nos. 39 and 43 are cognate. Amendment No. 44 is related. Amendments Nos. 39, 43 and 44 may be taken together, by agreement. Is that agreed? Agreed.

**Mr. Crowe:** I move amendment No. 39:

In page 7, line 46, to delete "principal" and substitute "special educational needs organiser".

Like many of the other Deputies, I attended a teachers' conference over Easter. As usual, one takes advantage of such things and talks to local people. I met several teachers from the midlands,

including young teachers who had just entered the profession. I asked their views on the job of principal and was surprised that the consensus seemed to be that they would simply not take on the job of principal because of the incredible workload. We mentioned before that teachers do one job teaching children or those in their care. They may have other responsibilities, but the primary one is teaching. However, principals must not only be teachers, as 75% continue to be; they must also function as school administrators, receptionists, chief organisers, accountants, diplomats, and even politicians in some cases. Many of them are without secretarial support to deal with the stream of paperwork. Administration always seems to be on the increase.

It is perhaps little wonder that the Irish Primary Principals Network calculated last year that for 36 principal posts there were no applicants when they were initially advertised. According to the report of the Hay group, it is the most overloaded role in the education system. I accept that the principal is in charge and that the buck must stop at his or her desk. I ask the Minister to accept some, if not all, of these amendments to allow some of the burden of this legislation to be moved elsewhere. Opposing this on Committee Stage, the Minister argued that one of the valid criticisms he had to make of principals was that they did not delegate enough. I ask him to accept this amendment and allow them to delegate some responsibility to the special needs organiser. Many of the principals to whom I have talked view this legislation with what approaches to fear. They know they will not be able to live with it practically, and we already have indications that there will be difficulties. They do not want the blame for not delivering on this legislation.

**Ms Enright:** I support the broad thrust of what Deputy Crowe has said. I know the principal should cause an appropriate education plan to be prepared for the student. I presume the principal will not have to sit down and do it himself or herself and that it will be the teacher of the child in question who does it. At the same time, I support what has been said regarding the workload on principals, particularly teaching principals. This Bill will increase that further. In some ways, there is no way around it, but the special needs organisers also have a role. Starting afresh, they might be the people best placed to take some of the burden currently on principals.

If the Minister is not going to accept the amendments I would ask him to at least consider the generality of what has been said in their regard. Perhaps he could say how he sees the role of principal changing under this Act and whether he feels there will be difficulties as regards the time and the workload involved if the principal has to oversee all of this as well, and how he believes that will interact with the special needs organiser.

**Mr. N. Dempsey:** This was discussed at length on Committee Stage. What we have to do is balance the rights, duties, responsibilities and so on within the Bill. I accept there will be some increased workload as regards what principals have to do as a result of this Act. It is entirely appropriate, however, that the responsibility of a school-based education plan rests with the principal rather than someone who is external to the school as the special education needs organiser would be. I accepted many of the points made by Deputies and lobbies as well to each one of us on Committee Stage to try to ease that burden somewhat and better reflect the appropriate balance of duties at a particular time. The Bill now reiterates the right of principals to delegate their functions to members of staff, which is extremely important as well. Principals will also have the right to attain the assistance of the SENOs in carrying out their duties if they feel that is required. That should be of some help to them as well. In addition, where a principal considers that the assessment of a child believed to have special needs is not practicable, or that an education plan prepared by the school will not meet the child's needs, he or she can then request the council to arrange an assessment or plan. I therefore do not propose to accept these particular amendments.

We have gone as far as we can. I said, only half-jokingly, on Committee Stage, that we are talking about professional people who are next in line to the parents at a school. They are the best people to know and be able to assess the child in these kind of circumstances. If matters become too complicated they have a backup. For that reason, it is important in so far as we possibly can, to deal with special educational needs within the school itself with the backups. For that reason I do not intend to accept the amendments.

**Mr. F. McGrath:** I want to put on record my views about the incredible workload of many principals in the education system, particularly over the last five years, when it comes to the administration of the school. Many principals are also involved in teaching classes as well as trying to run schools. I have to declare an interest, as a former teaching principal in a disadvantaged school. I know from the reality on the ground that the workload has increased massively. This has to be taken on board. Of course, part of leadership and decision making is the responsibility of delegation. I take that point on board that people in posts within a school must carry out their duties and share the responsibility. That is a reality that has to be implemented as well in many areas. However, it is important we understand the full picture. I have been talking to a group of teachers over the past few weeks, particularly after the INTO conference in Kerry. It has emerged that many quality teachers are not seeking promotion to principal. This saddens me because I have many colleagues within the profession. Deputy Carey worked in teaching as

well for many years in Finglas. It is important to have people in teaching who really enjoy the work they do. However, it must be appreciated that matters have changed dramatically within the profession and that there are all sorts of plans and programmes, with the buck stopping at the principal. We must understand that the workload at the moment is horrendous.

**Acting Chairman:** Is Deputy Crowe pressing the amendment?

**Mr. Crowe:** Yes.

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

Amendment declared lost.

**Acting Chairman:** Amendment No. 40 is in the name of Deputy O'Sullivan. It arises out of committee proceedings. Amendments Nos. 41 to 42, inclusive, and amendment No. 111 are related. They can be taken together. Is that agreed? Agreed.

**Ms O'Sullivan:** I move amendment No. 40:

In page 8, line 15, to delete "child" and substitute "child are involved in the preparation of the plan in a spirit of partnership and".

These amendments are about involving the parents more. My wording for amendment No. 40 is that the parents are "involved in the preparation of the plan in a spirit of partnership". The intention is to ensure that the parents are fully involved in the preparation of the plan for their child. I note that the Minister has met us some of the way in amendment No. 41, which talks about the parents' involvement in the preparation. That is to be welcomed. In that group of amendments, there is a further one in the name of Deputies Enright and Stanton, which is quite important. I believe it is amendment No. 47. The Deputies will give their own views on it. However, this might be an opportune time to discuss it since I am moving my own amendment. I fully support that amendment. It takes into consideration the case where parents want a plan prior to enrolment. That is an important amendment.

**Mr. F. McGrath:** I strongly support amendment No. 40. The key words there are, "spirit of partnership". It is essential if services are planned in particular for a child with disability, that the parents and the teachers work closely together. It has to be done in partnership. There have been examples of good practice in the education system, as regards psychologists, teachers and parents working as a team and deciding which way the child should go, whether into special education, mainstream or wherever. Such decisions are made in a true sense of partnership. There have also been examples of bad practice.

As a Deputy I have received many complaints from parents who were treated badly. Their children were not allowed to come to the school and no effort was made to facilitate the family of the child with disability. If we are serious about the educational process and services we should support Deputy O'Sullivan's amendment.

**Ms Enright:** I agree with amendment No. 40, as tabled by Deputy O'Sullivan. She said what needs to be said on the amendment. As regards amendment No. 47, this is particularly important. The Minister has talked about transition from primary to post-primary level. However, another issue must be grappled with in this country, namely, the transition from pre-primary level, in whatever guise it will eventually emerge, whether as pre-school, Montessori or whatever. If a child is seen to have a special need of some sort, on enrolment provision should be made for an assessment to be carried out at that point so that when he or she is starting school everything is ready to kick into place. We are dealing with persons under the age of 18 in this Bill, but that should start immediately the need is identified. Unless an assessment can be carried out at the enrolment stage, valuable time will be lost. I would urge the Minister to accept that amendment.

**Mr. N. Dempsey:** Again on Committee Stage, concern was expressed by Deputies Enright, Stanton and O'Sullivan that references to consultation with parents might just mean liaising with them as a mere formality, as opposed to ensuring real involvement. I tried previously, as well as now, to address this particular view in a number of amendments we brought before the House. In the present context my amendment No. 41 places an obligation on the principal not just to consult with the parents, but to facilitate their involvement in the preparation of the education plans. For that reason it is not necessary to accept amendment No. 40. Its spirit and letter are included in my amendment No. 41. I said that I would look again at amendment No. 42 and I have done so but I still feel this is not an appropriate role for parents. The guidelines will be very technical and parents may not be best placed to appreciate their application in every case. However, they will have a close involvement in the education planning process, their views will be heard and they will have extensive rights of appeal if they are unhappy with the outcome. We have gone a long way in this Bill to ensure we are paying more than lip-service to them.

Acceptance of amendment No. 47 would impose a very wide-ranging and onerous duty on schools. If a principal considers that a child in his or her school may have special needs he or she can arrange to have an assessment and education plan prepared. Equally, parents have the right to approach the health board or the council to seek an assessment. Appeal arrangements exist in the event of a refusal to accede to a request for an

assessment. Therefore, the amendment is not necessary and I do not propose to accept it.

Likewise amendment No. 111 is not necessary given that my amendment No. 112 which we have already considered, will ensure parents are consulted prior to the amendment of an education plan. The parents will also have the right to require the new principal to consult with the SENO. Amendment No. 112 covers amendment No. 111 and amendment No. 41 meets the requirements outlined in amendment No. 40. For those reasons the amendments before us are met by my amendments.

**Ms O'Sullivan:** I would like clarification of amendment No. 42 in the names of Deputies Enright and Stanton, rather than of my amendment No. 40. I accept the health boards can be approached, and that is part of the Bill, to undertake an assessment of a pre-school child but I am concerned about the point of entry. Can the Minister clarify whether at the point of entry the health board is the appropriate body to assess the child before he or she goes to school? If a child is in an Early Start programme is he or she considered to be enrolled in the school or under the health board? Many children in Early Start programmes are by definition in disadvantaged schools and it might arise that those children would be identified as having special needs. Can the Minister clarify whether the principal of the school or the health board would make the assessment in that case?

**Mr. Stanton:** Referring to amendment No. 42, the guidelines which the Minister says are so important can be set aside and the parents need not be consulted because they would not understand them as they will be very technical. There are parents who will understand but there are others who will find it difficult to follow them. Parents have a right to be informed of what is happening where their child is concerned, especially if guidelines are set aside. The authorities have a duty to explain this to them.

This also raises the issue of a proper advocacy service for parents. Perhaps the Minister will tell us what plans he has for this. It is not good enough to say the guidelines will be technical, parents will not understand them and therefore will not be told of them. There should be an advocacy service for parents so that when they are dealing with officialdom they can be accompanied by someone who can help make their case and explain what is going on, if they cannot follow the process. The Minister should look at this important issue.

Amendment No. 47 deals with the special needs child who goes to a primary school. What kind of interaction is possible before the child attends the school? I am aware of a town in which there are three or four primary schools and a six year old girl who uses a wheelchair cannot attend any of them because none is wheelchair accessible. She must attend a school three or four



[Mr. Stanton.] miles away and a special taxi service is laid on. She cannot go to school with her friends or neighbours but must travel some distance away. It should be possible that before the child enters the school, advance notice is given so that ramps, etc., can be put in place. This is not an isolated incident. If the Minister wishes I can tell him privately where these schools are and the name of the child.

This is why amendment No. 47 is so important. Prior to enrolment of a child in a school an assessment can be carried out so that school is ready to accept the child and the conditions are right, if ramps are required they are put in place and everything else is ready to enable the child to be accepted and included on arrival in the school. We have all said how important it is that children with special needs are educated in an inclusive way. There should be no delay in the child's attendance at school while an assessment is conducted, the principal forms an opinion, or works take maybe six months to complete. The health board may be involved but we must create proper links to the schools, a possibility the Minister might examine.

Many children start school too early but junior infants is very often a pre-school play school environment and we all know how children learn through play. A child with special educational needs perhaps has more need for that than other children do. These are important issues which I am sure the Minister will take on board.

**Mr. F. McGrath:** I strongly support amendment No. 47 which states, "Parents may, prior to enrolment of a child in a school as a student, request that an assessment be carried out in order to ascertain whether or not the child has any special educational needs." The case to which Deputy Stanton referred is a disgrace. It is not acceptable that any child be blocked from going to a primary school because the facilities are not there. We also see the sad situation of other children with disabilities who must leave this jurisdiction to be educated, particularly visually-impaired teenagers. That is not acceptable. Recently, young adults with special educational needs have had to travel abroad for education. We must acknowledge this is not acceptable or good practice. Where special needs children have been successfully integrated into mainstream schools the parents and teachers usually work a year or two before the child starts and hold meetings and case conferences. The principal, the teachers and the parents spend 12 months planning for the enrolment of the child. That is the way forward. I do not accept that any educational establishment can use the excuse that it does not have the ramps or the facilities to take a student. This is a matter of the rights of children with disabilities. They must have rights as citizens

of this State and those rights must be strongly protected.

**Mr. N. Dempsey:** I agree with the Deputy about the rights of children having to be protected. I would be interested in getting specific information on the school in regard to the child in a wheelchair. It will be interesting to see whether applications were made to the Department for the provision of ramps. It may have been, but it was my understanding of the summer works scheme and so on that works to improve access were a priority. Unfortunately, a minority of schools, which may not be the case here, use the excuse of not having ramps or whatever else to prevent a child with special needs going to the school. We would like to prevent that where possible.

We should all ensure parents are conscious of section 29 appeals. If such an appeal had come to the Department there would be a chance, all things being equal, that a decision would have been made to enrol the child. The onus would have been put on the Department to provide access. I would welcome details on that case.

A query was made about the link-up between pre-school and later schooling. We could get hung up on age, but the approach adopted in the Bill is that if a child is in a school, the responsibility for education planning lies with the principal and the council. If the child is in pre-school or out of school, the responsibility rests with the health board. The provision in section 9(2)(f) should meet the concerns of Deputies. It states: "The special education and related services to be provided to the child to enable the child to effectively make the transition from pre-school education to primary school education." That has to be part of the education plan of a pre-school child. The concerns expressed are met in the Bill.

**Ms Enright:** Regarding amendment No. 47, Deputy Stanton gave a specific example of a primary schoolchild in a wheelchair to which the Minister responded. However, when a school makes an application under the summer works scheme, or other programmes, for special facilities, if the school has also made an application for more extensive works, the special application will not be dealt with because the other application is pending. I received a reply in answer to a parliamentary question on the matter yesterday. Schools are in the building programme for the past eight to ten years and special applications to cater for children in wheelchairs and so on are not being met. A bottleneck exists in the Department at present. I do not accept the Minister's assurances that the problem identified by Deputy Stanton would be dealt with by the Bill.

Regarding amendment No. 42, I cannot envisage a situation where parents should not be made fully aware if guidelines are not being followed. In addition to the special needs organiser and the principal, parents rely on the guidelines. If they are not being adhered to, parents are as entitled to be informed as principals, special needs organisers or anybody else. Their children are being affected by guidelines not being followed. We intend to press both amendments.

**Mr. Stanton:** Amendment No. 47 states: “Parents may, prior to the enrolment of a child in a school”. However, not all children go to pre-school. The Minister gave an example of a child transferring from pre-school to primary school. I want him to address a possible loophole in the legislation in the case of a child who does not go to a pre-school. What happens then? Does a child have to enrol in a school without any initial assessment being carried out? If a school only starts to roll out services then, it might take three or four months to put a plan in place.

**Ms O’Sullivan:** I dealt with a principal last year that was willing to take a child with special needs. A number of modifications were required to be made to the school and she used up much of her summer holidays trying to get things in place for the child to start school in September. While the summer works programme will be adequate in some cases, it is not adequate in all cases. For one thing, applications must be made in good time. Sometimes a school may not be informed sufficiently in advance that a child with special needs is due to arrive. The Minister should ensure the building unit in his Department responds to cases of genuine need where work has to be carried out over the summer to facilitate a child. Principals who have decided to be proactive in this area generally have to put in a great deal of extra work in order to facilitate the arrival of a child, especially a child with physical disabilities. The Department needs to be able to respond to such situations.

**Mr. N. Dempsey:** Deputy Enright rightly raised the matter of guidelines which I neglected to mention. There is no indication in the Bill that parents will not be informed if guidelines are being left to one side. Parents will be so informed and will have the right to appeal because of the procedures we are putting in place. It is not a question of parents being ignored; they will continue to have rights in this regard.

If a child who is not in a pre-school is being dealt with by a health board, the health board will inform the school the child has special needs before the child commences school.

*7 o’clock* It will then be a matter between the health board and the school. We cannot legislate for everything. I presume people

will use common sense. Health boards have an obligation to put an education plan in place which will be passed on to schools. If, after a short period of time, the principal discovers the education plan is not sufficient for the child, he or she has the right to amend the plan. The same applies to students moving to second level.

I would be most surprised if the building unit was not responsive to the kind of needs to which Deputies referred. I would expect it to be responsive, but in deference to what the Deputy said, I will raise the matter again to ensure flexibility. We should not say, “if schools are good enough”, they should be doing it anyway. If schools are taking in pupils with special needs, we would ask them to be responsive. I am aware of a case regarding a major school building programme, part of which involved the provision of a lift that could not be done separately for logical reasons. However, the provision of ramps and the widening of doors are issues to which the building unit should be responsive.

**Mr. F. McGrath:** The Minister hit the nail on the head in regard to the building unit. We met some people with disabilities yesterday in Croke Park who are experts in school design and planning. They should have an input into the design of schools. Some 8% of the school-going population have disabilities.

Amendment, by leave, withdrawn.

**Mr. N. Dempsey:** I move amendment No. 41:

In page 8, line 18, after “consulted” to insert “and, in the case of the parents of the child, their involvement in the preparation is facilitated”.

Amendment agreed to.

**Mr. Stanton:** I move amendment No. 42:

In page 8, line 21, after “organiser” to insert “and the parents of the child”.

Amendment put and declared lost.

Debate adjourned.

### Private Members’ Business.

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### Management of Public Funds: Motion (Resumed).

The following motion was moved by Deputy Gregory on Tuesday, 11 May 2004:

That Dáil Éireann—

— notes:

- that the Government has squandered up to €60 million of taxpayers' money on the electronic voting fiasco;
- that the Government has squandered up to €199.8 million on the clearing of the site at Abbotstown;
- that hundreds of millions of euros in taxation is forgone due to exemptions granted by Government to wealthy tax exiles, stud farm owners, mega-rich rock stars and authors;
- that the Government has squandered up to €15 million on the Punchestown Equestrian Centre;
- that the Government has squandered up to €100 million due to its failure to address the excessive fees paid to the legal profession in the tribunals of inquiry;
- the two recent budgets where tax reductions on the profits of major corporations resulted in a loss of €634 million each year to the Exchequer; and
- the mismanagement by the Government causing massive cost over-runs on the Luas project;
- in the context of the accumulated loss of up to €1 billion by Government mismanagement and reckless policies, further notes:
  - the failure of the Government to address the rich-poor gap in Ireland which is the widest in the EU, while the Government has reneged on its own commitment to raise the lowest social welfare rate to an adequate level to address poverty;
  - the failure of the Government to address health apartheid with continuing poor access to services and ongoing crises in public accident and emergency hospitals while private hospitals thrive on massive tax breaks;
  - the failure of the Government to address the spiralling housing waiting lists, which have now grown to 48,000 households;
  - the continuing neglect of disadvantage in education and the failure to address appalling conditions in schools;
  - the failure of the Government to introduce a rights based disability Bill;
- the refusal of the Government to honour the task force recommendation to provide €18 million for care of elderly emigrants in Britain; and
- the dramatic reduction by the Government of community employment scheme places from 40,000 to 20,000 with the subsequent reduction or elimination of essential community services;
- calls for:
  - an equitable taxation and improved social welfare system to reverse the widening rich-poor gap;
  - the ending of the two tier health system, the proper funding of a health service providing guaranteed comprehensive health care for all with access based on need, an end to waiting lists, the granting of the additional 200,000 medical cards, the immediate provision of a dedicated inter-hospital helicopter emergency medical service and an effective ground ambulance system;
  - an emergency programme of social-affordable homes while imposing controls on speculation and profiteering in housing development land giving rise to unacceptably high house prices;
  - the immediate introduction of a rights based disability Bill;
  - the allocation in 2004 of the full €18 million for care of elderly emigrants;
  - the restoration of the lost community employment places to restore essential community services and the mainstreaming of community employment in the health services; and
- calls on the Irish people to turn out in overwhelming numbers in the local and European elections on 11 June to reject this Government's squandering and mismanagement of public funds at the expense of workers, the poor and the disabled.

Debate resumed on amendment No. 1:

To delete all words after "Dáil Éireann" and substitute the following:

"commends the Government for its continuing prudent management of the economy and the public finances since 1997;

congratulates the Government for:

- the creation of 300,000 new jobs;
- reducing unemployment dramatically, from 10.9% to 4.4% at present;
- exempting nearly 700,000 low paid from the tax net;
- tackling tax evasion and tax dodges in a vigorous manner;
- further developing and enhancing our public services;
- record levels of expenditure on the schools capital programme;
- the weekly increase of €10 in social welfare rates in Budget 2004, three and a half times the projected rate of inflation in 2004;
- the introduction of a national minimum wage which is now €7 per hour;
- co-operating with the Commission on Electronic Voting in completing the further recommended testing programme while noting that the many benefits of electronic voting have been acknowledged by the commission and that this approach will safeguard the investment in the system;
- investing historically high levels of funds in public infrastructure, specifically noting that Luas is being completed within the approved cost; and
- building record levels of new housing for our people; and

supports and welcomes the Government's determination to continue implementing its economic programme to the benefit of all."

—(Minister for the Environment, Heritage and Local Government).

**Minister for Finance (Mr. McCreevy):** I wish to share my time with Deputies O'Connor and Moynihan.

**Acting Chairman:** That is agreed.

**Mr. McCreevy:** I am particularly pleased to have the opportunity to contribute to this debate. I especially welcome the opportunity to set out, in the clearest terms, my record and that of the Government in regard to the management of the economy and the public finances. I reject in the strongest possible terms the implication in the motion tabled by the Technical Group.

The Deputies proposing this motion obviously favour dealing in fiction rather than fact in the

pursuit of their short-term electoral objectives. This is either because they cannot recognise the reality or because the reality simply does not suit their case. As the House is aware, the reality is that the Government has transformed this country over the past seven years to the benefit of all its citizens. We have fundamentally reformed the tax system; significantly increased spending on infrastructure; substantially raised the funding and staffing of our public services; provided more resources for the aged, children and the most vulnerable; and established the National Pensions Reserve Fund to provide for future generations. The electorate recognised these achievements when they re-elected this Government in 2002, the first time in more than 30 years that the people re-elected an outgoing Government.

Those opposite do not wish to have to hear the uncomfortable truth. However, the record will show that in my period of office a thriving economic climate has been created in Ireland. We have recorded one of the best economic performances in the world and are a beacon for our new European partners. Economic growth has averaged nearly 10% per annum. Unemployment has been reduced from more than 10% to historically low levels, currently at just 4.4%. More than 300,000 new jobs have been created and long-term unemployment has been cut by 80%. These achievements seem to be recognised and lauded everywhere in the developed world apart from on the seats across the floor of this House. For instance, in August 2003, the IMF commended the Irish authorities for our "exemplary track record of sound economic policies".

The Government has established a climate which has allowed our economy to flourish. We have created an enterprise culture, one that has turned this country into a country of opportunity. Despite the international economic downturn in recent years, our economic record far exceeds that of our main EU partners. I am confident that if we ensure we regain competitiveness we can in the future improve our economic growth to reach 4% to 5% in GDP terms.

The achievement of the Government in successfully managing the public finances is evident and envied. We have the second lowest debt level in the euro area at under 33%. We have a sound budgetary position with a general government balance target this year of 1.1% of GDP. Though some of our EU partners have to make painful budgetary changes to ensure they respect the stability and growth pact, we, through prudent budgetary planning, have ensured that we have avoided that difficult experience.

I have completely transformed the taxation system. The Government's tax policy has helped to generate unprecedented growth in the economy, a spectacular increase in the number of

[Mr. McCreevy.]

people at work, significant increases in the disposable incomes of those at work and the effective elimination of long-term unemployment. Almost 670,000 income earners, that is 35%, are now out of the tax net compared to 25% or 380,000 in 1997. No one in the PAYE system pays tax at less than €246 per week as opposed to €98 per week in 1997-98. Those aged 65 and over do not pay tax until they reach €15,500 per annum, in the case of a single person, or €31,000 per annum, in the case of a married couple, more than double the level in 1997. We have the lowest tax wedge in the EU for the average single worker according to the latest OECD data. Business tax rates have been reduced creating jobs and growth without sacrificing tax revenue in many cases. The minimum wage, introduced by the Government, has been increased to €7.00 per hour. At the same time, anyone earning up to 90% of the minimum wage remains outside the tax net. We are targeting 100% exclusion as resources allow.

I have introduced more reforms of the tax system than most previous Ministers for Finance. While many would have been content to tinker with the system, this Government decided on and followed through with radical reform. I am convinced that this is the correct approach when dealing with areas where change is needed or overdue.

I fundamentally altered the system of tax allowances by converting them into tax credits. Apart from this being fairer, this new system opens up the possibility of using the tax code to target reliefs in a more focused way and at less cost than previously would have been the case. I also made the tax code fairer by widening the single standard rate band to enhance each individual's entitlement to a tax band in his or her own right. I substantially increased the powers of the Revenue Commissioners to pursue tax evasion through access to financial records, something those proposing the motion should acknowledge. I simplified many aspects of the tax system, introduced innovative new products to help the ordinary people better fund their pension requirements and brought the antiquated income tax year into line with the calendar year, as is the case for most other taxes.

When one looks at the Government's record on tax reform and the creation of an infinitely more equitable tax system, it is easy to see the absurdity of the motion tabled by the Technical Group. Its members' audacity in demanding a more equitable tax system is truly breathtaking. Given their diversity of origin, the diversity of the terms of their motion should hardly come as a surprise — it is a real case of "whatever you're having yourself".

I reject totally the contention in the motion that the Government's expenditure policy has led

to a squandering of public funds and has not addressed issues of social inclusion. No Government has been more socially conscious in the investment of public resources. The reality is that, since 1997, the Government has consistently framed expenditure policy in the light of the overall budgetary situation and the resources available. Accordingly, the exceptional economic growth in the years 1997 to 2000 enabled annual gross spending to be increased very substantially to a high point of 21% in 2001. As economic growth has moderated, we have, in the interests of sound management, followed a course of bringing spending increases more into line with increases in revenue. This has seen annual increases moderating from around 21% in 2001 to an estimated 7% this year.

Notwithstanding this necessary correction in the overall rate of spending, the Government has continued to accord priority to investment in the key areas of social and economic development. In particular, and contrary to the view expressed in the motion, this Government has continued to accord top priority to the areas of social welfare, health and education. It is important that the points in regard to social spending are placed on record. Health, education and social welfare spending will account for 68% of total voted spending this year.

Since 1997, this Government has dramatically expanded public spending on health, education and social welfare. Though I know those opposite find it hard to accept the facts, they are there for all to see. I remind the Deputies opposite that since 1997, health expenditure has increased from €3.6 billion to €10.0 billion; education expenditure has increased from €3.2 billion to €6.6 billion; and social welfare spending has been raised from €5.7 billion to €11.3 billion. Overall, spending on health, education and social welfare has increased from €12.5 billion to almost €28 billion, by any measure an extraordinary increase in resources. Commentators have questioned the level of improved services which we have secured for this level of investment. It is undoubtedly true that we must try at all times to ensure optimal value for money in investment funded by taxpayers. Again, however, I challenge the Deputies opposite to deal with reality rather than perception.

The gross allocation for the Department of Health and Children amounts to more than €10 billion in 2004. Over the period 1997 to 2004 gross expenditure on health will have increased by €6.4 billion or 178%. Cumulative spending on health from 1997 to 2004 is a massive €53,000 million, and the share of total national public expenditure on health has increased from 19% in 1997 to 24% in 2004. Approximately 96,000 staff are now employed to provide health services. This compares with a total of 60,000 staff in 1997 and it ensures a considerably increased volume of

activity in the delivery of care to the population. The national treatment purchase fund initiative is proving successful and surgical treatment waiting lists have been halved.

The gross allocation for the Department of Education and Science in 2004 will be €6.6 billion. The cumulative increase in gross expenditure on education during the period 1997 to 2004 amounts to €3.4 billion. This represents a doubling of expenditure. The 2004 Estimate provides for nearly 79,000 employees, which effectively means that the pupil-teacher ratio at primary and second level has improved significantly in recent years. Additional teachers have also been appointed to cater for the requirements of children with special educational needs, demonstrating that the increased investment in education has been translated into a higher level of frontline education services with a special focus on disadvantaged pupils.

Since 1997 the Government has, as a special priority, protected and enhanced the position of the weaker sections of our society. Spending on social welfare has increased substantially during this period. In 1997 the social welfare budget was approximately €5.7 billion. In 2004 it will be €11.3 billion, almost double the 1997 level.

During the same period the unemployment rate has fallen from 10.3% to 4.4%. This represents a significant improvement in real terms in the level of social welfare provision. Most of this additional money has gone to increase the rates of social welfare payments. In 1997, the lowest weekly social welfare rate was approximately €83 per week. This rate is now €134.80 per week.

There has also been a major acceleration in capital investment in the key social areas. The 2004 Exchequer provision for capital investment in housing will be more than €1 billion, an increase of €766 million or 275% on 1997. This provision will be supplemented by more than €650 million of non-voted capital investment by the local authorities. This investment in housing is producing results. Between 2003 and 2004 the range of social and affordable housing measures will have met the needs of more than 26,000 households. This represents a significant improvement in the annual output of approximately 8,500 units in 1995.

Health capital investment in 2004 will be €510 million, an increase of €343 million or 205% on 1997. Capital investment in education will be €509 million, an increase of €345 million or 210% since 1997. The Government is committed, under the five-year multi-annual investment programme I announced in the budget for 2004, to continue this level of social investment during the period to 2008.

As I have indicated publicly, I share the concerns expressed across the political divide at the costs of tribunals. I have certain measures

under consideration which are aimed at reducing the costs of tribunals and which I intend to bring to the Government for consideration in the near future.

The Government has significantly increased the funds being invested in infrastructure. The future success of our economy depends on investment made now. Between 1997 and 2003 we will have spent almost €28 billion in capital spending. In 1997 we spent €2 billion on capital. This year we will spend €5.6 billion. This is close to 5% of the gross national product or double the level in other European countries. As a result, dramatic strides have been made in tackling our infrastructure deficit. The Government will continue this high level of capital investment and build on the progress we have made during the past seven years.

However, the overall level of capital spending must be consistently maintained. Sudden spurts of activity which drive up contract prices and are followed by lulls must be avoided. The objective must be to obtain real value for money as projects evolve. A focused and planned approach to spending is required to deliver this extra value. A coherent, strategic and cost-efficient approach to capital spending on infrastructure is critical in terms of maximising our future growth potential. Accordingly, I introduced in the budget for 2004 a rolling year multi-annual capital investment framework encompassing five-year investment envelopes for each Department. The Government is committed to keeping investment encompassed by the new framework at 5% of GNP — a total of almost €34 billion of Exchequer and public private partnership funding during the period to 2008.

I also remind the House that I have obtained Government agreement for my proposals for reforms in the area of public sector construction contracts and construction-related consultancy services. In the area of contracts, contractors will be required to submit competitive tenders where the price — including a cost for the identified risks they intend to manage and control — is tendered for on a lump sum, fixed price basis. This contract price should remain firm and fixed for the duration of the project to the greatest extent possible. I accept that the risk transfer will carry a cost in terms of higher upfront tender prices, but the final cost of a project should be less than under current contract arrangements. The changes, which should deliver significant savings, will also introduce greater pricing certainty in future.

I have also identified changes in the current method procuring construction-related services, such as those of architects and engineers, which should become the norm in the public sector. I want to see a move away from the position where fees rise as project costs rise. Some areas of the public service are already making progress in that

[Mr. McCreevy.]

regard. My intention is that the method of procuring these services and the payment method will be brought into line with procurement best practice. These proposals will, I believe, introduce greater competition into the procurement process and should deliver better value for money for the State.

Despite all the foregoing achievements, the Government is not complacent. We recognise that competitiveness is key to our continued economic success. Helped by limited indirect taxation changes in the most recent budget, inflation fell dramatically from over 5% in early 2003 to just 1.3% in March 2004. However, we must ensure that inflation stays low. In particular, we must ensure that our competitive position is not harmed by any decisions we make in the current pay talks. We cannot price ourselves out of export markets. We must address our loss of competitiveness and face the challenges for investment and jobs that will continue to be posed by other countries with lower cost bases. Pay increases which are out of step with our trading partners will result in job losses. The lower inflation rates of recent times need to be reflected in the next pay agreement in a moderate level of increases.

Neither has the Government allowed short-term considerations to outweigh longer-term strategic thinking. Within 50 years, we will have two pensioners for every five workers, double the current level. The establishment of the national pensions reserve fund will help to meet the future increased pension and health costs which the Exchequer will have to bear. The fund now contains €10.1 billion. The Government has always been prepared to take the longer view and invest in the country's future.

The Government has prioritised balanced regional development and in December's budget I announced a radical programme of decentralisation which will play a substantial role in enhancing regional development and fostering regionally balanced economic growth. The arrangements for decentralisation are well under way and I am confident that we will meet our target of completing the decentralisation programme in three years. This will result in a fundamental change to policy formation here and will offer considerable benefits to the communities to which civil servants will be relocated and to the country as a whole.

I am delighted to have had the opportunity to set the record straight. The Government's record of economic management is one of substantial achievement. Those opposite might do well to reflect on those achievements before embarking on the production of a disparaging litany of old chestnuts. Constructive opposition is always welcome. However, it must be said that the motion tabled by the Technical Group hardly fits

that description. I look forward to that constructive debate taking place one day, but the failure of those opposite to cost their proposals makes it impossible.

If a rainbow Government is the alternative to the current Administration, it will, on the basis of this debate, include colours never previously seen in any rainbow. One thing of which people may be certain is that there will not be a crock of gold at the end of it.

**Mr. Durkan:** No two people see the same rainbow.

**Mr. McCreevy:** The Government's record has been clearly demonstrated and rather than cobbling together aimless motions, it would be much more constructive if the Deputies opposite could renege on the habits of a lifetime and offer the Government the commendation it deserves and which it has received from international organisations such as the IMF and the OECD for its continued prudent management of the economy and the public finances since 1997. The Government, deserves to be congratulated for its achievements and its determination to continue implementing its economic programme for the benefit of all citizens.

How can any rational person regard as other than a success the creation of 300,000 jobs, an unemployment rate that has been reduced to levels that were once considered something to dream about, the exemption of 700,000 income earners from the tax net, the successful tackling of so much tax evasion, the closing off of so many loopholes, the spending of historically high levels of funds on public infrastructure, the building of record levels of new housing for people and the further development and enhancement of our public services?

I am talking about an even better deal for all in our society. It is a much better deal than any to which those who tabled this motion could ever aspire. The Government has delivered during the past seven years and we will to deliver to the benefit of all for the remainder of our term in office. Far from being criticised by those opposite for such a record, the Government deserves to be supported. I therefore commend the Government amendment to the House.

**Mr. O'Connor:** I too commend the Government amendment. I know Deputy Durkan will allow me all the space I need to speak for the four or five minutes I have available.

I suspect that behind the bravado and point scoring that goes on here, this Minister has more respect from Opposition Deputies than they might admit. He certainly gets much respect on this side of the House. I asked a constituent in Tallaght tonight his view of the Minister for Finance, Deputy McCreevy. His reply was that he

always comes across as a man who keeps his head down and does his job. My constituent believes, as I do, that history will be kind to the Minister. History will be good to him.

(Interruptions).

**Mr. O'Connor:** The Minister for Finance does his job. I do not know whether any of the Opposition Deputies read *The Irish Times* but this morning's edition says the fall in the jobless rate to 4.4% is a good sign of an upswing. Nobody could accuse that newspaper of being a Fianna Fáil newsletter. The article also stated that the unemployment figures were welcomed by the Irish National Organisation of the Unemployed, hardly a cover for Fianna Fáil. There is much testimony to this improvement. The Opposition should be fair to the Minister. He is doing his job, unemployment is down, the tax take is up and the Government is working. Of course there are some problems.

We will have elections in 30 days time and I am confident people will vote for Fianna Fáil candidates who will do their job. They will vote in the European election for people like Deputy Eoin Ryan who will not be afraid to go to Europe and represent the country. People from Tallaght, Firhouse, Templeogue, Greenhills and all over the county will vote in the local elections for candidates who will join the local authority, who will not be afraid to make decisions and who will not sit on their hands and say the world is perfect. Let us come back the week after and see what has happened. I am quite confident people will do as I have said because they recognise that hard-working Fianna Fáil candidates will look after and work hard in their community. They are worthy of support and I believe people will support them.

**Mr. Connolly:** Will they continue to waste money?

**Mr. Durkan:** We will have to anaesthetise the Deputy before the elections.

**Mr. O'Connor:** I will not accept a lecture from any more colleagues in regard to social welfare. The record stands and I am not one to dig up issues about what was or was not done. Since 1997, Fianna Fáil Ministers have put their money where their mouths are year in, year out. People are happy with what has been done. I am expecting a group of elderly citizens from Bohernabreena to come in to visit the House. They will tell Deputies, as they have told me, that they have been looked after by Fianna Fáil Ministers year in, year out.

Everybody knows, whether the Opposition admits it or not, of the good response to the budget last year. This was not just reported in Fianna Fáil newsletters. I was greatly impressed

by a number of the measures in last year's budget which had a pro-business approach to taxation. People in Tallaght, as elsewhere in this county and country, work. The budget also impressed many, including colleagues from the opposite benches, by providing multiannual funding awards in the areas of transport, education and health. These showed that Fianna Fáil in Government is investing in major projects on a planned basis. We were not always able to say this was happening. The Minister for Finance was to the fore in ensuring this happened.

I noted what the Minister said about the catch-all motion of the Opposition. I would not be critical of my colleagues because it is good to have debate on Private Members' business. I have always taken the opportunity to speak on it as often as I can. I do not often support the motions, although I am sure the Opposition will raise a good responsible issue some day that I can support.

Many issues are listed in this motion, one of which is Luas. We all know of problems with Luas and we have criticised the various works taking place. The 7,155 people of the Tallaght region who sent me to Dáil Éireann are looking forward to the opening of the Luas service in late summer. It is somewhat unfair of people to be critical of Luas at this stage. People along the lines from Tallaght and Sandyford to town are looking forward to Luas in a big way. They believe Luas is a positive step forward. It is all right for Members to stand up week in, week out and criticise Government policy on this, that and the other. That is fair enough in a democracy. However, we should be fair and understand that good work is being done. This particular Minister is doing his job and representing people. I believe the Government is showing it does care.

**Mr. Durkan:** It has a funny way of showing it.

**Mr. O'Connor:** There will always be some problems. Despite being a new Deputy and despite my efforts to keep a low profile on most occasions, I am never afraid to call for improvements in my constituency, and I will continue to do so. I congratulate the Minister on his work, wish him well in the future and commend the Government amendment.

**Mr. M. Moynihan:** I commend the Government amendment to the House. This is one of the first times in many weeks Members on the other side of the House have been in good humour. It is obvious they are not making a serious issue of the motion.

**Mr. O'Connor:** They are not too pushed.

**Mr. M. Moynihan:** Exactly. Many speakers have spoken about the various developments that have taken place in urban Ireland, but I will deal



[Mr. M. Moynihan.]

with rural Ireland. In early January, at a rural forum meeting in Duhallow, we had discussion on issues relating to decentralisation and rural planning and to how the Government dealt with these issues. When decentralisation was announced last December there was a furore from the Opposition benches saying it was unworkable and that it dissected the public service and moved away from a centrally-based service.

For far too long decisions concerning rural Ireland have been made in Dublin. It is about time decisions relating to Dublin were made in rural Ireland. We must welcome decentralisation from that point of view. I welcome the Government's drive and what it has done to get this moving. It has gone out to the 53 towns to seek sites and buildings and is working hard on these issues. Some European Governments are following closely the decision of the Government. One would swear from the furore following the budget that we were dealing with a vast continent rather than a small island nation. I welcome the priority the Minister and the Government have given to the issue.

Development has taken place across the country over the past seven or eight years. In the most remote rural areas one sees fine houses being built and people young and old working in their own localities. For the first time since we gained independence we have been able to provide enough employment for our young people. Instead of exporting our people, we now bring people in to fill job vacancies in our economy.

Deputy O'Connor mentioned that our unemployment rate is one of the lowest in the world, which is welcome. We have a great man at the helm of the Department of Finance, Deputy McCreevy, as reported in *The Irish Times*, *The Independent* and *The Observer*. Opposition Deputies might not like to know that although we quoted from the newspapers this evening on this issue. I commend the Minister and the Government on their handling of the economy.

I note with some amusement and interest every year that, immediately after the budget, the Deputies opposite, who now berate the Government for what it is and is not doing, try to produce their newsletters before the Government Deputies in their constituencies. I doubt very much if there was bad news in the budgets in recent years for the Opposition to put out. It is time for realism and it is time to face facts on the issues. The Government has done well. It has generated a wealthy economy and long may it continue. Under the guidance of the present Government it will go far. I again thank the Chair for allowing me to contribute and I commend the Government amendment to the House.

**Ms Burton:** I propose to share my time with Deputy Lynch.

**An Leas-Cheann Comhairle:** Is the amendment to the amendment agreed? Agreed.

**Ms Burton:** If Government Ministers were subject to penalty points for every €1 million of Government funds squandered or misdirected, a majority of the Ministers in the Fianna Fáil-Progressive Democrats Government would by now have received enough penalty points to put them off the road and deprive them of their ministerial cars. If Ministers such as the Minister for the Environment, Heritage and Local Government, Deputy Cullen, the Minister for Finance, Deputy McCreevy, the Minister for Health and Children, Deputy Martin, the Minister for Education and Science, Deputy Noel Dempsey, or the Minister for Justice, Equality and Law Reform, Deputy McDowell were contestants in this weekend's Eurovision Song Contest, their score would definitely be *nul points* for wasting money and failing to deliver on their litany of election promises.

We have an opportunity in this debate to recall beautiful magic moments of the Government: the Red Cow fiasco, courtesy of the Minister for the Environment, Heritage and Local Government, Deputy Cullen; Punchestown and its shed delivered by the inimitable Minister for Finance, Deputy McCreevy; the saga of €105 million of public money spent, courtesy of the Minister for Health and Children, Deputy Martin, on a new building for Blanchardstown Hospital, including an accident and emergency unit which, one year later, is still empty and unused; €52 million poured down the drain on e-voting, a joint production, courtesy of the Minister for Education and Science, Deputy Dempsey, who produced the idea, and the Minister for the Environment, Heritage and Local Government, Deputy Cullen, who expanded an original idea to new heights of folly and cost; and communities bereft of a Garda presence despite promises of an extra 2,000 gardaí, courtesy of the Minister for Justice, Equality and Law Reform, Deputy McDowell and the Progressive Democrats.

The Government has shown itself increasingly arrogant and out of touch with the concerns of voters and taxpayers. There is now mounting evidence that not alone is the Government guilty of arrogance, it is also increasingly inept and unable to manage public funds properly. Hence we have a litany of broken promises and failed projects which have cost the Irish taxpayer tens of millions of euro while leaving public services in a shambles.

Over the past three years, the Government has spent some €100 million on consultants, in many cases to do Civil Service work. Despite these astonishing sums spent on consultancy services,

the Government remains unable to deliver efficient public services in health, education, justice and transport. I will list some of the spending on consultants in case people have forgotten. The Minister for Social and Family Affairs spent in excess of €22 million on consultants and yet was the author of the savage 16 cutbacks in social welfare which hurt the most vulnerable in society before she was forced into a humiliating reversal of the cuts she imposed on widows and widowers. The Minister for Education and Science spent almost €3 million on consultants when communities in new areas cannot get primary schools built for their children. The Minister for Transport seems unable to function without layers of consultant advice while Dublin's transport chaos worsens by the day. The Minister for Justice, Equality and Law Reform has spent €25 million on consultants while unable to deliver the 2,000 extra gardaí promised before the previous general election.

Many of our communities are bereft of any kind of sustained community Garda policing effort. Many old people lock their doors at night and do not come out. They are afraid because there is no visible policing presence on our streets. Cities such as New York, Boston and Washington and parts of the UK have experienced dramatic reductions in crime levels and safety for citizens because they have put police officers back into the communities and onto the streets where they belong. Many of our gardaí seem to be chasing forms or trying to work out computer systems that cost millions of euro and that simply do not work.

Overseeing all this is the Taoiseach, President of Europe for the moment, who seems to have lost his capacity to appreciate the sheer level of misery being endured by those on hospital trolleys, especially the elderly, by parents waiting for services for their disabled children, a subject that was movingly discussed on RTE the night before last, and the spiralling and out-of-control cost of housing which debar many young people from purchasing a home of their own. Deputy Michael Moynihan of Fianna Fáil spoke about the well-off young people in rural areas who can build large mansions. Good luck to them, but what about the tens of thousands of young people in towns and cities who cannot put a home of their own together and who, when they must rent, pay enormous sums of money to landlords, many of whom do not even pay taxation?

On 11 June the electorate will get an opportunity to pass a mid-term report on the Government. They should vote against it and bring to an end the waste and ineptitude for which taxpayers are paying dearly. I heard a Fianna Fáil Deputy speak about the realism of his party. In its rebuttal during this debate, it listed the action it has taken and the points of which it is proud. It states it is tackling tax evasion

and tax dodgers in a vigorous manner. Where is that happening? What about non-resident millionaires who can attend every race meeting, pay no contribution in taxation and have their private jets at Dublin Airport while this year more than half of PAYE taxpayers will pay tax at the top rate of 42% plus a further 7% in social welfare and levies? I do not know why the Government is proud of tackling tax evasion.

The health and education services were starved and much of the deterioration in those services occurred while Fianna Fáil and many of its prominent members who once occupied those benches, Mr. Lawlor, Mr. Burke, and people who currently serve, were involved in high level tax avoidance. The end result of that culture, which was allowed to fester and prosper by Fianna Fáil and those people who were in the party's tent at the Galway Races making donations to the party, is that our health services have been robbed. An elderly person who must wait for 48 hours on a trolley should know that the people who caused that to happen are Fianna Fáil and the Progressive Democrats.

We have had seven years of unparalleled economic growth. That was created when the rainbow coalition and previous Governments of which the Labour Party was part were in power. Unfortunately, when we should be enjoying the fruits of that growth fairly throughout society, we still have the spectre of old people spending days on trolleys and young people and children unable to get a place in a school.

**Ms Lynch:** I thank my colleague, Deputy Burton, for sharing time.

As I knew I would be speaking during this debate tonight, I took the time today to re-read An Agreed Programme for Government, which was produced by Fianna Fáil and the PDs after the last general election. I admit I would have been quite impressed if I had examined the programme as someone who takes a cursory interest in politics, who does not actively participate in politics or does not show the type of in-depth interest in politics that we do as public representatives. I would have thought the Government was addressing our needs.

It is true that we need "a further 2,000" gardaí and "increases in child benefit", as the programme for Government states. Given that we have never been wealthier, it is right that there should be a "major expansion of our overseas development aid programme". Of course we should look after those less fortunate than ourselves. It is absolutely the case that the condition of school buildings should be improved.

As a taxpayer, as someone who has paid tax all my life and believes in the concept of paying tax, I must admit that the programme for Government looks very attractive. The only difficulty with it is that it is a tissue of lies. Those

[Ms Lynch.]

who wrote and promoted it knew it was lies and that the promises in it would never come to fruition. The people will not forgive them for that.

Like all Members of the House, I have been canvassing in recent weeks. When I called to a house last night, the woman at the door told me she is undecided about who to vote for. Like most people, she said she will not vote for Fianna Fáil or the PDs, but she is undecided thereafter. She cannot decide who to vote for because she was left with an utter disdain for politicians after a Fianna Fáil Minister canvassed her before a previous election. She promised to vote for him because he said he would do something for her about a small local issue. Although she gave him her number one vote, he would not return her telephone calls after the election was over. She said she telephoned him at least 20 times. She told me the experience left her with a bad taste in her mouth and, as a consequence, she is reluctant to vote again.

Such an attitude is the legacy that Fianna Fáil and the PDs have bequeathed to the country. They have brought politics into disrepute not only by the illegal actions of their members, but also by being prepared to say anything on the doorsteps. They are prepared to tell lies as long as they receive votes. This woman believed them when they said they would ensure that certain things were done. While that woman has learnt a lesson, I am sure many other people have not yet learnt it.

**Mr. Durkan:** More people will be caught out.

**Ms Lynch:** That is right. They will continue to do it. I can see already that announcements are being made. The Minister for Health and Children, who seems to have more publications than Rupert Murdoch, is already making announcements. It has already been claimed that elderly people in Cork are being looked after. The Minister has promised that additional money will be allocated, even though he knows he does not have it and that he cannot keep his promise. It is okay for me because I am healthy and able-bodied. I can take care of myself, but vulnerable people are most susceptible to the tactics I have outlined. The Government does not care about elderly people who have security concerns, for example.

The Deputy from Tallaght spoke earlier. We can forget his name but we will not forget that he is from Tallaght because he mentions it every time he opens his mouth. I refer to Deputy O'Connor.

**Mr. Durkan:** He should change his name to "Tallaght".

**Ms Lynch:** The Deputy from Tallaght is beginning to sound like the Taoiseach because he speaks in unfinished half-sentences. He supports the Government because he believes what it says is true.

If one were to examine the programme for Government without knowing its history, one would think it is a good programme for Government. It is true that we need additional gardaí on the street, increases in child benefit and additional beds for the elderly. Has anyone on the other side of the House spoken to elderly people who are crying because they cannot go on? I have spoken to elderly people who are locked in their houses because they have to look after their spouses or mothers. Such people are in desperate need of assistance, such as a respite for one weekend each month, so they can get some sleep. When they get such help, however, they cannot sleep because their sleep patterns are out of kilter. Did anyone on the other side of the House see the recent "Prime Time" programme on the issue? What will we do about it? Ireland is not a poor country any more. It is a wealthy country but it has the infrastructure of the Third World. We are a disgrace.

**Mr. M. Ahern:** That is rubbish. It is total and utter balderdash.

**Ms Burton:** The Minister of State should visit the accident and emergency unit at James Connolly Memorial Hospital.

**Mr. M. Ahern:** Have the Deputies been to the Third World?

**Ms Burton:** I have lived there.

**Mr. M. Ahern:** It is total and utter gobbledygook.

**Ms Lynch:** I want to tell the Minister of State something.

**Mr. M. Ahern:** I do not need the Deputy to tell me anything. She has been talking rubbish for the last half an hour.

**Ms Lynch:** A national association of nurses has said that the accident and emergency department at Cork University Hospital, which has been a building site for the last three years, cannot be opened because sufficient numbers of staff are not available. The Government did exactly the same thing with the Mercy Hospital.

**Mr. M. Ahern:** That is not true. The Deputy must be joking.

**Ms Lynch:** It built a new extension but it did not provide additional staff.

**Mr. M. Ahern:** There was enough staff. I was on the board of the hospital at the time and I know that there was staff.

**Ms Lynch:** We lost the beds.

**Mr. M. Ahern:** Beds were not lost.

**Ms Lynch:** We were promised——

**Mr. M. Ahern:** The Deputy is incorrect. She is wrong again.

**Ms Lynch:** The Minister for Health and Children, also known as Steve Silvermint, the cool clean hero, promised before the last election that the women of Munster would have BreastCheck.

**Mr. M. Ahern:** At least he did not go around printing money.

**Ms Lynch:** He stood up there and he said, “You will have BreastCheck.”

**Mr. M. Ahern:** Did he print social welfare cards?

**Ms Lynch:** We are still waiting for it.

**Mr. M. Ahern:** He did not.

**Ms Lynch:** He is about to roll out the claim again for the next election.

**Mr. M. Ahern:** The Deputy should examine her own folk.

**Ms Lynch:** He is a disgrace. All he does is stand there and get headlines. The Minister of State is as bad as him if he defends him.

**Mr. M. Ahern:** The Deputy is all talk.

**Ms Lynch:** Did the Minister of State watch “Prime Time”?

**Mr. M. Ahern:** Did we go printing money, like Deputy Lynch’s party?

**Ms Lynch:** Did he watch “Prime Time”?

**Mr. M. Ahern:** Which one of the Deputy’s parties printed the money?

**Ms Lynch:** It is not as if these things take long. It is about political will.

**Mr. M. Ahern:** Who printed the social welfare cards?

**Ms Lynch:** The Minister of State does not care.

**Mr. M. Ahern:** The Deputy can speak about justice in that context.

**Ms Lynch:** The Minister for Social and Family Affairs spent €22 million on consultants.

**Mr. M. Ahern:** Who received £1 million from North Korea?

**Ms Lynch:** She spent a great deal of money on consultants to advise her about what to do, but she still got it wrong with regard to widows. She was prepared to take €6 million from a group of people that she felt could not damage her. They got the support and sympathy of the country. The Minister was prepared to cut the level of assistance given to women and men went out to work to ensure that their families had the same level of support they had when their spouses were alive. How mean can one get?

The Government spent €52 million on a voting system that nobody wants. That is the baseline figure, but it will increase. The Government spent €15 million on a whim on the Curragh and ponies, without the matter ever coming to Cabinet. As Deputy O’Connor from Tullaght said, “Everyone likes Charlie because he says it as it is.” He says it as Deputy McCreevy says it is. The Deputy said the Minister is doing his job, but on behalf of whom is he doing it? He is definitely not doing it on behalf of the mentally handicapped, the intellectually disabled or the elderly. As a wealthy country, Ireland should have First World services, but we do not.

One sees large houses being built in the countryside — it astonishes me to see the size of them — but many couples cannot get married and many people cannot move out of their family homes because they cannot afford a two-bedroom semi-detached house in an average estate. The Government says that it is doing a great job, but it is not doing a great job. I hope it will know just how bad a job it is doing when 11 June has come and gone.

**Mr. M. Ahern:** That is what the Opposition said before the last election.

**Ms Lynch:** We said that before the last election,

**Mr. M. Ahern:** The Opposition was proved wrong.

**Ms Lynch:** The Government was prepared to say whatever it took to get elected, unfortunately.

**Mr. M. Ahern:** The people did not believe the Opposition.

**Ms Lynch:** The lies seemed to roll off the candidates’ tongues.

**Mr. M. Ahern:** The Deputy should re-read her own party’s manifesto.

**Ms Lynch:** The Government said it would provide 2,000 extra gardaí, new schools and more medical cards, but instead it cut back on——

**Mr. M. Ahern:** There are more schools.

**Ms Burton:** That is not true.

**Mr. M. Ahern:** More money is being spent on schools than has ever been the case.

**Ms Lynch:** There are 100,000 fewer medical cards in the system than there were two years ago. The Minister of State should read his brief.

**Mr. M. Ahern:** The figure is 4.4%. Health expenditure has increased from 3.6% to 4.4%.

**Mr. Boyle:** The Minister of State is deluding himself.

**Mr. Durkan:** Again.

**Mr. Boyle:** It is important that we do not eat into other people's time. I wish to share time with Deputies Cuffe, Crowe and Ferris. The Green Party supports this motion. Every part of it rings true. It shows the shameful litany of money wasted and squandered, and serious issues ignored. Many of those issues have been alluded to tonight. It is tempting to talk about the electronic voting issue, because it is such a debacle, and a squandering of money that has angered many people. I spoke to people last night who were very relieved, though the squandered money was incensed them, that they would not have electronic voting, because they like to vote starting from the bottom. They told me that they like to put Fianna Fáil candidates at the bottom, and work their way up.

**Mr. M. Ahern:** That is wishful thinking.

**Mr. Boyle:** Then they see who is left at the top.

**Mr. M. Ahern:** Fianna Fáil goes from the top to the bottom.

**Mr. Boyle:** It will be interesting to see what happens on 11 June. Electronic voting would have taken that *modus operandi* away from those people, as they would have had to start at the top, and it is easier to start with Fianna Fáil at the bottom. I do not know how they vote, but they decided to tell me that much.

I cannot argue with any part of the motion. In the context of mismanagement of public funds, it is all very clear. There is however, one aspect of the squandering of money and the mismanagement of funds which needs to be remarked on because it will grow in terms of its seriousness. In time, this Government will be seen as a government which turned Ireland from a Celtic tiger into a drowned rat. It was predicted

in last Sunday's newspapers that Dublin City Council would have to spend €150 million on flood prevention. The increasing likelihood of extreme weather conditions and resulting floods, was noted. This is happening worldwide and Ireland is not exempt. The Government nevertheless ignores the issue. It cannot be ignored. Future generations will look back at this Government and wonder if it was only when floods took place that the Government woke up and smelled the diluted sewage in the floodwater.

As a combination of oil scarcity and climate change levies sends oil prices rocketing, this Government will be left like the unicorn splashing around outside Noah's Ark. If one looks at the figures and sees the United States using oil for 40% of its primary fuel consumption, the EU average figure at 43% and this country with a comparable figure of 60%, Ireland is clearly suffering at the hands of this Government in terms of future strategic planning. The long-term cost will be even greater than the squandered sums of money referred to in this motion. We are annually importing nine million tonnes of oil, a figure growing yearly, with peak oil production expected in 2010. The increased price of petrol is already noticeable, but that does not seem to matter to this Government. The emphasis is all on motorways, and according to the Government it is much more preferable to invest in them than in rail and bus.

Looking at the figures, it is clear the Government has not realised its mistakes. Housing starts stand at 70,000 per annum. There is not enough social and affordable housing, and what is built in that area is built without proper insulation. I do not know if the Minister of State realises his legacy of mismanagement contained in the motion before us. If he is going to ignore the needs of future generations, it behoves him to say that he does not care. He should admit he does not mind being criminally irresponsible for future generations, or care when people tell him he is backing the country into a cul-de-sac. That is what he is doing. He is mismanaging today's funds and running up a huge bill, along with a great deal of misery, for future generations.

**Mr. Cuffe:** While we are debating the myriad issues before us, it is an opportune moment to talk briefly about a very glossy volume I received almost two years ago, shortly after my election to Dáil Éireann. The quality of the printing is superb. There is fine gold print on the cover and back, and the quality of advertising within the volume jumps out of the page.

The frontispiece is sponsored by Dunloe Ewart, and the back page by Treasury Holdings. In between are advertisements for Bulmer's cider, Tullamore Dew whiskey and Bass beer. From page one to 50 are advertisements by car dealers, builders, estate agents and publicans.

This tells us a great deal about those behind Fianna Fáil, and about who is running the country.

I will concentrate on the housing issue and the lack of social, local authority and affordable housing that has become more acute in recent years. The Green Party is committed to providing affordable housing. Just a few days ago we launched our new housing policy. We wish to create a national housing authority under the auspices of the Department of the Environment, Heritage and Local Government which would shape and influence the development of national housing policy to ensure a balance between private, public, social and affordable housing. We would commit ourselves to providing a huge increase in the number of social housing units annually until the waiting lists are cleared. We would restore the original provisions of part five of the Planning and Development Act 2000. That was a good Act but its contents were gutted by the incoming Government and the strong commitment to providing social and affordable housing was thrown away, due, I suspect, to the influence of developers and builders on the parties in Government.

The Green Party would ensure that local authorities instead of developers would benefit from rezoning. We would guarantee that local authorities could buy land at existing use value plus a small percentage to ensure that they would be able to develop housing within their jurisdiction. We would tax resources rather than labour to ensure that the tax burden was shifted away from those working to smarter taxes on the site value of land, including residential investment property, second homes and derelict sites. We would introduce a site value tax on undeveloped zoned land. We would instruct the Central Bank to change its guidelines for the lending institutions to limit the amounts they can lend for house purchases. Things are fine if interest rates remain low, but if there is even a slight jump in rates there will be many homeowners suffering unduly because of the *laissez-faire* approach of our banking institutions and the similar approach of this Government.

Huge housing reforms are necessary, as is Government investment. It is not good enough to let the free market decide, to let those who paid for the advertisements in Fianna Fáil's 75th anniversary volume to call the tune on housing policy in this country. I call on the Minister of State to make a change in housing policy, to ensure that local authorities are given the funding they need to provide decent, affordable social housing, and that the commitments made to the voluntary sector in Fianna Fáil's election manifesto are honoured. The Government must ensure that the people, rather than a small coterie of developers, builders and contributors to the Fianna Fáil coffers, build up Ireland.

**Mr. Crowe:** I do not know if we are approaching this debate in the right way. Many of the speakers noted how mean these cuts were and how bad this Government has been. Perhaps we should be talking of how generous the Government is in terms of the money it is giving away. The motion refers to the mismanagement and squandering of resources. Last night a person in Tallaght informed me that we are always giving out about the Government and never talking about the positive actions of the Government.

The positive that I wish to highlight is the amount of money the Government has given away. The motion refers to the money that was squandered on the site at Abbotstown and the hundreds of millions of euro forgone in tax exemptions. The Minister for Finance, Deputy McCreevy, is on record as saying that he does not know the amount forgone in tax exemptions. This is from the Minister for Finance. Contrast this generosity with the Government's response to the local authority housing waiting lists that have grown to 48,000 or to the one in five or 300,000 children living in poverty. The Society of St. Vincent de Paul, which deals with the effects of poverty, speaks of the doubling of its numbers and the one in five who form part of the new poor.

This must be one of the most generous Governments in the western world in terms of what big business has received. Big business benefited from tax reductions worth €634 million. The recently constructed fine ramp at Connolly station has had to be removed because of Luas works. The equestrian centre at Punchestown received €15 million from this Administration. The Government is just like Santa and one must be among the very good children of the nation for Santa to visit or, in this case, for the Minister for Finance to do business. Clearly, the sick, the elderly and the student population must have behaved very badly in recent years.

The Government has excelled again in looking after the legal profession with costs at the tribunals running to €400 million and possibly exceeding €1 billion by the time they conclude. A great deal of money was spent on e-voting and on purchasing electronic voting machines. The Government has spent €100 million on spin doctoring which has obviously made a great impression on the public. I wonder how much the Taoiseach spends on make-up, for which someone is again being generously rewarded.

The Government is the unexpected beneficiary of €225 million extra in capital gains tax, yet it persists with the 16 cuts in welfare. This is down to its generosity. The ordinary man on the street is doing well, but unfortunately in many cases he must sleep on the street. This is a generous Government to its friends — the rich in society. The gap between rich and poor is widening and

[Mr. Crowe.]

the hard-earned wealth of the taxpayer is being squandered.

**Mr. Ferris:** I register my support for this motion. The Government has acted in a way that has worsened the situation of the least well-off in society. At the same time, it has ensured that those with access to power and who control a disproportionate share of the wealth in society are best looked after, as was ably described by Deputy Crowe. Those dependent on social welfare or low wages are made to feel privileged to be given miserly increases in payment or tax credits, while those who are really privileged and can well afford the expense are given hand-outs from the public purse, such as that to Punchestown, and tax breaks that run into hundreds of millions.

It is quite clear that the underlying ideology of the Government is in thrall to right-wing economic theories and that even more malign influence of right-wing social theories on which extremists or so-called “neocons” in Washington based their attack on US working class people. An example of some of this thinking can be found in the Irish branch of the Freedom Institute which, I believe, numbers some of the young tigers of the Progressive Democrats among its members. Among the policies they advocate is the abolition of the minimum wage. How long will it be before some of these bright young people arrive here as Progressive Democrats Deputies? Perhaps they will follow the example of the Minister for the Environment, Heritage, and Local Government, Deputy Cullen and seek office by defecting to Fianna Fáil and carrying their right-wing ideology into that party.

It is quite clear that the ideology of the Progressive Democrats carries great weight in the Government. I do not object to the right of the party to promote its agenda, but I know that many ordinary members of the Fianna Fail Party and elected representatives are deeply unhappy with that influence and the manner in which Progressive Democrats policies adopted by Government affect many of those who traditionally voted Fianna Fáil. I sense that the unhappiness is growing as Fianna Fáil members get a negative reaction on the doorsteps during the current elections campaigns.

Barely a day goes by that I do not hear from a person or group in my constituency and in other parts of the country who suffer the effects of the Government’s policies. Last week in the House, I raised the underfunding of Tralee General Hospital in the past two years. That amounted to almost €4 million since the beginning of 2003 and has forced the hospital to curtail its services and close 30 beds for three months giving a total loss of 2,700 bed days. Beds are denied to those in need because the funding has been cut by almost

€4 million, yet the Government can waste approximately €50 million on an electronic voting system that is not being introduced and can sell 2,000 ballot boxes for €45. What will it cost to purchase them? The Government was able to give €15 million to Punchestown yet cannot afford between €3 million to €4 million to cover the cost of beds at Tralee General Hospital. A hospital service is being penalised because of the way it looks after people in need.

I visited Tralee General Hospital after leaving Leinster House on Thursday evening last and saw four elderly people on trolleys in the emergency department. There were 43 people sitting around and between two dozen nurses and doctors tried to attend to the patients. They are run off their feet and are demoralised by the actions of the Government.

I deal also with constituents whose places on community employment schemes are under threat as local organisations are unable to secure sports capital grants in spite of being designated a priority RAPID area. Numerous people suffer because of the withdrawal or downgrading of transport services, schools and provisions for the disabled and farmers on the early retirement scheme. Last Saturday in Kilrush I met 16 people who were let go from a local employment scheme in January of this year because there were no funds. These people refused to take redundancy because they were committed and dedicated to the service they were providing as an outreach to the marginalised areas in County Clare. They were penalised because of their efficiency and the service they supplied. They looked after those most in need in society.

I sense a growing anger among people and it will be reflected in next month’s local and European elections. Of much greater concern is the feeling of despair among many people. In Tralee, Listowel and other towns in Kerry, unemployment is far above the national average and not only is the Government doing little to address this, the Tánaiste and Minister for Enterprise Trade and Employment, Deputy Harney, refused to meet the democratically elected representatives of Tralee Town Council at their request, who wished to express their concerns at the neglect by Government.

This Government is a disgrace. It has let down the people of rural Ireland and the people most in need, namely, our sick, our children and our elderly. This Government should pack up and go back to the people and let them put in a Government which will reflect their wishes and aspirations and what they deserve.

**Minister of State at the Department of Finance (Mr. Parlon):** I have listened to my colleagues on the opposite benches tonight doing their utmost to undermine the great successes that this Government has achieved throughout its time in

office. However, the facts, to which I hope they will listen, cannot be disputed.

Thanks to our economic performance over the past decade, Ireland has been held up by numerous international bodies as a shining example of the way in which things should be done. Our economic growth has averaged nearly 10% per annum since 1997. Ireland's growth is now undergoing a period of adjustment from the unprecedented double-digit growth of the late 1990s to a more sustainable pace of growth in the medium term of up to 5% GDP per annum. However, our growth levels still surpass the performance of our euro area neighbours.

Unemployment has been reduced from over 10% to historically low levels. According to April's live register release published yesterday, unemployment now stands at 4.4%. Over 300,000 new jobs have been created since 1997 and 31,000 in the past year. Inflation has fallen dramatically over the course of 2003. The most recent Central Statistics Office data shows that it is currently at 1.3%. This is its lowest level since July 1999.

The achievements of the Government in successfully managing the public finances, particularly during a time of great global uncertainty, are all too evident. Ireland has the second lowest debt level in the euro area at under 33% and last year there was a surplus in the general Government balance of 0.2% of GDP. The Exchequer returns for the first four months suggest the Government is on track to meet its budgetary targets for 2004. The policies we have pursued put us in a good position to weather the recent international economic downturn and to benefit fully from the current pick up in the global economy as it continues to develop.

**Mr. Boyle:** Oil costs US\$40 per barrel.

**Mr. Parlon:** This Government has overseen the radical transformation of the taxation system ensuring that it is more equitable, fairer and simpler to comprehend. This has resulted in concrete, financial benefits to those on middle and lower incomes and the elderly. For instance, the numbers of income earners out of the tax net has increased from 25% to 35%. No PAYE worker earning less than €246 per week pays tax. The levels at which those aged 65 and over pay tax have been raised and anyone earning up to 90% of the minimum wage remains out of the tax net. Moreover, business tax rates have been reduced leading to increased employment and more growth without sacrificing tax revenue in many cases. The powers of the Revenue Commissioners to pursue tax evasion have also been strengthened.

The public expenditure policy of this Government cannot be called into question. The public finances are in a sound position and we will ensure that this remains the case so we can

properly provide for not just short-term needs, but also for the next generation. This requires a strategic and disciplined approach to public expenditure, one which entails spending according to the resources at our disposal. As I mentioned earlier, economic growth has moderated somewhat in recent years and this has obviously had a bearing on our spending policy. Expenditure increases have fallen from around 21% in 2001 to an estimated 7% this year in keeping with our resources. However, we have still managed to prioritise spending in key areas, including health, education and social welfare. These key social inclusion areas will account for 68% of total spending this year.

**Mr. Durkan:** It costs €16 for four cups of coffee.

**Mr. Parlon:** Addressing our infrastructure deficit has also been a priority of this Government and, in the period 1997-2003, the Government has spent almost €28 billion in capital spending. This year approximately €5.6 billion, or 5% of GNP, will be spent in that way. In addition, the Government has agreed to reform the area of public sector construction contracts and construction-related consultancy services to ensure better value for money in future projects.

Another key concern of this Government is balanced regional development. The decentralisation programme announced on budget day will play a substantial role in enhancing regional development and in fostering regionally balanced economic growth.

**Mr. Durkan:** Will the Minister of State fill us in on that?

**Mr. Parlon:** The Deputy should have watched the 6 o'clock news. It will offer significant benefits to all stakeholders.

**Mr. Durkan:** Welcome to Parlon country.

**An Ceann Comhairle:** Allow the Minister of State to speak.

**Mr. Parlon:** I wish to disagree in the strongest terms with the motion that has been put down by those opposite. The facts speak for themselves. This Government has consistently managed the public finances in a prudent way. It has facilitated unprecedented growth and full employment and delivered economic and social benefits for all. I commend the Government's amendment.

**An Ceann Comhairle:** I ask Deputy Durkan to allow the Technical Group to make its contribution without interruption.



**Mr. McHugh:** I wish to share my time with Deputies Harkin, Healy and Joe Higgins.

I support the motion tabled by the Independent Members of the Technical Group. It is a detailed motion which sets out specifically several areas where millions of euro have been squandered by this Government and it also sets out areas which are crying out for funding and which have been starved of funding by this Government, areas where the funds squandered would have brought about massive improvements for people who are struggling on a daily basis with disabilities. The funds squandered would have brought about an improvement for children who are forced into substandard schools each day. The funds squandered would have restored the number of community employment schemes to original levels and would have allowed the mainstreaming of community employment places in the health sector.

I wish to deal specifically with the failure of the Government to honour its commitment to mainstream community employment places in the health sector. Why are the disabled so badly treated by this Government? Why did the Government give a commitment to mainstream community employment jobs in the health services and give such hope to people availing of services provided by organisations such as the Irish Wheelchair Association and then renege on that commitment? The answer is simple. The disabled are a soft touch, they have a poor voice and this holier-than-thou and mighty Government took its revenge on the disabled and reneged on commitments given in the programme for Government.

If it is the Government's intention to ignore the contents of this motion, as it seems to be from the contributions yesterday evening by the "in denial" Minister for the Environment, Heritage and Local Government and the hysterical Deputy Conor Lenihan, neither of whom addressed the issues our motion raised, then, if nothing else, I beg it to honour its election commitment and mainstream those jobs now.

The motion addresses a number of health issues which need attention and I wish to add another. I am being parochial in so doing, but I make no apology. I refer to the Tuam health campus. It has been decided by the Western Health Board that a 60 bed hospital with X-ray facilities and an ambulance base is required in Tuam to serve the north-east Galway, south Mayo and west Roscommon region. The planning brief has been on the Minister's table since 8 October 2002, but it has not received the approval of the Minister to proceed. This is despite a previous commitment from the Minister for Health and Children to build the hospital and a similar commitment from none other than the Taoiseach and despite Tuam being designated as a hub town under the national spatial strategy.

The money squandered by this Government would have built hundreds of Tuam hospitals. I ask that the promises made by the Minister and the Taoiseach are honoured and that the Government underpins the national spatial strategy and gives approval to the Tuam health campus.

**Mr. Healy:** The Minister of State, Deputy Parlon, said the facts cannot be disputed and he is quite right about that if nothing else. There are 48,000 families on local authority housing lists, a 50% increase since this Government took office in 1997. There are more homeless people than ever before. In my county, there are 1,000 families on the local authority housing list. That is a fact. People must wait three to five years for local authority houses. That is also a fact. One of the promises in the programme for Government was that 15,000 social housing units would be built but not one has been built yet. That is another fact.

The previous Government ensured that developers would continue to rip off those who wanted to buy homes for themselves. Local authority housing lists are swollen with people, such as gardaí, bank officials and teachers, who would normally be considered to have good, middle class jobs. Now, however, they cannot even get onto the first step of the housing ladder. They are on local authority housing lists all over the country.

**Mr. Parlon:** Not true.

**Mr. Healy:** The reason is that Fianna Fáil and the Progressive Democrats have allowed developers to rip off potential house purchasers. Developers have been allowed to hoard land and thus make huge profits at the expense of young couples who wish to establish homes for themselves.

I feel strongly about the Government's mismanagement of the health services, particularly as we have a unit in the South Tipperary General Hospital in Clonmel which cost €25 million. That state-of-the-art facility has been vacant for the past 12 months while people are crying out for health services. The €2 million needed to open that unit should be granted immediately.

**Ms Harkin:** I am grateful for the opportunity to speak on this Private Members' motion, sponsored by the Independent group. In yesterday's debate, and again today, we have heard the usual figures being trotted out concerning the money that is being spent by the Government. How many times do we have to say that it is not how much money is spent, but how it is spent that counts? The money in question was entrusted to the Government by taxpayers who expect value for money, yet this motion

contains a litany of instances where huge amounts of money were misspent or squandered. Reading through the list, one can see that millions of euro in taxes have been lost to the State due to exemptions granted by the Government to wealthy tax exiles, stud farm owners, mega-rich rock stars and authors. At the same time, thousands of people living in Border counties, many of them elderly, are distressed, fearful and shocked when faced with tax bills of 330% in penalties on any interest earned on moneys on deposit in Northern Ireland banks.

It is a scandal of the highest order that the very rich — those who can afford second or third homes, yachts and palaces outside this country — who can voluntarily exile themselves for the required period pay little or no tax. Many people in Border areas were forced to emigrate to seek work in Britain. They returned home with their savings or a pension in sterling in a bank in Northern Ireland and are now being hit with excessive tax demands.

**Mr. Parlon:** That is not true either.

**Ms Harkin:** What amuses me is that these accounts are called “offshore accounts”. Imagine living in Letterkenny and calling Derry offshore. If a person lived in Manorhamilton, would they call Enniskillen offshore? Northern Ireland is the natural hinterland for Border towns in Cavan, Monaghan and Louth, whose inhabitants shop, work and bank in the North. Is that offshore? Many people who had legitimate bank accounts and who lodged small amounts of hard-earned money in the 1960s, 1970s and 1980s, on which tax was paid, now face the appalling vista of paying 330% in interest and penalties.

**Mr. Parlon:** They have nothing to worry about.

**Ms Harkin:** Take the example of a nurse living in the South but working in the North because she could not get a job in this State with a bank account for 20 years in Northern Ireland, who has to pay £20, £30 or £40 interest every year. If the Minister of State guarantees that such a person will incur no penalties or interest, then I will have done a good day’s work, but the Revenue Commissioners will not tell me that is the case.

**Mr. Durkan:** Neither can the Minister of State, which is even worse.

**Ms Harkin:** That is what I am asking because the Revenue Commissioners will not tell me. I fully concur with the notion that everybody must pay their taxes. In the case of the people I mentioned, a modest penalty would suffice but 330% is unfair, unjust and will drive some people to the wall.

The motion calls on the people to reject the Government’s squandering of public funds at the

expense of workers. I fully agree but let me be more specific — I reject the squandering of €60 million on electronic voting and the €15 million gift to Punchestown. That is taxpayers money which is now beginning to pour into the Government’s coffers from, in the main, distressed elderly people who are burdened by penalties of 330% on modest bank accounts they held in the nearest parish, village or town, which unfortunately happened to be across the Border in Northern Ireland.

**Mr. F. McGrath:** The Minister of State should listen to that point.

**Mr. Parlon:** I can sort that out too.

**Mr. F. McGrath:** We are not finished yet.

**Mr. J. Higgins:** This motion is a comprehensive indictment of resources wasted or foregone as a result of Government decisions. Due to the lack of these resources, the motion provides a long list of failures to resolve outstanding issues of great relevance to ordinary working people, pensioners and social welfare recipients. From the health service to the scandal of 48,000 families on local authority housing lists, my colleagues have illustrated this very well. Part of the wastage undoubtedly results from mismanagement and arrogance. Last night, it was incredible to see the Minister for the Environment, Heritage and Local Government still swaggering into the Dáil, adopting his usual Napoleonic stature and lecturing the Opposition. He said: “The three master chefs of the Technical Group ... come from the ‘can’t cook, won’t cook’ school of catering. It is a pinch of Sinn Féin borrowing here, a dash of Green taxation there and a splash of indigestible Trotskyite madness for flavour.” In any other jurisdiction, however, where politicians still retain some inkling of bourgeois honour — if that is not a contradiction in terms — the accountability school of catering would long since have kicked in and the Minister would be stewing in his own juice as a result of the wastage of €50 million of our people’s funds on his electronic voting debacle.

**Mr. Hayes:** It was €52 million.

**Mr. J. Higgins:** I want to concentrate on deliberate Government policy, which is based on facilitating, pushing and consolidating the shifting of wealth from working people, who constitute the big majority in society, to the minority of capitalists and financiers who dominate our society economically — the major banks, corporations and transnational companies. Proportionately, since 1987, the amount of wealth going to this sector from working people has hugely increased. Their profits in rent have hugely increased also. Incredibly, as a result of

[Mr. J. Higgins.]  
two budgets, the Minister for Finance and the Government followed that by giving them back €634 million in corporation tax cuts annually.

At one time, some people in Fianna Fáil used to try to portray themselves as friends of the working man and woman. In the early coalition days, they used to try to blame the Progressive Democrats for right-wing ideology.

**Mr. Durkan:** Yes.

**Mr. J. Higgins:** If ever that scenario existed, it is long past.

**Mr. Durkan:** Indeed.

**Mr. J. Higgins:** This Government now has a seamless right-wing economic policy underpinning its economic actions. I suppose it was best illustrated a few years ago by the political bonding session between the Minister for Finance and the Tánaiste at the French villa of their tycoon friend. One can be sure that, as the chateaubriand sizzled and the fine wines flowed—

**Mr. Hayes:** I wish I was there.

**Mr. J. Higgins:** —there was no disagreement between them on the privatisation of our public services, the massive taxation cuts to big business and other right-wing policies.

**Mr. Parlon:** And they have produced jobs for everybody.

**Mr. J. Higgins:** Admittedly, the Minister of State, Deputy Parlon, was still making hay down in the midlands at that stage, but he has certainly joined the crew now.

Is it any wonder that, after seven years of Fianna Fáil-Progressive Democrats rule, figures given to me by the Minister for Finance show that a massive €154.5 billion has been repatriated by multinational companies in profits from this country? Last year alone, €30 billion was sent out, three times the amount spent on the entire health services, as a result of deliberate Government policy, resources that should remain in our society for investment in our economy and our social services.

**Mr. Parlon:** The Deputy would drive away the multinationals. There would be 20% unemployment.

**Mr. J. Higgins:** The Government is a funnelling agency for funding from working people to big business and the super-rich. We have sufficient resources in our society to meet the needs of all our people to live in reasonable comfort and dignity, but the wealth has to be removed from the hands of the few and from the stewardship of the Government. When the people come out on 11 June I hope they will give a crushing rebuff to the policies it has pursued.

**Deputies:** Hear, hear.

Amendment put.

The Dáil divided: Tá, 59; Níl, 50.

Tá

Ahern, Dermot.  
Ahern, Michael.  
Ahern, Noel.  
Andrews, Barry.  
Brady, Johnny.  
Brady, Martin.  
Browne, John.  
Callanan, Joe.  
Callely, Ivor.  
Carey, Pat.  
Carty, John.  
Cassidy, Donie.  
Coughlan, Mary.  
Cregan, John.  
Curran, John.  
de Valera, Síle.  
Dennehy, John.  
Devins, Jimmy.  
Ellis, John.  
Finneran, Michael.  
Fitzpatrick, Dermot.  
Fleming, Seán.  
Gallagher, Pat The Cope.  
Glennon, Jim.  
Grealish, Noel.  
Harney, Mary.  
Haughey, Seán.  
Hoctor, Máire.  
Jacob, Joe.  
Keaveney, Cecilia.

Kelleher, Billy.  
Kelly, Peter.  
Killeen, Tony.  
Kitt, Tom.  
Lenihan, Conor.  
McCreevy, Charlie.  
McDowell, Michael.  
McEllistrim, Thomas.  
McGuinness, John.  
Moloney, John.  
Moynihan, Donal.  
Nolan, M.J.  
Ó Feargháil, Seán.  
O'Connor, Charlie.  
O'Donnell, Liz.  
O'Donovan, Denis.  
O'Flynn, Noel.  
O'Keefe, Batt.  
O'Malley, Fiona.  
O'Malley, Tim.  
Parlon, Tom.  
Power, Peter.  
Power, Seán.  
Sexton, Mae.  
Smith, Brendan.  
Treacy, Noel.  
Wallace, Dan.  
Wallace, Mary.  
Wilkinson, Ollie.

Níl

Boyle, Dan.  
Breen, Pat.  
Broughan, Thomas P.

Burton, Joan.  
Connolly, Paudge.  
Costello, Joe.

Níl—*continued*

Coveney, Simon.  
Crawford, Seymour.  
Crowe, Seán.  
Cuffe, Ciarán.  
Deenihan, Jimmy.  
Durkan, Bernard J.  
Enright, Olwyn.  
Ferris, Martin.  
Gregory, Tony.  
Harkin, Marian.  
Hayes, Tom.  
Healy, Seamus.  
Higgins, Joe.  
Higgins, Michael D.  
Hogan, Phil.  
Howlin, Brendan.  
Kehoe, Paul.  
Kenny, Enda.  
Lynch, Kathleen.  
McGinley, Dinny.  
McGrath, Finian.  
McGrath, Paul.

McHugh, Paddy.  
McManus, Liz.  
Mitchell, Olivia.  
Naughten, Denis.  
Neville, Dan.  
Noonan, Michael.  
Ó Caoláin, Caoimhghín.  
Ó Snodaigh, Aengus.  
O’Keeffe, Jim.  
O’Shea, Brian.  
O’Sullivan, Jan.  
Pattison, Seamus.  
Penrose, Willie.  
Ring, Michael.  
Ryan, Eamon.  
Ryan, Seán.  
Sargent, Trevor.  
Sherlock, Joe.  
Shortall, Róisín.  
Stagg, Emmet.  
Timmins, Billy.  
Upton, Mary.

Tellers: Tá, Deputies Browne and Kelleher; Níl, Deputies Gregory and Harkin.

Amendment declared carried.

Motion, as amended, agreed to.

#### Message from Seanad.

**An Ceann Comhairle:** Seanad Éireann has passed the Electoral (Amendment) Bill 2004, without amendment.

#### Adjournment Debate.

**Mr. Boyle:** I am grateful for this opportunity to express my concerns in this area. I wish to share my time with Deputy Lynch, who also has such concerns.

**An Ceann Comhairle:** Is that agreed? Agreed.

**Mr. Boyle:** When the Minister for Finance, Deputy McCreevy, made his Budget Statement in December 2003 outlining the Government’s decentralisation programme, most of what was being proposed was the relocation of Government offices from Dublin to various parts of the country. One exception was a decision to move the district veterinary office from Cork city to Macroom. Other offices of the Department of Agriculture and Food, the Model Farm Road laboratories, were not mentioned or included in that Budget Statement. Subsequently, it was decided on foot of the Minister of State at the Department of Finance, Deputy Parlon, going through a trawl of Office of Public Works properties to sell the site at Model Farm Road from which the road gets its name for affordable

but not social housing. That undermining of one Department by another meant that those working in the laboratories were subsequently being asked to move to Macroom. Those in the district veterinary office, who had been told they would go to Macroom, are now being told that they will go to Fermoy.

At the same time, a Progressive Democrats candidate in the Macroom Town Council elections was able to say in the local media that he had been informed by the Minister for Justice, Equality and Law Reform, Deputy McDowell, that a property bought by the Office of Public Works to house asylum seekers and refugees, the Lynch’s Inn Hotel, which has been vacant and cost the State more than €5 million, would be used for the purposes of the Department of Agriculture and Food. That was denied by officials of the Department of Justice, Equality and Law Reform. Of the Department of Agriculture officials working in Cork, more than 90% live within 6 km. of their place of employment. By moving to either Macroom or Fermoy, they would not only incur additional expense but the inconvenience of additional commuter traffic. What Government decentralisation project has any sort of logic when that is what is happening?

Such attempts to solve several problems at once — this “nod and wink” approach to politics — are what we have come to expect from the senior party in Government, Fianna Fáil, but the fingerprints all over this issue, from the Minister of State at the Department of Finance, Deputy Parlon, to the Minister for Justice, Equality and

[Mr. Boyle.]

Law Reform, Deputy McDowell, to the Progressive Democrats candidate in Macroom, seem to suggest that the junior partners in this Government are no slouches either in getting their own way regardless of the effect that it has on the lives and livelihoods of workers who give their all in the service of this State. I challenge the Government to justify this decision and say how it resembles decentralisation in any way, explaining the logic of moving people doing such a job on behalf of this country.

**Ms Lynch:** I am not going to go over the ground laid out by Deputy Boyle as regards this blatant politicisation of a group of workers in the Cork area, except to say they feel hurt, upset and abandoned. They know well that they are being used as political pawns in this whole adventure, because that is what it is. They tell me they have not been consulted. Their union has not been consulted and they are not certain whether they are going to Macroom or Fermoy. The two towns are a distance apart. They tell me as well that they have put down roots. They are working and living in a community in Cork city. They are quite happy where they are and they are doing an excellent job. However, this Government has pressed ahead without let or hindrance, without consulting the workers' representatives to indicate this was being planned and to request that they be consulted. That is not the way to treat people who work in the public service. It is not the way to treat people who do a service to the State, but it would appear that this Government is prepared to treat workers as they do other matters, with scant regard.

These people now find themselves in a position in which they do not know where they are going. They have not been consulted and they feel as if they are being abused. The crowning issue in this regard is that they are still not certain about their futures. To them their futures are all they have. They have made certain plans to do with their employment, yet now find themselves as pawns in a political game. It is disgraceful for the Government to behave in this way.

**Minister of State at the Department of Agriculture and Food (Mr. Treacy):** The decision to further develop our Department's decentralisation programme for Cork and the Munster region was announced by the Minister for Agriculture and Food, Deputy Walsh, on 22 April last. This followed a review of the Department's laboratory services for the southern region and the local office service for Cork in the context of the decentralisation implementation programme and the decision to allocate land at Model Farm Road in Cork for the affordable housing initiative.

Deputies will recall that it had initially been intended to locate our Department's local office for Cork north and east in Macroom. On consideration of the issues arising from the

decentralisation decision and the need to vacate the premises on the Model Farm Road, the question of the overall office services for Cork and the laboratory services for the Munster region was considered. Following consultation with the managements of our Department and the Department of Finance, the Cabinet sub-committee on decentralisation decided that Fermoy would be a more appropriate location for the Cork offices and that the existing laboratories in Cork city and Limerick should be relocated to Macroom.

The decision to establish a new regional laboratory facility for Munster in Macroom will involve the amalgamation of the three existing laboratories at present located in the Model Farm Road, Cork, and in Limerick into a modern facility in Macroom, employing up to 100 staff. It provides our Department with an ideal opportunity to develop a modern facility to meet the changing needs of the agriculture and agrifood industry in this region. With the ever-increasing need to ensure food safety for consumers and the importance of maintaining the highest animal health status, it is essential that we develop the most modern facilities. It is also important for us to bring our office services to locations that best suit the needs of the majority of our farming customers.

As regards the concerns of staff, the decentralisation programme is based on the premise that it is entirely voluntary. There will be full consultation with the workers and their unions. Indeed, the departmental council established under the conciliation and arbitration scheme for the Civil Service, met this morning and this matter and the decentralisation of the headquarters to Portlaoise were discussed comprehensively. The various concerns of the unions will be considered by our Department in the context of our detailed plans for the decentralisation process. The House is no doubt aware that the central application facility for the decentralisation programme was launched today. This enables public servants to indicate their preferences for locations throughout the country. There are large numbers of staff on transfer lists who have been anxiously awaiting the opportunity to decentralise from Dublin, or to relocate from one existing decentralised office to another in provincial Ireland.

The final number of volunteers for the Fermoy and Macroom locations will not be known for some weeks. However, a preliminary survey conducted in our Department some time ago indicated that nearly 70 staff would move to Macroom as soon as possible.

**Mr. Boyle:** It was not done in Model Farm Road.

**Mr. Treacy:** I am sure all Members of this House are satisfied that the decentralisation programme is a welcome development for this country as a whole and that the voluntary policy

ensures that it can be delivered for the benefit of the wider community, while safeguarding the interest of all of the staff. It is a win win for Cork, Cork city, the country and the people.

### Schools Building Projects.

**Mr. R. Bruton:** I thank the Ceann Comhairle for the opportunity to raise this, because it has been a long-running sore. It is extraordinary that children are now coming into sixth class in Gaelscoil Cholmcille, who will never have seen the inside of a school building throughout their whole career in primary school. At this stage it is a school of 230 pupils. It has the gamut of classes from junior infants right through to sixth class. The school has been built up over a long period and is currently located in a football club, with extremely cramped conditions. There are narrow corridors and stairs that are wholly inappropriate for a primary school. The carpark is shared with club members who are coming and going. It is an unsafe place for children to be playing; it is their playground.

The reality is that this has dragged on and on and highly motivated teachers, parents and indeed pupils have been working hard to try to get a site for this school. We are now on our fifth site without the support from the Department of Education and Science to approve any of them and proceed to purchase. Dublin City Council set aside a site. It is waiting, in an area that is going to be developed. It is ideally located. The Department has signed off on it as being appropriate, but it will not budge on the question of paying the money to buy the site and to start the process rolling. It is difficult. Parents have reached breaking point and there will be a demonstration on the site.

I hope the Minister of State will give some good news so that parents, teachers and children will not have to give up a working day in order to lodge their protest over the way this has been neglected. The sort of answers we have been getting from the Minister is that it would be "commercially sensitive" to release information as to whether the Department is going to buy this site or not. Who is the Government fooling? This is a city council site and it is negotiating with the Department of Education and Science. There is no commercial sensitivity. This is a word processor answer that has been churned out by the Department of Education and Science.

We have to get down to basics. Where the Department is paying a rent, if that is capitalised a school could be built and there would be money to spare. Rent is being paid, dead money, and parents and children are being frustrated to the extent that they will take to the streets to demonstrate.

The latest letter I received from the Department really broke my heart. The new line is, "We are now looking at other options." What that means I do not know. No one on the school's board of management, no parent, teacher or pupil, knows what other options might be on the

table. We know the ethos of gaelscoileanna requires schools to have sites of their own where they can develop. That has been the policy of the Department. What other options are being introduced at what is now well beyond the 11th hour. This is the fifth site we have considered. The Minister of State must come up with a response and give commitments as to when the Department will buy and when it will build.

**Ms Shortall:** I thank the Ceann Comhairle for allowing me to raise this issue. I am happy to share it with Deputy Richard Bruton because a number of Dáil constituencies on the north side of Dublin have been involved in this. There is concern across a number of parties in all those constituencies about the shoddy treatment that Gaelscoil Cholmcille is receiving from the Department of Education and Science. As has been said, this is a remarkably successful school. It started in 1996 and is now up to full capacity. It has a full stream right through the school.

The school is exceptionally popular and provides a high quality of education. However, the accommodation it currently occupies is entirely and utterly unsuitable and does a serious disservice to the children and staff who experience great difficulty in trying to endure the conditions as they exist.

As Deputy Bruton said, the conditions in the school which is situated in St. Kevin's football club are entirely inappropriate. Conditions are cramped and unsafe. There are considerable health and safety issues because of the completely inadequate building.

Additional prefabs have had to be provided in the grounds of the club. They in turn are not suitable for the students and are causing congestion around the area, making things difficult for the club as well as for the school. The level of education provided in the school is exceptionally high and that is why it is so successful despite its poor condition.

The Department has treated this school community very badly. It was advised to find a site. It spent considerable time doing that and eventually located the ideal site on Oscar Traynor Road which was owned by Dublin City Council. It went through the normal procedures, submitted the details to the Department and had it checked by the Office of Public Works. The Department agreed that the site was perfect in terms of location, size and so on. The city council has reserved the site for the school. It was told a decision would be taken, but still there is no word.

A meeting took place a couple of weeks ago between the school authorities and the Department but no information has emerged from that meeting. Will the Minister of State inform us, in fairness to everyone involved, if the Department will sanction the purchase of this site? I am concerned about rumours circulating

[Ms Shortall.]

and information coming from some of the Fianna Fáil Deputies on the north side of Dublin that an alternative arrangement is being examined, namely, the possibility of a sharing arrangement with another school. This idea has been rejected by the staff and parents of Gaelscoil Cholmcille because they want to preserve their own ethos and want a fresh start on a greenfield site where they can build a school to their own specifications to meet their needs.

Either way, these people deserve to be told exactly what is proposed. They have been strung along for long enough. The Minister needs to stop the prevarication and let us know exactly what is happening. The people deserve no less than that.

**Mr. Treacy:** Is cúis áthais dom a bheith anseo chun freagra cruinn beacht a thabhairt ar an ábhar atá faoi bhráid na Dála. I thank the Deputies for raising this matter in this House as it provides, me with an opportunity on behalf of the Minister for Education and Science to outline to the House the overall strategy of the Department of Education and Science to address the permanent accommodation needs of Gaelscoil Cholmcille, Santry, Dublin 9.

The school is a co-educational primary one operating on the north side of Dublin city. It opened in September 1996 and enrolments have grown steadily over the past eight years. The school has an enrolment of 210 pupils and a staffing of a principal and eight mainstream class teachers. It is accommodated in premises owned by St. Kevin's boys' club. An annual rental of €88,050 has been sanctioned for 95% grant aid by the Department of Education and Science. A recent application for an increase in rent is the subject of correspondence between the school planning section of the Department and the school's management authority. Central to the Department's long-term strategy is the need to house the school in permanent accommodation. In this regard, consideration is being given to acquiring a site. The property management section of the OPW is acting on behalf of the Department of Education and Science in site acquisitions generally and has been instructed to pursue the issue of a site for the provision of a new school. The Deputies will, however, appreciate that due to the commercial sensitivities surrounding site acquisitions—

**Mr. R. Bruton:** What commercial sensitivities?

**Mr. Treacy:** Would Deputy Richard Bruton please let me finish? It is not possible to comment on specific site purchase issues. Can one imagine if we were to disclose the figures under negotiation how other site prices would escalate?

**Ms Shortall:** That is nonsense.

**Mr. R. Bruton:** Is the Minister buying the site?

**Mr. Treacy:** Additionally, the Department is exploring other options that may provide a solution to the accommodation needs of Gaelscoil Cholmcille. These explorations are at a preliminary stage and, accordingly, it would be inappropriate to elaborate on this option at this time.

On the general issue of new and refurbished school accommodation, the Department's strategy will be grounded in capital investment based on multi-annual allocations. Officials from the Department are reviewing all projects which were not authorised to proceed to construction as part of the 2004 school building programme with a view to including them as part of a multi-annual school building programme from 2005—

**Mr. R. Bruton:** The Department cannot do that until it buys the site.

**Mr. Treacy:** —and they expect to be in a position to make further announcements on this matter in the course of the year ahead, which is a positive affirmation. Permanent accommodation for Gaelscoil Cholmcille will be considered as part of this review process. I thank the Deputies once again for raising this matter in the House and assure them that a decision will be made *quan celerimme*.

**Ms Shortall:** I thank the Minister of State for nothing.

#### Child Care Services.

**Mr. McCormack:** I thank the Ceann Comhairle and am glad to have the opportunity of raising this important matter on the Adjournment debate. This concerns the abolition of crèche support grants for parents who have returned to third level education. It is one of the 16 savage cuts in the budget. We all recall the cutback on allowances for widows and widowers and the campaign conducted by the public and in this House and the media which forced the Minister for Social and Family Affairs and the Government to make a U-turn. On this occasion the Minister may not make a U-turn because it involves a smaller group and one that is probably less important in the opinion of the Minister and the Government.

On 24 December 2003, circular 05/03 was issued from the Minister's Department to health boards. Paragraph 8.1 stated:

New applications for crèche supplements should not be approved after 1 January 2004. The objective of this measure is to discontinue the provision of long-term supports to crèches through the SWA scheme in favour of more sustainable funding through more appropriate sources.

“More sustainable funding through more appropriate sources” is not available to most people. I do not want the Minister to tell me that this can be funded through the Department of Justice, Equality and Law Reform because that funding is available only to community-based crèches and therefore is not available to most people.

This week the Western Health Board has informed 200 parents in Galway city and county that, from the next term on, they will no longer receive their crèche grant. Most of these people are single mothers who are trying to improve their situation and that of their families by going back into education. The Minister’s cruel action will force many of them to give up their courses next year because the crèche grant will not be available to them. The average charge for crèches in Galway city and country ranges from €65 to more than €120 per week. How can someone receiving a lone parent allowance afford that?

Last week the Minister praised herself for the great work she was doing for the underprivileged. On behalf of these underprivileged people, I appeal to her to restore this important grant aid to a vital section of people in the community who have no one to fight for them. They do not have time to lobby because they have enough to do to mind themselves and their families. It is especially insensitive to make the announcement this week when they are beginning their exams. They are in despair and do not know whether to sit the exams because they do not know if they can continue in their back to education scheme next term. This is a cruel decision for the sake of 1,600 applications costing approximately €2 million.

The Minister has allowed herself be bulldozed by her officials or by the Minister for Finance. She is not a heartless person but I am quite sure that the civil servants or perhaps the Minister for Finance have taken advantage of her inexperience in the Department by instructing her to cut back by a certain amount. She fell for this and made 16 savage cutbacks in the budget of which this is one of the most savage affecting a vulnerable section of people trying to improve their status. Some are returning to education ten or 12 years after leaving school. Putting their children in a crèche and receiving a grant to do that has enabled them to do this.

No matter what the Minister says in her prepared reply, I am telling her that I have researched this and in most cases it does not suit many of those parents to place their children in community-based crèches because these are not always available to these parents. Besides, they would receive only a part of the grant for such crèches and would have to pay a supplement. I urge the Minister to reverse this decision in the same way as she reversed the decision regarding widows. How can I return to Galway and tell these people that the Government has

squandered €52 million on electronic voting and it cannot give a crèche grant for those who have returned to education.

**Minister for Social and Family Affairs (Mary Coughlan):** The matter raised by the Deputy concerns a change introduced in the supplementary welfare allowance scheme with effect from January 2004.

Subject to certain conditions, a person whose means are insufficient to meet his or her basic needs and the needs of any adult or child dependant may be entitled to assistance under the terms of the supplementary welfare allowance scheme administered on behalf of my Department by the health boards.

The objective of the supplementary welfare allowance scheme is to meet immediate, short-term income maintenance needs. The scheme is not intended to be a long-term solution in any individual case. The crèche supplement was introduced with the intention of providing assistance to a parent in need of short-term emergency support. This could arise, for example, where, without assistance with child minding, a parent would not be able to avail of necessary supports such as counselling services or addiction treatment programmes. It was never intended to be an ongoing or long-term support for people returning to full-time education.

When the change was announced in November 2003, 1,738 crèche supplements were being paid. This figure represented an increase of almost 150% in less than three years from January 2001 when approximately 700 people were in receipt of a crèche supplement. Payment of crèche supplements were increasingly being made for reasons which were clearly outside the scope of the original intentions of the scheme.

An analysis of crèche supplements showed that 35% of supplements had been in payment for more than eight months, 20% for more than one year and approximately 10% for more than two years. The fact that supplements were in payment for long a duration in many cases indicates that they had become a long-term child care support rather than the short-term social welfare which was originally intended. In effect, long-term child care needs were being provided through a short-term emergency provision scheme. This is not an appropriate way to meet the needs of the people in question. However, crèche supplements in payment prior to 1 January 2004 were allowed to continue for a limited period.

While the total amount spent on crèche supplements is significant, with some €2.1 million spent in 2003, funding crèches in this manner is administratively inefficient as it requires parents to apply individually for a weekly payment. The cost of administration represents a high proportion of the value of the funds provided to the crèches.



[Mary Coughlan.]

The Deputy may be aware that the Department of Justice, Equality and Law Reform has introduced an equal opportunities child care programme to fund the development of child care in Ireland while seeking to ensure that existing child care services are not displaced by the introduction of other initiatives in this area.

**Mr. McCormack:** It only applies to community-based crèches.

**Mary Coughlan:** One of the main aims of the programme is to provide child care facilities which will allow parents to avail of educational, training and employment opportunities. In this regard, the equal opportunities child care

programme is the more appropriate vehicle to address the needs of the people identified by the Deputy.

I met officials from the Department of Justice, Equality and Law Reform and the Department of Health and Children, in addition to officials from some health boards, to try to ensure that more appropriate arrangements are put in place by those agencies. The discussions are ongoing.

In the meantime, the changes I introduced in the supplementary welfare allowance scheme do not affect the discretion available to health boards to provide assistance in emergency cases under an exceptional needs payment.

The Dáil adjourned at 9.15 p.m. until 10.30 a.m. on Thursday, 13 May 2004

## Written Answers.

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

*Questions Nos. 1 to 11 answered orally.*

*Questions Nos. 12 to 31 resubmitted.*

*Questions Nos. 32 to 40 answered orally.*

### **Employee Shareholding Scheme.**

41. **Mr. Boyle** asked the Minister for Communications, Marine and Natural Resources if the proposed ESOT for workers within ESB will be equally available to workers in the national grid company and the supply, generation and consultancy parts of the business; if negotiations have been completed on the remuneration package that will be available to senior management as part of such a share offering; and the details of such agreements. [13686/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** As I explained in response to a Question No. 13 on this issue on 1 April 2004, the Government has already provided for an employee shareholding in ESB.

A 5% employee share ownership plan, ESOP, was a feature of the cost and competitiveness review, CCR, agreed between the Government and ESB management and ESB group of unions in 1996. The legislative delay in converting ESB to a public limited company with a share structure hampered the delivery of this commitment.

In 2001, an Electricity Act was passed which allowed ESB create capital stock for ESOP purposes thus enabling the 5% ESOP to be rolled out. Eligibility for participation in the ESOP is a matter for the ESB board and the group of unions and is established in accordance with the terms of the ESB ESOP trust deeds, the terms of which meet the requirements of the Taxes Consolidation Act 1997.

I understand that all permanent employees of ESB in the year ended April 1998 are participants in the scheme, and this includes national grid and the staff of fully owned Irish subsidiary companies.

Participation of senior management in the ESOT is on the same basis as all other eligible employees and the question of a special remuneration package does not arise.

### **Decentralisation Programme.**

42. **Mr. J. Bruton** asked the Minister for Communications, Marine and Natural Resources the position regarding the decentralising of his

Department; if a site has been finalised; the number of staff who are willing to move; when he expects this move will take place; and if he will make a statement on the matter. [13633/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The Government announcement of 3 December 2003 in regard to decentralisation provides for the relocation of my Department's headquarters and staff to Cavan. In addition, BIM and the Central Fisheries Board are to re-locate to Clonakilty and Carrick-on-Shannon, respectively.

The proposed new Maritime Safety Agency, which will bring together the Coast Guard, the Marine Survey Office and the maritime safety divisions, will be headquartered in Drogheda.

It has subsequently been decided that the Department's seafood and coastal zone policy, management, technical and regulatory functions will be located in Clonakilty. Sustainable Energy Ireland is to relocate to the campus of Dundalk Institute of Technology.

The central applications facility, CAF, for decentralisation is being launched today by the Civil Service Commission. The CAF website provides details of business functions, grades and numbers being decentralised for each Department and organisation. An assessment by the Civil Service Commission of the outcome of the CAF process after eight weeks will be provided to the Flynn Group.

The OPW is completing its assessment of proposals for sites at locations including Cavan, Clonakilty and Carrick on Shannon with the objective of identifying the best overall value solution in line with client needs and in accordance with the agreed property procurement principles. OPW is consulting Departments including my own Department and agencies as the process moves forward.

### **Offshore Exploration.**

43. **Mr. Penrose** asked the Minister for Communications, Marine and Natural Resources if he will provide the latest information available to this Department regarding the proposed development of the Corrib gas field; and if he will make a statement on the matter. [13715/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** All relevant approvals-consents from my Department were issued in early 2002 in respect of the proposed development of the Corrib gas field. These approvals-consents include: plan of development approval dated 15 April 2002 under the Petroleum and Other Minerals Development Act 1960; consent to construct a pipeline dated 15 April 2002 under the Gas Act 1976, as amended; consent under section 5 of the Continental Shelf Act 1968, as amended, dated 15 April 2002; and

[Mr. D. Ahern.]

foreshore licence approval dated 17 May 2002 under the Foreshore Act 1933, as amended.

The proposed project was granted planning permission by Mayo County Council, MCC, on 30 April 2004 for a gas terminal at Bellanaboy, County Mayo.

This decision can be appealed to An Bord Pleanála within four weeks of the date of the decision by MCC. If no appeals are made during this period the project can commence. Should the decision be appealed to An Bord Pleanála, the timeframe for determining the appeal is 18 weeks from the date that the appeal is lodged.

#### Mobile Telephony.

44. **Mr. Deasy** asked the Minister for Communications, Marine and Natural Resources the action he has taken to tackle the growing problem of pornographic images being sent to children through mobile phone texting systems; and if he will make a statement on the matter. [13624/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** As I stated on 24 February last in reply to a similar question, my colleague, the Minister for Justice, Equality and Law Reform, is responsible for policy in regard to the protection of children from the transmission of pornographic images by phones and other media.

I understand the Deputy's concern over the recent media reports of pornographic images being sent via mobile phones, however, legislation already exists to tackle this problem.

It is an offence under section 13 of the Post Office (Amendment) Act 1951, as amended by the Postal and Telecommunications Services Act 1983, to send by phone any message or other matter which is grossly offensive or of an indecent, obscene or menacing character. It is also an offence under section 10 of the Non-Fatal Offences Against the Person Act 1997 to harass a person by use of a telephone.

Anyone who has information about these matters should bring it immediately to the attention of the Garda Síochána for criminal investigation.

While, as I previously stated, legislation is in place, I cannot emphasise enough the role of parents in decisions concerning the purchase and use of mobile phones by their children. They should ensure that they are used appropriately by their children. This, ultimately, is the best way of safeguarding their children from the perils of abuse of such technology.

#### Pension Provisions.

45. **Ms Lynch** asked the Minister for Communications, Marine and Natural Resources if he has received accounts from the ESB showing

a decrease in the company's pension fund by €100 million; if he has held talks with ESB to discover whether the shortfall is due to employees drawing down from the funds, or poor management; and if he will make a statement on the matter. [13699/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I am not in a position to comment on the ESB annual report and accounts until they have been presented to the Government. I am aware that the evolution of share values in recent years, together with the implementation of FRS 17, is causing problems for pension funds generally, including those of commercial State bodies. The response to such problems is a matter for the companies, pension fund trustees and employees in the first instance.

When ESB published its last set of annual accounts for year ended 2002, the company, in line with best accounting and reporting practice, included the additional disclosures required by financial reporting standard 17 retirement benefits, FRS 17. At that stage, the disclosure was required only in the notes to the accounts and note 23 on page 76 of the 2002 annual results reflected this new disclosure format. Full implementation of FRS 17 will only start to apply from 31 December 2005.

Valuations prepared in accordance with FRS 17 require scheme assets to be recorded at market values at the balance sheet date. These valuations are not indicative of the long term funding position of the scheme, which is formally assessed by way of a triennial actuarial valuation.

An actuarial valuation of the scheme fell due as at 31 December 2003. This exercise is currently being completed by the company. When concluded, a more up-to-date picture of the status of the pension fund will emerge.

#### Semi-State Bodies.

46. **Ms McManus** asked the Minister for Communications, Marine and Natural Resources the amount the Government has received from the ESB following the publication of its annual results; if the current profitability of the company will ensure he resists calls for it to be privatised; and if he will make a statement on the matter. [13708/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The ESB annual report and accounts for 2003 have not yet been published. I can confirm, however, that I have received the annual report and accounts from the company and I am preparing to present these to Government shortly. It would be inappropriate for me to comment on their contents ahead of their submission to Government and tabling in the Library of the House. I do have an understanding with the company about dividend policy in the medium

term and dividend information will appear in the published accounts.

In any consideration of the future of ESB, I strongly oppose the privatisation of the transmission and distribution systems which, in my view, are critical national assets and should remain in State ownership. I am also opposed to any privatisation which would result in a private monopoly or near monopoly in the power generation sector. I would like to confirm here what I said to the Joint Oireachtas Committee on Communications, Marine and Natural Resources on 10 March and to the Seanad last Thursday, 6 May, that the privatisation of any part of the company is not on my agenda. This remains my position.

#### **Marine Waste.**

47. **Mr. Sargent** asked the Minister for Communications, Marine and Natural Resources the plans he has to ensure all ports and harbours have reception facilities for waste derived from port and marine vessel activities as required under international agreements. [12297/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The International Convention for the Prevention of Pollution from Ships 1973, as modified by the protocol of 1978, also known as MARPOL 73/78, contains regulations covering the various sources of ship-generated pollution in its six annexes.

Annex V contains regulations for the prevention of pollution by garbage from ships, and includes a requirement to provide reception facilities. Legislation was introduced in 1994 to give effect to Annex V in Ireland. This includes a provision for reporting to the International Maritime Organisation any cases where the facilities provided are alleged to be inadequate.

The EU built on this with the introduction of Directive 2000/59/EC on port reception facilities for ship generated waste and cargo residues. I introduced regulations in March 2003 to give effect to the directive in Irish law.

The regulations require, among other things, the development and implementation of an appropriate waste reception and handling plan for each port. Where required for reasons of efficiency, the plan can be developed in a regional context.

The Department is in the process of examining plans which have been prepared in respect of several ports and will submit to the European Commission a status report concerning the implementation of the directive every three years. The first report is due in December 2005.

#### **Electricity Generation.**

48. **Mr. Broughan** asked the Minister for Communications, Marine and Natural Resources If his attention has been drawn to the recent

presentation from the Energy Regulator to the Joint Committee on Communications, Marine and Natural Resources in which he stated that that only 78% of total energy generated is available at any one time and that the performance of ESB stations has been pretty awful; and if he will make a statement on the matter. [13678/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The Commission for Energy Regulation, CER, as an independent statutory body, is accountable for the performance of its functions to a joint committee of the Oireachtas. I understand that it last appeared before the Joint Committee on Communications, Marine and Natural Resources on 7 April 2004.

In regard to generation availability, the Deputy will be aware that because of the need to schedule plant out of service for maintenance and the random breakdown of plant from time to time, availability can never be 100%. Even so, the availability of ESB plant has declined in recent years.

The growth in electricity consumption caused by economic success is placing pressure on generating plants. All the older and less reliable plants on the system are ESB owned. A special action programme is now in place to improve ESB plant availability with a target to increase availability from 76% in 2003 to 82% this year.

The CER is also putting in place regulatory elements which will financially incentivise increased availability in the future.

#### **Coastal Zone Management.**

49. **Mr. Rabbitte** asked the Minister for Communications, Marine and Natural Resources the reason the proposed coastal zone management legislation is not being progressed; when he will designate Irish national waters as particularly sensitive sea areas; and if he will make a statement on the matter. [13719/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I have previously indicated my intention to publish in 2004 legislative proposals to consolidate and modernise the law on foreshore administration and to support the development and operation of more integrated approaches to the management of coastal areas and their resources.

As regards the designation of particular sensitive sea areas, six member states — Belgium, France, Ireland, Portugal, Spain and the United Kingdom — submitted in April 2003 a joint proposal to the IMO for the designation of a particularly sensitive sea area, PSSA, covering the English Channel and the Atlantic coastline of the six countries.

The proposal was discussed at the 49th session of the Marine Environment Protection

[Mr. D. Ahern.]  
Committee, MEPC, of the IMO from 14 to 18 July 2003, where it was approved in principle.

The 87th session of the IMO's legal committee, from 13 to 17 October 2003, examined the legal implications of the proposal. It will be further examined by other relevant IMO bodies during 2004.

The designation of the areas concerned as a PSSA could be decided by the 52nd session of the MEPC, scheduled for October 2004.

#### Gas Prices.

50. **Mr. Sargent** asked the Minister for Communications, Marine and Natural Resources the assumptions his Department is making on the likely price of gas in five, ten or 15 years' time; and if his attention has been drawn to the increasing body of international evidence showing that gas prices are likely to become highly volatile within that time frame. [13693/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I take it that the question relates to the international market price of gas. As a small peripheral market we are price takers and thus very interested in price evolution.

Gas prices have tracked oil prices over recent years and are generally expected to do so into the future but there is some lagging effect. Many gas contracts are explicitly linked to the price of oil.

Future gas prices will also be influenced by the continued effects of production decline in north west Europe, exposure to longer supply lines with somewhat greater risk and high investment requirements, and the trend to gas for power generation because of environmental concerns.

On the Irish market, Bord Gáis Éireann was able to provide low cost gas to the domestic sector from the mid-1990s onwards because of a number of favourable long-term contracts that it entered into in the early 1990s. The first of those contracts came to an end last year and, as a result, prices had to rise. As announced today by the Energy Regulator, Mr. Tom Reeves, there will be "significant further increases" to the general market price of gas for this sector as the benefit of these long-term contracts is eroded. This is separate from any increases, or indeed decreases, that may arise from changes in the market price of oil, and hence gas.

My Department is aware of some international modelling of future gas price developments which all tend towards gradually increasing prices, but this is far from an exact science and cannot be relied upon at this stage.

#### Port Development.

51. **Mr. Kehoe** asked the Minister for Communications, Marine and Natural Resources his plans with regard to ports in Counties

Wexford and Waterford; if there are plans to upgrade Waterford Port; if there are plans to downgrade New Ross Port; and if he will make a statement on the matter. [13628/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I have no plans to upgrade Waterford Port or to downgrade New Ross Port. Each of these ports is under the control and management of a company established under the Harbours Act 1996 and the statutory remit of both companies is identical.

In May 2003, I published the high level review of the State commercial ports operating under the Harbours Acts 1996 and 2000. The report sought to critically review the current model for the governance of the State commercial ports. On foot of publication of the report, I initiated a comprehensive consultation process with interested parties.

My Department has received written submissions from, and has met with, a number of interested parties. The results of these consultations are informing my Department's thinking in regard to future ports policy and a ports policy statement is in the final stages of preparation within my Department. It is my intention to publish the policy statement following consultation with my Government colleagues.

The harbour at Wexford is under the control and management of Wexford Harbour Commissioners operating under the Harbours Act 1946. Officials from my Department and the Department of the Environment, Heritage and Local Government are currently considering the modalities for the transfer of this harbour and certain other harbours operating under the 1946 Act to local authority ownership.

The harbour at Rosslare is under the control and management of Iarnród Éireann and comes under the aegis of the Department of Transport.

#### An Post.

52. **Mr. M. Higgins** asked the Minister for Communications, Marine and Natural Resources the position with regard to restructuring An Post in view of the company's recent announcement that it recorded operating losses of €43 million in 2003; and if he will make a statement on the matter. [13698/04]

53. **Mr. Kehoe** asked the Minister for Communications, Marine and Natural Resources the meetings he has had with An Post since January 2004; his views on the progress An Post is making with its financial recovery plan; and if he will make a statement on the matter. [13627/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I propose to take Questions Nos. 52 and 53 together.

I have met with An Post on two occasions this year, on 29 January and 4 February last. Furthermore, during the industrial relations difficulties in March, I met with An Post management on a number of occasions to update myself and my cabinet colleagues on the situation. My officials meet regularly with An Post management and they brief me on developments.

The Deputies are more than aware of the precarious financial situation An Post finds itself in, which I outlined in some detail to the House on 23 March. On top of losses in 2001, the company is set to lose approximately €100 million between 2002 and 2004 and, as announced recently, operational losses of €43 million were recorded in 2003.

Losses on this scale and of this duration are simply unsustainable. It is neither in the interests of the company, nor its employees or customers, that the situation remains unchecked. If the company is to return to profitability, the company needs to be restructured. If this is to be a success, it is crucial that all stakeholders play a constructive part in this process.

The current IR issues in An Post have been simmering for some time. The problems in An Post are long-standing and deep-seated and it is clear that the solution to the current issues must put the company on a long-term sustainable financial and operational footing. The full scale of the financial problems facing An Post became clear to myself and my Department during the second half of 2002 and to the then management of An Post sometime later.

It is important that all stakeholders fully recognise the seriousness of the financial position and the threat this represents to the future of the company.

Once the scale of the financial difficulties became clear last summer, a recovery strategy was approved by the board and presented to me. The strategy sets out a road-map to return An Post to profitability by 2005. It includes significant restructuring and job losses amounting to approximately 1,500. However, buy in from the unions is crucial to its agreement and implementation. This has not been an easy process — change is not easy. Following the industrial dispute last March, the Labour Relations Commission put forward a framework to resolve the differences between management and unions.

Both parties are currently in talks under the auspices of the Labour Relations Commission with a deadline for completion this Friday. I am hopeful that a successful outcome to the discussions will be achieved.

It is in all our interests that An Post continues to be a strong player in the Irish postal market and continues to provide quality services to customers and sustainable employment for staff.

The recovery strategy approved by the board of An Post sets out the basis on which the company, in partnership with the trade unions, can move forward.

While my Department is more than willing to assist in any way possible to facilitate an agreement, the responsibility for agreeing and implementing the plan rests primarily with the board, the management and unions in An Post.

With regard to the employee share ownership plan, ESOP, for An Post employees, the Government is fully committed to its implementation as part of an agreed, overall strategy for the company. I commissioned a report by the Ernst & Young consultancy firm to evaluate progress on cost savings within An Post which were agreed with the unions and management as part of the agreement on the ESOP. This report has been submitted to me and is currently under consideration by my Department officials. I expect to bring proposals to Government shortly regarding the ESOP.

#### **Electricity Generation.**

54. **Mr. O'Shea** asked the Minister for Communications, Marine and Natural Resources if he has held meetings with Bord Gáis in regard to its plans to construct a gas-fired electricity generating station near Drogheda, at a cost of €250 million; if he will report on the content of such meetings; and if he will make a statement on the matter. [13710/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** Bord Gáis Éireann continued to grow its electricity supply business during 2003 and continued growth of the business represents a key strategic intent of the company.

In this context BGE reviewed taking an asset-based position in electricity and, in October 2003, submitted a proposal seeking the approval of my Department for the company to: enter into a joint venture with Scottish & Southern Energy, SSE, for the construction of a 400 MW electricity generating station at Platin, near Drogheda; and submit the proposal as a bid to the CER competition for the construction of such a facility. This approval was granted.

As the Deputy may be aware, the purpose of the CER competition was to assist in addressing the reluctance by investors to enter the electricity generating market through facilitating the entry of two new independent generating plants with a combined installed generating capacity of over 500 MW

The competition included an off-take guarantee in the form of a PES contract for the purchase of a specified amount of the electricity generated. As it transpired, the BGE-SSE joint bid was unsuccessful in the competition.

[Mr. D. Ahern.]

At this stage, the options open to Bord Gáis regarding power supplies for the electricity retail market are a long-term off-take agreement with a potential developer of a merchant electricity generating station or review existing and assess alternative sites-projects for a merchant power station. Bord Gáis will be considering these and other options during 2004.

#### **Industrial Relations.**

55. **Mr. Broughan** asked the Minister for Communications, Marine and Natural Resources if he has held talks with ESB management or unions in regard to proposals for industrial action at the company; his views on whether industrial action will result in widespread electricity blackouts throughout the country; the efforts he is making to avoid any such industrial action; and if he will make a statement on the matter.

[13677/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I do not have primary responsibility for industrial relations issues within Government and I have not held discussions with either the ESB management or the unions since the result of the recent ballot undertaken by the ESB group of unions was announced. I am aware that the ESB group of unions has submitted claims which, at first sight, seem to be inappropriate in the context of national competitiveness and the partnership approach to pay in the economy.

It is my understanding, however, that the ballot which was recently undertaken by the ESB group of unions provides a mandate for industrial action in circumstances where the company proposes or proceeds with structural or organisational change which impacts on staff without prior agreement. While I view the results of the ballot with concern, it is clear that the mandate is a conditional one. It is premature at this stage to speculate on the impact on customers and the country generally of any industrial action. I have instructed my officials to keep me fully briefed on the situation as it develops.

#### **Telecommunications Services.**

56. **Mr. S. Ryan** asked the Minister for Communications, Marine and Natural Resources his views on complaints regarding misleading advertising by telecom operators and ComReg's seeming inability to regulate sales advertising by mobile and fixed line operators; and if he will make a statement on the matter. [13720/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** Monitoring and regulation of the advertising of telecoms services is the responsibility of the Advertising Standards Authority of Ireland. However, ComReg does regulate fixed telecoms services

offered via a code of practice for carrier pre-select services, CPS. Carrier pre-selection, CPS, enables consumers to exercise their choice by selecting in advance a specific operator to carry some or all of their telephone calls.

The code of practice for CPS sets out the rules and procedures which operators wishing to offer CPS services in the Republic of Ireland must follow. It covers customer contracts, use of customer information, order-handling process, promotion of CPS, bill payment, tariff presentation, complaint and enquiry handling and the activities of the telecommunications service providers to "win back" lost customers.

All operators providing CPS, including Eircom, are bound by the CPS code of practice. ComReg conducts investigations on an ongoing basis into adherence to the CPS code of practice in response to issues raised by operators and consumers alike.

ComReg may notify an operator that it is in breach of its obligations. Furthermore, ComReg may publish the particulars of such notification. ComReg has received a number of complaints in regard to possible breaches of the CPS code of practice and has upheld a number of these in regard to specific telecoms operators. Details of these have been published in the national newspapers to ensure that consumers are aware of these findings. The text of these decisions can also be found on ComReg's website.

Regarding mobile operators, I understand responsibility in this area, as already mentioned, rests with the Advertising Standards Authority.

#### **Electronic Communications Infrastructure.**

57. **Ms B. Moynihan-Cronin** asked the Minister for Communications, Marine and Natural Resources his views on the report by the Commission of European Communities presented at the recent EU broadband conference in Dundalk that shows that Ireland is currently second last in the EU broadband league with just 0.9% of the population having broadband in January 2004; and if he will make a statement on the matter. [13680/04]

67. **Mr. Crawford** asked the Minister for Communications, Marine and Natural Resources the way in which Ireland compares to other European countries with regard to supply and roll-out of broadband; and if he will make a statement on the matter. [13626/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I propose to take Questions Nos. 57 and 67 together.

The provision of and investment in telecommunications services, including broadband, is a matter in the first instance for the private sector companies operating in a fully liberalised marketplace, regulated by the

Commission for Communications Regulation, ComReg.

Recognising, however, that the market has been slow to respond to demand for broadband, since 1999 my Department has invested almost €170 million, in partnership with the public and private sectors, in infrastructure projects that will enable the provision of modern, high-speed broadband communications in the regions.

Currently, my Department is grant aiding the construction of 25 fibre optic metropolitan area networks, in conjunction with local authorities, in key regional towns and cities. This investment of over €80 million will enable the delivery of competitive, open access, broadband services in these towns.

On 12 December last, I announced a broadband action plan. This plan has two main elements — proposals to roll out open access broadband infrastructure to over 90 towns with a population of over 1,500, and the development of a group broadband scheme which will grant aid community led initiatives promoting the roll-out of broadband access in small towns, villages and rural hinterlands. I have secured a commitment of €35 million each year from now until 2007 to ensure the implementation of this broadband action plan.

With regard to the broadband report presented by Commission of the European Communities in Dundalk last month, while the data presented in the report shows that Ireland lags behind our European neighbours in terms of broadband penetration, there is evidence of significant growth in take-up of broadband in Ireland in the past year. The number of broadband subscribers has risen ten-fold from less than 5,000 in January 2003 to an estimate of 50,000 currently, much of this due to improved pricing by service providers.

The investment made in broadband infrastructure by my Department and the improvements in the regulatory environment that I directed ComReg to make is now paying off and there is much wider availability of broadband services throughout the country. Over the coming years I will continue to place an emphasis on the development of infrastructure that will see Ireland's ranking greatly improve.

#### **Film Industry Development.**

58. **Mr. Quinn** asked the Minister for Communications, Marine and Natural Resources if he will report on his meeting with representatives of the independent Irish film industry and on the issues they raised regarding the proposed Broadcasting Authority Bill; and if he will make a statement on the matter.

[13716/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** At their request I recently met with representatives of

Screen Producers Ireland, SPI. At the meeting the representatives of SPI outlined the current state of the independent production sector in Ireland and expressed views on the role that Irish broadcasters could play in ensuring the development of the sector.

SPI indicated that in the context of the Broadcasting Authority Bill they would seek a significant increase in the level of RTÉ's statutory obligation to commission programming from the independent sector.

#### **Television Licence Fee.**

59. **Mr. Costello** asked the Minister for Communications, Marine and Natural Resources his views on the recent report from the Comptroller and Auditor General on television licence fee collection; if he has had discussions with An Post arising from this report and its proposal to quit the television licence collection scheme; his plans to implement the Comptroller and Auditor General's recommendations to revamp the scheme in view of its unprofitability; the alternative arrangements his Department will put in place if An Post decide to quit the scheme; and if he will make a statement on the matter.

[13694/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I welcome the Comptroller and Auditor General's value for money report on the television licence fee collection which was recently laid before both Houses of the Oireachtas.

The Secretary General of my Department will appear before the Committee of Public Accounts on 20 May to discuss the report. He will convey to the members of the committee my views on the report and my plans for the management of the collection in the future. It would be inappropriate for me to comment further at this time.

#### **Offshore Exploration.**

60. **Mr. Allen** asked the Minister for Communications, Marine and Natural Resources the position regarding the proposed development of the Corrib gas field; and if he will make a statement on the matter. [13636/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** All relevant approvals-consents from my Department were issued in early 2002 in respect of the proposed development of the Corrib gas field. These approvals-consents include plan of development approval dated 15 April 2002 under the Petroleum and Other Minerals Development Act 1960; consent to construct a pipeline dated 15 April 2002 under the Gas Act 1976, as amended; consent under section 5 of the Continental Shelf Act 1968, as amended, dated 15 April 2002; and



[Mr. D. Ahern.]  
foreshore licence approval dated 17 May 2002 under the Foreshore Act 1933, as amended.

The proposed project was granted planning permission by Mayo County Council, MCC, on 30 April 2004 for a gas terminal at Bellanaboy, County Mayo. This decision can be appealed to An Bord Pleanála within four weeks of the date of the decision by MCC. If no appeals are made during this period the project can commence. Should the decision be appealed to An Bord Pleanála the timeframe for determining the appeal is 18 weeks from the date that the appeal is lodged.

#### **An Post.**

61. **Mr. Gilmore** asked the Minister for Communications, Marine and Natural Resources If his attention has been drawn to the call from An Post staff, at the recent Communications Workers' Union conference in Galway, for an Oireachtas inquiry into the previous mismanagement of the State postal service; if he has plans to recommend such an inquiry; and if he will make a statement on the matter. [13695/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I am aware of the comments made at the recent Communications Workers' Union conference in Galway. However, given the current financial difficulties faced by An Post, I am convinced that the most effective mechanism to ensure its long-term future is to focus on the critical challenges currently faced by the company rather than concentrating on past performance and management. I trust that all stakeholders in An Post would share this view.

Deputies will be aware that the Joint Oireachtas Committee on Communications, Marine and Natural Resources has examined the situation in An Post on two occasions since the beginning of 2003. The Communications Workers' Union chose not to appear at the most recent meeting of the joint Oireachtas committee devoted to the examination of the company's financial situation, which was held earlier this year.

I do not propose to call for an Oireachtas inquiry in this matter as this would be a matter for the Oireachtas itself.

#### **Postal Services.**

62. **Mr. M. Higgins** asked the Minister for Communications, Marine and Natural Resources if his attention has been drawn to recent reports that An Post is set to apply to ComReg for a 14.5% increase in the price of a stamp in an attempt to cut crippling losses at the company; and if he will make a statement on the matter. [13697/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The Commission for Communications Regulation, under the European Communities (Postal Services) Regulations 2002, is the designated independent body responsible for pricing policy in the postal sector. I have no function in this matter.

In regard to An Post losses and company turnaround, I have made it clear that restructuring of An Post will be a key contributor to any strategy to return the company to profitability, in particular given the advent of electronic means of communications and liberalisation of the market.

#### **Alternative Energy Projects.**

63. **Mr. Gogarty** asked the Minister for Communications, Marine and Natural Resources the research projects currently being undertaken in the area of wave and tidal power generation; the overall budget for these projects; and the forecast budget for this area of research for future years. [13689/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** Sustainable Energy Ireland, SEI, and the Marine Institute are engaged in a joint programme of development for ocean energy, which involves collaborative research, consultation and funding of industry and academic research.

As a first step in this process, SEI and the Marine Institute launched a public consultation document on options for wave energy research and development from November 2002 to February 2003. Twenty-four responses were received and a summary of these responses is available on the Marine Institute's website. Arising from the consultation process, SEI and the Marine Institute commissioned the following two studies to identify the optimum policy options for developing wave energy: the potential for energy extraction from marine and tidal currents; and the economics of wave energy.

Further collaborative research is also planned by the two agencies and the results of the consultation and research works will be fed into the newly established renewables development group.

The Marine Institute is also involved in a number of other research projects, which include a project to prepare a protocol for device development as well as developing the terms of reference for an updated wave resource atlas. There is a further planned initiative to expand the technical and research and development capabilities in ocean energy.

Ireland has also joined the International Energy Agency implementing agreement on ocean energy research and development. This will ensure that we enjoy the full benefit of

international collaboration on ocean energy research.

To date, a total of 41 non-wind renewable energy projects have been supported by SEI at a cost of €4.5 million. The projects are being carried out by industry and universities and cover biomass, hydro, ocean energy, heat pumps and geothermal technologies. Four ocean energy projects have been funded to date under the programme.

The total amount of funding available under SEI's renewables R& D programme in 200€ is 1.8 million, and further funding of ocean energy research is anticipated. To date, €ver 500,000 has been expended between SEI and the Marine Institute on ocean energy research.

#### **Aquaculture and Fishing Industries.**

64. **Mr. Cuffe** asked the Minister for Communications, Marine and Natural Resources when the Government expects to issue a report on its own internal review examining the conflicting roles that are held within his Department in holding both a development and regulatory function in the management of the aquaculture and fishing industries. [13687/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I asked my Department to review the structures of the seafood and coastal zone areas in my Department in line with the provisions of the programme for Government to develop devolved service structures to support the sustainable management, development and protection of the marine coastal zone and seafood resources. The first initiative taken in this respect was the reforms contained in the Fisheries (Amendment) Act 2003, which established an independent fishing vessel licensing authority to administer fishing vessel licensing policy and established a transparent process for the promulgation of that policy. I am also committed to introducing further legislative changes, similar to those implemented in the Fisheries (Amendment) Act 2003, that will strengthen and establish the legal independence of the regulatory functions in the Department. In addition, the Government decision to decentralise seafood and coastal functions of the Department to Clonakilty provides an opportunity for the further development of service structures in these areas. These decentralised functions will provide for central Government policy co-ordination for seafood and marine coastal zone resources working closely with the Marine Institute and Bord Iascaigh Mhara, BIM, to deliver an integrated approach to the management and development of the marine sector.

The review process is ongoing in nature and, as I have said, must now take account of the new proposed decentralised structures. I will continue

to keep under review the new arrangements with a view to taking any additional measures that are required to deliver appropriate service structures that support sustainable management, development and protection of the marine coastal zone and seafood resources.

#### **Food Safety.**

65. **Ms O'Sullivan** asked the Minister for Communications, Marine and Natural Resources the position regarding the issue of high mercury levels in shark, swordfish, marlin, and tuna of pregnant women and young children in view of the Food Safety Authority's warning regarding the consumption of these species; and if he will make a statement on the matter. [13712/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** Regular analysis of a range of fin-fish both landed into and farmed in Ireland is carried out to monitor the levels of mercury present in accordance with the monitoring requirements of EU food safety legislation. A similar monitoring programme is in place for bivalve shellfish. The Marine Institute, under service contract to the Food Safety Authority of Ireland, carries out these programmes. Similar programmes are in place in other member states.

The trends established through this monitoring programme show that the concentration of mercury in the edible portion of the fish analysed in Ireland is well within the European Union human consumption tolerance level. The catch element of the monitoring programme concentrates on the most commonly landed species and does not normally include the top predatory species fish such as shark, swordfish, marlin and tuna as these species do not constitute any significant part of the total catches made by Irish fishing vessels.

All imports of shark, swordfish, marlin and tuna from third countries are subject to controls at Ireland's border inspection posts. These import controls of fish from third countries ensure that the fish imported have been produced to the highest standards pertaining to fish production and processing operating at an equivalent standard to production and processing requirements within the European Community.

#### **Advertising Standards.**

66. **Mr. Stagg** asked the Minister for Communications, Marine and Natural Resources if his attention has been drawn to the BCI consultation document on children's advertising; and if he will make a statement on the matter. [13705/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I refer the Deputy to my reply to Question No. 33 on Thursday, 1 April 2004.

[Mr. D. Ahern.]

I am aware that the BCI recently published a draft children's advertising code. A further consultation period now follows, with the final codes to be published later this year.

*Question No. 67 answered with Question No. 57.*

### Mobile Telephony.

68. **Ms Burton** asked the Minister for Communications, Marine and Natural Resources the position with regard to encouraging competition in the mobile phone market here; if he has any plans to request ComReg to implement new policies calling for lower prices for mobile and fixed line telephone bills; and if he will make a statement on the matter. [13681/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** ComReg, the Commission for Communications Regulation, has as one of its key objectives under the Communications Regulation Act 2002 the promotion of competition in the exercise of its functions.

As Minister for Communications, Marine and Natural Resources, I have responsibility for overall telecoms policy, and my main goal in implementing this policy has been the creation of conditions for sustainable growth and competition that will benefit the economic and social development of Ireland by providing competitive services.

One of the tools available to me to achieve this goal, under the powers given to me by section 13 of the Communications Regulation Act 2002, is to issue policy directions to ComReg to be followed by it in the exercise of its functions.

As the Deputy may be aware, I recently issued policy directions to ComReg, focusing on competition generally, wholesale and retail telephone line rental, interconnection-leased lines, national and cross-border roaming and broadband. Obviously, these directions are issued in the context of the new EU regulatory framework.

The direction on competition mandates ComReg to focus on competition as a key objective, with a particular focus on competition in the fixed and mobile markets, and to implement, where necessary, remedies which counteract or remove barriers to entry and support entry by new players to the market, and entry into new sectors by existing players; and to have particular regard to the following: market share of new entrants; ensuring that the applicable margin attributable to a product at the wholesale level is sufficient to promote and sustain competition; price level to the end user; and the potential of alternative technology delivery platforms to support competition.

Another policy direction addressed national and cross-border roaming. The ability to roam nationally on GSM networks would ensure that all three licensed GSM operators could provide countrywide coverage. Minimising cross-border roaming costs on the island of Ireland would be beneficial for Irish mobile phone users, particularly those who live close to the Border. I have therefore directed ComReg to examine using its powers to mandate national roaming on existing GSM networks of mobile network operators with significant market power on fair commercial terms; work closely with operators and Ofcom, the Regulator for Northern Ireland, to encourage and support initiatives that would reduce or eliminate cross-border roaming charges, and encourage national call charging on an all-island basis.

Recognising the importance of a single billing product to advancing competition in the fixed line telephone market, I directed ComReg to introduce a wholesale line rental product for voice and data services that was accessible, affordable and with sufficient margin for telecommunications operators to enable them to stimulate and drive competition in this market by 31 March 2004, and which I am delighted to say has been introduced.

ComReg will work with the industry to ensure the smooth introduction of this product and use whatever regulatory interventions are appropriate to address any delays or difficulties which may arise. I understand operators are currently testing the product and that it will be a few months before single billing will actually come on-stream. This will allow operators, other than Eircom, to offer customers both line rental and call charges on a single bill. The policy directions are available to read on my Department's website at [www.dcmnr.ie](http://www.dcmnr.ie).

My message is simple. The more competitive telecoms services that are on offer, the better in the long run for consumers, the sector and the economy as a whole.

### Fishing Industry Development.

69. **Mr. Allen** asked the Minister for Communications, Marine and Natural Resources the number of fish farms which have been inspected to date in 2003; and if he will make a statement on the matter. [13637/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I take it that the Deputy is looking for information in respect of 2004. Monitoring and inspection of fish farms is carried out by my Department with the advice and assistance of the Marine Institute.

Each marine fin-fish farm is inspected 14 times a year by Marine Institute staff in connection with monitoring and control of sea lice levels, in accordance the terms of a protocol published by

my Department in 2000. One inspection is carried out in the period December-January, two inspections per month are carried out at farms during February to May, and one inspection per month is undertaken during the rest of the year. So far this year, 146 sea lice inspections have been carried out at fish farms.

Monitoring of fish health at each fin-fish farm is also undertaken by the Marine Institute and involves at least one inspection of each farm each year. As part of this programme, samples of fish are screened for viruses and bacterial infection, as well as certain parasites. Fish health monitoring has been carried out at 20 fish farms so far in 2004 entailing 30 individual inspections.

A sampling and monitoring programme for residues in fin-fish is also carried out by the Marine Institute each year in accordance with EU Directive 96/23. The programme involves monitoring for a wide range of residues including antibiotics and environmental contaminants. This programme of sampling has been carried out in respect of six fish farms to date in 2004.

Inspections of fish farms are also carried out periodically by officials of my Department. So far this year, the Department's engineering division has carried out inspections at 19 fin-fish farms as well as 106 shellfish farms. In addition, fish farms operations are scrutinised through returns and reports that are required to be made to my Department by the licensees.

#### **Advertising Standards.**

70. **Mr. Eamon Ryan** asked the Minister for Communications, Marine and Natural Resources if he has made any representations to the European Commission to encourage the inclusion of measures to restrict the advertising to children of foods high in sugars, fat or salt within the new draft of the television without frontiers directive, which will apply to all broadcasters in the European Union. [13684/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The review by the EU Commission of the television without frontiers directive is at a very early stage and proposals for a new directive, if any, are not expected until 2005 at the earliest.

While the television without frontiers directive makes no explicit reference to the advertising of food high in sugar, fat or salt, the directive does allow individual member states to impose more restricted advertising standards on broadcasters within its own jurisdiction. In that context, the Broadcasting Commission of Ireland, BCI, under section 19 of the Broadcasting Act 2001, is currently preparing a code on children's advertising. The draft code, which was recently published following a wide and comprehensive consultation process, includes provisions relating to diet and nutrition. The BCI, which was given

statutory responsibility for setting advertising standards in Ireland, is seeking the views of interested parties on the draft code before 17 May 2004.

Under the provision of the directive, however, such a code will only be applicable to broadcasters established within the Irish jurisdiction. Clearly this is not satisfactory and, accordingly, I have been making representations to the EU Commission to ensure that broadcasting services, which are regulated in one member state but intended for reception primarily in another member state, should be subject to the broadcasting standards of the member state in which they are received. In this way, Irish advertising standards would have wider application and greater impact.

In regard to children's advertising generally, there is a growing awareness at European level of the importance of providing greater protection for children. While the debate is at a very early stage, Ireland has indicated, through the preparation of a specific advertising code for children, that these issues should be addressed by all member states.

#### **Harbours and Piers.**

71. **Ms O'Sullivan** asked the Minister for Communications, Marine and Natural Resources the position in regard to the proposed sale of Balbriggan and Skerries harbours by the Dublin Port Company; if he has met with local fishermen to discuss objections to the sale; and if he will make a statement on the matter. [13713/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** Dublin Port Company is established under the Harbours Act 1996. Section 15 of the Act provides that a decision by the company to dispose of any of its land shall only be made by the directors of the company and that the consideration for which any land is sold shall, in so far as is practicable, not be less than its open market value.

My Department has been informed by Dublin Port Company of its decision to offer the two harbours for sale because they constitute a burden on the users of Dublin Port as the company derives no revenue whatsoever from them.

Under the Act, the company does not require my approval for its decision. Any person who wishes to object to the decision of the company should make this objection known to the company.

#### **Semi-State Bodies.**

72. **Ms Lynch** asked the Minister for Communications, Marine and Natural Resources if he will clarify his recent statement that he has no intention of privatising ESB; if he has held talks with ESB unions in regard to their request

[Ms Lynch.]  
for a 20% stake in the company; and if he will make a statement on the matter. [13706/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** As I stated in the Seanad last Thursday, 6 May, in any consideration of the future of ESB, I strongly oppose the privatisation of the transmission and distribution systems which, in my view, are critical national assets and should remain in State ownership. I also stated that I am opposed to any privatisation which would result in a private monopoly or near-monopoly in the power generation sector, and I confirmed that the privatisation of any part of the company is not on my agenda. This remains my position.

I can also confirm that, at the request of the ESB group of unions, GOU, bilateral discussions with my Department were held on 30 January and 3 March of this year. These discussions considered an aspiration by the GOU to increase its current 5% shareholding in the company to 19.9%. Government policy on employee share option plans and the question of going beyond 5% is clear, and the GOU have not put forward a case which fits within that policy.

#### Coastal Protection.

73. **Mr. Boyle** asked the Minister for Communications, Marine and Natural Resources when he expects construction to commence on the proposed new centre for the Doolin Coast Guards for which finances from his Department have already been allocated; if a suitable site for the building has been purchased; and, if not, the procedure that is required for his Department to be able to procure such a site. [13685/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The Irish Coast Guard of my Department operates a station house building programme for coastal units around the coast. The Office of Public Works, OPW, manages this programme for the Coast Guard.

The current position regarding the proposed new station house at Doolin, County Clare, is that while financial sanction has been granted in principle for the development, the OPW has not yet acquired a suitable site. However, negotiations are under way between the OPW and a landowner and as soon as a suitable site has been acquired the construction process, including building design, planning permission application and tendering, will be proceed with as quickly as possible.

#### Fisheries Protection.

74. **Mr. Rabbitte** asked the Minister for Communications, Marine and Natural Resources his plans for the protection of wild Atlantic salmon, in view of the importance of angling to

the national and local economy culture here; and if he will make a statement on the matter. [13718/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I take this opportunity to further reaffirm the Government's commitment to the conservation of the wild Atlantic salmon stock so that in the future the resource can provide the maximum contribution to the regional and national economy.

The Government view our salmon stock as a national asset, which must be conserved, protected and shared among all our citizens. As a result, a delicate balancing exercise is necessary between the needs of the coastal and inland communities which depend on fishing resources for their livelihood and the recreational users, including tourists, who each pursue the noble salmon for their own end.

We are all agreed that over-exploitation of fish stocks is a significant threat to the long-term sustainability of the inland fisheries resource. The Government has accepted the scientific advice to the effect that reductions in the overall fishing effort are required to sustain and rebuild wild salmon stocks on a district basis. For this reason, the current policy has been designed to bring spawning escapement in all districts and catchments up to the level of the scientifically advised conservation limit in 2005.

With regard to commercial salmon fishing, I would argue strongly that the Government's management of the Irish home water commercial salmon fisheries, which limits the commercial salmon fishing season and restricts the number of fish being caught, clearly demonstrates a commitment to the conservation of the wild salmon stock, which is in keeping with the highest international standards.

The current strategy of developing a sustainable commercial and recreational salmon fishery through aligning catches on the scientific advice by next year holds out the strong prospect of a recovery of stocks and of a long term sustainable fishery for both sectors.

#### Postal Services.

75. **Mr. Deenihan** asked the Minister for Communications, Marine and Natural Resources the contact he has had with communication workers unions; if the issue of An Post has been the agenda; and if he will make a statement on the matter. [13621/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** In the last year I have had no direct contact with the Communications Workers' Union. However, my officials have met with the union in question to discuss telecom related matters.

I have, however, had written contact with the union regarding the An Post ESOP. I indicated

in my response to the CWU that the Government remains committed, in principle, to the An Post ESOP as an incentive for employees where real transformation takes place.

Furthermore, in March I received a copy of a report commissioned by the CWU on An Post's financial projections. This report, which argues for the company to undertake increased borrowing despite its current financial difficulties, has been studied in detail by my Department.

### **Energy Resources.**

76. **Mr. Naughten** asked the Minister for Communications, Marine and Natural Resources the action he is taking to roll-out three phase electricity; and if he will make a statement on the matter. [10180/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** As I stated in response to a similar question on this issue, No. 290, on 23 March 2004, my Department administers the farm electrification grant scheme which subsidises the installation of electricity supply to farms located in disadvantaged areas which are without supply or where supply is inadequate to facilitate their development and modernisation. Both single phase and three phase installations are eligible for assistance under the scheme.

Apart from that, the question of availability of three phase supply is a matter for the electricity sector players and not one in which I have a function.

### **Aquaculture Industry.**

77. **Mr. P. Breen** asked the Minister for Communications, Marine and Natural Resources if his investigations into dumping of farm salmon in County Galway in the summer of 2003 and Inver Bay, County Donegal in 2002 have come to an end; if persons have been charged with this dumping; the body from which the results of his investigations can be obtained; and if he will make a statement on the matter. [13634/04]

96. **Mr. P. Breen** asked the Minister for Communications, Marine and Natural Resources the position regarding an investigation into the aquaculture industry shown on a television programme (details supplied); and if he will make a statement on the matter. [13635/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I propose to take Questions Nos. 77 and 96 together.

As indicated in reply to Parliamentary Question No. 121 of 24 February 2004, investigations have been carried out into last summer's discovery of salmon buried on land near Casla, County Galway. As proceedings are pending, it would not be appropriate to comment further on the matter at this time.

The action taken with regard to the events in 2002 at Inver Bay, County Donegal was also detailed in the reply to Parliamentary Question No. 121 of 24 February 2004. It was decided by the Department, taking account of all the circumstances, not to initiate a prosecution into these events.

A detailed investigation into the fish mortalities at salmon farms in Donegal Bay last year was carried out for my Department by the Marine Institute. The investigation's report was published in March and is available on the Marine Institute's website. It found that most likely the initial insult to the fish that died may have been caused by a biological event such as a siphonophore bloom, which may have occurred in both Inver Bay and McSwyne's Bay, and which probably coincided with an intrusion of offshore water such as occurred there in early July. The report points out that the initial insult to the fish occurred when water temperatures were higher than the optimal temperature for the cultivation of salmonids, and that, subsequent to the initial event, secondary bacterial and parasitic infections were noted. It also indicates that these infections would have added considerably to the stress of the fish, which were already severely debilitated. The report's overall conclusion is that the cause of the mortalities was multifactorial in nature, where the net cumulative result was much greater than it would have been should the initial event have occurred at lower water temperatures or in the absence of secondary infection of the gill tissue of the fish.

In addition, a comprehensive review of the systems and processes for monitoring, control and enforcement in respect of aquaculture has been carried out by my Department and has considered how existing procedures may need to be refined or reinforced to ensure the optimal operation of regulatory programmes for the industry. The work involved is substantially completed, but its finalisation was held over pending the availability of the Marine Institute's report on Donegal Bay. The review is now being completed as a matter of priority.

### **Proposed Legislation.**

78. **Mr. Penrose** asked the Minister for Communications, Marine and Natural Resources when he intends bringing proposals to Government to establish TG4 as an independent statutory entity; and if he will make a statement on the matter. [13714/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I refer the Deputy to the reply to Parliamentary Question No. 146 of 24 February 2004.

### **Energy Resources.**

79. **Ms Enright** asked the Minister for

[Ms Enright.]

Communications, Marine and Natural Resources the way in which ESB costs compare to other European countries; and if he will make a statement on the matter. [13630/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The information the Deputy seeks is not readily available. Inquiries are being made and, if and when the information is assembled, I will forward it directly to the Deputy.

#### **Health and Safety Regulations.**

80. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources the person who will be responsible for accidents that occur along the route of the proposed Corrib gas pipeline, not covered by the terms of the planning permission granted by Mayo County Council. [13676/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** These issues fall within the responsibility of Shell E& P Ireland Limited, the developers of the Corrib project. In my consideration and appraisal of the pipeline proposal, I commissioned a technical evaluation of the onshore pipeline. The evaluation, entitled Corrib Gas Pipeline Project, Report on Evaluation of the Onshore Pipeline, Design Code, was carried out by a pipeline technical expert, Mr. Andrew Johnson.

Mr. Johnson's report stated that the onshore pipeline design code has been selected in accordance with best public safety considerations and is appropriate for the pipeline operating conditions. Subject to the developers undertaking to comply with a number of conditions laid down in approval and consents granted by my Department, the design is generally in accordance with best national and international industry practice and the pipeline is considered to meet public safety requirements. Copies of Mr. Johnson's report were issued on request.

#### **Telecommunications Services.**

81. **Ms Shortall** asked the Minister for Communications, Marine and Natural Resources if he will report on the possible effects of developments in voice over Internet protocol telephony on communications here; his plans to facilitate these developments; and if he will make a statement on the matter.

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** Voice over Internet protocol allows voice messages to be sent along telecommunications networks in the same way that data is sent. This protocol allows voice messages to be transmitted over dedicated data networks such as the Internet. Internationally, market-driven voice over

Internet protocol services are widely available in Asia, particularly in the Japanese market, and in the United States. Nationally, operators are rolling out this technology in the form of Internet connectivity and voice over Internet services are available to those who buy the appropriate hardware and software for their PCs.

In the longer term the deployment of voice over the Internet services offers exciting new opportunities for consumers as well as challenges for existing market operators. The European Commission will be shortly issuing a consultation paper on the business and regulatory issues arising in the roll-out of these services. This will help shape the regulatory framework for these services for the future. My Department has already carried out a number of telecommunications technology trials to pilot and demonstrate the feasibility of new technologies such as voice over Internet, and is continually monitoring developments in new and emerging technologies.

#### **Fishing Industry Development.**

82. **Mr. McGinley** asked the Minister for Communications, Marine and Natural Resources if his attention has been drawn to the deteriorating situation regarding the fishing industry and employment; its implications for the general economic well-being of that area in south west County Donegal; and if he will make a statement on the matter. [13512/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** For many years, the south west County Donegal area has been to the forefront in Ireland's fishing industry, providing valuable permanent and seasonal employment opportunities in coastal communities. This area is one of the leading centres of the Irish fishing industry and I believe that, notwithstanding certain job losses that have occurred recently, it will maintain its pre-eminent position in the future and contribute positively to the economic well-being of the area.

The fishing industry in Europe, and elsewhere, is generally experiencing some difficulties with fish stocks numbers. Against a backdrop of declining whitefish stocks in particular and consequent restrictions on catch levels, the primary challenge facing fishermen and their families is the need for effective conservation measures to provide for the sustainable exploitation of these stocks into the future.

The industry in County Donegal is significantly based on pelagic stocks and total allowable catch levels for these stocks are being maintained, while the level for blue whiting has substantially increased. New EU measures to strengthen control in pelagic fisheries were introduced this year as a consequence of concerns about illegal landings right across Europe. The introduction

and effective implementation of these measures is critical to ensure the medium to long-term sustainability of fish stocks. My priority now is to ensure that control measures are fully implemented in all landing locations across Europe to deter illegal landings and ensure a level playing field for the fishing sector.

The high level of knowledge and expertise of the fishing industry in County Donegal, which comes from its lengthy involvement with marine matters, equips it well to successfully meet the challenges facing the sector. At EU level, Ireland has been at the forefront in pushing for enhanced technical conservation measures to protect fish stocks. This issue was addressed in detail at a ministerial and stakeholders conference, which I hosted in early March, on fast-tracking the development of environmentally friendly fishing methods. The consensus at this conference was that better and smarter fishing and the development of environmentally friendly fishing methods have a critical role to play in the development of the fishing industry. I intend, as President of the Council of Fisheries Ministers, to make significant progress on this issue during Ireland's Presidency of the EU.

The emphasis in ensuring sustainability of fish stocks will help to safeguard the future income of County Donegal fishermen and the seafood sector as a whole. My approach is entirely consistent with that of the Irish fishing industry and I will continue to liaise closely with the sector in order to maximise the positive contribution which the fishing sector makes to areas such as south west County Donegal.

### **Salmon Management Report.**

83. **Mr. Eamon Ryan** asked the Minister for Communications, Marine and Natural Resources when the Government expects to publish a report outlining the way in which a reduction in the use of indiscriminate offshore drift net fishing for salmon will take place in view of the fact that the inland fisheries report in 1975, the report of the salmon review group in 1987, the report of the salmon management task force in 1996 and the Indecon report in 2003 have all advocated such a reduction; and if the Government is willing to provide matching funding to add to those which may be provided by the north Atlantic salmon fund to allow for the buyout of such drift net licences. [13683/04]

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** The Government's objective is to preserve the salmon resource in its own right and for the coastal and rural communities that it helps to support. The economic goals for a sustainable commercial salmon fishery based on quality and value rather than volume and the development of

salmon angling as an important tourism product are both compatible with the primary objective.

Since publication of the salmon management task force report in 1996, the Department of Communications, Marine and Natural Resources has introduced a range of conservation measures which have seen considerable advancements made in salmon policy and, in particular, the management of the drift net salmon fishery. As part of these measures, the drift net season is now confined to a two-month period in June and July on a four-day week basis. Fishing is only allowed during daylight hours and is confined to the area within the six-mile limit. The Department of Communications, Marine and Natural Resources has also introduced the wild salmon and sea trout tagging scheme regulations, limiting the total allowable commercial catch of salmon.

On the advice of the National Salmon Commission and the National Fisheries Management Executive, I set a total allowable commercial catch of 161,951 fish for the 2004 season. This represented a reduction of 20,049 fish, 11%, cut on the total allowable commercial catch for 2003 of 182,000 fish. This total allowable catch is consistent with the Salmon Commission's recommendation last year that a three-year strategy should be put in place aimed at reaching the scientific advice on precautionary catch limits over 2003 to 2005.

The strategy of developing a sustainable commercial and recreational salmon fishery through aligning catches on the scientific advice by 2005 holds out the strong prospect of a recovery of stocks and of a long-term sustainable fishery for both sectors. There are serious reservations about a national buy-out as a cost efficient workable instrument. It is clear that buy-out is most attractive to those who take few salmon. It is not necessarily an effective means of achieving the shared objective of a restoration of salmon stocks. For some time, the Government has ruled out buy-out as an effective means of achieving the restoration of salmon stocks and instead promoted the application of quotas on commercial fishing and bag limits on angling to achieve catch reductions as the best instrument available to achieve this objective. There are no plans to introduce proposals to purchase commercial salmon fishing licences but the matter will be kept under review in the context of policy.

### **Post Office Network.**

84. **Mr. Crawford** asked the Minister for Communications, Marine and Natural Resources the names of each post office in each county that has been closed or downgraded in the past five years; his views on these closures and downgrading; and if he will make a statement on the matter. [13625/04]



**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I have been informed by An Post that in the last five years 198 sub-post offices, 62 postal agencies and one branch office have been closed, while 214 sub-post offices have been converted to agencies and five branch offices have been converted to sub-offices.

Given the extent of the information received from An Post, I propose to furnish the Deputy with a separate written list of all such post offices, broken down by county. The Government is committed to a viable and widespread rural post office network. However, consideration must be given to the economic climate in which An Post is operating. The serious operational losses the company has suffered and the measures which need to be implemented if the company is to reverse its situation must also be taken into account. All stakeholders recognise that An Post, and its network, must adapt to its customer needs within the financial constraints in which it now finds itself.

Parallel with these developments, under an agreement between the Irish Postmasters' Union and An Post, the conversion of sub-post offices from a fixed contract to an agency basis, whereby payments are linked to transactions, is being implemented on a voluntary basis. Where vacancies arise in the normal course of events, An Post advertises the post at least twice and actively canvasses for suitable persons to fill the vacant positions. It is only when a suitable candidate for a vacancy cannot be found, or where there are no applicants, that a post office is closed. Such closures are regarded as temporary pending an application from a suitable person.

In order to improve the viability of the post office network, significant extra commercial business has been acquired, including bill pay facilities for the ESB and a contract with the AIB under which the banks' customers can access their accounts through the network. I understand that this new business is contributing to enhancing the sustainability of the network.

#### **Electronic Communications Infrastructure.**

85. **Mr. Kenny** asked the Minister for Communications, Marine and Natural Resources the position regarding the development on the proposed digital hub in Dublin; and if he will make a statement on the matter. [13638/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The digital hub, which is the Government's flagship project in the digital content sector, intends to provide a high quality environment for Irish and international new media companies, research and development and educational and community initiatives in the Liberties and Coombe area of Dublin city. Development agencies have

identified the digital content industry as a high growth, value added industry which already exhibits significant strengths in Ireland. Substantial progress has been made in realising the aims of the project.

The Digital Hub Development Agency Act 2003, enacted in July of last year, placed its development agency on a statutory footing. Property purchases amounting to €75 million have been completed and the Digital Hub Development Agency is engaged in negotiations to select a preferred developer for their refurbishment. Three consortia have been shortlisted for the development contract and have been asked to submit their best and final offer by 10 May 2004. Negotiations will take six weeks to conclude when the Digital Hub Development Agency will deliver a recommendation for my consideration. When completed, the project will deliver 500,000 sq. ft. of enterprise, learning and educational, residential and retail space.

The refurbishment of the Print Depot, a joint venture between the Digital Hub Development Agency, Enterprise Ireland and Dublin City Council, is complete. Up to 28 digital media companies have located in the hub, with substantial growth forecast for 2004. Construction of a 3 km. high speed, fibre broadband network in the hub at a cost of €2.29 million is complete and the facility to offer high quality competitively priced telecoms services to firms locating there is now available.

The Liberties learning initiative, an education and community-based programme, uses technology to tackle social and educational disadvantage within Dublin city centre. Supported by €1.3 million funding from Diageo Ireland, the programme is delivering a range of learning and showcasing projects focused on the creative use of digital media and reflects the national priorities of building a knowledge-based society and addressing the digital divide. The schools programme of the Liberties learning initiative seeks to develop a range of programmes in 16 local primary and second level schools aimed at addressing the digital divide. These include providing information and communication technology equipment and technical support to local schools, providing professional training to teachers on the education benefits of information and communication technology, and advising and informing the schools of employment opportunities in the digital sector. The schools programme aims to equip local children with the skills needed to live in a digital age, and to work in the digital media industry, which will be located on their doorstep. The Liberties Learning Studio was opened in December 2002 and provides a flexible multipurpose space, which can be used for a range of learning activities including community, enterprise and showcasing events. The facility is

used for many purposes including, teacher training, digital community tutor training, awards ceremonies for local groups, exhibit launches, talk digital, digital media talks and community events.

### **Energy Resources.**

86. **Mr. Sherlock** asked the Minister for Communications, Marine and Natural Resources his views on the impact on the economy here of high world oil and other energy prices; and if he will make a statement on the matter. [13702/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I am not aware of any recent studies about the impact of sustained high oil and energy prices on international markets. Recent analysis carried out by the International Energy Agency, in collaboration with the OECD economics department, shows that higher oil prices since 1999 have contributed to the global economic downturn in 2000-01 and are dampening the current cyclical upturn. A simulation exercise carried out by the International Energy Agency showed that a sustained \$10 per barrel increase in oil prices from \$25 to \$35 would result in GDP dropping by 0.5% and inflation rising by 0.5% in Eurozone countries, which are highly dependent on oil imports in 2004. However, the exercise also showed that these losses would start to diminish in the following three years.

Analysts agree that oil prices are an important determinant of global economic performance. However, while all of the major economic downturns in the US and Europe since the 1970s have been preceded by sudden increases in the price of crude oil, a number of other factors also played a role. The magnitude of the direct effect of a given oil price increase depends on factors including the degree of dependence of economies on imported oil, the ability of end-users to reduce their consumption and the ability to switch away from oil. It also depends on the extent to which gas prices rise in response to oil price increases, the gas intensity of the economy and the impact of higher prices on other forms of energy that compete with or, in the case of electricity, are generated from oil and gas. Increases in gas prices by and large reflect oil price increases. Ireland's high dependence on oil and gas imports makes the country price takers and sensitive to the volatility of the markets.

### **Harbours and Piers.**

87. **Ms Enright** asked the Minister for Communications, Marine and Natural Resources if there are plans to extend the existing Kilmore Quay in County Wexford; and if he will make a statement on the matter. [13629/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The harbour

at Kilmore Quay is owned by Wexford County Council and responsibility for its development and maintenance rests with the local authority.

My Department has not received any proposal from Wexford County Council for the development of Kilmore Quay. If the council submitted a development proposal for the harbour, there would be a cost benefit analysis, addressed in the context of the amount of Exchequer funding available and overall national priorities.

### **EU Presidency.**

88. **Mr. English** asked the Minister for Communications, Marine and Natural Resources the targets he set and has reached to date during the EU Presidency; and if he will make a statement on the matter. [13620/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I am responsible for a wide range of EU Presidency business across the sectoral policy areas of telecommunications, energy, broadcasting, fisheries, maritime transport and maritime safety. I also hold commensurate chairing responsibilities for the agriculture and fisheries, transport, energy and telecommunications and education, youth and culture council formations.

Together with my officials, I have been working to deliver on policy priorities at EU level during the Presidency within the Government's overall strategic approach to the EU. In the telecommunications sector, the development and take-up of broadband infrastructure and services remains a key priority, which is central to the e-Europe 2005 action plan. Following the mid-term review of the action plan, which was endorsed at the Council of Telecoms Ministers in March, it was revised to take account of recent technological developments and the enlargement of the EU. It will feature on the agenda of the forthcoming Telecoms Council to be held on 10 June. In addition, the Council will respond to the Commission communication on member states' national broadband strategies.

The issue of broadband take-up was also the subject of a successful ministerial meeting recently held in Dundalk. Fruitful discussion was generated in response to papers given by a number of international experts, while Ministers also had the opportunity to exchange views on future strategies with chief executive officers from leading European information and communications technology companies. Significant progress has been made with legislative proposals for e-Content Plus and Safer Internet Plus, particularly given the limited time available during our Presidency in the outgoing European Parliament. Ministers will be asked to agree a Council position on these dossiers at our June Council meeting.

[Mr. D. Ahern.]

I am satisfied that the priority areas in the energy sector are progressing well. Sustainable energy was identified as an important element in the sustainable development of the EU economy. Work continues towards achieving a political agreement at the energy Council in June on the proposal for a directive of the European Parliament and the Council on establishing a framework for the setting of eco-design requirements for energy using products. I will also be attending the forthcoming international conference on renewable energies in Bonn in June. The Irish Presidency is actively collaborating with the Commission and Council Secretariat in working towards the establishment of a common energy position for the EU on this important issue.

Progressing the various elements of the Commission's recently published infrastructure package is also a priority. Work towards achieving political agreement on the gas transmission proposal at the June energy Council is continuing. The proposal relating to trans-European networks is also expected to be discussed at the June Council. The remaining elements of the Commission's infrastructure package, security of electricity supply and demand-side management are more contentious and, given European Parliament elections, the progress that can be made during the Irish Presidency is limited. Nonetheless, we will have completed a lot of important work on these dossiers by the end of our Presidency.

A successful two day high level meeting of energy directors-general from all 25 member states in Drogheda was held. EU external relations, energy aspects of climate change and the Commission's infrastructure package were discussed. I have given particular priority to progressing a structured debate on the regulation of satellite television broadcasters as well as advancing the overall review of television without frontiers directive. I hosted an informal meeting of EU Ministers, with responsibility for broadcasting, in Dublin and Drogheda from 1 to 3 March. One of the issues discussed at length during the conference was the regulation of broadcasting services, specifically targeted at one member state but which are actually subject to the national regulations of another member state. I intend to give member states a further opportunity to consider this and other related topics at this month's meeting of the education, youth and culture Council scheduled for 27 May 2004.

Progress continues on the proposed directive on sanctions for pollution offenders and the implementation of new maritime security measures for Irish ports and ships. The security measures will be in place by the required deadline 1 July 2004 and I intend to bring the proposed

directive on pollution to the Council of Ministers' meeting in Luxembourg in June. A number of the targets set at the commencement of the Presidency in the fisheries area have been met. The Council has adopted proposals relating to the protection of small cetaceans, protection of an area of deep water coral reefs off Scotland known as the Darwin Mounds, aid for fishing fleets in the outermost regions of the EU and measures on autonomous EU tariff quotas on certain fisheries products. Agreement has been achieved by the Presidency on a number of third country fisheries agreements, including between the EU and Norway, the EU and Tanzania and the EU and the Solomon Islands. The Presidency has also progressed the development of conservation and management strategies in various regional fisheries organisations including the north west and north east Atlantic together with the Baltic Sea. The enlargement process for fisheries was successfully completed in time for the accession of the ten new member states on 1 May.

A successful ministerial and stakeholders conference on fast-tracking the development of environmentally-friendly fishing methods was held in March, and it is hoped to build on this with the adoption of Council Conclusions in June. This month and next the Council will discuss measures to implement the Council agreement on fixing maximum fishing effort in western waters, a regulation on the establishment of regional advisory councils, the retargeting of financial instrument for fisheries guidance aquaculture funding to strengthen the development of this sector and a policy debate at Council on technical conservation measures for the Mediterranean will be held.

Developments are highlighted on an on-going basis on my Department's website, <http://www.dcmnr.ie>, and on the Irish Presidency website, <http://www.eu2004.ie>.

#### **Mobile Telephony.**

89. **Ms Burton** asked the Minister for Communications, Marine and Natural Resources the position in regard to his plans to reduce roaming charges for mobile phone users in Border areas whose phones may stray on to UK networks; if his attention has been drawn to ComReg's response to his recent policy directive on the issue that it can only be dealt with on a pan-European basis; and if he will make a statement on the matter. [13682/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** As a Minister from a Border county, I am aware of the effect of high mobile call roaming charges on local people and businesses and have spoken previously on my dissatisfaction at the level of call roaming charges being applied by mobile operators in this State.

I acknowledge the efforts made by ComReg and some operators in addressing this issue to date. However, the issue is not simply one of mobile operators introducing all-Ireland tariffs, although this in itself is to be welcomed. The level of such tariffs and the terms and conditions attached also need to be examined in order to ensure that consumers are getting a fair deal and value for money. The regulation of call roaming charges, comes under ComReg's jurisdiction, but as Minister for Communications, Marine and Natural Resources, I have responsibility for overall telecoms policy.

I recently issued policy directions to ComReg, focusing on competition generally, wholesale and retail telephone line rental, interconnection and leased lines, national and cross-Border roaming and broadband. These policy directions were issued in the context of the new EU regulatory framework. The direction on competition mandated ComReg to focus on competition as a key objective, with a particular focus on competition in the fixed and mobile markets, and the policy direction on cross-Border roaming directed ComReg to work closely with operators and Ofcom, the regulator for Northern Ireland, to encourage and support initiatives that would reduce or eliminate cross-Border roaming charges, and encourage national call charging on an all-island basis.

One appropriate mechanism for advancing this issue is the European one. I am aware that ComReg participates within the independent regulators group and the European regulators group with a view to agreeing a co-ordinated action plan on a market review for international roaming. The issue of inadvertent roaming when mobile users near the Border inadvertently cross on to another network, without actually crossing the Border, has been discussed at a number of Ireland and UK bilateral meetings and ComReg will continue to work with Ofcom on seeking further progress on this issue. ComReg has a memorandum of understanding with the UK Regulator, Ofcom, on cross-Border co-ordination of GSM and 3G frequencies and there is also a memorandum of understanding in place between Irish and UK operators aimed at improving co-operation in the Border region. Minimising cross-Border roaming costs on the island of Ireland would be beneficial for all Irish mobile phone users, particularly those who live close to the Border, and I welcome the continuous work being done by ComReg in this area.

#### **Electronic Communications Infrastructure.**

90. **Mr. S. Ryan** asked the Minister for Communications, Marine and Natural Resources if he will report on the stage of the Management Services Entity procurement process; and if he will make a statement on the matter. [13700/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The Management Services Entity is the independent body, engaged to manage, market and maintain the fibre optic metropolitan area networks, being constructed under the regional broadband programme. Notice of my Department's intention to commence a competitive tender process for the engagement of an Management Services Entity was published in the Official Journal of the European Communities on 19 June 2003 with the deadline for tender submission on 15 August 2003. Responses received by the tender deadline were evaluated by December 2003 and contract negotiations began in January 2004. It is anticipated that the Management Services Entity procurement process will reach a conclusion shortly. It is not proposed to make any public comment on the matter, prior to such a conclusion.

#### **Industrial Relations.**

91. **Mr. Gilmore** asked the Minister for Communications, Marine and Natural Resources if his attention has been drawn to recent comments from the Communication Workers' Union postal chief, at its conference in Galway, that An Post is eager to provoke another dispute with staff later in 2004, likely to cause further industrial action; if he has initiated further talks between staff, management and the Labour Relations Commission to resolve issues arising from the recent postal strike; and if he will make a statement on the matter. [13696/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I am aware of the comments made at the recent Communications Workers' Union conference. I welcome the process in which the union and management of An Post are engaged in and I am confident that all parties are fully committed to this process. The talks under the auspices of the Labour Relations Commission are still ongoing with the deadline for completion set for Friday, 14 May. It would not be appropriate for me, given the ongoing discussions, to comment further.

#### **Inland Fisheries.**

92. **Ms Shortall** asked the Minister for Communications, Marine and Natural Resources if he will report on the serious decline in salmon stocks in the Barrow, Nore and Suir catchment areas; his proposals to address the continuing impact of drift netting on this vitally important fishery; and if he will make a statement on the matter. [13704/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** My Department has over the past number of years introduced a range of conservation measures which have seen considerable advancements in

[Mr. D. Ahern.] salmon policy and in particular the management of the drift net salmon fishery. As part of these measures, the drift net season is now confined to a two-month period in June and July on a four-day week basis. Fishing is only allowed during daylight hours and is confined to the area within the six-mile limit. My Department has also introduced the wild salmon and sea trout tagging scheme regulations, which limits the total allowable commercial catch, TAC, of salmon.

On the advice of the National Salmon Commission, NSC, and the national fisheries management executive, I set a TAC of 161,951 fish for the 2004 season. This represented a reduction of 11% on the total allowable commercial catch for 2003. This total allowable commercial catch is consistent with the scientific advice on precautionary catch limits over the three-year period from 2003-05.

I am advised that there is no conclusive stock assessment report on the Barrow, Nore and Suir rivers and that estimates of stock can only be derived using the information available from 2001-03 wild salmon and sea trout tagging scheme fisheries statistics report. Commercial catch in the Waterford district for 2002-04 has been set by quota as follows:

	Quota	Total Catch	Drift	Drift %
2001		17,392	12,351	71
2002	14,201	16,181	11,753	73
2003	15,141	14,046	9,758	69
2004	12,113			

The commercial fishing quota for the Waterford district has been reduced by 20% on the previous 2003 quota.

All districts in the country are endeavouring to meet the conservation limits as set by the standing scientific committee of the NSC. In an effort to address concerns relating to the exploitation of Waterford district's salmon, in so far as it is believed that some of the region's salmon may be caught before they get to the district, I am advised that a double-pronged approach is being adopted. First, a smolt tagging programme undertaken by the Marine Institute and the regional fisheries board is currently under way on the River Suir to enable monitoring of the district's salmon when caught. Second, the South Western Regional Fisheries Board, although achieving its own conservation limits, has taken an 11% reduction in TAC for both the Cork and Kerry districts and the Lismore district in the southern region has taken a reduction to allow more salmon to get to the Waterford district. Similarly, reductions in TAC in other districts around the country have been made to enable all districts to continue fishing and to eventually achieve the conservation limit. The current

strategy of developing a sustainable commercial and recreational salmon fishery through aligning catches on scientific advice by next year holds out the strong prospect of a recovery of stocks and of a long-term sustainable fishery for both sectors.

#### Telecommunications Services.

93. **Mr. Stagg** asked the Minister for Communications, Marine and Natural Resources the position with regard to the roll-out of broadband nationally, with specific regard to his Department's schools broadband action plan, and the plan to deliver broadband to homes here; if he will back up his claims that Ireland can be at the top of the OECD table for broadband connectivity by 2005; and if he will make a statement on the matter. [13679/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The provision of and investment in telecommunications services, including broadband, is a matter in the first instance for the private sector companies operating in a fully liberalised marketplace, regulated by the Commission for Communications Regulation. It is important that the regulatory environment underpins the development of available, affordable and competitive broadband services. In that regard I issued a policy direction on 26 March 2004 to the Commission for Communications Regulation stating that our broadband goal is to be at or better than the EU average, excluding accession countries, for end user access to and usage of broadband by mid-2005.

While recent reports show that Ireland lags behind our European neighbours in terms of broadband penetration, there is evidence of significant growth in take-up of broadband in Ireland in the past year. The number of broadband subscribers has risen tenfold from less than 5,000 in January 2003 to about 50,000 currently, in large part due to improved pricing by service providers. Recognising, however, that the market has been slow to respond to demand for broadband, since 1999 my Department has invested almost €170 million in partnership with the public and private sectors in infrastructure projects that will enable the provision of modern, high-speed broadband communications in the regions.

Currently, my Department is providing grant aid for the construction of 25 fibre-optic metropolitan area networks, in conjunction with local authorities, in key regional towns and cities. This investment of more than €80 million will enable the delivery of competitive, open-access, broadband services in these towns.

On 12 December last I announced a broadband action plan which has two main elements: first, proposals to roll out open-access broadband infrastructure to more than 90 towns with a population of over 1,500; and second, the development of a group broadband scheme which will provide grant aid for community-led

initiatives promoting the roll-out of broadband access in small towns, villages and rural hinterlands. I have secured a commitment of €35 million each year from now until 2007 to ensure the implementation of this action plan.

With regard to the provision of broadband to schools, the Government has reached agreement with the telecommunications industry as represented by IBEC-TIF for the establishment of a joint Government-IBEC-TIF fund to resource the provision of high speed broadband connectivity to all first and second level schools nationwide. Under the proposed agreement, IBEC-TIF members will contribute €15 million to a joint Government-IBEC-TIF fund of €18 million. This fund will be used to provide broadband connectivity to all schools over a three year period. The public tendering process for this connectivity has begun with the despatch to the *Official Journal of the European Communities* on 8 April 2004 of a prior information notice. The target is to complete this tendering process in the latter half of 2004 and to complete roll-out by end 2005. The conclusion and implementation of this agreement will greatly enhance the potential of ICT in teaching and learning in schools and will drive demand and deployment of broadband technologies and ICTs within the wider community.

#### Electricity Generation.

94. **Mr. Cuffe** asked the Minister for Communications, Marine and Natural Resources the Government policy on the concept of net metering which allows the sale of excess electricity from small scale renewables suppliers. [13688/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** On Thursday last, 6 May 2004, I inaugurated the renewable energy development group. The group is representative of key players in the renewable energy sector. It is to study a range of issues which I believe need to be addressed so that Ireland can continue to expand the green energy sector. The group is to provide monthly progress reports and to conclude all tasks by the end of the year. Net metering is among the issues I have specifically addressed to the group. As soon as its report on this issue is delivered I will consider the options further.

#### Shipping Register.

95. **Mr. Quinn** asked the Minister for Communications, Marine and Natural Resources the benefits in tax revenue to the State and other benefits accruing from the registration of other EU vessels on the Irish shipping register since September 2003; if he will report on the monthly expansion of the register since that date; and if he will make a statement on the matter. [13717/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The

operation of the Irish ship register is governed by applicable national and EU law. Within the European Union there is freedom for commercial ship operators to be put on any EU ship register. The purpose of operating a reputable ship register is not to generate revenue. Community ship registers impose obligations on ship owners regarding safety, security, protection of the environment, crewing standards and certification of those matters by the flag state or inspection bodies duly authorised by the flag state. Ship owners or managers are charged for inspections of their ships before such ships are entered on the Irish ship register. It is generally understood that having ships on one's ship register gives rise to revenue-generating activities in the provision of banking, legal and other services relating to such ships.

Ireland is at present developing its maritime sector. To that end a range of fiscal reliefs have been put in place. Our new National Maritime College at Ringaskiddy will open for business later this year. The expansion of the Irish ship register will increase Irish seafarer employment and onshore maritime services as well as raising tax revenue for the State. The growth of the maritime clusters in the United Kingdom and the Netherlands, for instance, followed the growth of their ship registers. I expect that Ireland's maritime cluster of shipping-related business will expand significantly in the coming years. The Irish Maritime Development Office, our statutory development agency for our maritime sector, was established to achieve just such a result. Its staff are actively encouraging foreign ship operators to locate their businesses in Ireland.

Since September 2003 a total of 74 vessels have entered the register, totalling 250,213 gross tonnes, and 16 vessels have left the register, totalling 34,152 gross tonnes. A month-by-month breakdown of the changes to the register since September 2003 is given in the table below.

##### *September 2003*

5 vessels entered the register, totalling 379.25 gross tonnes  
1 vessel left the register, totalling 122 gross tonnes

##### *October 2003*

11 vessels entered the register, totalling 94,173.63 gross tonnes  
2 vessels left the register, totalling 101.83 gross tonnes

##### *November 2003*

5 vessels entered the register, totalling 57,169.26 gross tonnes  
3 vessels left the register, totalling 8,553.4 gross tonnes

##### *December 2003*

13 vessels entered the register, totalling 31,636.61 gross tonnes  
2 vessels left the register, totalling 35.5 gross tonnes

##### *January 2004*

7 vessels entered the register, totalling 25,577.90 gross tonnes  
0 vessels left the register

##### *February 2004*

16 vessels entered the register, totalling 2192.79 gross tonnes  
1 vessel left the register, totalling 14.17 gross tonnes

[Mr. D. Ahern.]

*March 2004*

6 vessels entered the register, totalling 22,161.61 gross tonnes

3 vessels left the register, totalling 21,148.28 gross tonnes

*April 2004*

11 vessels entered the register, totalling 5,640.66 gross tonnes

4 vessels left the register, totalling 1,392.37 gross tonnes

*Question No. 96 answered with Question No. 77.*

### **Bord Gáis Éireann.**

97. **Mr. O'Shea** asked the Minister for Communications, Marine and Natural Resources if he has received a copy of Bord Gáis's annual results for 2003; if profits at Bord Gáis have slipped by more than 9% and the company's contribution to the Exchequer has more than halved; and if he will make a statement on the matter. [13711/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The 2003 annual report and accounts of Bord Gáis Éireann, BGÉ, were laid before the Houses of the Oireachtas on the 8 April 2004 and formally published by the company at the end of April 2004. BGÉ had another successful year in 2003 in that it made after-tax profits of €97 million, turnover was up 7% and its residential customer base increased by 9%. While profits after tax were down by 9%, this reflects the significant increase in interest costs arising from major capital investment projects, notably the second interconnector and the pipeline to the west. Also, because of the capital investment programme and its impact on balance sheet fundamentals, we agreed a revised lower dividend policy with the company.

*Questions Nos. 98 and 99 answered with Question No. 40.*

### **National Grid.**

100. **Ms B. Moynihan-Cronin** asked the Minister for Communications, Marine and Natural Resources the position with regard to establishing an ESB national grid as an entirely separate entity; the reason for the failure to make progress on this issue to date; and if he will make a statement on the matter. [13709/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** As the Deputy will be aware, the European Communities (Internal Market in Electricity) Regulations 2000, SI 445/2000, provided for the separation of the operation of the transmission system from the rest of ESB into a newly formed independent State-owned company, Eirgrid. However, in order for Eirgrid to be able to operate the transmission system, the legislation provided that an agreement was to be made between Eirgrid and ESB which would set out the respective roles and responsibilities of Eirgrid

in its capacity as transmission system operator, TSO, and ESB in its capacity as owner of the wires. The establishing regulations also provided that the practical arrangements regarding the transfer of staff, rights, liabilities and contracts from ESB to Eirgrid be put in place in the form of a transfer scheme.

The delay in getting Eirgrid operationally established is frustrating and regrettable and is a result of numerous problems and disputes which have arisen in the course of the complex negotiations which have ensued since the making of the regulations. I am disappointed that three years after its formal incorporation as a company, Eirgrid is still not up and running as the TSO and as a shareholder, I wish to see a speedy resolution of the outstanding issues. However, despite the delay, the Eirgrid model, once in place, will be effective and beneficial to all players in the market. I announced my intention on 10 March 2004 to retain Eirgrid as the independent TSO. The next steps in the process involve the appointment of the CEO of the company, followed by the making of the necessary agreement and transfer scheme between ESB and Eirgrid. These steps are progressing and I expect all parties to the negotiations to use their best endeavours to bring this process to a speedy conclusion and to expedite the operational establishment of the company.

### **Community Employment Schemes.**

101. **Mr. Kenny** asked the Tánaiste and Minister for Enterprise, Trade and Employment the number of persons employed in the community employment schemes as carers for the elderly and those with a disability; and if she will make a statement on the matter. [13797/04]

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. Fahey):** There are currently 3,012 persons employed on community employment projects providing health and social services. These projects are largely concerned with the provision of services for the elderly and for people with disabilities. The total funding allocation for employment schemes in 2004 has been fixed at €351 million, which will support up to 25,000 places in total across the three employment programmes — community employment, job initiative and social economy.

### **Government Jet.**

102. **Mr. Gormley** asked the Minister for Defence the number of times the new Government jet has been used in 2004; the persons by whom; the purposes for which; the costs incurred to date by its use; and if he will make a statement on the matter. [13468/04]

**Minister for Defence (Mr. M. Smith):** The Learjet entered operational service as part of the ministerial air transport service, MATS, on 19 January 2004. It operates in tandem with the

Gulfstream IV in providing a ministerial air transport service for members of the Government. The Learjet 45 has undertaken a total of 49 MATS missions up to 30 April 2004. The schedule below outlines the date, destination and travelling Minister on each trip. However, my Department does not hold details on the purpose of MATS trips. This is a matter for each Minister.

The direct costs incurred to date are unavailable at present. To enable an accurate hourly flying cost to be determined, the aircraft needs to be in operation for a lengthy period of up to one year. However, the manufacturer's estimated direct hourly flying cost for the Learjet is approximately €1,000 per hour.

Date	Return	Min. Time on board (in minutes)	Destination	Minister Travelling
19-Jan-04	19-Jan-04	90	Baldonnel-Brussels- Baldonnel	Finance
20-Jan-04	20-Jan-04	180	Baldonnel-Brussels- Baldonnel	Foreign Affairs
21-Jan-04	23-Jan-04	1,080	Baldonnel-Rabat- Daker-Monrovia- Daker-Rabat- Baldonnel	Defence
24-Jan-04	24-Jan-04	240	Baldonnel-Dublin- Zurich-Dublin- Baldonnel	Taoiseach
25-Jan-04	25-Jan-04	120	Baldonnel-Zurich- Baldonnel	Tanaiste
26-Jan-04	26-Jan-04	180	Baldonnel-Brussels -Baldonnel	Finance
28-Jan-04	29-Jan-04	200	Baldonnel-Brussels-- Northoft-Baldonnel	Foreign Affairs
Total Jan=7				
02-Feb-04	02-Feb-04	180	Baldonnel-Brussels -Baldonnel	Tanaiste
06-Feb-04	06-Feb-04	60	Baldonnel-Dublin- Cork-Dublin- Baldonnel	Taoiseach
09-Feb-04	09-Feb-04	250	Baldonnel-Berlin- Baldonnel	Tanaiste
10-Feb-04	10-Feb-04	190	Baldonnel-Paris- Baldonnel	Transport
12-Feb-04	12-Feb-04	190	Baldonnel-Brussels- Cork-Baldonnel	Health
13-Feb-04	13-Feb-04	125	Baldonnel-Cork- Paris-Baldonnel	Agriculture
18-Feb-04	18-Feb-04	180	Baldonnel-Brussels -Baldonnel	Communications
19-Feb-04	19-Feb-04	60	Baldonnel-Dublin- Derry-Baldonnel- Belfast-Dublin- Baldonnel	Taoiseach
20-Feb-04	20-Feb-04	260	Baldonnel-Berlin- Baldonnel	Transport
22-Feb-04	22-Feb-04	90	Baldonnel-Brussels -Baldonnel	Foreign Affairs
23-Feb-04	24-Feb-04	320	Baldonnel-Cork- Paris-Brussels- Belfast-Baldonnel	Agriculture/ Foreign Affairs
25-Feb-04	25-Feb-04	260	Baldonnel- Budapest-Brussels -Baldonnel	Communications
26-Feb-04	26-Feb-04	170	Baldonnel-Budapest- Baldonnel	Communications
Total Feb=13				
01-Mar-04	01-Mar-04	90	Baldonnel-Brussels -Baldonnel	Environment
02-Mar-04	02-Mar-04	320	Baldonnel-Cork- Brno(Czech Rep)- Baldonnel	Agriculture
02-Mar-04	03-Mar-04	150	Baldonnel-Vienna- Baldonnel	Transport
04-Mar-04	04-Mar-04	60	Baldonnel-Dublin- Derry-Dublin- Baldonnel	Taoiseach
08-Mar-04	09-Mar-04	90	Baldonnel-Brussels -Baldonnel	Finance
10-Mar-04	10-Mar-04	90	Baldonnel-Brussels -Baldonnel	Tanaiste
12-Mar-04	13-Mar-04	340	Baldonnel-Brussels -Madrid-Baldonnel	Agriculture
14-Mar-04	14-Mar-04	60	Baldonnel-Dublin- Manchester-Dublin-Baldonnel	Taoiseach
16-Mar-04	17-Mar-04	180	Baldonnel-Brussels -Baldonnel	Transport
18-Mar-04	19-Mar-04	140	Baldonnel-Northolt- Brussels-Baldonnel	Justice
21-Mar-04	21-Mar-04	120	Baldonnel-Cork- Brussels-Baldonnel	Agriculture
22-Mar-04	22-Mar-04	210	Baldonnel-Brussels -Baldonnel	Finance
25-Mar-04	25-Mar-04	180	Baldonnel-Brussels -Baldonnel	Finance
29-Mar-04	31-Mar-04	920	Baldonnel-Rome-Shamir Sheik-Rome-Berlin-Baldonnel	Foreign Affairs
Total March=14				
07-April-04	07-April-04	150	Baldonnel-Lisbon- Baldonnel	Transport
04-April-04	04-April-04	90	Baldonnel-Brussels- Baldonnel	Defence
02-April-04	02-April-04	190	Baldonnel-Prague- Cork-Baldonnel	Health
06-April-04	06-April-04	90	Baldonnel-Brussels- Baldonnel	Education
05-April-04	05-April-04	90	Baldonnel-Cork- Baldonnel	Justice
15-April-04	15-April-04	370	Baldonnel-Cork- Brussels-Cork- Baldonnel	Agriculture



Date	Return	Min. Time on board (in minutes)	Destination	Minister Travelling
18-April-04	18-April-04	120	Baldonnell-London Northolt-Baldonnell	Finance
13-April-04	13-April-04	30	Baldonnell-Farranfore- Baldonnell	Education
20-April-04	20-April-04	100	Baldonnell-Luxembourg-Baldonnell	Defence and European Affairs
21-April-04	21-April-04	120	Baldonnell-London Northolt-Baldonnell	Foreign Affairs
25-April-04	25-April-04	220	Baldonnell-Cork- Luxembourg-Brussels-Baldonnell	Agriculture
28-April-04	28-April-04	100	Baldonnell-Luxembourg-Baldonnell	Justice
29-April-04	29-April-04	90	Baldonnell-Cardiff- Baldonnell	Community and Rural
29-April-04	29-April-04	105	Baldonnell- Luxembourg-Baldonnell	Justice
26-Apr-04	26-Apr-04	100	Baldonnell-Luxembourg-Baldonnell	MOS Foreign Affairs
Total April = 15				

### Defence Forces Equipment.

103. **Mr. McGinley** asked the Minister for Defence the number of planes in the service of the Air Corps; the type and age of each of these aircraft; the timescale for the acquisition of new aircraft; and if he will make a statement on the matter. [13862/04]

**Minister for Defence (Mr. M. Smith):** There are a total of 36 aircraft in service with the Air Corps at present. There are 15 helicopters and 21 fixed wing aircraft. The table below sets out the type and age of these aircraft. It is extremely difficult to state the timescale for the acquisition of new aircraft which can vary significantly depending on tender responses, the availability of aircraft for demonstration, manufacturing schedules for different aircraft and so on. In relation to the delivery of the Pilatus aircraft, a contract was signed on 18 January 2003 and the first aircraft was delivered on 21 April 2004, a period of 15 months. The tender and contract award process can generally add approximately four to six months to this timeframe.

The procurement process for the acquisition of new helicopters for the Air Corps has commenced with the preparation of the tender documents in my Department. Up to six helicopters will be acquired, two light utility helicopters primarily for Air Corps crew training purposes and four larger utility helicopters for use in support of the Army and for other ancillary uses such as air ambulance. The new aircraft will replace the current fleet of Dauphin, Alouette and Gazelle aircraft. It is expected that the relevant notice for the tender competition will be sent by my Department to the *Official Journal of the European Communities* shortly. I have instructed my officials and the military authorities to give this procurement process top priority to ensure that a contract can be placed as early as possible.

Aircraft Type	Number in service	Age
<i>Helicopters</i>		
Alouettes	7	30 to 41 years
Dauphins	4	18 years
Gazelle	1	23 years
S61	1	26 years
Ecureuill	1	7 years
EC 135	1	2 years
<i>Fixed Wing</i>		
GIV	1	13 years
Learjet	1	6 months
Beechcraft	1	24 years
CASA	2	10 years
Pilatus	3	1 month
Cessna	5	32 years
Marchetti	7	27 years
Defender	1	7 years

### Defence Forces Strength.

104. **Mr. McGinley** asked the Minister for Defence the number of personnel serving with the Air Corps currently; if this number is expected to rise or fall significantly over the coming 12-month period; the estimated number of new recruits to the service that will be made over the coming 12 months; and if he will make a statement on the matter. [13863/04]

**Minister for Defence (Mr. M. Smith):** The White Paper on Defence of February 2000 provides for a total establishment of 930 personnel for the Air Corps, all ranks. There were 891 personnel serving in the Air Corps as of 31 March 2004. The table below provides details of rank.

Strength of the Air Corps as of 31 March 2004

	OFFICERS	NCOS	PTES	CADETS	TOTAL
Air Corps	139	410	332	10	891

The total number serving in the Air Corps is not expected to show any significant change over the next 12 months. It is intended to recruit six cadets and 25 apprentices in 2004.

#### Genetically Modified Organisms.

105. **Mr. Ferris** asked the Minister for Agriculture and Food if liability will fall upon the biotech companies if insurance companies refuse to provide cover for genetically modified crops. [13802/04]

106. **Mr. Ferris** asked the Minister for Agriculture and Food if he will require that full insurance cover be in place prior to the permitting of the growing of genetically modified crops. [13803/04]

107. **Mr. Ferris** asked the Minister for Agriculture and Food if he will require that biotech liability legislation will be put in place prior to consideration of allowing the growth of commercial genetically modified crops. [13805/04]

**Minister for Agriculture and Food (Mr. Walsh):** I propose to take Questions Nos. 105 to 107, inclusive, together.

An interdepartmental and inter-agency working group has been set up in my Department, *inter alia*, to develop proposals for a national strategy and best practice relating to the co-existence of GM crops with conventional and organic farming. The working group, as part of its work programme, will examine the issue of liability and compensation in the context of any economic loss incurred by a farmer as a result of the planting of GM crops in an area.

#### Forestry Planting.

108. **Mr. J. Brady** asked the Minister for Agriculture and Food the area approved for new forestry plantings for 2004; the likely projected uptake; and if he will make a statement on the matter. [13738/04]

**Minister for Agriculture and Food (Mr. Walsh):** To date more than 13,000 hectares have been approved and applications for grant aid in respect of a further 7,000 hectares are currently being processed. Indications to date are that this year's programme of planting could be up to 12,000 hectares.

#### Wildlife Protection.

109. **Mr. Gregory** asked the Minister for Agriculture and Food the protection which exists for the feral goat; if, in the absence of protective measures, regulations can be introduced to regulate the hunting and killing of many thousands of these goats in the Burren and elsewhere; and if he will make a statement on the matter. [13739/04]

**Minister for Agriculture and Food (Mr. Walsh):** I have no statutory responsibility for the

protection of feral goats, nor do I have a statutory basis on which I could introduce regulations of the type envisaged by the Deputy governing hunting and so on.

As far as the area of the Burren which constitutes the national park is concerned, its management and responsibility for flora and fauna within its boundaries fall within the remit of the national parks and wildlife service of the Department of the Environment, Heritage and Local Government. It would also be for that Department to assess the potential of the Wildlife Act 1976 to afford protection to feral goats.

#### Grant Payments.

110. **Mr. Connaughton** asked the Minister for Agriculture and Food when a REP scheme payment will be made to a person (details supplied) in County Galway; and if he will make a statement on the matter. [13789/04]

**Minister for Agriculture and Food (Mr. Walsh):** Payment will issue to the person named within the next two weeks.

#### Genetically Modified Organisms.

111. **Mr. Ferris** asked the Minister for Agriculture and Food the steps which will be taken to protect crops in the State from cross-contamination if genetically modified crops are grown in the Six Counties. [13807/04]

112. **Mr. Ferris** asked the Minister for Agriculture and Food the statutory rules in place or planned to be put into place regarding the co-existence of genetically modified and conventional crops. [13808/04]

**Minister for Agriculture and Food (Mr. Walsh):** I propose to take Questions Nos. 111 and 112 together.

EU Directive 2001/18/EC places an obligation on member states to develop proposals for a national strategy and best practices relating to the co-existence of GM crops with conventional and organic farming. An interdepartmental and inter-agency working group has been set up in my Department *inter alia* to develop such proposals. The working group, as part of its work programme, is currently meeting and having discussions with relevant stakeholders in the preparation of their recommendations. These discussions will include the Northern Ireland authorities with particular reference to their co-existence strategies.

#### Veterinary Qualifications.

113. **Mr. Durkan** asked the Minister for Agriculture and Food the reason persons (details supplied) in County Kildare are not allowed to practice here; and if he will make a statement on the matter. [13809/04]

**Minister for Agriculture and Food (Mr. Walsh):** Under the Veterinary Surgeons Act 1931, as amended, responsibility for entry of

[Mr. Walsh.]

persons on the register of veterinary surgeons for Ireland rests with the Veterinary Council. I understand that the persons referred to have not made any application for registration to that body.

Under current legislation, the council may only enter on the register applicants who hold an appropriate qualification from an EU member state or from countries within the European Economic Area. Arrangements are also in place under EU reciprocal arrangements for recognition of third country qualifications where these have already been recognised in another EU member state. I understand that persons holding third country veterinary qualifications not already recognised in another member state may obtain the requisite Irish veterinary qualification in order to practice in this country from University College Dublin on successful completion of a period of study stipulated by that body which takes account of their existing level of qualification. On the basis of the available information, I understand that the persons referred to do not fulfil any of the above criteria.

I have obtained Government approval for the drafting of legislation to replace the current body of legislation regulating the veterinary profession. This legislation will comprehensively update and modernise regulation of the profession across a range of areas, including recognition of persons who have a qualification from outside the EU. While certain inflexibilities in regard to recognition of such persons will be removed, it is my intention that recognition should be contingent on the Veterinary Council being satisfied that the third country qualifications are adequate for the purpose of practice as veterinary surgeon in Ireland and where this is not the case, that further training stipulated by the council should be undertaken. I am anxious that the drafting of this legislation be finalised at an early date so that it can be published before the summer recess.

#### Grant Payments.

114. **Mr. Hayes** asked the Minister for Agriculture and Food if payment will be made to a person (details supplied) in County Tipperary under the suckler cow scheme for 2003. [13846/04]

**Minister for Agriculture and Food (Mr. Walsh):** The person named applied for premium in respect of nine animals under the 2003 suckler cow premium scheme for small scale milk suppliers on 4 July 2003. Under this scheme premium can be paid only on suckler cows over and above those needed to produce the milk quota of the applicant. The person named had a milk quota of 117,108 litres and needed 29.41 cows to produce this under paragraph 13 of the scheme's terms and conditions. As he stated on his application that he had only 28 cows in all, he had no surplus suckler cows on which premium

could be paid. He was written to on 22 January 2004, told this and invited to contact my Department with any query he had. He has not done so to date.

#### Animal Identification Scheme.

115. **Dr. Upton** asked the Minister for Agriculture and Food if he will respond to a complaint (details supplied); and if he will make a statement on the matter. [13851/04]

**Minister for Agriculture and Food (Mr. Walsh):** I understand this question relates to a delay that occurred in late 1995 regarding the issuing of new cattle identity cards for animals in the herd of the complainant's late uncle. This matter has previously been the subject of representations and was raised with the Department's customer service unit, the Ombudsman's office and the offices of the EU Commission. The cards concerned could not be released to the person named until the Department was satisfied that he was the legally established representative of his late uncle in matters relating to that herd.

#### Animal Movements.

116. **Mr. Timmins** asked the Minister for Agriculture and Food the position in relation to an animal movement notice of January 2003 for a person (details supplied) in County Carlow; if this can be processed as a matter of urgency; and if he will make a statement on the matter. [13925/04]

**Minister for Agriculture and Food (Mr. Walsh):** An animal movement notification was received from the person named on 29 January 2003 in respect of a movement that took place on 13 January 2003. The notification in question was returned with a query to the person named as the tag number supplied was not a valid tag number. To date, the person named has not supplied the correct tag number for this animal. As a result, this movement cannot be entered on the cattle movement monitoring system, CMMS.

The revised permit arrangements for notification of farm-to-farm movements of cattle, which were introduced on 15 December last, now require a CMMS certificate of compliance prior to movement. As part of these revised arrangements, the person named should now contact his local district veterinary office with the correct tag number for the animal in question to have this movement entered on CMMS.

#### Disabled Drivers.

117. **Mr. Timmins** asked the Minister for Finance the position in relation to a person (details supplied) in County Wicklow who appealed a decision to the disabled drivers medical board of appeal and had a hearing in February 2004; and if he will make a statement on the matter. [13926/04]

**Minister for Finance (Mr. McCreevy):** It is a fundamental requirement for relief under the disabled drivers and disabled passengers (tax concessions) scheme that the applicant must meet the medical criteria specified in the regulations and be in possession of a primary medical certificate to that effect issued by the appropriate senior area medical officer, who is an official of the relevant health board. Where the issue of the required certificate is refused this can be appealed to the disabled drivers' medical board of appeal, an independent body whose decision is final.

The medical criteria for the purposes of the tax concession under this scheme are set out in the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994. Six different types of disability are listed under the regulations and a qualifying person must satisfy one or more of them. The six types of disablement are as follows: persons who are wholly or almost wholly without the use of both legs; persons who are wholly without the use of one of their legs and almost wholly without the use of the other leg such that they are severely restricted as to movement of their lower limbs; persons without both hands or without both arms; persons without one or both legs; persons wholly or almost wholly without the use of both hands or arms and wholly or almost wholly without the use of one leg; and persons having the medical condition of dwarfism and who have serious difficulties of movement of the lower limbs.

My Department has no involvement in the operation of the disabled drivers' medical board of appeal. However, I am informed by the medical board of appeal that the person in question was seen by the board on 2 February 2004 and was not considered to be eligible for the scheme as the person did not meet any of the strict medical criteria as set out above.

#### **Banking Sector Regulation.**

118. **Mr. F. McGrath** asked the Minister for Finance if practical action will be taken regarding the plight of brokers; if his attention has been drawn to the disproportionate effects the proposed funding of the Irish Financial Services Regulatory Authority will have on the broker community. [13744/04]

**Minister for Finance (Mr. McCreevy):** As the Deputy will be aware, IFSRA published a consultative paper on 11 December 2003, as part of a public consultation process, seeking the views of the financial services industry and the public generally on how the activities of IFSRA should be funded. The paper set out the main issues for consideration regarding the manner in which the authority's activities should be funded by the industry from 2004 onwards. The final deadline for receipt of submissions on the subject was 20 February 2004. A total of 67 submissions were received by IFSRA, including a combined submission from the Irish Brokers Association,

the Professional Insurance Brokers Association, PIBA, and the Independent Mortgage Advisers Federation, IMAF. These bodies represent more than 1,500 insurance, investment and mortgage intermediary offices throughout the country. I understand that IFSRA met with these bodies soon after the commencement of the consultation process to outline the authority's proposals regarding the funding of IFSRA. The receipt of submissions marked the end of the formal consultation process.

Following the end of that phase of the process, PIBA requested a meeting with me to discuss, *inter alia*, the issues raised in their submission. Officials from my Department met with PIBA representatives on 1 March. PIBA's main issues of concern are as follows: the intermediary sector having to pay for regulation in the first place — it felt that as it is consumers who benefit, consumers should pay; the proposed flat fee structure, which it regarded as inequitable and not related to ability to pay; the absence of a tiered system for levies relating to turnover, which it felt would better reflect ability to pay and be more equitable; the total cost to be recovered from the sector, which it felt should be capped; the proposed separate categorisation of mortgage intermediaries and other intermediaries; the level of cost recovery going forward; and the exclusion of certain product introducers from the proposed structure.

IFSRA, having considered the points raised by PIBA, has indicated it is favourably disposed towards meeting some of PIBA's concerns. It has indicated that it will restructure the proposals to allow for a tiered system for determining the levies; it will combine as requested the separate groups for intermediary firms and mortgage intermediaries; and the percentage of budget payable by the industry for 2005 and 2006 will not exceed the level proposed for 2004. IFSRA has indicated its concern to ensure that levies are imposed in a manner that does not create unnecessary or disproportionate burdens for the industry and its current proposals reflect this. I agree with that approach. The Deputy might also like to be aware that I will be putting forward an amendment to the Central Bank and Financial Services Authority of Ireland Bill 2003 on Report Stage in the Dáil, the effect of which will be to allow IFSRA to provide authorisation for periods longer than one year for mortgage intermediaries — they must currently be authorised annually — thereby further reducing both the regulatory burden and the associated costs. The authority, having considered all the issues raised during the consultation process, will be making a submission to me in the near future seeking my approval for the levies.

#### **Tax Exiles.**

119. **Mr. F. McGrath** asked the Minister for Finance the number of Irish citizens who are tax

[Mr. F. McGrath.]  
exiles; and if he will make a statement on the matter. [13783/04]

**Minister for Finance (Mr. McCreevy):** I am informed by the Revenue Commissioners that it is not possible to identify the number of Irish citizens claiming to be non-resident for tax purposes. Income tax returns do not request data on citizenship as the question of whether or not a person is an Irish citizen has no general relevance for tax purposes.

#### **International Agreements.**

120. **Mr. Carey** asked the Minister for Foreign Affairs if Ireland, as part of its EU Presidency agenda, proposes to bring forward proposals to suspend the Euro-Mediterranean Association Agreement between Israel and the EU; and if he will make a statement on the matter. [13741/04]

**Minister for Foreign Affairs (Mr. Cowen):** Ireland has no plans to bring forward proposals to suspend the association agreement between Israel and the EU. The Government has, however, on many occasions expressed its deep concern at the impact of actions taken by the Israeli Government on the human rights of Palestinians. The European Union has also regularly conveyed its concerns to the Israeli authorities about the human rights implications of its security policies. Together with our partners in the Union, we will continue to press the Israeli Government to respect fully its obligations under international humanitarian law, in particular the fourth Geneva Convention, and under Article 2 of the EU-Israel Association Agreement. The Union once again conveyed its views to the Israeli authorities in a very clear manner at a meeting of the EU-Israel Association Council on 17-18 November of last year.

Notwithstanding our ongoing concerns, the Government is of the view that the suspension of the trade preferences contained in the association agreement would not be the most effective means of inducing a change in Israeli practices. The Government continues to believe that the appropriate approach is through dialogue with the Israeli authorities and by encouraging negotiation between Israelis and Palestinians. Furthermore, there is no likelihood under present circumstances that a proposal to suspend the trade preferences would achieve the necessary support from EU member states.

#### **Special Educational Needs.**

121. **Mr. Gilmore** asked the Minister for Education and Science, further to Parliamentary Question No. 250 of 23 March 2004, the progress which has been made regarding an application for a resource and special need assistant for a person (details supplied) in County Wicklow; and if he will make a statement on the matter. [13745/04]

**Minister for Education and Science (Mr. N. Dempsey):** The process outlined in my earlier reply to the Deputy has not yet been completed. However, the objective is to complete the process and notify applicant schools of the outcome before the end of the current school year.

#### **School Staffing.**

122. **Mr. Carey** asked the Minister for Education and Science if he will review the staffing allocation at a school (details supplied) in Dublin 11 in view of correspondence relating to the changed circumstances of the school; and if he will make a statement on the matter. [13746/04]

**Minister for Education and Science (Mr. N. Dempsey):** The staffing of a primary school is determined by reference to the enrolment of the school on 30 September of the previous year. The number of mainstream posts sanctioned is determined by reference to a staffing schedule and is finalised for a particular year following discussions with the education partners.

The mainstream staffing of the school referred to by the Deputy for the current school year is a principal and ten mainstream class teachers based on the enrolment of 268 pupils on 30 September 2002. Based on an enrolment on 30 September 2003 of 250 pupils, the mainstream staffing for the 2004-05 school year will be a principal and nine mainstream class teachers. There is no basis under which I can allow the retention of a teaching post for the next school year.

It is open to the board of management of a primary school to submit an appeal under certain criteria to an independent appeals board which was established to adjudicate on appeals on mainstream staffing allocations in primary schools. Details of the criteria and application date for appeal were issued recently to all primary schools.

#### **Residential Institutions Redress Board.**

123. **Mr. F. McGrath** asked the Minister for Education and Science if he will meet a person (details supplied) in order to resolve this serious case; and if he will report on new developments. [13785/04]

**Minister for Education and Science (Mr. N. Dempsey):** The person referred to by the Deputy ceased his hunger strike on 6 May 2004. As he has exhausted all stages of the redress process his High Court action will now be re-activated. The case will now proceed on the basis of assessment of damages. As progress has been made in this matter the question of a meeting no longer arises.

#### **Special Educational Needs.**

124. **Mr. Durkan** asked the Minister for Education and Science, further to Parliamentary Question No. 285 of 30 March 2004, the way in which or when he proposes to improve the

situation in line with requirements; and if he will make a statement on the matter. [13893/04]

**Minister for Education and Science (Mr. N. Dempsey):** The processing of applications for special educational supports referred to in my earlier reply to the Deputy has not yet been completed. However, the objective is to complete the process and notify applicant schools of the outcome before the end of the current school year.

With regard to the existing level of support available to the school referred to by the Deputy, my Department's records show that the school had the services of two shared learning support teacher posts. However, I have had the matter investigated and have learned that there was a re-organisation of the learning support service at the school. The school now has the services of one learning support teacher shared with another school. The Department's records have now been adjusted accordingly and I apologise to the Deputy for the earlier inaccurate information.

### Schools Building Projects.

125. **Mr. Grealish** asked the Minister for Education and Science the status with regard to Scoil Mhuire, Briarhill, Galway; and if he will make a statement on the matter. [13911/04]

**Minister for Education and Science (Mr. N. Dempsey):** An extension project for the school referred to by the Deputy is listed in section 8 of the 2004 school building programme, which is published on my Department's website at [www.education.ie](http://www.education.ie). This large-scale project is at stage 1/2/3 — detailed plans and costs — of architectural planning. It has been assigned a band 2 rating by my Department in accordance with the published criteria for prioritising large-scale projects. It is planned to progress this project to advanced architectural planning during 2004.

Indicative timescales have been included for large-scale projects proceeding to tender in 2004. The budget announcement regarding multi-annual capital envelopes will enable me to adopt a multi-annual framework for the school building programme, which in turn will give greater clarity regarding projects that are not progressing to tender in this year's programme, including Briarhill national school. I will make a further announcement in that regard during the year.

### College Closures.

126. **Mr. Timmins** asked the Minister for Education and Science the position relating to St. Catherine's College of Education for Home Economics; the position in regard to repeating an academic year; if students must repeat a year, if it will mean having to move to St. Angela's in Sligo in view of the fact that the college is being closed for three years after this academic year; and if he will make a statement on the matter. [13924/04]

**Minister for Education and Science (Mr. N. Dempsey):** The issue of the future of St. Catherine's arose in the context of a decision by the Dominican trustees of St. Catherine's that due to personnel and financial considerations, they were no longer in a position to fulfil the role of trustees of the college. Following discussions between the trustees and my Department, it was agreed that a consultant would be appointed who would meet with relevant parties and prepare a report on the options available for consideration by the Minister.

The consultant's report was thoroughly examined in my Department and the options for the future of the college were set out for my consideration. Having carefully considered all of them and having taken into account other factors such as the national spatial strategy, relevant costs in a time of financial constraint, a Government decision to restrict public service numbers, the need to secure value for money and a better allocation of resources, I decided that these considerations are best served by the closure of St. Catherine's and the designation of St. Angela's College, Sligo, as the sole centre for the training of home economics teachers.

The closure of St. Catherine's will be phased over the next three years to facilitate students currently enrolled in the college in completing their course of training in the College.

My Department has commenced discussions with the management authorities of St. Catherine's with regard to making the necessary practical arrangements involved in the closure of the college. The position in relation to students who may have to repeat a year will be considered in the context of those discussions.

### Fisheries Protection.

127. **Mr. Coveney** asked the Minister for Communications, Marine and Natural Resources if he will clarify the level of Spanish fishing effort and access into the new Irish Box area. [13737/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** In accordance with the agreement reached last autumn, the Commission presented its proposal in March to establish fishing effort ceilings in the various western waters areas, including the new Irish Box area. The proposed effort ceilings are based on detailed historical fishing data presented by member states for the agreed reference period of 1998 to 2002. The level of fishing effort proposed for the Spanish demersal fleet for the new Irish Box area is set down in the Commission proposal and amounts to 5.642 million kilowatt days. The level of access for the Spanish fleet will be determined by the effort ceiling set down in the regulation.

As I have indicated in response to a similar question by the Deputy on today's Order Paper, the Commission proposal is currently being considered in detail by a council working group.

[Mr. D. Ahern.]

This technical work is proceeding satisfactorily. Particular attention is being paid to ensuring that a number of valid methodological changes over the previous effort regime such as the inclusion of additional smaller vessels are being correctly reflected in the new regime.

The current focus is on the completion of this technical work, and ensure in the process that there is no increase in fishing effort by foreign fishing fleets in waters around Ireland generally, including the particularly sensitive waters off the south and west coast.

Once this technical work is completed and all required clarifications are available, the matter can be fully settled. I am working to finalise this issue before the end of the Irish EU Presidency and I will be seeking Council agreement at the June Fisheries Council.

#### Harbours and Piers.

128. **Mr. O'Dowd** asked the Minister for Communications, Marine and Natural Resources the funding allocated to the proposed marina at Dereenacallaha, Kenmare, County Kerry; if the State has sought to recoup any of the funding that was drawn down by the developer; if the developer has sought to draw down further grant aid; and if he will make a statement on the matter. [13798/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** A total of €5.7 million was allocated as a budget day adjustment in 2000 for four projects at Kenmare, Cahirciveen, Rosses Point and Roundstone.

The grant approved to the Kenmare project of €752,550 equalled 45.2% of estimated total cost and was subject to a number of conditions, including evidence of planning and foreshore permissions having been obtained. Payment of the first instalment of the grant of €332,312 was made on the basis of invoices in respect of matured liabilities and copies of the planning permission and foreshore lease that had been obtained. The developer has not sought any further payment in respect of the project. My Department is considering the options available to us in line with legal advice.

#### Electricity Generation.

129. **Mr. Ring** asked the Minister for Communications, Marine and Natural Resources when a person (details supplied) in County Mayo will receive payment under the farm electrification grant scheme. [13845/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** My Department has not yet received an application for grant-aid under the farm electrification grant scheme from the person concerned. As soon as the application is received my Department will process it without delay.

#### Offshore Exploration.

130. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources the position in regard to recent discoveries or developments arising from oil, gas or other mineral explorations on or offshore; and if he will make a statement on the matter. [13878/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The Dooish exploration well, which was drilled in 2002 by Enterprise Energy Ireland, now Shell E& P Ireland, off the Donegal coast and which discovered a hydrocarbon accumulation, was re-entered and deepened in 2003. Drilling commenced on 11 May 2003 and the well was plugged having confirmed the existence of a substantial gas condensate column, and the rig moved off-site on 30 July 2003. Both my Department and Shell E&P are continuing to analyse the well results and integrate them with other data from the area. Further technical work on the prospect will be required before the size of the gas condensate accumulation and the possibility for any commercial development can be accurately assessed. Drilling began on St'toil's Cong exploration well in the Erris basin on 5 August 2003 and the well was plugged and abandoned as a dry hole on 16 December 2003. The Seven Heads gas field, off the coast of Cork, was developed in 2003 and production began in December 2003.

Up until Friday 30 April 2004, the developers of the Corrib gas field, off the coast of Mayo, were awaiting planning permission for a gas terminal before commencing the development of the field. This has now been received but the developers must wait for a further four weeks in case the planning decision is appealed to An Bord Pleanála.

With regard to non-petroleum minerals, the position has not changed since my reply to a similar question, No. 175, on 11 June 2003.

#### Coastal Erosion.

131. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources his plans to deal with the issue of coastal erosion; if he will identify the ten locations around the coast needing the most urgent attention in this regard; and if he will make a statement on the matter. [13880/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** My Department commenced a major coastal protection strategy study in 2003. This study will address the nature and extent of erosion at various locations and different types of coastline around the country and seek to identify the most effective means, technically, financially and environmentally, in responding to particular instances and types of erosion. This will provide a firm basis for establishing national policies and

coast protection priorities for a number of years ahead.

The Department's coast protection programmes seek to address the most urgent instances of erosion on the Irish coastline. Funding of €0.78 million is available from my Department for coast protection in 2004. The question of providing funding for coast protection works in the post 2004 period will depend on the amount of Exchequer funding available for such works and overall national priorities.

#### **Marine Safety.**

132. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources if he has satisfied himself regarding the application of health and safety regulations at all sea or fishing ports; and if he will make a statement on the matter. [13881/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The position on the State port companies operating under the Harbours Acts 1996 and 2000, and the harbour authorities operating under the Harbours Act 1946, is that compliance with the law on health and safety is a matter for the company or harbour authority concerned.

Concerning the five fishery harbour centres, Howth, Dunmore East, Castletownbere, Rossaveel and Killybegs, directly under my control, health and safety regulations are applied on an ongoing basis by the harbour masters and other relevant staff.

133. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources the extent to which safety checks take place on all seagoing passenger or other vessels; and if he will make a statement on the matter. [13882/04]

134. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources if he has satisfied himself regarding the seaworthiness of all vessels moving through or close to Irish waters; and if he will make a statement on the matter. [13883/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I propose to take Questions Nos. 133 and 134 together.

As I have previously informed the House, standards governing the safety and seaworthiness of all vessels, both passenger and other vessels, are developed and adopted at international level, principally from the safety conventions of the International Maritime Organisation, IMO, and from initiatives at European Union level.

Irish maritime law is continually updated to ensure that all the resulting EU directives and IMO safety conventions and resolutions are fully implemented. Under Irish and international law all vessels trading into and out of Irish ports are required to carry the appropriate certification to demonstrate compliance with the requisite

international conventions and regulations applicable to ships of their size and type.

All EU registered vessels are subject to surveys and inspections by their flag states and, under the European Union's port state control system, all foreign-registered vessels using community ports are liable to inspections by any of the EU states they are visiting. The application of port state control ensures that at any given time a large number of ships operating within community waters have undergone an inspection by an EU port state control authority.

The surveying staff attached to the maritime safety directorate of my Department carries out the enforcement of all regulations. They inspect vessels, in accordance with the flag state and port state control regimes, to ensure that they comply with the safety standards laid down. The surveyors inspect Irish registered vessels at least annually.

Where a vessel is found not to comply then it is issued with a list of deficiencies to be rectified and it will not be permitted to leave port until the deficiencies have been addressed. During 2003, my Department's surveyors inspected 430 foreign vessels under the port state control system. Of these, 37 vessels were detained for non-compliance with the requisite international marine safety conventions. I believe that the monitoring of vessels by regular inspections is proving to be an effective measure in encouraging full compliance with international safety standards and that the vast majority of vessels into and out of Irish ports and waters are complying with international convention requirements.

#### **Inland Fisheries.**

135. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources his plans for the future development of angling on inland waterways; and if he will make a statement on the matter. [13884/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** Under the Fisheries Acts, the central and regional fisheries boards are responsible, among other things, for the encouragement, promotion, marketing and development of angling in Ireland. While there are no funds available under the tourism and recreational angling measure of the national development plan in 2004, the boards currently devote a considerable proportion of their resources towards this aspect of their remit. The development of angling in the future is a matter for the fisheries boards within the context of their overall business plans and funding allocations.

#### **Marine Safety.**

136. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources if he has satisfied himself regarding the application of health and safety regulations for all



[Mr. Durkan.]  
vessels, commercial or recreational; and if he will make a statement on the matter. [13885/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** As I have previously advised the House, standards for all commercial seagoing vessels are developed and adopted at international level. These standards cover issues including health and safety at an operational level on board vessels.

Under Irish and international law all vessels trading into and out of Irish ports are required to carry the appropriate certification to demonstrate compliance with International Maritime Organisation and International Labour Organisation requirements. A convention relevant to the health and safety aspect is the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, or STCW convention. All crew on board a vessel must have proper certification to ensure they are suitably trained and can adequately and safely discharge the duties of the positions they hold. The surveyors attached to the maritime safety directorate of my Department conduct regular inspections of all seagoing vessels, under the flag state and port state control inspection regimes, to ensure compliance with the relevant conventions and regulations.

Recreational vessels are not currently subject to a regulatory regime. As I have advised the House on previous occasions, my Department has been developing a registration system for small craft and a code of practice for the safe operation of recreational craft to address the safety issues associated with such vessels. The safety code for recreational craft, together with the small vessels register, will address the safety issues associated with the operation of recreational craft in Irish waters.

#### **Fisheries Protection.**

137. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources the level of brown or rainbow trout stocks; and if he will make a statement on the matter. [13886/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I am advised that brown trout, or *Salmo trutta*, are a widely distributed indigenous species in Ireland. They are present in almost every catchment in the country since the last ice age. They have successfully colonised both rivers and lakes, although reproducing solely in rivers. There are substantial brown trout populations in both acidic and alkaline systems but this species grows faster and reaches a larger size in alkaline waters.

Currently, the status of brown trout populations vary in different waters. Stocks have declined in some waters because of water quality problems and other land management practices. In contrast the brown trout population in other

areas is excellent thanks to investment in stream enhancement programmes and clean water. Brown trout are a relatively short lived species, with a life span of five to seven years, which means that once the suite of environmental problems responsible for depressing a stock are addressed they will quickly recover.

Rainbow trout, or *Oncorhynchus mykiss*, are originally a North American species. They were originally bred in Europe, including Ireland, in commercial fish farms for the table. Since the 1960s they have been stocked in selected isolated waters in Ireland as an angling species. I understand that the status of rainbow trout stocks is almost entirely dependent on stocking programmes. Fishery legislation prevents their introduction to waters where there are wild stocks of indigenous brown trout. While some rainbow trout have escaped into our rivers from time to time there is no evidence of these fish having ever bred successfully in the wild to a point where they constitute a self sustaining population.

138. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources if he has satisfied himself regarding the adequacy of fishery protection; and if he will make a statement on the matter. [13887/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** As I have previously advised the House, I consider that control and enforcement is an essential element for the effective implementation of the Common Fisheries Policy. The newly reformed CFP, agreed in December 2002, provides for strengthened control and enforcement measures, and I fully welcome that development.

Effective enforcement of conservation rules is a priority for all member states and each member state has a clear responsibility to monitor and control fishing activity within their respective jurisdictions. The challenge of achieving effective control and enforcement of fisheries' rules is ongoing and requires close collaboration and co-operation between member states. It is clear that fisheries enforcement throughout the EU must continue to improve if the conservation imperatives facing the management of our European fish stocks are to be met. I will continue to work for more effective control in all member states in order to ensure a level playing field for the fishing industry.

#### **Fishing Industry Development.**

139. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources his views regarding the adequacy of fish stocks in the future arising from annual fish catches; and if he will make a statement on the matter. [13888/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The Common

Fisheries Policy provides for the conservation and rational exploitation of fisheries resources through a range of instruments. Total allowable catches, or TACs, for the various fish stocks are established each December by the Council of Agriculture and Fisheries Ministers, taking account of scientific advice provided by fisheries biologists on the state of stocks. The Marine Institute carries out Irish stock monitoring programmes which feed into the work of other scientific bodies to determine the status of EU fish stocks.

Recent scientific advice indicated some stocks were outside safe biological limits and accordingly, stock recovery measures have been introduced for Irish sea cod, northern hake and cod in the North Sea and west of Scotland. The overall objective is to ensure the recovery of these stocks within a timeframe of five to ten years. In addition, to ensure the long-term sustainability of stocks, I have consistently stressed the importance of technical conservation measures, in particular for the protection of spawning areas and juveniles.

#### **Fisheries Protection.**

140. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources his plans to protect and augment fish stocks; and if he will make a statement on the matter. [13889/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The Common Fisheries Policy, CFP, is the legislative framework for fisheries policies to be implemented by the EU over the next ten years. This framework provides for the conservation and rational exploitation of fisheries resources through a range of instruments such as total allowable catches, or TACs, recovery plans and technical conservation measures. Effective conservation measures will help to provide for the sustainable exploitation of fish stocks into the future.

Ireland has been at the forefront at EU level in pushing for enhanced technical conservation measures to protect fish stocks. This issue was addressed in detail at a ministerial and stakeholders' conference on fast tracking the development of environmentally friendly fishing methods which I hosted in early March. The overriding consensus at this conference was that better and smarter fishing and the development of environmentally friendly fishing methods has a critical role to play in the fishing industry going forward. I intend, as President of the Council of Fisheries Ministers, to make significant progress on this issue during Ireland's Presidency of the EU.

#### **Telecommunications Services.**

141. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources

the timetable for the modernisation of the telecommunications system including broadband here; and if he will make a statement on the matter. [13890/04]

143. **Mr. Durkan** asked the Minister for Communications, Marine and Natural Resources this country's rating in terms of modern telecommunications in the top ten throughout Europe; and if he will make a statement on the matter. [13892/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I propose to take Question Nos. 141 and 143 together.

The provision of and investment in telecommunications services, including broadband, is a matter in the first instance for the private sector companies operating in a fully liberalised marketplace, regulated by the Commission for Communications Regulation, ComReg.

It is important that the regulatory environment underpins the development of available, affordable and competitive broadband services. In that regard, I issued a policy direction on 26 March 2004 to the Commission for Communications Regulation stating that our broadband goal is to be at or better than the EU average, excluding accession countries, for end-user access to, and usage of, broadband by mid-2005.

While recent reports show that Ireland lags behind our European neighbours in terms of broadband penetration, there is evidence of significant growth in take up of broadband in Ireland in the past year. The number of broadband subscribers has risen tenfold from less than 5,000 in January 2003 to an estimate of 50,000 currently; much of this due to improved pricing by service providers. Recognising, however, that the market has been slow to respond to demand for broadband, since 1999 my Department has invested almost €170 million, in partnership with the public and private sectors, in infrastructure projects that will enable the provision of modern, high-speed broadband communications in the regions. Currently, my Department is grant aiding the construction of 25 fibre optic metropolitan area networks, in conjunction with local authorities, in key regional towns and cities. This investment of up to €80 million will enable the delivery of competitive, open access, broadband services in these towns.

On 12 December last I announced a broadband action plan which has two main elements. The first consists of proposals to roll out open access broadband infrastructure to over 90 towns with a population of over 1,500, and the second consists of the development of a group broadband scheme which will grant aid community-led initiatives promoting the rollout of broadband access in small towns, villages and rural hinterlands. I have secured a commitment of €35 million each year from now until 2007 to ensure the implementation of this broadband action plan.

[Mr. D. Ahern.]

In addition, on the provision of broadband to schools, the Government has reached agreement with the telecommunications industry as represented by IBEC-TIF for the establishment of a joint Government and IBEC-TIF fund to resource the provision of high speed broadband connectivity to all first and second level schools nationwide. Under the proposed agreement, IBEC-TIF members will contribute €15 million to a joint Government and IBEC-TIF fund of €18 million. This fund will be used to provide broadband connectivity to all schools over a three year period.

*Question No. 142 answered with Question No. 38.*

*Question No. 143 answered with Question No. 141.*

#### **Fisheries Protection.**

144. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources, further to Question No. 454 of 27 April 2004, if he will quantify the materials removed from the River Shannon by ESB fisheries conservation staff for the years 1985, 1986 and 1987; and if the ESB may decline to answer or provide the required information in view of the fact that he has only a supervisory role; and if he will make a statement on the matter. [13929/04]

145. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources the number of disposal orders obtained through the courts by the ESB fisheries conservation division to dispose of confiscated materials in the years 1987, 1988, 1989, 1990, 1991 and 1992; and if he will make a statement on the matter. [13930/04]

146. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources, further to Parliamentary Question No. 454 of 27 April 2004, the reason the ESB informs me that all disposals of materials of intrinsic value removed from the river Shannon by ESB fisheries division are dealt with in conjunction with the Shannon Fisheries Board; if he will quantify the number of occasions that the ESB involved the Shannon Fisheries Board; and if he will make a statement on the matter. [13934/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I propose to take Questions Nos. 144 to 146, inclusive, together.

I am advised by the ESB that its fisheries conservation staff have not maintained any formal record of materials removed by them from the river Shannon as most of such removals are of general debris or small pieces of net used for illegal fishing and consequently of no value.

I am further advised by the ESB that no disposal orders were obtained directly by the

board from the courts in the years referred to by the Deputy and that confiscated material is disposed of using the services of the Shannon Regional Fisheries Board. I am informed that all prosecutions taken on behalf of the ESB under the Fisheries Acts are also processed through the Shannon Regional Fisheries Board but that the ESB bears the costs of such prosecutions and disposals.

The Shannon Regional Fisheries Board has confirmed to my Department that it has over the years received seized nets for storage and disposal and that while the board has taken prosecutions for illegal fishing on behalf of the ESB in the past, no prosecutions have been taken in the last five years. It has not been possible in the time available for the Shannon Regional Fisheries Board to collate the specific information on disposals and prosecutions that the Deputy is seeking. I have, however, asked the CEO of the Shannon Regional Fisheries Board to liaise with the ESB in order to provide this information directly to the Deputy within the next two weeks.

147. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources if he will give a breakdown of the persons involved in the capture of elvers; if they were used for restocking the Shannon System; the locations or if they were sold outside the Shannon System. [13935/04]

148. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources the controls that are in place to ensure that captured elvers are used for conservation purposes in view of the restriction placed on the ESB by the Oireachtas; his views on the situation; if he proposes to put in place more comprehensive restrictions to conserve our declining stocks; and if he will make a statement on the matter. [13936/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I propose to take Questions Nos. 147 and 148 together.

I am advised by the ESB that all elvers and glass eels are stocked under the direct supervision of the ESB fisheries supervisor in Shannon and that the programme of elver capture in the Shannon region is undertaken jointly by the ESB and the Shannon Regional Fisheries Board using a combination of staff and contract workers. I am further advised by both boards that all elvers captured in this programme are restocked into the Shannon catchment to assist in rebuilding depleted stocks.

#### **Water Pollution.**

149. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources if he is concerned with the number of cruisers on the Shannon which have not complied with current waste disposal regulations and the effect

on the Shannon eco-system; his views on the continued decline in water standards, resulting in declining fish stocks; and if he will make a statement on the matter. [13937/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The issues of waste disposal regulations and water quality are primarily a matter for my colleague, the Minister for the Environment, Heritage and Local Government. The control of the operation of cruisers on inland waterways is a matter for Waterways Ireland, which is a North-South body established under the British Irish Agreement Acts.

I am aware that the Shannon Regional Fisheries Board, which is the competent authority for the inland fisheries resource of the Shannon catchment, has some concerns about the effect that cruisers on the Shannon may pose to the water quality in the river. The board advises me that they have raised this issue with the local authorities in the catchment and with the Shannon river basin district project with the aim of having the necessary facilities put in place so that cruisers can comply with the regulations referred to by the Deputy.

#### **Executive Pay.**

150. **Mr. Gormley** asked the Minister for Health and Children if his attention has been drawn to the concerns expressed about the Irish Society for Autism and the very large emoluments paid to its executive director; and if his Department have made any enquiries about this or about the relationship between ISA and a sister organisation called Autism Alliance about which very little seems to be known. [13847/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** Issues related to emoluments are normally a matter between the relevant agency and the person concerned. I am aware that discussions have taken place between the various health boards which use the services provided by the Irish Society for Autism and the society on a range of issues, including concerns regarding those services which have been expressed by parents of persons with autism.

#### **Health Board Services.**

151. **Mr. McGuinness** asked the Minister for Health and Children if he will immediately reverse the decision of the SEHB not to pay enhanced subvention of €76.90 in the case of a person (details supplied) in County Kilkenny in view of the hardship of the case and the general circumstances of the person and their family; if a response to the query will be expedited; the reason Question No. 536 of 27 April 2004 alerting the SEHB to the problem has not been answered; and if he will make a statement on the matter. [13731/04]

**Minister of State at the Department of Health and Children (Mr. Callely):** I wish to thank Deputy McGuinness for bringing this matter to my attention. I regret to learn that the South Eastern Health Board has not responded to Question No. 536 of 27 April 2004 to date.

Given the position outlined by Deputy McGuinness, I am arranging to have the matter prioritised and as the provision of health services in the Kilkenny area is, in the first instance, the responsibility of the South Eastern Health Board, my Department has asked the chief executive of the board to investigate the matter raised by the Deputy and reply direct to him as a matter of urgency.

152. **Mr. McGuinness** asked the Minister for Health and Children the action he is taking to provide proper accommodation and home aids for a person (details supplied) in County Kilkenny; and if a response in the case will be expedited. [13732/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The provision of accommodation for persons with a physical or sensory disability is appropriate for the Department of the Environment, Heritage and Local Government. The provision of aids and appliances including home aids is a matter for the relevant health board. Accordingly, the Deputy's question has been referred to the CEO of the South Eastern Health Board with a request that he examine the matter and reply directly to the Deputy as a matter of urgency.

153. **Mr. Neville** asked the Minister for Health and Children the new services to be provided by the Southern Health Board in view of increased spending on suicide prevention and research of €825,000 in the area. [13733/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** Responsibility for the provision of services referred to by the Deputy rests with the Southern Health Board. My Department has therefore asked the CEO to investigate the matter raised by the Deputy and reply to him directly.

#### **Mental Health Services.**

154. **Mr. F. McGrath** asked the Minister for Health and Children if his attention has been drawn to the psychotherapists practising in and around Dublin who are neither monitored nor licensed and that complaints are being made that vulnerable persons are at risk; and if he will investigate this matter. [13734/04]

**Minister for Health and Children (Mr. Martin):** My Department is not aware of any specific instances where vulnerable people have been put at risk by practitioners providing psychotherapy services. For psychotherapists providing services in the public health service, health service employers must satisfy themselves that such

[Mr. Martin.]  
psychotherapists are appropriately competent and qualified.

In the private health service, it is the responsibility of each individual practitioner providing health care services to the public to ensure that they are trained and qualified to the level required to work safely within their area of competence. Members of the public considering availing of the services of a psychotherapist in private practice should satisfy themselves that the psychotherapist in question is a member of a professional body and subscribes to the code of ethics and other requirements of the relevant professional organisation.

If the Deputy is aware of specific complaints of vulnerable persons placed at risk in the above circumstances, these allegations or complaints should be brought to the attention of the Garda authorities.

#### Health Board Services.

155. **Mr. Ring** asked the Minister for Health and Children when a person (details supplied) in County Mayo will be seen by an orthopaedic surgeon at an orthopaedic out patient clinic in Mayo General Hospital. [13774/04]

**Minister for Health and Children (Mr. Martin):** The provision of hospital services for people living in County Mayo is a matter for the Western Health Board. My Department has asked the CEO of the board to reply directly to the Deputy in relation to the matter raised.

156. **Mr. Ring** asked the Minister for Health and Children when the orthopaedic unit will be operational in Mayo General Hospital; when patients will be treated there; and when orthopaedic surgery will be performed there. [13775/04]

**Minister for Health and Children (Mr. Martin):** The provision of services at Mayo General Hospital is a matter for the Western Health Board. My Department has asked the CEO of the board to reply directly to the Deputy in relation to the matter raised.

157. **Mr. Crawford** asked the Minister for Health and Children the changes which will take place in Monaghan General Hospital regarding the employment status of the staff at every level if and when the new agreement proposed by management is put in place; his views on whether health board employees also have to plan the long term future of their families; the situation if the new protocol is implemented; and if he will make a statement on the matter. [13784/04]

**Minister for Health and Children (Mr. Martin):** Responsibility for the provision of services at Monaghan general hospital rests with the North Eastern Health Board. My Department has, therefore, asked the CEO of the board to

investigate the position in relation to this matter and to reply to the Deputy directly.

158. **Mr. Allen** asked the Minister for Health and Children if he will investigate the situation of a person (details supplied) in County Cork. [13800/04]

**Minister for Health and Children (Mr. Martin):** Responsibility for the provision of services at Cork University hospital is, in the first instance, a matter for the Southern Health Board. My Department has, therefore, asked the CEO of the board to reply to the Deputy directly on the issue raised.

159. **Mr. Durkan** asked the Minister for Health and Children when a disabled person's grant application currently with the SWAHB will be processed in the case of a person (details supplied) in County Kildare; and if he will make a statement on the matter. [13806/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The assessment of entitlement to and payment of the disabled persons grant in any individual case is a matter for the relevant health board. Accordingly, a copy of the Deputy's question has been forwarded to the regional chief executive of the Eastern Regional Health Authority, with a request that he examine the case and reply directly to the Deputy as a matter of urgency.

#### Nursing Education.

160. **Mr. Perry** asked the Minister for Health and Children when clinical nurse specialist to public health nurses will be recognised by the commission for nursing; and if he will make a statement on the matter. [13928/04]

**Minister for Health and Children (Mr. Martin):** I presume the Deputy is referring to the pay awards recommended under the Public Service Benchmarking Body, PSBB. The commission on nursing, which reported in 1998, made an observation that they considered that public health nurses operated at the level of clinical nurse specialist. In its submission to the PSBB, the alliance of nursing unions, representing the Irish Nurses Organisation, the Psychiatric Nurses Association, IMPACT and SIPTU, made a claim to have the PHN grade paid a differential of 10% over the rate of pay ultimately recommended for the clinical nurse manager 2, or CNM2. At that time, PHNs were paid at the same rate as CNM2 plus a qualification allowance. Clinical nurse specialists are paid at the same rate as CNM2s.

Regarding the statement contained in the report of the commission on nursing, the nursing alliance, in its submission to the PSBB, stated that it was not considering the issue of pay rates for either grade but was merely making a statement of the unique role played by the PHN. The PSBB, which issued its report in 2002, recommended an increase of 9.2% for the PHN grade and an

increase of 12.2% for the clinical nurse manager 2 and clinical nurse specialist grade. The benchmarking process established new absolute levels of pay for nursing and other public service grades, and furthermore stated that no benchmarked grade may receive a further increase as a consequence of the body's recommendations as they effect any other grade, whether benchmarked or not. I would point out that in recognition of their qualifications, all PHNs are paid a qualification allowance of €2,422 per annum and PHNs who were in employment on 16 November 1999 are paid a further red circled allowance of €1,390 per annum on top of basic salary.

#### Health Board Services.

161. **Mr. Perry** asked the Minister for Health and Children if he will again take steps to ensure that a person (details supplied) in County Sligo is called for their operation in Sligo general hospital in view of the deterioration in their condition; and if he will make a statement on the matter. [13932/04]

**Minister for Health and Children (Mr. Martin):** Responsibility for the provision of health services to persons living in County Sligo rests with the North Western Health Board. My Department has again asked the CEO of the board to investigate the matter raised by the Deputy and to reply to him directly.

162. **Mr. Perry** asked the Minister for Health and Children the progress made on orthodontic treatment for a person (details supplied) in County Sligo; if he will take steps to ensure that they are called for orthodontic treatment which is urgently needed in view of the deterioration in this person's condition; and if he will make a statement on the matter. [13933/04]

**Minister for Health and Children (Mr. Martin):** Responsibility for the provision of orthodontic treatment to eligible persons in County Sligo rests with the North Western Health Board. My Department has asked the chief executive officer to investigate the matter raised by the Deputy and to reply to him directly.

#### Environmental Policy.

163. **Mr. Eamon Ryan** asked the Minister for Transport the reason he is reluctant to promote the wider use of a low emission fuel such as LPG as a cheaper, cleaner and more environmentally friendly alternative to petrol in view of Ireland's obligations to reduce carbon emissions as set out in the Kyoto Protocol; and the details of emissions and by-products, both in production and consumption of different fuels, which support his Department's stance on the issue. [13735/04]

164. **Mr. Eamon Ryan** asked the Minister for Transport the reason no measures are being planned within his Department to encourage petrol vehicle users to convert their vehicles to run on LPG fuel; and if he has current environmental and comparative cost data, outlining the advantages versus disadvantages in

addressing the cost of conversion, maintenance, servicing and upkeep and cost of fuel which support his Department's reluctance to promote LPG vehicle conversion at present. [13736/04]

**Minister of State at the Department of Transport (Dr. McDaid):** I propose to take Questions Nos. 163 and 164 together.

I refer to the reply to Question Nos. 140 and 141 of 5 May 2004.

#### Public Transport.

165. **Mr. Gregory** asked the Minister for Transport the number of licences granted to date to private bus operators in the State; the individual cost of these licences; and the procedures in place to ensure that the conditions of the licences are monitored and complied with. [13747/04]

**Minister for Transport (Mr. Brennan):** According to the departmental records, the total number of licences granted to date to private bus operators since the Transport Act, 1932 came into force is 1,678. Of this total, 529 licences are currently valid.

The level of fees for a passenger licence is provided for in the Road Transport Act 1932, Regulations 1955 (S.I. No. 68/1955). A fee of €7.62 is charged for the grant of an annual continuous service licence and a fee of €5.08 for an annual seasonal service licence. Annual licences, both continuous and seasonal, are renewable each year at a cost of €2.54. For an occasional licence, a fee of €5.08 is charged where a number of occasions is involved and a fee of €0.63 applies for an occasional licence covering one occasion only.

On the ground monitoring of licensed bus services is carried out by staff of my Department periodically throughout the year to check that operators are complying with the conditions attached to their licences. In addition, at the time of application for renewal of licences, operators are required to provide evidence that the service is being operated according to the conditions of the licence, such as a published timetable, a letter from the gardaí confirming that they are operating to the licence schedule, and-or an advertisement in a local newspaper or website.

#### Road Safety.

166. **Mr. Naughten** asked the Minister for Transport the number of licences which have had penalty points attached to them due to breaking the speed limit at the 43 locations around the country listed in correspondence to local authority managers as part of a review of speed limits; and if he will make a statement on the matter. [13779/04]

167. **Mr. Naughten** asked the Minister for Transport the speed limit at the 43 locations around the country listed in correspondence to local authority managers as part of a review of speed limits; the specific locations involved; when he hopes that this specific review is completed;

[Mr. Naughten.]  
and if he will make a statement on the matter.  
[13780/04]

168. **Mr. Naughten** asked the Minister for Transport when the general review of speed limits as directed by him to the local authority managers will be completed; and if he will make a statement on the matter. [13781/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 166 to 168, inclusive, together.

The Road Traffic Acts provide for the direct application of speed limits to all roads. Under the provisions of these Acts, a default speed limit of 30 miles per hour applies to all roads, apart from motorways, in a built-up area and a general speed limit of 60 miles per hour applies to all roads outside such areas apart from motorways. A default speed limit of 70 miles per hour applies in the case of motorways. The Acts provide that local authorities may make bye-laws through which the speed limits that apply on a default basis can be changed in respect of roads specified in such bye-laws. These bye-laws are made by the elected members of the local authorities following consultation with the Garda Commissioner and, in the case of national roads, with the consent of the National Roads Authority, NRA.

In the context of an overall review of speed limits carried out against the background of the metrication of such limits generally, county and city managers were asked in January 2003 to examine the position in relation to their areas. The primary focus of the examination was to ensure that the disapplication of default speed

limits and the application of special speed limits were supported by bye-laws. In addition, the authorities were asked to look at instances where speed limits might not be appropriate and to take any action they deemed to be appropriate. My Department subsequently wrote to managers in March 2003 repeating the request to look at possible instances of inappropriate speed limits and outlining the overall position in relation to the progress for metrication of speed limits later this year.

Both the Automobile Association and the Society for the Irish Motor Industry recently presented me with lists of locations in respect of which they had received representations questioning the speed limits currently in place. In order to assist managers in the review referred to above, they have been advised of the locations identified in the submissions of the two organisations. Managers have specifically been asked to look at these locations and if the local authority considers that the speed limit is not appropriate, that steps should be taken to introduce appropriate amendments to the bye-laws, which will see more appropriate speed limits applied. On the other hand, where the local authority considers that a speed limit in question is appropriate, they have been asked to consider the provision of a sign informing road users of the need for that limit.

The enforcement of speed limits is a matter for the Garda Síochána. Where a person either pays a fixed charge or is convicted of a speed limit offence, data necessary to ensure that penalty points are endorsed in the person's licence record is forwarded to my Department. That data does not include a reference to the location at which the breaching of the speed limit occurred.

#### SCHEDULE

#### LIST OF SPEED LIMIT LOCATIONS CRITICISED AS BEING INAPPROPRIATE

##### Fingal County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
Darndale/Clarehall	N32 onto the M50	30	40	No obvious reason for low limit
Grange Road, Baldoyle		30	40	Excellent wide road — very good visibility
Blanchardstown Bypass, Dual Carriageway	N3	40	60	Dual Carriageway, no obvious reason for low limit.
Dublin	R132	40	50	M1 to Dublin Airport 2 lanes into 4 lanes
Dublin Road. Swords Roundabout to Stockhole Lane	N1	40	50	No obvious reason for low limit
Grange Road Baldoyle to roundabout at Hole in the Wall Rd	Grange Road	30	40	Serious decline in Road to bridge from Donaghmeade and road is wide.
The hole in the Wall Road, Dublin 13		30	40	Open country road
N1 Between Coachman's Roundabout and Airside Business Park	N1	40	50	Dual Carriageway — good stretch of road
Estuary Road, Malahide		30	40	Open country road
N32 (link road from M50/M1 to Malahide road)	N32	40	50	

## SCHEDULE

## LIST OF SPEED LIMIT LOCATIONS CRITICISED AS BEING INAPPROPRIATE

## Dublin City Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
Navan Rd from Halfway House to Cabra Rd	N3	30	40	
Donnybrook Garage to Loughlinstown roundabout	N11	40	50	Dual Carriageway
Montrose	N11	30	50	30mph is too dangerous on such a wide road
Belfield	N11	40	50	Dual Carriageway, no obvious reason for low limit, very hard for motorists to comply
From Foxrock to RTE	N11	40	50	Wide road with QBC and cycle lanes
Naas Road- from MDL to Longmile Road interchange	N7	30	40	Kylemore Road to Red Cow in and out. 3 lane carriageway impossible to keep 30 limit
From Red Cow to Inchicore	N7	30	40	
Red Cow Roundabout to Newlands Cross	N7	40	50/60	Three lane road on a straight stretch.
Kilbarrack Rd onto Tonlagée Rd	R104	30	40	No obvious reason for low limit.
James Larkin Rd at the Mount Prospect junction		30	40	
Heuston Station, St. John's Road West		30	40	Dual carriageway, 30 too low Heuston Station to South Circular. Difficult to keep to 30
Clontarf Road to Fairview,	Clontarf Road	30	40	Road is wide enough to take increase in limit. Very hard to keep below 30 mph — Taxis and buses overtaking in bus lane.

## Dun Laoghaire-Rathdown County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of Complainant(s)
Donnybrook Garage to Loughlinstown roundabout	N11	40	50	Dual Carriageway
Belfield, Co. Dublin	N11	40	50	Dual Carriageway, no obvious reason for low limit, very hard for motorists to comply
From Foxrock to RTE	N11	40	50	Wide road with QBC and cycle lanes
Cabinteely, Co. Dublin	N11	30	50	Good quality dual carriageway, No obvious reason for low limit
Ballinteer	M50	60	70	No obvious reason for low limit once clear of Ballinteer interchange
Dundrum By-Pass	Proposed regional	30	40	2 exits only on this road
Glenageary Road, Extension	R118	30	40	Straight Road — no turn offs on this road — no reason for low limit — very hard for motorists to comply.
Braemore Rd. Churchtown	R112	30	40	Straight Rd. Plenty of visibility although it is residential.
Church Rd., Dun Laoghaire, Deer Hunter	R118	30	40	Continuation of Church Road — 40 mph — walls segregating road from housing estates.
Road between Glenageary & the Graduate pub roundabouts		30	40	The limit should be the same as next section down Church Rd because road is wide, has good visibility, no side access roads.
Netownpark Ave joining Whites Cross		30	40	This steep hill makes it difficult not to exceed 30mph
Clonkeen Road		30	40	Straight road with slip roads for housing
Scholarstown to Dundrum (M50)		60	70	



## SCHEDULE

## LIST OF SPEED LIMIT LOCATIONS CRITICISED AS BEING INAPPROPRIATE

## South Dublin County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
Naas Road	N7	30	40/60	Kylemore Road to Red Cow in and out-from MDL to Long mile Interchange. 3 lane carriageway impossible to keep 30 limit
Red Cow to Newlands Cross	N7	40	50/60	Three lane road on a straight stretch.
M50 Tallaght Exit to Spawell Roundabout		30/40	50	Difficult to comply with.
Lucan Road	N4	40	50	M50 Roundabout to Foxhunter in and out 3 lane carriageway hard to keep 40 limit
Joining Lucan Road from M50 (heading West)		40	60	Most traffic moves to 60mph outside rush hour
M50 from Tallaght to Dundrum	M50	60	70	As this road is an extension of the 70mph M50
Spawell Hotel to M50	N7	various limits	50-60	There should be one limit and 50 at the intersection
Dodder Park Road from Rathfarnham to Templeogue Rd			40	
Naas Road leading to Rathcoole	N7	40	60	Road is very dangerous due to low speed
From Knocklyon to Dundrum roundabout	M50	60	70	Motorway with no exits or slip roads
N4 from M50 roundabout to bridge at Woodies(Lucan)		40	increase	

## Cork City Council /Cork County Council

(as applicable)

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
Dunkettle Roundabout, Cork to Tivoli	N8	40	50	Double lane dual carriageway, straight road
Blackpool by-pass, Cork	N20	30	40	Four lane wide dual carriageway
Mallow Road inbound between Commons Inn and Polefield area	N20	30	40	
Cork City, Silver Springs, outbound	N25	40	50	Dual carriageway, no obvious reason for low limit, very hard for motorists to comply
Lr. Tivoli Road to Cork City	N8-	30	40	Good straight road and surface — reduce to 25 at railway bridge (accident spot).
Cork: Tower to Blarney Road	R617	30	40	
Cork: Classic Cross to Ballincollig West	N22	30	40	
Cork: Carrohane Road from Poulavane roundabout to Blarney junction		30	40	
Cork: Ballincollig Killumney Road adj. St. Oliver's cemetery		30	40	
Cork: Fountainstown to O'Leary Cross		60	40	
East Cork, Castlemartyr	R632	30	40	Not a built up area
Cork: Into Mallow from Cork Rd, 0202	N20	40	50	Double lane carriageway up to a roundabout (back from the roundabout is 30)
Cork: Douglas to Ardfallen	R610	30	40	

## SCHEDULE

## LIST OF SPEED LIMIT LOCATIONS CRITICISED AS BEING INAPPROPRIATE

## Wexford County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
New Ross town to Clonroche	N30	60	50/40/30 in places	Numerous junctions / poor vision / narrow road in place and a lot of truck traffic

## Kilkenny County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
N25 into New Ross from Waterford (1 mile out)	N25	30	40	Good straight wide road

## Waterford City Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
Sallypark Road Waterford		30	40	Wide, clear road

## Limerick County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of Complainant(s)
Patrickswell Bypass		60	50	Poor street lighting, road is narrow & vulnerable to high winds

## Galway City Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of Complainant(s)
Galway By-Pass: Tuam Road Roundabout to Menlo Park Hotel; Tuam Road to Headford Road		30	50	Dual Carriageway, no obvious reason for low limit Speed limit should be made higher on this quiet 4 lane road
Quincentennial Bridge		30	40	No obvious reason for low limit

## Louth County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
Inner By-pass, Louth)		30	Increase	Present limit is not being observed and is constantly broken.

## SCHEDULE

## LIST OF SPEED LIMIT LOCATIONS CRITICISED AS BEING INAPPROPRIATE

## Kerry County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
Tralee Road approaching Farranfore	N22	30	50	

## Kildare County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of Complainant(s)
Road between M50 and Leixlip		40	50	Limit of 40mph is totally unnecessary
Leixlip to Celbridge Road	R404	30	increase	30mph is low for stretch past Hewlett Packard

## Wicklow County Council

Location	Road Number	Speed Limit	Suggested Limit	Comments of complainant(s)
Kilmacanogue, Co. Wicklow	N11	40	60	Dual carriageway between two 60 mph units — ignored by majority of motorists
Arklow By-Pass	N11		60	
Collimore to Rathnew	N11	40	60	Despite roadworks 40mph is too low to allow compliance on such a good road
Wicklow: Southern Cross Road, Bray	R768	40	50	Plenty of visibility on this road. Not a built up area. No reason for low limit.

169. **Mr. Naughten** asked the Minister for Transport when he intends to introduce the reduced speed limits outside schools; the type of reduction envisaged outside schools at which the national speed limit applies; if there is to be a differential at these schools between national routes and county roads; and if he will make a statement on the matter. [13791/04]

**Minister for Transport (Mr. Brennan):** Recommendations have been made by the working group on the review of speed limits in relation to the application of special arrangements for speed limits in the vicinity of schools where they are deemed to be necessary by the relevant city or county council. It was further recommended that these special arrangements would be deployed only at the location during periods when children are entering and leaving the school.

Legislation to support the introduction of new structures for speed limits, which include provisions to facilitate the application of those arrangements, is currently being drafted based on the general scheme of a Road Traffic Bill recently approved by Government. I hope that this legislation will be introduced in the Oireachtas shortly, with a view to its passage being completed during the current session.

**Rural Transport.**

170. **Mr. Perry** asked the Minister for Transport if his attention has been drawn to the

fact that the rural transport initiative in County Sligo for Dromore West, Gurteen Ballymoate Banada, Tourlestrane and Tubbercurry is now operating at full capacity having delivered a worthwhile scheduled service to over 5,800 passengers in 2003 and 800 per month in 2004; if he will give a firm commitment that the necessary funding of €36,000 will be given to the west Sligo rural transport initiative to ensure that it can carry the project to the end of December 2004; and if he will make a statement on the matter. [13927/04]

**Minister for Transport (Mr. Brennan):** I understand from Area Development Management Limited, ADM, which is managing the rural transport initiative, RTI, on behalf of my Department, that the initiative is now fully rolled out in all the 34 project areas that were selected for funding.

While €4.4 million was earmarked for the RTI in the national development plan, some €6 million has already been provided for the initiative in the two year period ending December 2003 and further funding of €3 million is being provided in 2004. Specific allocations for individual RTI projects are made from this funding by ADM and I have no function in relation to it.

I understand from ADM that the funding allocation for the years 2002 and 2003 for this Sligo RTI project was €86,349. Because the project was not in a position to roll out its services in 2002, only a minimal amount of this funding

was expended in that year with the result that a disproportionate amount of the two-year allocation, some €80,000, was concentrated on one year, 2003. In addition, the company was also allocated €6,880 arising from the extension of the free travel scheme to the RTI in 2003.

I understand from ADM that the 2004 RTI allocation for this project is €49,594 before any allocation in respect of the free travel scheme or any other funding that the project might acquire from other sources.

#### **Garda Investigations.**

171. **Mr. Gregory** asked the Minister for Justice, Equality and Law Reform the details of the procedure whereby a victim of a crime may report the matter in a Garda station; the manner in which it is then recorded; if a reference number or a log number is made available to the victim; and if he will make a statement on the matter. [13748/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that when an incident is reported at a Garda station and, on the balance of reasonable probability, it seems that a criminal offence took place that particular incident is recorded. The incident is then recorded on the PULSE system which allocates a unique reference number to the report. In stations which are not networked to the PULSE system, details of the incident are entered on the PULSE system in a Garda station that is networked to PULSE. I understand that it is not the practice generally to make available a reference number or a log number.

#### **Garda Recruitment.**

172. **Cecilia Keaveney** asked the Minister for Justice, Equality and Law Reform, further to Parliamentary Question No. 155 of 5 May 2004, if a garda has been replaced in Malin Garda station; if there has been progress in relation to having a sergeant appointed; the strength of the Garda personnel at the station as at 5 May 2004; and if he will make a statement on the matter. [13749/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities who are responsible for the detailed allocation of resources, including personnel, that the personnel strength of Malin Garda station as at 5 May 2004 was two, all ranks. The sergeant allocated to Malin Garda station has submitted a notice of intention to retire with effect from 15 May 2004. The question of a replacement for Malin Garda station will be considered during future allocations of newly promoted sergeants.

173. **Cecilia Keaveney** asked the Minister for Justice, Equality and Law Reform if a garda at Moville station, County Donegal who has retired and a garda due to retire soon will not be replaced; and the way in which he can justify this decision if it is the factual position given at a recent meeting in the town. [13750/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities, who are responsible for the detailed allocation of resources, including personnel, that the personnel strength of Moville Garda station, County Donegal as at 11 May 2004 was eight, all ranks.

The allocation of personnel is reviewed on an ongoing basis, and when additional manpower next becomes available the needs of Moville Garda station will be fully considered in the overall context of the needs of Garda districts throughout the country. Cognisance is taken of impending retirements etc. during each allocation of probationer gardaí to regions and districts. Garda personnel assigned to the Donegal division, together with overall policing arrangements and operational strategy, are constantly monitored and reviewed. Such monitoring ensures that optimum use is made of Garda resources and that the best possible service is provided to the public.

#### **Ground Rents.**

174. **Mr. Morgan** asked the Minister for Justice, Equality and Law Reform his views on the contention of the Oireachtas All-Party Committee on the Constitution outlined in its ninth progress report that there are no constitutional barriers to the abolition of ground rents; and if he will make a statement on the matter. [13754/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As indicated in my reply to Question No. 193 of 28 April 2004, the recommendations contained in the Ninth Progress Report of the All-Party Oireachtas Committee on the Constitution in regard to the issue of ground rents are being taken into account in the context of my proposals for a Bill to abolish ground rents. Progress on that Bill is subject to the resolution of possible constitutional and practical difficulties concerning the respective rights of ground rent tenants and landlords, land law generally and, in particular, the land registration system.

It is noteworthy that the ninth report itself makes clear that, to be constitutional, any legislation abolishing ground rents must provide an adequate system of compensation. The report also adverts to the desirability of a system that would lead to the simplification of conveyancing and the avoidance of lengthy and convoluted titles.

#### **Garda Operations.**

175. **Mr. Crowe** asked the Minister for Justice, Equality and Law Reform if he will request the Garda Commissioner to allocate additional Garda patrols to the Tymon Road North in Tallaght, in view of the fact that there is a serious problem of vandalism and anti-social behaviour in the area. [13755/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities that the gardaí in Tallaght are

[Mr. McDowell.]

aware of reported incidents of vandalism and anti-social behaviour in the Tymon Road North area of Tallaght. A number of persons were recently arrested in relation to incidents of car theft, criminal damage and burglary in this area and one youth has been admitted to the Garda juvenile diversion programme. Investigations into all reported matters are continuing.

I am further informed that regular Garda patrols give the area ongoing attention. The area is also patrolled by divisional patrols which include the divisional task force and the divisional traffic unit. Local Garda management is satisfied that sufficient resources are available to police the area.

#### **Appointment of Ombudsman.**

176. **Mr. S. Ryan** asked the Minister for Justice, Equality and Law Reform if he will sanction the establishment of an independent commission or ombudsman to enable persons with complaints against the legal profession to have their cases independently investigated; if not, the way these persons will have their complaints processed. [13776/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The purpose of a number of provisions of the Solicitors (Amendment) Act 2002 is to strengthen the disciplinary regime for solicitors. Their operation will be kept under review.

The Progressive Democrats election manifesto 2002 contains a commitment to establish an office of statutory ombudsman to protect the interests of clients of the legal profession. This commitment is not included in the Agreed Programme for Government between Fianna Fáil and the Progressive Democrats. However, in the foreword to the agreed programme, the Taoiseach and the Tánaiste state that, in Government, it is open to either party to seek to persuade colleagues to pursue any individual policy included in their respective manifestos. Accordingly, it remains open as to whether proposals to Government for the establishment of a statutory ombudsman for the legal profession will be made in the light of continuing review of this area.

#### **Garda Investigations.**

177. **Mr. P. Breen** asked the Minister for Justice, Equality and Law Reform the number of offenders that are currently on bail or waiting trial who have committed serious offences; and if he will make a statement on the matter. [13777/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** It is assumed that the Deputy is seeking information on the number of persons currently on bail or awaiting trial who have been charged with offences committed while on bail or awaiting trial. Inquiries are being made with the Garda authorities to determine if this information can be supplied and I will communicate further with the Deputy when their response is to hand.

#### **Penalty Points System.**

178. **Mr. Naughten** asked the Minister for Justice, Equality and Law Reform the number of penalty points notices issued at each of the 43 locations around the country listed by him in correspondence to local authority managers as part of a review of speed limits; and if he will make a statement on the matter. [13778/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The review of speed limits is being undertaken by my colleague, the Minister for Transport, Deputy Brennan, and the correspondence to which the Deputy refers came from him. As the Deputy is aware, neither the Garda Síochána nor my Department has any role in the issuing of penalty point notifications. I, therefore, assume he is referring to the fixed charge notices issued by the Garda Síochána. I have been informed by the Garda authorities that it is not possible to quantify the number of fixed charge notices issued by such specific locations and that compiling such data would require a disproportionate amount of Garda time and resources which would not be justified in the circumstances.

#### **Crime Levels.**

179. **Mr. F. McGrath** asked the Minister for Justice, Equality and Law Reform the number of rapes and sexual assaults in prisons to date in 2004. [13782/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** There have been two allegations of sexual assault in prisons to date in 2004. These incidents related to alleged assaults in Cloverhill Prison and Cork Prison. Both incidents were reported to the Garda Síochána. As investigations are under way, I am not in a position to comment further on the two allegations at this stage.

#### **Registration of Title.**

180. **Mr. Ellis** asked the Minister for Justice, Equality and Law Reform if his Department would complete dealing no D2003WS012236J in the name of a person (details supplied) in County Leitrim. [13799/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Registrar of Titles that this is an application under section 49, i.e. acquisition of title by virtue of long possession, of the Registration of Title Act 1964, which was lodged on 11 December 2003. Dealing number D2003WS012236J refers.

I understand that due to their complicated nature, applications under section 49, which require detailed examination of claims for registration as owners, can take some time to process. I am further informed that this application is associated with an application for a duplicate land certificate which was lodged on 22 December 2003. Application No. S2003WS002034M refers. I am also informed that the duplicate land certificate application is dependent on the completion of

D2003WS012236J which was lodged prior to S2003WS002034M. I am further informed that queries, in relation to dealing number D2003WS012236J, issued to the lodging solicitors on 24 February 2004 and that application cannot proceed until these queries have been satisfactorily resolved. However, I can assure the Deputy that, on receipt of a satisfactory reply, the matter will receive further attention in the Land Registry.

### Child Care Services.

181. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform when the EOCP review will be completed; when the outcomes will be announced; and if he will make a statement on the matter. [13848/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Equal Opportunities Childcare Programme 2000-2006, or EOCP, is a seven year development programme, the progress of which was commented upon very favourably by the mid-term evaluators of both the regional operational programmes and the National Development Plan 2000-2006. Expenditure under the programme covers the period to end 2007 and must take place in a planned manner, as must grant approvals, to ensure that the programme can meet its financial commitments at all times.

There has been considerable demand from community based groups for capital grant assistance under the programme and every county has benefited from significant grant commitments to provide new and enhanced community based child care facilities and support capital developments in the private child care sector. ADM, on behalf of my Department, is currently carrying out an extensive review of the programme's capital commitments to date, numbering over 1,100 and at a value of €114 million, to ensure that grant commitments previously entered into will be realised. Projects may be awaiting planning permission or the completion of tender processes before reasonable assurance can be taken that they will proceed and, if they do not, the funding set aside can be decommitted and made available to another project.

In addition, my Department has recently reviewed the different budget lines under the EOCP, including the capital programme, to ensure that the most effective use is made of all remaining funding in accordance with the programme's objectives. Some transfers between measures were recommended and require the approval of the regional assemblies. I expect that this technical process will be completed shortly and that it will bring to at least €157 million the total allocation for the capital development of child care under the present EOCP. This amount includes an element for the administration by ADM Limited of the capital programme. At the same time, an extensive review of child care provision on the ground has taken place to identify obvious service gaps, the filling of which will be a priority using the remaining capital

funding which currently amounts to about €35 million.

I intend to allocate the remaining capital funding under this strand of the Government's commitments to child care to address the most immediate service gaps. As a result, all the projects in the pipeline, are being reviewed again by ADM Limited on the basis of geographical need, the range of services being offered and the capacity of the groups to complete a project before the end of the programme. Those projects which best meet the criteria will receive priority. The review process will be repeated as necessary to maximise the benefits deriving from this phase of the EOCP. The day to day administration of the EOCP is undertaken by Area Development Management Limited, which has been engaged by my Department to carry out thorough assessments against the programme criteria of all applications for grant assistance under the programme, on my behalf. All large-scale capital projects are referred by ADM Limited to an independent external building specialist to assess the suitability of the proposal and its value for money. On completion of the assessment process, applications are considered by the programme appraisal committee, chaired by my Department, which makes a funding recommendation to me before I make a final decision on the matter.

The current review of the applications in the pipeline will be concluded as speedily as possible to facilitate the development of additional child care places at the earliest opportunity and to ensure that the funding is drawn down in the planned manner I referred to earlier before the end of 2007. I do not doubt but that the success of the present strand of the EOCP and the need to continue to make child care available to support the child care needs of our still growing work force will support my case for ongoing capital and current funding from Government for this key sector. Indeed, should any additional funding become available before the end of the present national development plan, I would expect that the programme would again benefit from transfers.

182. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the child care crisis in an area (details supplied); if his attention has further been drawn to the hardship that is arising as a consequence of totally inadequate facilities in the area; if his attention has further been drawn to the growing young population in the area; if his attention has further been drawn to the large number of children currently awaiting child care places; and if he will make a statement on the matter. [13849/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Equal Opportunities Childcare Programme 2000-2006 has made grant assistance available to a number of projects in the immediate Ballyfermot-Cherry Orchard area, amounting to almost €2.8 million, which will, when fully drawn down, create 249 new child care places and support a further 121 existing places.

[Mr. McDowell.]

Substantial funding has also gone into the surrounding areas. I understand that an application has been received from a group based in the area in question for a substantial capital grant of over €2.6 million and an associated staffing grant and is going through the appraisal process as are a number of other large scale capital projects in Dublin 10.

The day to day administration of the Equal Opportunities Childcare Programme 2000-2006, or EOCP, is undertaken by Area Development Management Limited, which has been engaged by my Department to carry out thorough assessments against the programme criteria of all applications for grant assistance under the programme, on my behalf. All large-scale capital projects, such as this application, are referred by ADM Limited to an independent external building specialist to assess the suitability of the proposal and its value for money.

During the assessment process, issues such as those referred to by the Deputy are considered as they form part of the criteria used in assessing projects under the programme. I would also add that the city and county child care committees, which were established, *inter alia*, to assess the child care needs in their respective areas, are also consulted on project applications. I am also very much aware that participation in or preparation for employment is an important step towards social inclusion and self-reliance for persons who may have ended their formal education before achieving a school certificate and therefore social disadvantage is another key element of the EOCP, which makes grant assistance available towards the staffing costs of many community based child care facilities providing child care for disadvantaged families.

On completion of the assessment process, applications are considered by the programme appraisal committee, chaired by my Department, which makes a funding recommendation to me before I make a final decision on the matter. It would be premature of me to comment further on a specific application for grant assistance at this time.

#### **Citizenship Applications.**

183. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform if he will give an update on an application for refugee status for a person (details supplied). [13850/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I understand the Deputy's question refers to an application for naturalisation and not an application for refugee status.

An application for naturalisation was received in the citizenship section of my Department from the person concerned on 13 May 2003. Such applications are currently taking approximately 18 months to process. Consequently, it is likely that the application of the person concerned will be finalised in late 2004.

As soon as I have reached a decision on the matter I will inform both the applicant and the Deputy of the outcome.

#### **Tribunals of Inquiry.**

184. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform if files or documentation from his Department or from the Garda Síochána relating to allegations made by a person (details supplied) have been released to the Mahon Tribunal; and if he will make a statement on the matter. [13865/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I can confirm that both my Department and the Garda Síochána have co-operated, and will continue to co-operate, fully with the tribunal in terms of the provision of documentation required by it.

#### **Courts Service.**

185. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform the position in relation to wards of court; and if he has proposals to reform the system. [13866/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am advised that the Courts Service, mindful of the need for a comprehensive reform of the law relating to the protection of intellectually incapacitated individuals, and in the context of a relevant consultation paper published by the Law Reform Commission last year, is currently engaged in a review of the operation of the wardship jurisdiction. I will consider any proposals for changes in legislation within my area of functional responsibility which emanate from the review and from the final report of the Law Reform Commission.

#### **Crime Prevention.**

186. **Mr. G. Mitchell** asked the Minister for Justice, Equality and Law Reform the reason drug dealing is openly taking place in parts of Dublin (details supplied); if his attention has been drawn to the fact that this Deputy has been making representations regarding this matter; his views on these concerns; if this practice will not be tolerated; if he will take steps to ensure that the necessary resources are available to address this issue; and if he will make a statement on the matter in view of the fact that it involves the area concerned. [13867/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the area referred to is prioritised daily for high visibility policing to deal specifically with drug dealing. The high visibility policing consists of patrols by both the uniform and detective personnel, the district drugs unit, the divisional crime task force, the special resource unit, the Garda mountain bike unit and the community policing unit.

A local Garda management initiative named Operation Viking, which was specifically designed to deal with drug dealing in the area referred to continues to be implemented and

many notable successes have been achieved which have resulted in the seizure of drugs and the arrest of offenders. I am further informed by the Garda authorities that strategies for tackling drug dealing are kept under review and are constantly being tailored to meet given circumstances. I am further advised that local Garda management considers that resources available to deal with drug dealing in the area in question are satisfactory.

#### **Citizenship Applications.**

187. **Mr. Carey** asked the Minister for Justice, Equality and Law Reform if the processing of the application for naturalisation by a person (details supplied) in County Dublin will be completed; and if he will make a statement on the matter. [13901/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As I indicated in response to Question No. 515 of 16 December 2003, an application for naturalisation had been received from the person concerned on 11 February 2003. It is anticipated that processing of the application will be completed in the latter half of 2004.

#### **Visa Applications.**

188. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if an application for a visitor visa will be considered in the case of a person (details supplied); and if he will make a statement on the matter. [13902/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** My Department has no record of having received visa applications from the persons named in the details supplied by the Deputy. The Deputy should forward the reference numbers of the visa applications in question to the immigration division of my Department in order to enable a check on the status of the applications in question.

#### **Garda Operations.**

189. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the cost of the security operation in Dublin on the May Day weekend 2004. [13914/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I would refer the Deputy to my reply to Question No. 47 of 5 May 2004.

190. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the cost of the fencing erected in the Phoenix Park in relation to the May Day 2004 visit of EU leaders. [13915/04]

191. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the reason it was necessary to spend public funding on security fencing in the Phoenix Park when the whole park was completely sealed off by the security forces. [13916/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 190 and 191 together.

I am informed by the Garda authorities that the erection of fencing in strategic locations inside and around Phoenix Park was a necessary element of the overall policing plan for the events of the May Day weekend. I am further informed that an estimate of the costs associated with erecting the fencing in question is not yet available.

#### **Garda Equipment.**

192. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the person who supplied the Garda with the two water cannons used on May Day 2004 in the Ashtown area. [13917/04]

193. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the nature and details of any agreement with the suppliers of the water cannons to the Garda Síochána including whether they were purchased or leased or loaned; the location of the two water cannons now; and if it is intended to acquire such apparatus on a permanent basis. [13918/04]

195. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform when negotiations began with the suppliers of the water cannons used by the Garda in the Ashtown area on May Day 2004; and when a decision was made to acquire the apparatus. [13920/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 192, 193 and 195 together.

I have been informed by the Garda authorities that in April 2004, in considering the range of tactical options available through co-operation on public law and order to ensure the safety of the public in dealing with unruly protests, the Garda Commissioner entered into a service level agreement for the loan of two water cannons from the Police Service of Northern Ireland. The water cannons were procured for the period 18 April 2004 to 5 May 2004, inclusive, and have since been returned.

I have been further informed that the Garda Síochána will assess the operational requirements for water cannons on an ongoing basis.

194. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the person who gave the order to use water cannons in the Ashtown area on May Day 2004; and the reason this decision was made when the situation clearly did not warrant such a disproportionate response. [13919/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the decision to use water cannons on May Day 2004 at Ashtown was taken by the senior Garda commander at the scene.

The deployment of water cannons was part of a graduated Garda response to unfolding events. The water cannons were deployed following



[Mr. McDowell.]  
physical injury to a Garda and continuous attacks on the Garda cordon.

*Question No. 195 answered with Question No. 192.*

196. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform if Garda personnel operated the water cannons used in the Ashtown area on May Day 2004; and the persons who trained the operators. [13921/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities that the water cannons in use in the Ashtown area on 1 May 2004 were operated by members of the Garda Síochána. I have been further informed that a total of 19 members of the Garda Síochána received training in the tactical command and use of water cannons from the Police Service of Northern Ireland.

#### **Garda Deployment.**

197. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the number of gardaí deployed in Killarney for the rally of the lakes; and the number of gardaí deployed in the Ashtown area on May Day. [13922/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Garda authorities are responsible for the detailed allocation of resources, including personnel. They have informed me that the Rally of the Lakes took place over a three day period at locations in Kerry and west Cork divisions. It is not Garda policy to disclose the number of personnel on duty in a particular area at any given time for security and operational reasons.

#### **Public Order Offences.**

198. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the number of persons arrested as a result of alleged public order incidents in Killarney on the occasion of the Rally of the Lakes; and the number of persons arrested as a result of alleged public order incidents in the Ashtown area on May Day. [13923/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that there were 43 arrests under the Public Order Acts in Killarney between 6 a.m. on 30 April and 6 a.m. on 3 May. There were 29 persons arrested as a result of alleged public order incidents in the Ashtown area on May Day.

#### **Garda Deployment.**

199. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the number of gardaí deployed in the proximity of the Liffey Quays and Heuston Station on the occasion of a march by a group (details supplied); and if any alleged public order incidents or arrests took place. [13938/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** It is not Garda policy to disclose the number of Garda personnel on duty in an area at any given time for security and operational reasons. There were no public order incidents or arrests connected to the march by the group.

200. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the number of gardaí drafted into Dublin from outside the Dublin area for the May Day weekend. [13939/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the total number of gardaí drafted into Dublin was 2,514.

#### **Nuclear Plants.**

201. **Mr. Durkan** asked the Minister for the Environment, Heritage and Local Government the details of the most recent response from the authorities at Sellafield to his requests for the closure of the plant or the elimination of the threat of pollution. [13879/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** I refer the Deputy to my reply to Questions Nos. 143 and 147 of 3 February.

Ongoing contact through correspondence and meetings at ministerial, official and expert level is being maintained with the UK authorities on a range of issues at the nuclear plant. The contacts are productive and reflect an increasing recognition by the UK Government of the serious concern held by the Irish Government on Sellafield. There remains a significant difference of views between the Irish and UK Governments regarding the continued operation of the plant.

In accordance with the commitment in An Agreed Programme for Government, our policy is to bring about the safe closure of Sellafield. Our concern is based on the potential hazards arising from a nuclear accident or incident, the impact of radioactive discharges on the marine environment, the generation, management and disposal of radioactive waste and the risk posed by the associated transport of radioactive materials through the Irish Sea. The UK Government's response to our concern is that radioactive discharges from Sellafield pose no threat to human health or the environment and the nuclear plant and related transports are safe and secure. It also believes that the legacy wastes arising from its nuclear programme are being addressed through the establishment of the nuclear decommissioning agency.

Recently the UK authorities announced a 90% reduction in the discharge of Technetium 99 into the Irish Sea from Sellafield. Ireland and Norway formulated strong objections to the radioactive metal. We have co-operated effectively at meetings of the OSPAR Commission in this regard. The reduction in radioactive discharges is a significant step but the continued practice is a matter of serious concern. The Government will

continue to campaign at all levels for the complete cessation of all discharges from Sellafield into the Irish Sea and for the safe closure of the nuclear plant.

#### **Pension Provisions.**

202. **Mr. Gogarty** asked the Minister for the Environment, Heritage and Local Government if building inspectors employed by local authorities are entitled to added years service in the calculation of their retirement pensions in the same way as other grades such as architects. [13161/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** The local government superannuation scheme provides for the grant of added years for superannuation purposes to certain professional, technical and specialist grades, subject to specified conditions being met. It is not possible to advise whether building inspectors are entitled to added years under the scheme as their grading and employment status varies between local authorities. Clarification of whether an employee qualifies for added years under the scheme may appropriately be sought from the employing local authority.

#### **Traffic Calming Measures.**

203. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government his views on a claim that his Department provides funds for traffic calming measures only when all other measures, including speed limit enforcement, have failed, and a high rate of serious accidents have been officially recorded. [13751/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** The provision of traffic calming measures on non-national roads is a matter for the relevant local authority. They may use their own resources, as supplemented by grants from my Department, to fund such works.

In 2004, my Department allocated almost €2.8 million to local authorities in respect of low cost safety improvement works on non-national roads. The National Roads Authority assesses applications for grant assistance under the scheme on behalf of my Department. The approval criteria includes accident data, inspection of sites and evidence of locations showing demonstrable hazard. Examples of the types of works that may be carried out include road signage and works for improved vision at junctions.

In 2004, traffic management grants totalling €6.683 million were allocated to city councils. The scheme is primarily intended to assist the provision of urban traffic management schemes. Eligible works also include the provision of traffic calming measures in residential areas subject to the approval of my Department.

In 2004, a sum of €22 million was allocated for discretionary improvement grants. They may also fund traffic calming measures. A local authority is responsible for distributing these funds.

#### **Housing Grants.**

204. **Mr. Perry** asked the Minister for the Environment, Heritage and Local Government when the necessary funding will be allocated to ensure that a person (details supplied) can proceed. [13795/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** On 19 April my Department gave approval to Sligo County Council to accept a tender for the construction of the house referred to.

205. **Mr. Perry** asked the Minister for the Environment, Heritage and Local Government if he will make a decision on correspondence received. [13796/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** On completion of works outstanding, a further inspection together with an assessment of the costs will be undertaken with a view to issuing a certificate of reasonable cost.

#### **Local Authority Housing.**

206. **Mr. Fleming** asked the Minister for the Environment, Heritage and Local Government the number of statements of pre-planning understandings, for compliance with Part V of the Planning and Development Act 2002 as amended by the Planning and Development (Amendment) Act 2002, signed to date based on the most recent information available and by local authority. [13810/04]

207. **Mr. Fleming** asked the Minister for the Environment, Heritage and Local Government the number of final agreements, for compliance with Part V of the Planning and Development Act 2000 as amended by the Planning and Development (Amendment) Act 2002, signed and sealed, based on the most recent information available and by local authority and in tabular form. [13894/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 206 and 207 together.

Part V of the Planning and Development Acts 2000-02 requires, as a condition of a grant of planning permission for residential development or a mixture of residential and other developments, that the developer enter into an agreement with the planning authority on the provision of social and affordable housing. In guidance issued by my Department on the operation of Part V, authorities were encouraged to develop policies for its implementation locally and to engage in pre-planning consultations with developers. This ensured that all parties had a common understanding of the nature of the Part V agreement, the finalisation of which would be included as a condition of planning permission if granted. It was also suggested that authorities might find it useful to agree in writing the outcome of such discussions.

[Mr. N. Ahern.]

In monitoring the operation of Part V my Department collects various data from local authorities. It relates generally to numbers of units delivered, numbers in progress and numbers proposed on foot of agreements entered into, on a local authority basis. This is the most meaningful data to compile. My Department does not have information on the number of final agreements and statements of pre-planning understandings, if any, negotiated between local authorities and developers.

The most recent published information on activity, under Part V of the Planning and Development Act 2000, as amended, is contained in my Department's 2003 annual housing statistics bulletin, copies of which are available in the Oireachtas Library.

#### **Water and Sewerage Schemes.**

208. **Mr. Grealish** asked the Minister for the Environment, Heritage and Local Government the status of the Clarinbridge water supply scheme; and if he will review the matter. [13912/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** The Tuam regional water supply scheme extension to Clarinbridge is included in my Department's Water Services Investment Programme 2004-2006 to start construction in 2005. My Department is considering its contract documents and they will be dealt with as quickly as possible.

#### **Harbours and Piers.**

209. **Mr. M. Higgins** asked the Minister for Community, Rural and Gaeltacht Affairs if he is aware of the need for the construction of an area immediately surrounding a recently built pier in Cashel, County Galway, and that it is not large enough to cope with the number of boats using it; and if a small grant can be provided to improve the pier. [13877/04]

**Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív):** I assume that the Deputy is referring to Damhros Pier, Cashel. On receipt of an application from Galway County Council under the small piers scheme operated by my Department in the Gaeltacht, I sanctioned a grant of €52,500 or 75% of the cost for the county council in 2003. It went towards various improvement works at the pier and on the access road. The county council has primary responsibility for its maintenance and development. I was recently contacted about it. I gather that the local people are pleased with the work done.

When I became Minister of State in 1997 I instituted a re-organisation of pier works. A small number of key piers in each maritime Gaeltacht county was selected for major development and a small works programme. A large number of piers were improved.

The pier in question will be considered, along with all other piers, when further allocations are

made under the small piers programme. There are a large number of applications. When making a decision consideration must be given to such issues as the urgency of the work, safety requirements, whether a pier has been grant aided previously and the costs involved.

#### **Social Welfare Benefits.**

210. **Mr. Sargent** asked the Minister for Social and Family Affairs if she knew that when a person in receipt of a disability payment is admitted to hospital for depression their payment is stopped; and whether the measure causes hardship to the patient and their carer because many of the needs of the patient, previously paid for by the allowance, are no longer met and there is an extra burden of paying travel expenses for a carer to visit the patient. [13730/04]

**Minister for Social and Family Affairs (Mary Coughlan):** Under the current arrangements, payment of disability allowance is not affected where the recipient goes into hospital or residential care, whether on a short-term or long-term basis.

A person providing full-time care and attention to a recipient of disability allowance may receive the carer's allowance. It may be affected if the person requiring such care must go into hospital or another residential care facility.

A carer can continue to be regarded as providing full-time care and attention where the person requiring the care is undergoing medical treatment in hospital or another institution for a period of up to 13 weeks in any one year. This measure enables a disabled person to undergo medical treatment of a short-term nature without affecting the entitlement of the person caring for them. It also affords carers the opportunity to make the necessary arrangements to return to work or apply for a more appropriate income support payment where they are no longer required to provide full-time care and attention because the disabled person must remain in hospital or residential care in the long term.

211. **Mr. Ring** asked the Minister for Social and Family Affairs when a person (details supplied) in County Mayo will receive payment of carer's benefit. [13852/04]

**Minister for Social and Family Affairs (Mary Coughlan):** On 23 March the person applied for carer's benefit. Its principal conditions are that full-time care and attention is required and being provided and certain PRSI contributions are satisfied. Her application was refused on the grounds that full-time care and attention was not deemed to be required. On 5 May she was notified of the decision, the reasons for it and of her right to lodge an appeal with the social welfare appeals office.

Under social welfare legislation decisions on claims must be made by deciding officers and appeals officers. They are statutorily appointed and I have no role in regard to making such decisions.