

DÁIL ÉIREANN

—
Dé Céadaoin, 19 Bealtaine 2004.
Wednesday, 19 May 2004.
 —

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

—
Paidir.
Prayer.
 —

Leaders' Questions.

Mr. Kenny: I would like to ask the Minister for Defence, acting for the Taoiseach, about the decentralisation programme. Is he happy that the Civil Service will be able to operate at its traditional high standard, given the method of dispensation and break-up here? The concept of decentralisation has been supported over many years and many towns in Ireland have gained economically and socially as a consequence. However, it is obvious from canvassing here in Dublin over the last few weeks that there is serious unrest among people who are being asked to move when they do not want to do so, despite the fact that this is a voluntary scheme.

Can the Minister explain what is to happen to people working with Bus Éireann who are to be transferred to Mitchelstown? It is a very fine town, but they might not want to go because of commitments to their families. They cannot obtain any information on their future career prospects. What is the situation of those working in the Valuation Office who are to be sent to Youghal, another fine town? For family reasons they might not want to move, but they cannot obtain information on career prospects either. Has this matter been thought through by the Government? Is there anyone who can explain their future career prospect to professional and technical personnel working in semi-State bodies? The website provided does not give information on the issue. These professional people, who may not want to move for a variety of reasons, feel that they are being left high and dry because they are getting no answers.

This concept was never discussed in detail as part of the spatial strategy. As the scheme is voluntary, what is in store for people like those I described who decide not to go?

Minister for Defence (Mr. M. Smith): The report on decentralisation implementation was submitted to the Government in early April 2004. The Government accepted its recommendations and the report was published on 7 April. Among its recommendations was the establishment of an

integrated transfer system called the central applications facility, which will allow people to apply for transfer to decentralised locations and to rank their preferences for different locations. It was recommended that the system be web-based and be operated by the Civil Service Commission.

The central applications facility, or CAF, was launched by the Minister for Finance on 10 May 2004. The Minister described the CAF as a further vital step towards the Government's implementation of the decentralisation programme, and as a commitment to those public servants anxious to participate in it. The Minister also described the CAF as a crucial piece in the decentralisation jigsaw and central to the programme's successful implementation. The CAF is available at www.publicjobs/caf.ie and applicants require PPS numbers to apply.

Mr. Allen: Could the Minister translate that into English?

Mr. M. Smith: Since the programme was first announced, we have got used to opposition to its principle from the Opposition.

Mr. J. O'Keeffe: The Government has been fooling around with this for five years.

Mr. M. Smith: One only has to travel to towns around the country on a Friday or a Sunday evening to see the many young people travelling to this city who are anxious to be transferred closer to their own counties.

Mr. Connaughton: The Minister should answer the question.

Mr. M. Smith: There are circumstances where individuals do not wish to transfer.

Mr. F. McGrath: Less than 5% want to transfer.

Mr. M. Smith: Each Department and agency has established its own unit to adjudicate and assist each individual. This programme will proceed whether the Opposition likes it or not.

Mr. Stagg: It will proceed whether the Civil Service likes it or not.

Mr. Kenny: That is an answer of truly imbecilic proportions and it shows absolute contempt and arrogance. I live in a town which benefited from decentralisation in the 1970s. I asked the Minister a question on behalf of dedicated public servants. I mentioned Mitchelstown, a fine town in provincial Ireland. Some 200 people are to be transferred from Bus Éireann, but there are only 80 posts that can be transferred because they are administrative. There are only two people who wish to go voluntarily. The remainder are bus drivers, mechanics and so on. There are people here in Dublin, married with children, who may

[Mr. Kenny.]

not wish to move because they have friends here, their children are going to school and so on. It is a voluntary scheme, yet no one is able to tell them what is in store for them if they decide not to move. I want to know why. That is the question I asked.

Anyone canvassing in Dublin will often have been asked by civil servants how the Government consulted with their Department, semi-State agency or body. They will claim that they like their job and they do not want to move because they are settled here. Can the Minister explain the future career prospects of those people? He should not spout nonsense about the Opposition being against decentralisation. I know the value of decentralisation in Tullamore, Letterkenny, Castlebar and Ballina. The Minister should answer the question. This is a political move as the Government is running scared before the people.

Deputies: Hear, hear.

Mr. M. Smith: There have been a number of extremely successful decentralisation programmes.

Deputies: Hear, hear.

Mr. D. Ahern: Including in the Deputy's county.

Mr. M. Smith: They were carried out in the face of the kind of opposition the Deputy is outlining. He has only to go to his county and discuss that matter with those civil servants.

Mr. Kenny: I said that.

Mr. M. Smith: Yes.

Mr. Kenny: That is agreed. Now, what will happen to those people?

Mr. M. Smith: Everybody recognises that there will be some difficulties and that there will be quite a number of people who want to remain in Dublin. Our Government has proved, in terms of reaching consensus on a range of issues, that we will operate this one successfully as well.

Mr. Rabbitte: The Taoiseach recently told the House that the Hanly report was Government policy. The purpose of the Hanly report is to reduce Nenagh and Ennis Hospitals to the status of local hospitals, with a nurse-led, minor injury unit provided during daytime. Does the Minister for Defence support the view that Hanly is Government policy and will be implemented?

On the *aide-memoire* published in *The Sunday Tribune*, which typifies the complaints we are getting about the health services up and down the country, the Minister for Health and Children compiled an *aide-memoire* for Government setting out that €400 million worth of capacity is

lying idle; it cannot be equipped or commissioned because of the absence of funding. He said in the memorandum that he could provide €35 million from own resources but it would require a commitment of €50 million on an ongoing operational basis to operate the plant concerned. What is Government policy in respect of that?

It would allow the opening of Mullingar Hospital, which has been lying vacant for years. It would allow the opening of the new wing in James Connolly Memorial Hospital, which has been lying idle for a year and about which the Minister of State, Deputy Callely, said in reply to Deputy Burton a few days ago that it could not be commissioned because of the absence of service staff — cleaning, lighting, heating — and that the cost of that would prevent it being reopened.

My colleague, Deputy Wall, has a reply in respect of the 60 beds kept closed at Naas Hospital. It states that the main barrier to opening beds in the old hospital is in the control framework of the South Western Area Health Board's employment ceiling, which will not facilitate the employment of additional staff numbers at this time. We have a similar situation in terms of critical units at Wexford Hospital. Throughout the country, badly needed beds in acute hospitals could be open. What is the Government's response to that *aide-memoire*, and what is the position of the Minister for Defence on the Hanly report?

Mr. M. Smith: The funding which has been provided for the health services over recent years is without any previous parallel. Deputy Rabbitte knows that since 1997, the total amount of expenditure on health has been increased by 188%.

Ms Shortall: Answer the question.

Mr. M. Smith: Last year, for the first time ever, more than 1 million patients were treated between in-hospital and out-patient facilities, 47,000 more than the previous year, and that has been a consistent pattern in terms of investment in health and health strategies.

With regard to the Hanly report, Deputy Rabbitte has indicated that both for Ennis and Nenagh hospitals, the accident and emergency services would be changed.

Mr. Rabbitte: No. Hanly has indicated that, not me.

Mr. M. Smith: Yes. As Deputy Rabbitte knows, even though he has outlined it, that aspect of the report has been changed——

A Deputy: Bye-bye Hanly.

Mr. M. Smith: ——and Dr. McAviney of Nenagh Hospital publicly stated, for everybody to hear, how he and others were satisfied with the new arrangements which are being put in place

to ensure that accident and emergency services continue in those two hospitals.

Ms O. Mitchell: Is it only those two hospitals?

Mr. M. Smith: The main thrust of what is contained in the Hanly report will be implemented——

Mr. Connaughton: Everywhere else?

Mr. M. Smith: ——but changes have been made in the accident and emergency services.

Mr. Kenny: Sacrifice on the altar of Hanly.

Mr. M. Smith: The Minister for Health and Children has announced those and they are widely acceptable to the local community.

Mr. Crawford: What is happening in Monaghan?

An Ceann Comhairle: Allow the Minister to continue without interruption.

Mr. M. Smith: As far as the building programmes which Deputy Rabbitte outlined are concerned, there are a number of projects which have been completed but have not been opened. Negotiations are continuing between the Minister for Health and Children and the Minister for Finance for the additional resources that will be required for that but every project will be opened.

Ms Burton: Where?

Mr. M. Smith: Deputies can be assured that the necessary resources to make that happen will be put in place as soon as possible.

Mr. Durkan: Excellent.

Mr. McCormack: There will be one and a half million people sick next year.

Mr. Rabbitte: I am bound to say to the Minister that it is not true that policy in accident and emergency provision has been changed. I ask the Minister to contain himself and not to utter any words that will embarrass us.

Mr. M. Smith: I know what has been changed in Ennis.

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

Mr. M. Smith: I know what the people opposite are trying to do but they are not going to wrap Nenagh and Ennis hospitals around themselves——

An Ceann Comhairle: The Minister had his opportunity. It is Deputy Rabbitte's opportunity now and he will have a chance to respond.

Mr. Rabbitte: Will the Minister indicate to the House how policy on accident and emergency provision has changed? The issue applies far wider than the examples I gave of Ennis and Nenagh. It applies to Mallow and several other hospitals I visited.

A Deputy: Tuam.

Mr. Rabbitte: The only change in respect of Nenagh is that two years grace has been given to get the Government past the local and European elections on 11 June. This threat exists right across the spectrum.

I am not talking about buildings. I am talking about capacity lying idle, identified by the Minister's colleague, the Minister for Health and Children, as being to the extent of €400 million. I am talking about badly needed beds that might be opened in a range of areas from Mullingar, Naas and the other examples I gave that would take tremendous pressure off the system and allow the delivery of more professional and speedy services. There is no point in the Minister saying to the House they will be provided as soon as possible. The *aide-memoire* I mentioned earlier went to Government the week before 2 May. What is the response to that? Will the Minister tell the House precisely how policy on accident and emergency provision is changed? Since when will Hanly be implemented everywhere else but not in Nenagh?

Mr. M. Smith: Once again, Monsieur Lapin has got it wrong. The situation in Nenagh is not——

Mr. Rabbitte: It is difficult enough to take the Minister in English.

Mr. M. Smith: ——as Deputy Rabbitte has described.

Mr. J. O'Keeffe: Is the Minister sure that is parliamentary language?

(Interruptions).

An Ceann Comhairle: Allow the Minister to continue without interruption.

Mr. M. Smith: I know Deputy Rabbitte would love to convince the people in north Tipperary and elsewhere that the change will be only made for two years, but that is wrong.

Mr. Rabbitte: Of course it is. They told me. I was there.

Mr. D. Ahern: Is the Deputy travelling out of Dublin?

Mr. M. Smith: That is untrue. The Deputy's party has a disgraceful record as far as the county hospital in Nenagh is concerned, at a time when it had the resources and the Health and Finance portfolios.

Ms McManus: The Minister should stop misleading the House.

An Ceann Comhairle: Allow the Minister to continue without interruption.

Mr. M. Smith: You are not going to wrap Nenagh Hospital around yourself in this election. I will make sure you do not.

An Ceann Comhairle: If the Minister would address his remarks through the Chair he might not invite interruptions.

Mr. M. Smith: One cannot open a building unless one builds it first.

(Interruptions).

An Ceann Comhairle: Please allow the Minister to speak without interruption.

Mr. Rabbitte: Is that a French concept as well?

Mr. M. Smith: They will be opened. The House need not worry.

Caoimhghín Ó Caoláin: In the Fianna Fáil local government manifesto, which was launched last week, the Taoiseach's first commitment is to "deliver for the regions through decentralisation of Government and continued investment in local services". This is Fianna Fáil's big promise to the electorate in the lead-up to the elections on 11 June. However, the decentralisation plan unveiled by the Minister for Finance last December has been ill-thought out and ill-planned. On what basis was it decided to proceed with the announcement to decentralise 10,000 posts to various locations throughout the jurisdiction without consultation with any of the civil servants involved? Will the Minister explain how this is still being described as a voluntary scheme?

What is the Government's response to the fact that 95% of SIPTU members in the Civil Service who were surveyed since the budget do not wish to leave Dublin? Only 69 out of 503 respondents are interested in taking up the proposed 250 positions in the Department of Enterprise, Trade and Employment in Carlow. The general secretary of the Public Service Executive Union has said the programme will be impossible to implement before the end of 2006. Civil servants from the Combat Poverty Agency, the smallest decentralisation proposed for Monaghan and whose staff I have met on a number of occasions since last December, state that there is no prospect of the agency being moved to Monaghan.

Mr. D. Ahern: Why not? It is going to a beautiful part of the country.

Mr. N. Dempsey: Is Deputy Ó Caoláin supporting them in that?

Caoimhghín Ó Caoláin: Only 500 of the 2,500 staff in the Department of Social and Family Affairs in Dublin are willing to move to the country.

An Ceann Comhairle: The Deputy's time is concluded.

Caoimhghín Ó Caoláin: Is the Minister aware of the huge concern among more than 800 information technology staff and 500 other staff in the Department of Health and Children who have not yet been given an indication of where it is proposed to relocate them? They are at an even greater disadvantage than those who have had their new location already signalled because all they know is that it is proposed to decentralise them but they have no information regarding that, with all the uncertainty that entails.

In an article in the December edition of *Inside Government*,—

An Ceann Comhairle: The Deputy should give way to the Minister.

Mr. Curran: The Deputy does not believe in abiding by the rules.

Caoimhghín Ó Caoláin: —the Minister for Finance indicated that he had instructed the implementation committee to report to Government by March on those 1,350 workers. Has the implementation body reported to Government and Cabinet and has a decision been made regarding the future of those workers?

An Ceann Comhairle: Two minutes are allowed for the submission of a question. Three and a half minutes is not appropriate.

Mr. M. Smith: I would have expected Deputy Ó Caoláin to welcome the Combat Poverty Agency to Monaghan, an Objective One area, and that he would have been prepared to assist and encourage such a development in his constituency rather than pointing to the difficulties and obstacles and suggesting ways in which it cannot work.

We have had a number of decentralisation programmes. They have given a substantial economic boost to the towns to which sections of the public service have been relocated. The individuals concerned have played significant roles in the cultural, economic and sporting life of these areas. That will happen again. In some cases it will take time to tease out problems. Decentralisation will be done on a voluntary basis with as much co-operation as possible. It will work. It has worked before.

We have the most centralised system of almost any small country in the world.

Mr. Boyle: That is true.

Mr. M. Smith: It is important to spread resources, not merely with regard to personnel but also with regard to the delivery of services.

Caoimhghín Ó Caoláin: The Minister should answer the question.

Mr. M. Smith: The Department of Social and Family Affairs, which deals on a day to day basis with almost 1 million clients, is one of the most decentralised Departments of Government. This would never have happened if Opposition Deputies had had their way.

Mr. D. Ahern: Deputy Ó Caoláin will be at the official opening.

Caoimhghín Ó Caoláin: I will welcome the Combat Poverty Agency to Monaghan, if it is to happen. The Minister has not answered the question because he is not prepared to face up to the assertion that he and his colleagues failed to address this proposal properly before December 2003.

Mr. M. Smith: Deputy Ó Caoláin is a big man to pre-negotiate.

Caoimhghín Ó Caoláin: The Government has not consulted or planned. The mask has slipped and we have another typical Fianna Fáil pre-election promise.

Is the Minister aware that the Government's decentralisation committee has acknowledged that thousands of civil servants will be transferred to new jobs but that this will involve the effective exclusion of many civil servants from promotional opportunities? The Government should heed those words carefully.

Mr. M. Higgins: That is true.

Caoimhghín Ó Caoláin: Civil servants are being told that if they do not move, they will not get the same promotional opportunity. That is not a voluntary scheme. It is threatening, objectionable and not acceptable.

Mr. D. Ahern: The Deputy has no vision.

Caoimhghín Ó Caoláin: The Minister should take no solace from the remarks of the general secretary of the Public Service Executive Union who has stated that the move of the Equality Authority of Ireland and the Equality Tribunal to the Minister's home town of Roscrea — I wish Roscrea and Tipperary well in this regard — had more to do with his party's political interest in that area and the upcoming elections on 11 June. The Minister has failed, so far, to answer this accusation.

Mr. M. Smith: I hope my party will always take an interest in these areas and help them in every way we can.

The critical mass which will evolve from this major decentralisation programme, combined with programmes which have already taken place and the fact that a number of towns with public servants in them will be close together, will afford new opportunities for promotion which did not exist in previous decentralisation programmes. Negotiations on all these matters will take place.

Caoimhghín Ó Caoláin: The Government's decentralisation committee has stated the contrary.

Mr. M. Smith: These problems are opportunities to be solved in the wider national interest.

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. J. Higgins: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the proposal of the European Commission to allow the widespread commercial distribution of genetically modified products throughout Europe; the threat to natural ecosystems, biodiversity and food safety arising from genetic engineering of crops and plants; and the fact that powerful multinational biotechnology companies, rather than ordinary citizens and consumers, are determining EU policy in this regard.

Mr. Ferris: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the need to discuss the lifting of the ban on genetically modified sweetcorn and the fact that the Government has become one of the leading supporters at EU level of genetic modification despite that no debate was held or democratic decision made at national level and despite evidence that genetic modification brings no benefit to the farmer or the consumer.

Ms O'Sullivan: I seek the Adjournment of the Dáil under Standing Order 31 to discuss the following specific and important matter of public interest requiring urgent attention,
11 o'clock the need for the Tanáiste and Minister for Enterprise, Trade and Employment to carry out an economic impact assessment and to adequately consult workers in accordance with the terms of Sustaining Progress in advance of three proposed changes to the development structures of the Shannon region built up during the past 45 years: The Tanáiste's plans to substantially reduce the role and

[Ms O'Sullivan.]

property portfolios of the Shannon development company and; the plans of the Minister for Transport to dilute the transatlantic gateway status of Shannon Airport and to break-up Aer Rianta.

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

Order of Business.

Mr. M. Smith: The Order of Business shall be No. 8, motion re referral to Select Committee of proposed approval by Dáil Éireann of the amendments to the Agreement establishing the International Telecommunications Satellite Organisation; No. 9, motion re referral to Joint Committee of proposed approval by Dáil Éireann of a Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking; No. 10, motion re referral to Joint Committee of proposed approval by Dáil Éireann for a Regulation of the European Parliament and the Council creating a European Order for Payment Procedure; No. 18, Central Bank and Financial Services Authority of Ireland Bill 2003 — Order for Report, Report and Final Stages; No. 19, Education for Persons with Disabilities Bill 2003 — Report Stage (resumed) and Final Stage, and No. 20, Equality Bill 2004 [*Seanad*] — Second Stage (resumed).

It is proposed, notwithstanding anything in Standing Orders, that Nos. 8, 9 and 10 shall be decided without debate. Private Members' business shall be No. 39, motion re rights of people with disabilities (resumed) to conclude at 8.30 p.m.

An Ceann Comhairle: Is the proposal for dealing with Nos. 8, 9 and 10 agreed? Agreed.

Mr. Kenny: I remind the Government to ensure we receive a short report from the committees, a provision introduced some time ago.

Mr. Rabbitte: Will the Minister for Defence tell the House if the Government intends to proceed with the whistleblowers Bill given recent developments? The previous Government, comprising the same two parties, endorsed the Bill in my name on behalf of the Labour Party, the Second Stage reading of which was approved by Government in 1999. However, there has been no mention of it since then.

Mr. Kenny: It is blowing in the wind.

Mr. M. Smith: The Whistleblowers Protection Bill 1999 is a Private Members' Bill accepted by Government and which, following the last general election, is retained on the Government's legislative programme. The main purpose of the

Bill is to provide protection from civil liability to employees who make certain disclosures reasonably and in good faith on the conduct of business and affairs of their employers. The Bill has been on the Order Paper for almost five years.

Some considerable drafting work has been done with a view to progressing the legislation. It is now considered, on reflection, that the provision of statutory protection for whistleblowers on a sectoral basis might provide a better and more focused approach to dealing with this issue as in the case of section 4 of the Protection for Persons Reporting Child Abuse Act and section 15 of the Competition Act. In such circumstances, proceeding with the 1999 Bill is not viewed as a priority. The matter may be addressed at some future time when priorities in terms of the Government's legislative programme have been implemented.

Mr. Rabbitte: I thank the Minister for his reply. The Taoiseach, in response to queries for the past five years, has led us to believe the Bill will come before the House. It is quite clear from the Minister's reply that that is not the case.

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

Mr. Rabbitte: It is quite clear that the situation which arose in Allied Irish Banks illustrates the necessity for this type of legislation yet, the Government has no intention——

An Ceann Comhairle: We cannot have a debate on the matter now. The Minister has answered the Deputy's question. The Deputy is out of order.

Mr. Rabbitte: I accept that. It is quite clear the Government has no intention of bringing in the whistleblowers Bill.

An Ceann Comhairle: The Deputy has made his point and is being repetitive.

Mr. Howlin: Why not restore the Bill to the Order Paper?

Mr. Kenny: Given the difficulties being experienced in hospitals throughout the country is it the Government's intention to introduce a Supplementary Estimate for the Department of Health and Children to cater for commitments now being entered into?

Mr. M. Smith: No, the Government is not contemplating the introduction of a Supplementary Estimate in that regard.

Mr. Gormley: On the scheduling of Dáil business, will the Minister make time available for a debate on the lifting of the ban on genetically modified sweetcorn, an issue which arose at the——

An Ceann Comhairle: Has a debate been promised?

Mr. Gormley: Yes. The matter was discussed at a meeting of the Oireachtas Joint Committee on Health and Children and many members of the Fianna Fáil party were vehemently opposed to it. Many Members on this side of the House would like an opportunity to contribute to such a debate in this House and I would ask the Minister to make time available.

Mr. J. Higgins: On the same issue——

An Ceann Comhairle: Deputy Gormley stated that a debate has been promised. Members are only entitled to ask about promised debates. Where a debate has not been promised, the matter is decided between the Whips.

Mr. J. Higgins: On the promised debate, there has been a significant change whereby biotechnology companies have been given the power to determine——

An Ceann Comhairle: I am sorry, Deputy but we cannot have a debate on the matter.

Mr. J. Higgins:——the food we eat and on issues of bio-diversity on food security. The Government has rolled over on this matter. When will the debate take place? What will the Government do to protect our natural system from such predators?

Mr. Gormley: Will the Minister accept that the answers given by the Food Safety Authority in this regard were totally inadequate.

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

Mr. M. Smith: There have been new developments in the area arising from decisions taken yesterday by the Commission. We, on this side of the House, have no objection to having a debate on the matter. It will be for the Whips to make the appropriate arrangements.

Mr. R. Bruton: The Minister for Education and Science recently opened a debate on the issue of accountability in our schools. Is it the Government's intention to introduce legislation in that regard because under existing statutory provisions many such accountability procedures are debarred by law?

An Ceann Comhairle: Has legislation been promised?

Mr. R. Bruton: Will such legislation be introduced?

Mr. M. Smith: As far as I am aware no such legislation is planned. However, I will communicate with the Deputy on the matter.

Mr. R. Bruton: Perhaps it was a little kite flying.

Ms O'Sullivan: Is the Minister, as the only senior Minister in the mid-west region, aware of the rapid advance of the PD agenda in that region? Is there any legislation, planned or promised, regarding Shannon Airport Development Company?

Mr. M. Smith: No.

Caoimhghn Ó Caoláin: Given the welcome exposure by the "Prime Time" programme on Monday night of how medical card patients are being massively over-prescribed anti-depressants, will the Government provide additional resources to the Department of Health and Children to expedite the Medical Practitioners Bill and the Irish Medicines Board Bill both of which should have been presented this year but are again signalled as being delayed for a further year?

Mr. M. Smith: It is not possible to indicate at this stage when the Medical Practitioners Bill will be taken. The Irish Medicines Board Bill will be taken next year.

Mr. Allen: When will regulations be introduced to deal with the storage of the now discarded electronic voting machines? Does the Minister propose to bring forward amended legislation to give a wider terms of reference to the electoral commission to deal with matter of verifiable paper audit trails, a matter currently not within its scope?

Mr. M. Smith: The Deputy can look forward to using the machines in the future, as I do.

Mr. Allen: I did not hear the Minister's reply.

Mr. Durkan: Can the Chair ask the Minister to repeat his reply?

Mr. Allen: Members should be afforded the courtesy of a rational answer to their questions.

An Ceann Comhairle: Deputies questions are answered, provided they are in order.

Mr. Kenny: The Minister said something about machines.

Mr. Allen: We were promised regulations.

Mr. M. Smith: I do not have any information in that regard.

Mr. Howlin: The Minister will be aware of the promise made by the Tanáiste to end what has become bonded servitude in terms of the operation of work permits by introducing new legislation to institute a virtual green card system whereby the work permit would accrue to the

[Mr. Howlin.]
worker as opposed to the employer. When will the legislation be introduced?

Mr. M. Smith: Some policy issues remain to be discussed. The Government is anxious to introduce such legislation this session.

Mr. Boyle: The Minister may be aware that the Cork Simon Community held its annual meeting yesterday and affirmed that 100 young people are homeless in the region. Given the continuing difficulties in accessing private rented accommodation, when will Report Stage of the Residential Tenancies Bill be taken in the House? Is it still a priority?

Mr. M. Smith: I do not have that information for the Deputy but I will communicate with him.

Mr. Kenny: The Minister for the Environment, Heritage and Local Government announced draft guidelines for planning conditions in respect of one-off rural housing. He then invited submissions on these draft guidelines. When is it proposed to back up the guidelines with a ministerial regulation? The Minister indicated he would make an announcement in due course.

Mr. M. Smith: The Minister for the Environment, Heritage and Local Government is awaiting further observations which are being made. As soon as that is done he——

Mr. Durkan: It will be after the elections.

Mr. Costello: The Grangegorman Development Agency Bill was promised in the context of the general election. Rumours now abound in the area that it is likely to be promised again in the context of the local elections. Will the Minister say if that Bill will be initiated before the local elections?

Mr. M. Smith: It is expected to be published shortly in this session.

Mr. Durkan: I refer to the matter raised by my colleague, Deputy Allen. In view of the existence of a dormant asset in the form of unworkable or obsolete voting machines which have been acquired by the State at a cost of €60 million to the Irish taxpayer——

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

Mr. Durkan: Could they be described as a dormant asset and, if so, will they be covered under the dormant financial assets Bill? When will that Bill come before the House?

An Ceann Comhairle: The last part of the Deputy's question is in order.

Mr. M. Smith: The Bill will be before the House in 2005. I suggest the Deputy leave out the word "dormant" and call them assets.

Mr. Durkan: These are mechanical or electronic dormant assets.

Mr. Allen: The Minister is very dormant.

Ms Burton: In view of the alarming increase in petrol prices and the repeated indications to the House by the Minister for Finance that the Government was in the process of preparing regulations for a possible carbon tax regime, will the House be given a White Paper or some other indication of the Government's thinking on this important matter? What is the situation regarding elderly people in poorly-heated and poorly-insulated houses? The Minister for Finance promised——

An Ceann Comhairle: I suggest the Deputy submit a question to the appropriate Minister. Is legislation promised on a carbon tax?

Ms Burton: ——to give them special consideration. The Minister for Finance promised that by the end of this year he would be in full consultation with the House and there would be either a White Paper or regulation.

An Ceann Comhairle: The Deputy has made her point.

Ms Burton: I ask the Minister for a reply on carbon taxation.

Mr. M. Smith: There is no legislation promised.

Mr. Neville: A serious situation has arisen in the prisons because of the strike by prison doctors. Will the Minister say when the Prison Service Bill will be introduced? Will he make a statement regarding the present serious situation?

An Ceann Comhairle: That does not arise on the Order of Business. There are other ways to raise that matter.

Mr. Allen: It is a very serious issue.

An Ceann Comhairle: If it is a serious issue it should be raised in an appropriate manner in the House, not on the Order of Business.

Mr. Allen: It is the public service Bill.

An Ceann Comhairle: I beg the Deputy's pardon.

Mr. Connolly: On the no-fault compensation scheme for health service staff who are assaulted at work, is any legislation pending to ensure these workers are compensated rather than forcing them to go to court?

Mr. M. Smith: There is no legislation promised.

Mr. Broughan: As the Minister of State with responsibility for housing is not present, will the Taoiseach allow a debate on the RAPID programme?

An Ceann Comhairle: A debate has not been promised, Deputy.

Mr. Broughan: In the three weeks before the local elections——

An Ceann Comhairle: A debate has not been promised. I suggest the Whips discuss the matter.

Mr. Broughan: Members on this side of the House have been asking about the RAPID programme. We are rapidly approaching the local elections.

An Ceann Comhairle: I appreciate that but unfortunately it is not possible on the Order of Business to ask for a debate on every issue in which every Member has an interest.

Mr. Broughan: There is nothing to show for this programme.

Message from Select Committee.

An Ceann Comhairle: The Select Committee on Health and Children has completed its consideration of the Health (Amendment) Bill 2004 and has made no amendments thereto.

International Agreements: Motion.

Minister for Defence (Mr. M. Smith): I move:

That the proposal that Dáil Éireann approve the amendments, agreed at Washington DC. on 17 November 2000 by the 25th (Extraordinary) Assembly of Parties of the International Telecommunications Satellite Organisation, to the agreement establishing the International Telecommunications Satellite Organisation, adopted in 1971, copies of which (including the amendments) were laid before Dáil Éireann on 4 May 2004, be referred to the Select Committee on Communications, Marine and Natural Resources, in accordance with paragraph (1) of the orders of reference of that committee, which, not later than 16 June 2004, shall send a message to the Dáil in the manner prescribed in Standing Order 85, and Standing Order 84(2) shall accordingly apply.

Question put and agreed to.

Treaty of Amsterdam: Motions.

Minister for Defence (Mr. M. Smith): I move:

That the proposal that Dáil Éireann approve the exercise by the State of the option or discretion provided by Article 1.11 of the

Treaty of Amsterdam to take part in the adoption of the following proposed measure:

a proposal for a Council framework decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking,

a copy of which proposed measure was laid before Dáil Éireann on 18 February 2004, be referred to the Joint Committee on Justice, Equality, Defence and Women's Rights, in accordance with paragraph (2) of the orders of reference of that committee, which, not later than 2 June 2004, shall send a message to the Dáil in the manner prescribed in Standing Order 85, and Standing Order 84(2) shall accordingly apply.

Question put and agreed to.

Mr. M. Smith: I move:

That the proposal that Dáil Éireann approve, in accordance with Article 29.4.6° of Bunreacht na hÉireann, the exercise by the State of the option, provided by Article 3 of the Fourth Protocol set out in the Treaty of Amsterdam, to notify the President of the Council of the European Union that it wishes to take part in the adoption and application of the following proposed measure:

a proposal for a regulation of the European Parliament and the Council creating a European order for payment procedure,

a copy of which proposed measure was laid before Dáil Éireann on 8 April 2004 be referred to the Joint Committee on Justice, Equality, Defence and Women's Rights, in accordance with paragraph (2) of the orders of reference of that committee, which, not later than 2 June 2004, shall send a message to the Dáil in the manner prescribed in Standing Order 85, and Standing Order 84(2) shall accordingly apply."

Mr. Durkan: I agree with the proviso that the House receive the reports before the matter is referred back to the House.

An Ceann Comhairle: It is agreed. There cannot be a debate on the matter now.

Mr. R. Bruton: I tabled a motion yesterday seeking to recommit to Committee Stage ——

An Ceann Comhairle: It is not possible even to discuss the Deputy's motion until Report Stage of the Bill is before the House. I ask the Deputy to allow the Minister to speak first. I will call the Deputy when Report Stage is before the House.

Question put and agreed to.

Central Bank and Financial Services Authority of Ireland Bill 2003: Order for Report.

Bill entitled an Act to amend the Central Bank Act 1942 for the purposes of providing for the establishment and functions of the regulatory authority sanctions panel; establishing the financial services ombudsman's bureau and prescribing the functions and powers of that ombudsman; providing for the establishment of consultative panels to advise the Irish Financial Services Regulatory Authority on certain matters; to amend the Central Bank Act 1997 for the purposes of making further provision for auditing the accounts of financial service providers and providing for the regulation of money transmission businesses; and to make miscellaneous amendments to certain other acts and statutory instruments relating to the provision of financial services.

Minister for Finance (Mr. McCreevy): I move: "That Report Stage be taken now."

Question put and agreed to.

Central Bank and Financial Services Authority of Ireland Bill 2003: Motion to Recommit.

Mr. R. Bruton: I move:

That Dáil Éireann, pursuant to Standing Order 128(1) of Standing Orders Relative to Public Business, directs that the Central Bank and Financial Services Authority of Ireland Bill 2003 in whole be recommitted to a committee of the whole House.

I move that this Bill be recommitted to Committee Stage in order to consider whether its provisions regarding enforcement under Part 2, corporate governance under Part 3 and sanctions under various Acts delegated to IFSRA, constitute best practice for the protection of consumers in their dealings with financial institutions in light of the serious compliance and regulatory failings highlighted by the recent overcharging by one of the leading Irish banks.

Most people were shocked to discover that not only was there overcharging but there was no compliance sign-off within AIB under which directors of banks would be obliged to indicate in the audited reports or other reports to the regulatory authority that they certified their bank was compliant with consumer protection law. The bank continued to be non-compliant for eight years in respect of consumer protection law. There was no response from within the bank to this non-compliance. There seems to be no understanding within the bank of its obligations and no State obligation on the banks to issue compliance statements.

More seriously, it has been discovered that this clear offence under the Consumer Credit Act 1995, is an offence that carries no sanction. The Minister for Enterprise, Trade and Employment

and the Minister for Finance, as they wrestled with what was best consumer protection and best practice in the run-up to the introduction of the IFSRA Bill, in a debate that continued for four years, did not address the issue that the Act contained no sanctions for dealing with this type of offence. Worse still, it has been discovered that over a period of eight years—

An Ceann Comhairle: I ask the Deputy to make a brief comment at this stage. This is a discussion on whether the Bill should be recommitted or not. It is not necessary to go into too much detail.

Mr. R. Bruton: It is necessary to understand the background. A regulatory authority was supposed to police a certain standard within the bank. It did not apply any monitoring over the eight years and had no sanctions to apply. Customers were double-charged over a period. This calls into the question the basis on which the IFSRA Act has been debated to date. We need to learn from this dreadful experience whether we are now using best practice. The indications are that the Minister had to rip up and abandon all the provisions on enforcement we debated on Committee Stage and propose instead an entirely new set of procedures on Report Stage.

In addition, we have not had an opportunity to examine the area of sanctions. The Minister's proposals amount to a band aid response to the discovery that the sanctions sections of the Bill around which he placed a big bulldog clip had not been vetted or audited to ascertain whether they conformed to best practice. The Minister is trying to mend his hand at five minutes to midnight, that is, on Report Stage. The House needs more time to scrutinise whether the proposals before us represent the best approach to addressing these important issues. For this reason, I propose we recommit the Bill and have a proper discussion of all these issues.

An Ceann Comhairle: We will take a brief comment from one Deputy from each Opposition party before the Minister replies.

Ms Burton: It is regrettable that we have not had an opportunity to receive a detailed briefing from the Minister and his officials on the significant changes he proposes to introduce on Report Stage. The Minister is engaged in fire brigade action to try to respond to disclosures made in recent week, specifically with regard to Allied Irish Bank. The Government took a political decision to place the governance of IFSRA within the remit of the Central Bank. The McDowell report largely proposed that consumer protection for both individual and business customers of bank services should be guarded within the remit of the Department of Enterprise, Trade and Employment, rather than the Central Bank which has a significant prudential role. The current failures and lapses originate in the failure

of the Government to make the decision recommended in the report.

IFSRA has been established with a staff of more than 90 persons and is an expensive superstructure.

An Ceann Comhairle: The Deputy is departing from the motion before us.

Ms Burton: Report Stage—

An Ceann Comhairle: I ask the Deputy to listen to the Chair. This is a narrow motion on whether the House should recommit the Bill. I ask the Deputy to briefly outline reasons it should be discussed in committee.

Ms Burton: The reasons are that the disclosures in recent weeks have revealed a further crisis in Allied Irish Bank and demonstrated that IFSRA, the regulatory authority, has no teeth. The Minister is proposing to introduce important amendments on Report Stage introducing significant sanctions but also significant changes which the Select Committee on Finance and the Public Service did not have an opportunity to discuss in detail on Committee Stage. I therefore support the motion to recommit the amendments as it would give us an opportunity to examine these important matters in detail.

Mr. Gormley: We have always known that owning a bank gives one a licence to print money but it now appears that one also has a licence to steal it with impunity. We need to address this issue. In recent weeks, we have heard a great deal in the debate on the proposed referendum about loopholes. If we do not have sanctions to deal with the types of behaviour reported recently, there is clearly a loophole which the House must address. Deputies will be in dereliction of our duty if we do not recommit the Bill to examine these important matters. For too long, bank customers have been treated like chumps. It is time we put the matter right and this is an opportunity to do so.

Caoimhghín Ó Caoláin: I support Deputy Richard Bruton's motion to recommit the Bill. The House must recognise the continuing revelations concerning widespread overcharging of customers by AIB. The initial €14 million estimate of the extent of overcharging has increased to €25 million. We learned this week that between August 1995 and April this year purchases of travellers cheques to a value in excess of €600 were overcharged by a staggering 1.5%. This indicates that the extent of the rip-off is probably even greater than estimated. These are very serious matters and unquestionably—

An Ceann Comhairle: We are discussing a narrow motion.

Caoimhghín Ó Caoláin: I am coming to my point. The Bill, as presented, does not adequately

ensure the protection of customers. Against this backdrop and the continuing series of revelations, of which I do not believe we have heard the last, there is unquestionably a requirement to ensure that the most stringent protections of the customer's interest are built into the legislation. IFSRA will have insufficient powers and a deficit in the legislation needs to be addressed. Recommittal would allow the necessary debate to take place.

Minister for Finance (Mr. McCreevy): I apologise to the House as I have a heavy head cold. Perhaps the Ceann Comhairle will give me some of the medicine he prescribed in his former life.

During the course of preparation of the Bill a great deal of consultation, negotiation and drafting work took place. This complex legislation requires considerable effort, taking into account the needs of consumers, good regulation principles and the perspectives and views of a wide range of industry and consumer groups. Constitutional and other complex legal issues arose at various stages of its development. All this takes time and effort but the Bill is a much better product as a result.

A statutory list of actions is to be undertaken by IFSRA. The Government's actions will also continue to speak for themselves. Last year was a time for radical overhaul of the institutional structures for financial services regulation. This year we are taking further action with the Bill before us which complements legislation enacted last year. IFSRA will be given powers with appropriate constitutional safeguards to apply financial sanctions to miscreant financial institutions and responsible individuals within them. For institutions the penalties proposed may be up to €5 million, while individuals may be disqualified from working in the financial sector.

In addition to provisions on penalties, the Bill provides for significant additional powers for IFSRA to require formal statements from institutions in regard to their compliance with legislation. IFSRA may also require compliance statements to be signed off by auditors. This provision is in addition to provisions of the Companies (Auditing and Accounting) Act 2003, which impose an obligation on the directors of companies to prepare and publish a directors' compliance statement.

Moreover, the new legislation will place the Ombudsman's remit for financial services on a stronger footing, ensuring for the first time that a single scheme operating on a statutory basis will serve the full range of financial services to consumers. For all these reasons, I am anxious to proceed with legislation and must oppose the motion.

To clarify several points, IFSRA came into being on 1 May 2003. The specific problems referred to by Deputies arise from the Consumer Credit Act 1995. The Central Bank and Financial Services Authority of Ireland Act of last year

[Mr. McCreevy.]

took on board the relevant sections of the Consumer Credit Act 1995 and put them into effect. The latter Act did not have the sanctions to which Deputy Burton referred and I am sure she will be anxious to learn that the person responsible for placing it before the House was the leader of her party, Deputy Rabbitte.

The Bill has nothing to do with the Central Bank and Financial Services Authority of Ireland Act. Matters will be dealt with much better now that they all come under one umbrella body. The Bill as it stands contains many of the items some Deputies complained about in recent weeks. It was published last December, with Second Stage debated on 29 December. We spend a considerable period dealing with Committee Stage and the Bill has returned to the House for Report Stage. Many of the matters to which Deputies referred are included in the Bill. The specific powers to which Deputy Burton, in particular, referred with regard to events in the past two weeks were not provided for under the Consumer Credit Act 1995, for which I was not responsible.

Mr. R. Bruton: May I make a brief comment?

An Ceann Comhairle: We must put the question.

Mr. R. Bruton: I wish to respond to the Minister before the House makes a decision on

this. We were informed the Attorney General signed off on the first enforcement method proposed by the Minister but then found constitutional flaws in that and has proposed another method. What assurances can be given, without reverting to Committee Stage, that this method will not fall at the same hurdle? It is reckless of the Minister to push this truncated Report Stage format.

Mr. McCreevy: All Bills that go before the House are assumed to have constitutionality.

Mr. R. Bruton: That was assumed on the previous occasion but the Minister changed his mind.

Mr. McCreevy: As Deputy Burton pointed out on Second Stage in regard to sanctions, there might be difficulties in this regard on the basis of legal advice available to her. We can never be certain, therefore, that if a matter goes before the courts, it will not be found wanting. That relates to all Bills, not only this one.

An Ceann Comhairle: I must put the question. The Standing Order allows for the proposer and a Government member to speak on the proposal. The practice has developed where one member from each party is allowed to make a contribution but we cannot have a debate.

Question put.

The Dáil divided: Tá, 49; Níl, 62.

Tá

Allen, Bernard.
Breen, Pat.
Broughan, Thomas P.
Bruton, Richard.
Burton, Joan.
Connaughton, Paul.
Connolly, Paudge.
Costello, Joe.
Cowley, Jerry.
Crawford, Seymour.
Deasy, John.
Deenihan, Jimmy.
Durkan, Bernard J.
English, Damien.
Enright, Olwyn.
Ferris, Martin.
Gilmore, Eamon.
Gormley, John.
Healy, Seamus.
Higgins, Michael D.
Hogan, Phil.
Howlin, Brendan.
Kenny, Enda.
Lynch, Kathleen.
McCormack, Padraic.

McGinley, Dinny.
McGrath, Finian.
McGrath, Paul.
McManus, Liz.
Mitchell, Olivia.
Murphy, Gerard.
Naughten, Denis.
Neville, Dan.
Noonan, Michael.
Ó Caoláin, Caoimhghín.
Ó Snodaigh, Aengus.
O'Shea, Brian.
O'Sullivan, Jan.
Perry, John.
Quinn, Ruairi.
Rabbitte, Pat.
Ring, Michael.
Sherlock, Joe.
Shortall, Róisín.
Stagg, Emmet.
Stanton, David.
Timmins, Billy.
Upton, Mary.
Wall, Jack.

Níl

Ahern, Dermot.
Ahern, Michael.
Ahern, Noel.
Andrews, Barry.
Ardagh, Seán.

Brady, Johnny.
Brady, Martin.
Brennan, Seamus.
Browne, John.
Callanan, Joe.

Níl—continued

Callely, Ivor.
 Carey, Pat.
 Carty, John.
 Cassidy, Donie.
 Cooper-Flynn, Beverley.
 Coughlan, Mary.
 Cregan, John.
 Curran, John.
 Dempsey, Noel.
 Dennehy, John.
 Devins, Jimmy.
 Ellis, John.
 Fitzpatrick, Dermot.
 Fleming, Seán.
 Gallagher, Pat The Cope.
 Grealish, Noel.
 Hoctor, Máire.
 Jacob, Joe.
 Keaveney, Cecilia.
 Kelleher, Billy.
 Kelly, Peter.
 Killeen, Tony.
 McCreevy, Charlie.
 McDowell, Michael.
 McEllistrim, Thomas.
 McGuinness, John.

Moloney, John.
 Moynihan, Donal.
 Moynihan, Michael.
 Nolan, M.J.
 Ó Cuív, Éamon.
 Ó Fearghail, Seán.
 O'Dea, Willie.
 O'Donnell, Liz.
 O'Donoghue, John.
 O'Donovan, Denis.
 O'Flynn, Noel.
 O'Keeffe, Batt.
 O'Keeffe, Ned.
 O'Malley, Fiona.
 Parlon, Tom.
 Power, Peter.
 Power, Seán.
 Sexton, Mae.
 Smith, Brendan.
 Smith, Michael.
 Treacy, Noel.
 Wallace, Dan.
 Wallace, Mary.
 Walsh, Joe.
 Woods, Michael.
 Wright, G.V.

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

Question declared lost.

Visit of Croatian Delegation.

An Ceann Comhairle: Before proceeding with business, I wish to extend, on behalf of the Members of Dáil Éireann, a céad míle fáilte, a most sincere welcome, to our parliamentary colleagues from the Parliament of the Republic of Croatia, who are present in the Distinguished Visitors' Gallery. They are led by the Speaker of the Parliament, Mr. Vladimir Seks. I hope they will find their visit enjoyable, successful and to our mutual benefit.

Central Bank and Financial Services Authority of Ireland Bill 2003: Report Stage.

An Ceann Comhairle: Amendments Nos. 1 and 83 are consequential on amendment No. 11, amendments Nos. 12, 13 and 16 to 28, inclusive, are alternatives to amendment No. 11, and amendments Nos. 76 and 77 are related. Amendments Nos. 1, 11 to 13, inclusive, 16 to 28, inclusive, 76, 77 and 83 may be discussed together by agreement.

Minister for Finance (Mr. McCreevy): I move amendment No. 1:

In page 5, lines 8 to 10, to delete "PROVIDING FOR THE ESTABLISHMENT AND FUNCTIONS OF THE REGULATORY AUTHORITY SANCTIONS PANEL,".

Amendment No. 11 replaces the existing text of section 10, which inserts the new Part IIIC enforcing the designated enactments and designated statutory instruments. The main reason for doing so is advice from the Attorney

General that the original text might have been vulnerable to challenge on the grounds that it did not take sufficient account of the prerogatives of the courts regarding the imposition of significant financial penalties or disqualifications from employment. The redrafted Part IIIC, therefore, provides for confirmation procedure by the courts.

The second major change is the elimination of the regulatory authority sanctions panel in view of the new confirmation order procedure. There is no longer a need for such a formal mechanism. However, the authority must comply with the rules of natural justice in proceedings leading up to the imposition of a sanction. The elimination of the sanctions panel involves a change to the Title of the Bill, which is contained in amendment No. 1, and the elimination of Schedule 4A, which is provided for in amendment No. 83.

The third set of changes provides for three distinct mechanisms that may be used by the regulatory authority to impose sanctions on a financial institution. First, the authority may agree with a financial institution that the institution should pay an appropriate penalty not necessarily requiring the institution to formally acknowledge its guilt. Second, where an institution admits that it has committed a contravention, the authority can agree an appropriate penalty with that institution without going through a formal inquiry process. Third, if either the financial institution or the authority does not wish to avail of either of these options, there is provision for a formal inquiry by the authority leading to a formal determination. If the determination involves the imposition of a sanction, the financial institution has the right of appeal to the appeals tribunal with a further right

[Mr. McCreevy.]
of appeal from the tribunal to the High Court. If the institution does not exercise its right to appeal nor acquiesce in the imposition of a sanction, the authority must seek confirmation of its determination from the courts.

The structure provided for in the revised Part IIIC is largely modelled on that envisaged in the McDowell report. It retains all the essential elements of the text it replaces, notably the power to impose significant fines and other sanctions on financial institutions and on senior management for breaches of laws and regulatory codes. This is compatible with the powers reserved for the courts under our Constitution.

Mr. R. Bruton: Has the Minister addressed all the grouped amendments?

Mr. McCreevy: Yes.

Mr. R. Bruton: I am impressed with the brevity of his contribution given that this is such a departure from what we discussed on Committee Stage, at which time we had a sanctions panel. I accept there was a frailty and Deputy Burton rightly pointed this out on Second Stage. I am reassured.

However, I would have preferred to have had some independent legal people look over this new procedure so the House would have had the benefit of information, from sources other Government sources, as to whether the new procedure is robust. I accept the Minister has had consultations on this but as I indicated in the earlier motion I would have preferred a Committee Stage type of debate, perhaps incorporating a delay in which Members of the Oireachtas could have heard other legal opinions on the matter.

It is unusual for a Minister to come to the House with a proposed approach, which presumably was approved by the Attorney General, and then, on Report Stage, to tear it up and present a different one.

Mr. McCreevy: I mentioned it on Committee Stage.

Mr. R. Bruton: The Minister said he was considering it but from the point of view of Members' capacity to hold Government to account and scrutinise the proposals it makes, it will be a truncated debate. We first saw the amendments yesterday and it is proposed to proceed with them today.

The introduction of enforcement fills a massive gap that was cruelly exposed in the recent AIB case. Short of withdrawing the licence from AIB to continue banking, the regulatory authority had no powers to deal with a clear breach of consumer law, namely, AIB charging double the rate it had been sanctioned to charge for certain transactions. I welcome these enforcement procedures.

However, we appear to be introducing a single, one size fits all enforcement procedure and it will apply under a myriad of Acts. When the first Central Bank and Financial Services Authority of Ireland Bill was introduced, it involved putting a bulldog clip around dozens of legal provisions, each of which had separate enforcement procedures and sanctions. Now we will have a one size fits all enforcement approach. That might be correct but if, for example, the Consumer Credit Bill had specified a maximum sanction of €1,000 fine plus €1,000 for every day the offence is continued and the Minister introduces a new enforcement mechanism overriding that, which allows for the possibility of a €5 million fine, the issue of proportionality arises. Can one move in one swoop without amending the earlier legislation to provide that, in future, sanctions which the Oireachtas had decided in its wisdom merited a fine of €1,000 now become part of a procedure where the possible maximum penalty is €5 million? It seems a strange procedure. The Oireachtas is not considering the scale of the offence or trying to square the penalty with it.

Some offences are so grave that a penalty of €5 million would be too little, while some offences are of a minor nature and would warrant a fine but discretion could be used. The Minister is currently considering, in respect of the Revenue Commissioners, establishing an exact protocol within which certain penalties are imposed. Here, however, he appears to be forgetting his wisdom in respect of the Revenue Commissioners and providing for a single, uniform penalty provision. If it is good for the Revenue Commissioners, and the report of the review of the Revenue Commissioners' powers recommends that there should be hierarchies and grades of offence and enforcement, the same wisdom ought to be applied in this case. However, the Minister appears to be opting for a different approach.

One of my amendments deals with the credit unions. They are concerned that this type of enforcement mechanism, with the possibility of a €5 million penalty, is one that is geared to deal with institutions such as the AIB but is not equally appropriate to deal with a largely voluntary credit union, which seeks to comply with best practice and whose members are voluntary. To involve them in the same enforcement procedure without including a mechanism to ensure it is applied in a way that is proportionate to the type of operation run by a credit union appears to be mistaken. I understand why the Minister wants a single, unified enforcement system but is it appropriate in all cases to apply the same mechanisms to a huge financial institution, such as AIB or Bank of Ireland, as to the local credit union operating locally through voluntary workers?

Another striking issue is that there is no proportionality in the offences. Some financial institutions would not consider a penalty of €5 million an injury to its financial prospects

whereas it would be the ruination of other financial institutions and, possibly, mean the end of their ability to continue operating. Did the Minister consider having penalties that are proportionate to turnover or to the turnover of the item in respect of which the offence was found to occur? Did he consider such a graded approach to enforcement?

In a later section, the Minister proposes to amend the Consumer Credit Act which was found wanting in that it had not specified any sanction for the breach of this charge. That gap appears to have survived through all the so called best practice scrutiny by the Minister's Department and the Department of Enterprise, Trade and Employment, which lasted over four years as they argued about who would best protect the consumer and how to do so. It appears that this weakness in the Consumer Credit Act was not spotted. How does the introduction of a sanction in that respect gel with the new enforcement power? Does the Minister intend, under the new system, to use the new penalty under the Consumer Credit Act or will this supersede those powers?

The Minister is establishing an appeal procedure. Where a decision of the regulatory authority is challenged, there will be an appeal to a tribunal. However, the tribunal can only either approve the decision of the regulatory authority or advise the authority to reconsider the issue. Does that constitute a fair and adequate appeal mechanism? The argument we have heard from the Minister's officials is that the Minister would not proceed with a full appeal to this body because of a fear that it would become the regulatory authority and, over time, its decisions rather than the decisions of the authority would become the principles of regulation. If that is the case, the Minister is not providing an independent appeal mechanism. He is simply providing that the tribunal either rubber stamp the decision or return the matter to the same procedure from which the decision arose. It does not appear to be a robust or fair appeal mechanism if only one decision can be made, namely, rubber stamp the matter or reconsider it, after which the next decision will be rubber stamped.

There are many examples of appeal mechanisms in a number of areas. The fact that there is an appeal mechanism for medical cards does not mean that every decision is now made at the appeal level. That is clearly not the case. The appeal tribunal sets broad outer limits or the geography within which officials can then operate. That is perfectly satisfactory and acceptable. I do not understand why the Minister chooses not to apply the type of appeal mechanisms which have been found to work satisfactorily in many other areas.

The appeal mechanism proposed by the Minister is limited and truncated and, as a result, many disputes will have to go to the courts for resolution. At a time when the Minister and his

colleagues are encouraging insurance companies to refrain from going to the courts and to seek to resolve issues through the cheaper means of an appeals bureau, they appear not to offer that type of cheaper operation to the financial institutions and to want to see issues thrashed out in court.

I would like to hear more of the rationale behind this amendment. As this is Report Stage, we get only one opportunity to speak. In the very short contributions we are allowed, if 12 o'clock we do not spot issues we will not get another chance. Even at this stage it may make sense to recommit these provisions to committee so that we can go through them individually and hear the Minister's view on each section. The House should consider that option if at the end of a period of discussion we have not got all the answers we need.

Ms Burton: I wish to point out the difficulties faced by Opposition spokespersons on finance like myself. On Report Stage, the Minister is allowed to table a range of amendments that fundamentally affect the Bill, a matter to which I will return. However, in the course of the committee proceedings, I and other Members mentioned in great detail the impact of the Bill on the credit union movement and that the Minister had created a very expensive superstructure for IFSRA, which ultimately will be paid for by bank customers as it will be funded through the regime of bank charges.

This is fine for commercial banking. However, the credit union movement provides small-scale loans to people with no previous credit history and is extremely important for those who get into trouble with moneylenders and may have been helped by the MABS for people with difficulty with financial debt. Typically people are introduced to their local credit union, given small loans and encouraged to save. The Minister for Social and Family Affairs was wrong in significantly cutting back provision for the MABS in this year's Social Welfare Act.

The problem now arises that the credit union movement is included as an integral part of the Bill because the Minister, in responding to the latest AIB crisis, wanted to present a posture of tough guy in a situation where IFSRA's parent body, the Central Bank, has for years kept its eyes and ears closed to the irregularities going on in various banks. It missed what happened in Ansbacher and various other scandals. In recent times it seems to have missed AIB's overcharging for critical services over many years. However, the Minister's architecture is that the credit union movement is an integral part of this very large regulatory structure.

I tabled two amendments as a consequence of the Committee Stage debate, when I discussed in detail the role of credit unions and in particular the impact of this structure on the credit unions' role of providing small-scale loans. I was told by a number of credit unions that supporting IFSRA

[Ms Burton.] charges may make the provision of small-scale loans uneconomical and therefore impossible.

I am disappointed that following the debate on Committee Stage, the Minister and his officials seem to have persuaded the Office of the Ceann Comhairle to rule my amendments Nos. 2 and 3 out of order even though they formed part of the detailed discussions and other amendments tabled by me and the Labour Party on Committee Stage.

An Ceann Comhairle: The Office of the Ceann Comhairle is totally independent of the Government.

Ms Burton: While I know your office is totally independent, as you know, Departments are at liberty to offer views as to whether a matter comes within the remit.

An Ceann Comhairle: The Deputy is correct, but the—

Ms Burton: I am in no way reflecting on the independence exercised by you of your office.

An Ceann Comhairle: The Office of the Ceann Comhairle is totally independent and makes an objective assessment on its own.

Ms Burton: I am reflecting on the view clearly taken by the Department of Finance in trying to stop a detailed examination of the likely impact of the Bill on credit unions. Under Dáil rules, the Minister is free to table any amendments he likes. However, even though we debated these matters in full on Committee Stage and they were the subject of Labour Party amendments, I regret that they have been ruled out of order, which is wrong.

I will now deal with the Minister's amendment No. 11. I thank the Minister for acknowledging the validity of the points I made about the separation of powers in Article 34 of the Constitution. In the context of other matters this issue will greatly exercise the country in the future. The regulatory authority is seeking to impose severe penalties, including large monetary fines and in particular prohibiting people from working in financial services. To deprive people of their livelihood is a very severe penalty normally only applied by the courts. The Minister sought to address this by creating a more defined procedure and a form of appeal. I accept the Minister must have taken advice from the Attorney General.

While I appreciate the Minister is suffering from a cold, I was not able to follow fully everything he said. Therefore as a courtesy to me and the other members of the Opposition, I ask him to supply his written notes so that I can understand the detail of what he said. These are very important changes in the regulation, which we have had no time to study. I understand and

accept that in part they form a response to Labour Party proposals.

I ask the Minister to go one step further as there are a number of points I want to explore. He has correctly changed the structure to introduce a more transparent scheme and a fairer legal procedure to address possible constitutional injustice to persons who stand accused of financial malpractice. He has also introduced an appeals mechanism, which is helpful in seeking to provide a constitutional framework that may be successful in this most important area. However, the revised provisions do not address the issue of proportionality, which requires us to seek to administer justice in a way that is proportional both to the offence and to the resources of the person who is offending. With due respect to the Minister's officials and those in the Office of the Attorney General, on a quick reading of this provision they may have produced a potential dog's breakfast.

On the concept of proportionality and constitutionality, the Labour Party tabled an amendment proposing that the fine be up to €5 million or up to 10% of turnover. I have no problem with a €5 million fine as there are many large institutions for which that level of penalty may well be appropriate. However, there are small institutions like credit unions for which that would be an impossible level of penalty. The Labour Party amendment would introduce an element of proportionality regardless of whether the turnover of the institution was €1 million or €1 billion. Last week AIB was able to place €25 million on deposit as it realised that the latest mess cost customers €25 million and not €15 million. A sum of €25 million is nothing to our large financial institutions. However, it would put a credit union in Monaghan or west Dublin out of business. The Minister has not addressed the question of proportionality.

Section 33AT of Part IIIC, inserted through section 8, provides that the regulatory authority shall conduct an inquiry with as little formality and technicality and as much expedition as proper consideration of a matter will allow. The Minister is providing that an inquiry shall be conducted with as little formality and technicality as possible to get around Article 34 of the Constitution. If I faced losing my job as a financial adviser and found myself in the dock, I would hope to heaven that there was a proper, formal procedure in place. The wording is quite extraordinary. I understand that it seeks to get around the provisions of Article 34 of the Constitution by, apparently, providing for all classes and cases of persons and financial institutions.

The Bill provides for mitigation in section 33AF. If proposed fines constitute such an amount that an individual or financial institution is in danger of becoming bankrupt, they will not be imposed to the full extent. One cannot have it both ways. One cannot say one is bringing in swingeing penalties if those penalties will not be

enforced where there is a danger of bankruptcy. The Minister's officials can tell me if this refers to company liquidation and forced liquidation. This provision is one of the reasons I agree that the Committee on Finance and the Public Service and the House need more time to be briefed. The Minister is trying to make three or four provisions together, but he is not pulling off the trick. The provision will mean one will be able to mitigate severe penalties by saying one may become bankrupt if they are imposed. Can a doctor who is guilty of misconduct tell the Medical Council that it cannot find against him because if it does, he will lose his livelihood and may be bankrupted? This is a foreign concept of which I have never heard before in the context of professional misconduct. The Minister can bear me out. I have never heard of such a provision where an accountant is charged with professional misconduct.

I would like an explanation from the Minister as to how this concept was conceived. There is a problem with proportionality. The Labour Party suggested that a way to solve it would be to impose fines as a percentage of turnover. In case people are unclear as to what I am saying, the Bill provides that where the regulatory authority decides to impose a monetary penalty on a regulated financial service provider under section 33AQ or 33AR, it may not impose an amount which would be likely to cause the provider to cease trading. The Bill also makes provisions on the bankruptcy of individuals. The notions are contrary to and at odds with everything I understand about professional regulation. This is driving a coach and four through regulation as I understand it. There is a serious fault in the regulatory structures as they relate to companies.

We have a great deal of experience in west Dublin of developers who build faulty estates. When one approaches the builder at the next development, one finds that the original company has gone into liquidation. Every Deputy is familiar with this process and the lack of further legal recourse. The Bill uses the phrase "a financial service provider to seek business". Where is the definition of connected financial institutions? If one were seeking technically to breach the regulation, one would create a series of defined companies, as builders do, to handle every little part of a business process. We have not had an opportunity to obtain separate legal advice as we only received the revised regulations yesterday and this morning. However, I warn the Minister that if he thinks the Bill will address holes in regulations, he is wrong. Lawyers will earn tens of millions of euros from the financial institutions to have fun taking the revised regulations through the courts as a result of the clauses the Minister has included to address the issue of proportionality.

I ask the Minister to reconsider his proposals. In particular, he should give serious consideration to amendment No. 28 which seeks to insert into the regulations the provision that a fine should

constitute 10% of a person's actual or estimated turnover. He should seek legal advice on how best to address some of the difficulties he has in making this Bill work. While the Labour Party is very critical of elements of this Bill, it is anxious to see the overall regulation of the financial services industry proceed. It should proceed in a manner which provides for serious penalties for malfeasance by individuals, companies or banks in financial matters. There was a dispute between the Minister and the Tánaiste about the institution which won control, which was the Central Bank. We should have an omnibus Central Bank Bill to deal with all of the material involved. The regulations are spread over several different Acts and it is extremely difficult to know where the final recourse lies.

The provisions of the Bill are constitutionally dubious. It is almost certain that as soon as a significant penalty is imposed, there will be an appeal to the courts. As the Minister acknowledged, the courts will decide. That is not acceptable when we are trying to establish a financial structure we hope will last and deter wrongdoers in the financial services industry from cheating customers whether they be businesses or individuals. These are the priorities the Labour Party identifies as being most important. Every customer of every financial services institution will pay a large amount for this regulatory structure.

The Labour Party has also tabled amendments on credit unions and consumers. Another major theme of my Committee Stage contribution related to the significant number of persons due to be appointed to the various boards, bodies and panels established under this Bill. I counted a potential 65 appointments and the Minister did not disagree with me. He said I was probably right. I asked the Minister if the usual suspects would be appointed including senior people from the financial services industry and political appointees from Government parties. As I told the Minister, while I have no problem with the appointment of people from the financial services industry and qualified persons from Government parties, I have a major problem with such persons constituting almost 100% of appointees. There will be a significant problem if such people constitute almost 100% of panel appointees.

After a year's debate, the Minister for Finance finally appointed one woman to the board of the Central Bank. She wears both a consumer representative and a gender hat as the first woman appointed to the board.

Mr. McCreevy: The first woman appointed by any Minister for Finance in the past 60 years.

Ms Burton: Well done to the Minister, even if it took him a year to do so. We are delighted with this great achievement that after 60 years, the suits made way for one woman. The country is going places fast.

Mr. McCreevy: The former leader of the Labour Party and Minister for Finance, Deputy Quinn, was not able to get around to making such an appointment either.

Ms Burton: That the people appointed are not the usual suspects is of critical importance to building confidence in the new institution. The panels must comprise representatives from consumer organisations. They must comprise those with an active knowledge of the operation and management of credit unions to implement the regulatory mechanisms fully. There must be full representation for women.

There has been much discussion in the past several weeks about the crisis in AIB's overcharging of foreign transactions. Another crisis, as a recent Central Bank report disclosed, is that this economy is floating on a sea of debt. The financial services industry must be operated in a fair way and not push products that subsequently land consumers in terrible hot water. Young people, in particular, are having credit facilities thrown at them by some unscrupulous product advertising. Elderly people have been advised by banks to buy into derivatives. They would be better off going to Celtic bookmakers to put €100 on a horse race. It will not be good enough if these panels and boards are made up of financial industry representatives and political appointees from the Government parties. The people needed on these boards are those who know what it is like to run a credit union, who are advocates of consumer rights and representatives of small businesses that are ripped off by the banks. This includes men and women. There is no excuse for not having equal representation of 40% for men and women.

It is regrettable that the Minister has not indicated if he agrees to these points. If some of these points had been agreed to, the debacle of AIB of overcharging customers would not have occurred. An overcharge of 1.5% on traveller's cheques is an incredible figure, particularly when one sees the overall charges for these services. This Bill gives an opportunity to put in place a mechanism that will help commercial, industrial and individual consumers. By kow-towing to the Central Bank, the Minister is missing these opportunities.

Caoimhghín Ó Caoláin: Report and Final Stages of the Bill had commenced when an usher presented me with correspondence from the Ceann Comhairle. It advised me that three of my amendments were ruled out of order as they may involve a potential charge on the Revenue. Two of these amendments concerned the section now being debated. The first of these proposed that the legislation would come into operation no later than 12 months after its enactment. It strikes me as odd that this would result in a financial charge on the Revenue. It is in the Minister's interests and those promoting this legislation that it comes into operation at the earliest opportunity. I would

not have believed that the 12 month implementation was restrictive.

As the Government's amendments were tabled late, Opposition Members did not have the opportunity to appraise them properly. The detail of the amendments offers a more focused approach in terms of the role of the regulatory authority. However, that can only be determined in practice. Deputy Burton highlighted the different case histories of taxation effects presented by the Minister. The Minister has tabled an amendment proposing an alternative to the regulatory sanctions panel. Has the Department of Finance examined the effects of the Minister's alternative in light of concerns regarding financial services providers? If not, then a substantive judgment on the Government amendments can only be made when the legislation is in operation.

Amendment No. 1 seeks to delete the establishment and the functions of the regulatory authority sanctions panel. Amendment No. 19, in my name, proposed that the sanctions panel should comprise members with expertise in credit union matters as an accommodation of the concerns of the credit union movement. This was already recognised in the 2003 Act. However, a different position is now presented as the Minister has changed the proposals first presented with the Bill. Will the Minister address the concerns of those in the credit union movement?

I must declare my interest as a member of my local credit union. The credit union movement proposed either a dedicated credit union sanctions panel or a specific provision for credit union expertise in the make-up of the sanctions panel. The original proposal saw the panel limited to nine members, which my amendment proposed to raise to 12. However, it has been ruled out of order while the Minister has changed the composition of the regulatory authority investigation procedure. This is an area that not only concerns Members present but the wider public which appreciates the unique position that the movement holds within the economy and the role it plays at community level.

Amendment No. 11, in the name of the Minister for Finance, will make substantives change to the sanctions panel as first mooted, which concerns me. The amendment creates a new section, 33AT, which states that a financial service provider, and so on is not to be liable twice for the same contravention. The word "may" is used frequently throughout the construction of the text of this amendment. I am concerned that in a number of instances the word leaves much to discretion. There is the potential for leniency where the wider public might prefer to see a more strident approach. Subsection (2) states:

The Regulatory Authority may not impose a monetary penalty on a financial service provider, or on a person concerned in the management of the financial service provider,

in accordance with section 33AQ or 33AR, if—

(a) the financial service provider or other person has been charged with having committed an offence under a law of the State and has either been found guilty or not guilty of having committed the offence, and

(b) the offence involves a prescribed contravention.

There are probably concerns among the public that there may be an easier option in terms of the exercise of legislation and charge as against what might be, given the gravity of any contravention, an appropriate financial penalty. This is indicative of a looseness in the construction of amendment No. 11. Another example of this is the opening of Chapter 2, section 33AO, in the same amendment. This section states: “[The] Regulatory Authority may hold inquiry into conduct of [a] regulated financial service provider or person concerned in its management.” The use of the word “may” concerns me. The section goes on to state:

Whenever the Regulatory Authority suspects on reasonable grounds that a regulated financial service provider is committing or has committed a prescribed contravention, it may hold an inquiry to determine whether or not the financial service provider is committing or has committed the contravention.

The position is then addressed further in section 33AR. The regulatory authority may hold an inquiry or, if the financial service provider of a management representative of such “acknowledges that the person is participating or has participated in the commission of the contravention, the Regulatory Authority may ... dispense with an inquiry” and, by agreement, come to a settlement with the provider. That is a favourable position for the financial service provider, which gives it a possible way out. On acknowledgement, the provider can enter into negotiation with the regulatory authority about a settlement and an inquiry is not required.

However, an inquiry is the only way in which we can establish the full facts. We must bear in mind recent events such as the revelation that AIB had been overcharging customers on foreign exchange transactions since 1995, netting an amount originally estimated to be €14 million but now standing at €25 million and more, and its further admission that people purchasing travellers’ cheques to the value of €600 or its equivalent were, up to last month, being charged in excess of the permissible charge by 1.5%. This is not the whole story — much more will unfold. If the new provisions applied in this case, AIB could chose to enter into an acknowledgement of its contravention with the regulatory authority and the authority might then decide not to initiate an inquiry. This is wrong. An inquiry is the only

means of getting to the rotten heart of these abuses.

This is a deficiency within the Minister’s amendment. It provides a way out. With all respect to those who make up the regulatory authority, it is deficient because the matter is left to human choice. I have no doubt that in time a comfort factor will evolve that will render that option the preferred one rather than proceeding with an inquiry as prescribed in this legislation which is endorsed by the Houses of the Oireachtas. The choice should be removed to ensure an inquiry is held and that the full extent of the abuse is properly recorded and exposed. Only in this way can public confidence be guaranteed into the future, not only in the matter of service provision by the financial services bodies such as banks, but in the Central Bank and Financial Services Authority itself.

I ask the Minister to address those matters and to advise the House whether there has been some cursory examination of how this proposition would apply in current circumstances. That would be an interesting exercise and I would be surprised if something of the sort had not been undertaken to try to identify the deficiencies and pitfalls in the proposal. While I am not in a position, due to the reconstruction of the Minister’s position, to press amendment No. 19 as it is presented, I would like to hear the Minister’s position on the credit union movement and the concerns expressed by me and other Deputies on Second Stage, Committee Stage and this morning’s Report Stage.

Mr. Boyle: Are we dealing with the amendments in order? If so, amendment No. 13 should have been discussed by now.

Acting Chairman (Dr. Cowley): I am calling people in the order they indicated they wished to speak.

Mr. Boyle: I will allow Deputy O’Keeffe to continue.

Mr. N. O’Keeffe: I thank Deputy Boyle.

It is a pity we cannot discuss this Bill on Report Stage in a more mature way. The discussion is being overshadowed by the difficulties that have arisen in one of our banking institutions. If it were not for that, Report Stage would go more smoothly. I agree with Deputy Burton’s comments about the extra bureaucracy we are creating and the major cost to the ordinary customer. Somebody will have to pay for these regulations. The Minister for Finance, Deputy McCreevy, is my good friend and colleague who holds an Executive office. He should stay at the Cabinet table. He should slow down the pace of regulation because people are getting fed up with it. This is what happened in Russia many years ago. It resulted in the break-up of the Soviet Union because people were afraid to go out and about.

[Mr. N. O’Keeffe.]

Regulation is becoming so serious in this country that people are beginning to react against it. The Tánaiste recently deregulated one area of the Casual Trading Act to allow people sell strawberries, apples and so on in the streets and by the roadside. The change happened because people were defying the legislation by selling strawberries on the streets.

Who will pay for all of this? Bank profits are criticised on a regular basis but are they sufficient to allow the business expand into the future? If one examines the turnover of banks, one will see that profits are not keeping pace with turnover in marginal terms. The draconian measures being introduced are not the answer to the problem. Would the free market and deregulation work better with regard to bank charges? A number of years ago when I was a private citizen, the economy in this country was in a bad state. However, the economy is thriving under the present Minister. In the past the prices commission was welcomed both inside and outside this House. However, it resulted in higher charges because there was no competition. Many cartels and organisations met the different bodies, including the Department of Enterprise, Trade and Employment. Many good Ministers who have made a name for themselves in other areas of business came out of the Department in these years. Will the Minister deregulate this section of the Bill and let banking charges operate in a free market? This would mean that people would get much better value for money. I understand the AIB charges, if operated properly, would have been lower than in other banks. I do not know what errors occurred in this area but I understand the charges were more competitive.

Stringent penalties solve nothing. What is happening on our roads is a good example of this. Even though more and more regulations are introduced each day, deaths and accidents continue to occur. There must be a certain amount of maturity involved in making decisions.

The IFSRA Act was introduced a few years ago because of what was happening in the intermediaries area where people were being ripped off and so on. This type of regulation is probably necessary in regard to licensing. Some people who were involved at the time are now writing articles in the newspapers on how the system should work. They were not very vigilant in the organisations. Someone who was involved in one of the major organisations, and who served a prison sentence, writes regularly in the financial pages on how the system should work. AIB made a statement that it would put €25 million on deposit in the Central Bank, which was fair enough.

While I support the Minister, I have asked him a few questions. I work with and do a bit of banking with the credit unions, which are quite competitive. I come from Mitchelstown, where one of the largest credit unions is located, which has had its problems. However, I do not want to

say any more on that issue. Given the scale of business being done by credit unions and the amount of money involved, it is necessary to have some tightening of the regulations. From time to time, there are complaints from people who are worried about their situation. Charges are one aspect but it is a major issue if people lose their deposit or investment. We must be vigilant in this regard and I support the measures the Minister is endeavouring to introduce.

There are two banks in this country who have served the island well. I claim to be as much a Nationalist and republican as Deputy Ó Caoláin, and I work within the framework of the Constitution. We could end up in this country with no Irish bank because we could make them totally uncompetitive. The banks have served this island well for generations and decades. We know what happened in New Zealand many years ago. Today there is no New Zealand banking system but they are trying to put a system in place — I am open to correction on that. That is in the South Pacific and we are in the North Atlantic. This issue should be examined.

I read last week in the *Financial Times* that there will be more and more amalgamation of banks in Germany. I do not think such an arrangement would be good for competition in this country. While I admire much of what Deputy Burton says, she made a point about selling derivatives of bonds. We live in an age when people try to invest money. I congratulate the Minister on the success of his investment scheme. The SSIA scheme has been a wonderful investment for people.

Ms Burton: It is not a derivative, it is a sure thing.

Mr. N. O’Keeffe: Yes. Many people in the private sector who get redundancy payments and so on look for ways to invest their money. They are begging for someone to give them advice because there is no return on deposit accounts, which is just 1% or less. People have asked my advice on where to invest. I advise these people to buy shares in Bank of Ireland and AIB because I believe they are a good investment. There is no point blaming the bank because it told Mrs. Murphy, Mrs. Jennings or Paddy Murphy where to invest. He or she asked for an opinion, which was given freely. In many instances, no commission accrues to the banks from these investments. I know many people in the private sector, as I am sure the Minister does, who sold farms and pubs and invested the money. They thought the investment would bring them over to the next world, or as far as it. They now find themselves in hospitals and institutions, while their capital is being eroded because there is no return on their investment. This is the fault of the world economy and the success of the European economy. These people are looking for a good return on their investment but they are

often told there are difficulties and their investment has collapsed.

I like to see fair play but there is no fair play in this discussion because it is being clouded by what happened a few weeks ago in regard to bank charges. These things should not happen but, human nature being what it is, they do happen. In fairness, we get a good return from our banking system. We must examine the employment figures. In Cork city in excess of 2,000 people work in financial institutions, even though it is not the biggest city in Ireland. Each day we try to attract financial services into the country. We have the finest financial services business in the world on the quays. There are many financial services centres throughout the country, including Kilkenny and Leitrim. These banking institutions invest in this country and provide high levels of salaries. If we continue to attack the financial institutions, particularly our own institutions, these people will not continue to come to this island. They may even pack their bags and move out because of our hostile environment.

I advise the Minister to be prudent in this regard. I have no doubt he will answer my question on the deregulation of charges which is a contentious political issue. I do not think that Fianna Fáil will ever again be in Opposition, but it would do the same even if it was. It is a hobby-horse to attack the banks and the man on the street likes it as he often has difficulty with them. If that area is removed, we will have greater competition within the system.

I gave the example of the prices commission and how people thought it was a model that worked, yet it failed miserably years ago. It was abolished through deregulation and we now have the free market where farmers can buy feed and fertiliser at the best prices. The Minister should therefore look at that area of the Bill. As he is a man of integrity and character, he should have the courage to have it deregulated. He will get the support of those involved if he does so.

Mr. Boyle: I will start on a positive note. It has to be acknowledged that the existence of the Irish Financial Services Regulatory Authority, albeit with limited powers, has been a factor in bringing recent events to light. It is unfortunate that we have not got the legislative order and priority right. Many of us made the argument that the initial Bill should have dealt with both the prudential and the consumer protection role. That argument has been vindicated by subsequent events. The Minister's amendment No. 11, which is over 14 pages long and almost a Bill in its own right, would not have arisen had we chosen that course of action. It was a mistake to put the prudential role ahead of consumer protection because this was the area which was most in need of proper regulation, as many of us realised even before recent events — Deputy Ned O'Keefe might disagree with that.

I declare an interest here as my wife is an employee of AIB, albeit on leave of absence and

not involved in the setting of fees or rates of payment with that institution.

The thread that runs through this grouping of 19 amendments is the need to have in place proper measures on consumer protection. It was hoped that this could have been done with the original sections of the Bill despite or even in parallel to the standard judicial procedures. The laws of natural justice state otherwise, and the concerns many of us expressed on Committee Stage are now being addressed to some extent. There is a danger in going through this type of detail on Report Stage as the sections might become the cause for protracted legal dispute in subsequent cases. Deputy Burton stated that and I would prefer if we took more time. It has to be acknowledged that the Minister's officials made contact with the spokespersons last week and supplied the necessary briefing material. However, there is much detail to be assessed before a Bill is agreed by this House and it is unfortunate that we have gone down that road.

The other thread of these grouped amendments relates to how the regulatory authority and its panel properly represents the interests of those who are involved in the financial sector. There are many amendments that require the panel to have proper representation of consumer advocacy groups and the knowledge and participation of the credit union movement. I would like to see the Minister specify who can and should be a member of the authority's panels on the basis of their experience in these areas. To keep membership open will lead to the fear that many have expressed in this House and elsewhere that the authority and the panel will be constituted mainly with people whose interest in banking and financial institutions is strictly from the prudential viewpoint. The authority will not be well served, nor will the interests of consumers, unless that specification is put in place.

Amendment No. 13 is my first amendment. The Minister was not supportive of this on Committee Stage and I have resubmitted it. It has added currency in light what has gone on in the banking sector with the setting of rates, fees and foreign exchange transactions. I am still asking for the regulation of non-deposit taking financial institutions. I do not accept the Minister's argument that bodies that deal with consolidating loans charged at higher rates to people in difficulty with other lenders should not be included in this legislation.

The Minister argued that this type of financial institution was covered by the Consumer Credit Act 1995. This has been exposed by the disappointment expressed by the Director of Consumer Affairs about the exposure of AIB. The type of supervisory arrangement on fees for foreign exchange transactions that existed with the Director of Consumer Affairs was carried out by correspondence. The director wrote to AIB and asked for its rates, she received a written reply but it turned out that the rates were nothing

[Mr. Boyle.]

like what was reported in the correspondence. Not only was there no mechanism to deal with such untruthfulness, we still lack a proactive supervisory role where an office, be it the Director of Consumer Affairs or IFSRA, can enter an institution, discover what is being charged and act there and then.

This continues to be a huge flaw in the legislation in this area. There is a particular need for regulation of non-deposit taking financial institutions — I stress that this amendment has been demanded by those working in free legal aid centres who have had experience of people in debt who have been taken for a ride by these institutions. Unless such an amendment is accepted, the current legislation will not deal with this situation and I appeal to the Minister on those grounds.

My second amendment in this grouping is amendment No. 21. Particular representatives from consumer protection advocacy should be appointed, as I already argued. In other legislation, when bodies and panels within bodies are being established, not only are there vague references to people with experience in a particular area, non-governmental organisations of which they can and should be members are also named. They might even have nominating rights, and this has existed throughout the partnership process in several items of legislation.

I see no reason the Consumer Association of Ireland cannot have a direct nominating right to IFSRA and to the panels that are subsequently formed. They have undoubted expertise that would help inform the workings of the organisation. The authority will come into confrontation with the Consumer Association of Ireland if it does not have direct input, yet both organisations should work hand in glove.

Amendment No. 22 is my third amendment. It is one line that I would like to see inserted into the Bill. However, it has the same effect as the Minister's 14 pages in amendment No. 11. It states: "The regulatory authority shall have due regard for upholding the public interest in the expeditious execution of proceedings." This is a concern that we all share in this House as we want the authority to have supervisory and even prosecutor powers. We want to see action being taken in a quick and efficient way in terms of any failure by financial institutions to live up to their responsibilities. Since we need to examine the constitutionality of the original Bill, there is a fear that the procedure being put in place might be constitutionally correct but leaves open the possibility of unnecessary, prolonged investigations when it is in the consumer's interest to have these issues sorted out as soon as possible.

My amendment No. 27 is included in the Minister's amendment No. 11 as part of his overall proposals to change this section. I wanted the €5 million to be part of the cost incurred by the financial service body if it is a body corporate. That view is shared by Deputy Burton as well in

the subsequent amendment, that it should be 10% of the turnover of profit earned by that corporate body.

I am uncertain as to the reason the Minister makes the distinction in the second section of this Part between the individual person and the body corporate in that the figure for the body corporate is €5 million but for the individual person it is for €500,000. The figure of €500,000 might appear to be a great deal of money to people now, but we are passing legislation without any degree of index-linking, and it is unlikely a Bill like this will be changed for many years. That €500,000 will be quite a small sum in a short period when we consider the type of gain made by some individuals engaging in financial transactions. They might decide it is worth the potential risk if they get caught and penalised by State authorities.

The final grouping of amendments is Nos. 76, 77 and 83, one of which is a technical amendment of mine to delete the term "and responsibilities" and substitute "responsibilities and the Sanctions Panel established". In passing the Bill it is important that we give the sanctions panel as many teeth as possible because it will be an important instrument in determining the level of consumer confidence that will follow its passage into an Act and, it is to be hoped, avoiding the type of scandals we have seen far too regularly in the past and which are before us.

On those grounds I hope the generality of this debate will get the prioritisation right in a way that we have not seen in the debate on the original Act and this Bill, that it will put a greater emphasis on consumer protection and put the prudential role, important as it is, on the back burner so that it is part of the mix rather than the dominant part of the mix. In that way we will have a representative body that can restore public confidence, which many of us on this side of the House fear has been badly dented by continuing events in the financial sector.

Mr. McCreevy: I am glad Deputy Boyle referred to the fact that my officials gave a briefing to the Opposition spokespersons on Friday last. They were contacted with our amendments and a briefing was offered. As far as I know, Deputy Richard Bruton was the only one who took up the offer of the briefing but such an offer was made by my officials last Friday on the series of amendments tabled in my name.

Reference has been made inside and outside the House to the background to the first Central Bank and Financial Services Regulatory Authority Act, now known as the Act of 2003, in terms of the lead-up to it, the discussions that took place and the difficulties that arose. There have been differences of opinion between myself and the Tánaiste over many years but I assure the Deputy there were no differences of opinion on this matter. However, there were differences among a wide range of bodies on this matter. I

set up an expert group comprising nine people and I received three separate reports on how we should proceed. We could not get agreement in the House as to the structure of the Bill. Deputy Michael Noonan of the Fine Gael Party had one view, the Labour Party had another and I am not sure about the other parties. Different views were put forward by the various institutions and, when we came forward with the new regulatory authority, we believed it was the best compromise that could be reached at that time, and I believe it has worked well.

In case I forget to mention it at the end of my contribution, I cannot agree with what Deputy Boyle said at the end of his contribution, although I agree with some of what he said about the prudential function being put on the back burner and the consumer focus being more important. I would be in Deputy Ned O’Keeffe’s camp on that matter. I somehow guessed, and Deputy Boyle may find out too, that while people might wish that their bank official or financial institution staff would say “Good morning” to them, send them statements every day of the week and look after them very well, and that they would complain a great deal if things were not done in certain areas regarding consumer protection, it would be nothing like the screaming we would hear were the prudential role to be left aside and a financial institution to go belly-up, and rightly so. The prudential function must be to the forefront of the authority’s concerns, and I believe the Deputy was wrong when he made that particular remark.

Mr. Boyle: I said “less important”.

Mr. McCreevy: I would say——

Mr. Boyle: It is about getting the balance right.

Mr. McCreevy: ——the prudential regulatory function is more important. I have no hesitation in nailing my colours to that particular mast. The Deputy should think about the great days of the wild west, when there were runs on banks. People are more concerned about the protection of their money than whether the bank manager says “Good morning” to them or sends them a Christmas card.

Regarding the wide-ranging debate on these amendments, Deputy Richard Bruton asked how I could justify curtailing the appeals tribunal power in relation to IFSRA supervisory functions. Experience shows that legal challenges to supervisory decisions are rare. Financial institutions which need to maintain a reasonable relationship with the regulator would rarely find it in their interest to challenge a regulatory decision head-on. However, in providing for a special appeals tribunal instead of the courts we are making it somewhat easier for financial institutions to challenge a decision of the regulator. Furthermore, a special tribunal is more

likely to delve into the merits of a decision by the regulator.

The regulator has a serious concern that its authority and effectiveness could be undermined if its supervisory decisions could be reversed by the appeals tribunal. I emphasise that this concern only extends to supervisory decisions. There is no difficulty with the new powers of sanction being subjected to the full rigours of an appeals process.

There was a concern on the part of the regulator that in having an appeals tribunal, the tribunal itself would become the regulatory authority. It was felt that would not be in the best interests of protecting the reputation of the regulatory authority. I am not prepared to take the risk that the authority could be undermined by having its supervisory decisions reversed by an appeals tribunal. It is sufficient that the tribunal’s power in this area be confined to suggesting that the regulator think again, as it were, by referring any decision back to the regulator for review. I would expect that the regulator would pay close heed to any such decision by the tribunal. Furthermore, if it fails to come back in accordance with the tribunal’s view, this would strengthen the financial institution’s hand in any subsequent appeal to the High Court. I emphasise that any decision of the tribunal is subject to a full right to appeal in the High Court.

Deputy Burton and others referred to the credit unions. As in previous debates and not just those on this Bill and the previous Act, people take confused positions regarding credit unions. For obvious political purposes we must say all the nice things about them. If one does not, one is in danger of being slapped in one’s constituency. I have recognised the politics of this issue. In my own and Deputy Keaveney’s party, no matter what trouble one was in, if one said a few appropriate words about events of 50 or 60 years ago one was safe. The situation is similar with regard to the credit unions. We must say we are all in favour of them, and we are.

On the other hand, when it is proposed that credit unions be properly supervised some people are reluctant to upset them too much. Some credit unions are as big as some banks. The credit union movement’s latest report showed, I believe, deposits of €10 billion. That makes credit unions a substantial player in the financial market. The difficulty arises from the fact that the movement includes very small and very large credit unions and it is difficult for the organisation to pull all these strands together and accept the difficulties which arise. We do not want to see credit unions going belly up, if at all possible.

Caoimhghín Ó Caoláin: The Minister has not replied to the points I have made.

Mr. N. O’Keeffe: He has no time.

Mr. McCreevy: I would have done so but my time is up.

Acting Chairman: The Minister is making his second contribution. Members now have two minutes each. The Minister will then have the right to reply.

Caoimhghín Ó Caoláin: It is impossible, without having heard the Minister's reply—

Mr. R. Bruton: This arises from the unsatisfactory nature of Report Stage amendments.

Ms Burton: We raised a number of technical matters and the Minister has not had an opportunity to reply to them.

Acting Chairman: The Minister proposed the amendment in the first place. The Chair is carrying out the rules of the House, which is the Chair's obligation.

Mr. Boyle: Does the fact that we have grouped 19 amendment together not mean that we have 19 allocations of time?

Caoimhghín Ó Caoláin: Surely that is the case.

Acting Chairman: There is no time limit on initial contributions of the Minister or of other Members. The only time limit is on the second contribution, which is two minutes. The Minister will then make a final contribution. That is the procedure for Report Stage amendments.

Mr. R. Bruton: The Minister has rejected the proposal that the Bill be resubmitted to Committee. However, I propose that the Minister's substantive amendment be dealt with in a committee style debate so that the Minister can fully reply. I do not wish to delay matters unduly but that would allow us to hear the Minister's full reply.

Mr. McCreevy: I am not prepared to do that. I have had a previous experience of giving in on a subject like that and having the procedure abused by a Deputy. Deputy Bruton would not abuse that procedure but others would, and have done so.

Acting Chairman: This is not a Committee Stage debate. The House has already decided on this matter.

Caoimhghín Ó Caoláin: May I raise a point of order? My next contribution would ordinarily respond to the Minister's reply to my first contribution. I have not heard the Minister respond to any of the points I have made, other than his address of the credit union issue. I made other specific points with regard to amendment No. 11 and I hope he will respond to the points raised. How do I respond without having heard what the Minister has to say in reply in the first instance?

Acting Chairman: The Minister proposed the amendment and there is no time limit on that. Deputies may then speak for as long as they wish. Deputies may then make a two minute contribution and, finally, the Minister has a right to reply, as any proposer of an amendment has.

Caoimhghín Ó Caoláin: I do not mean to be obstructive. However, so many amendments have been grouped here that the Minister must be accorded additional time to reply to each of the Deputies who have spoken. Any other approach does not work.

Acting Chairman: The Chair works within the rules. It is a matter for the Minister to reply to the points raised by Deputies in his final summation.

Mr. McCreevy: When I contribute next time.

Acting Chairman: Correct. The proposer has the right to reply.

Mr. R. Bruton: Each Deputy has two minutes to speak now and we will have an opportunity to make a substantial contribution when we have heard the Minister's contribution. Is that correct?

Acting Chairman: No, Deputy. You have had your opportunity to make a substantial contribution.

Mr. R. Bruton: I thought the mover of the amendment could make a final contribution.

Acting Chairman: The mover is the Minister. He will make the final contribution.

Mr. R. Bruton: Other amendments are being moved. Each of us has amendments.

Acting Chairman: Only the mover of the amendment has the right of reply.

Mr. R. Bruton: The first amendment?

Acting Chairman: That is correct.

Mr. R. Bruton: We are all moving amendments. They have not been reached but they will be moved.

Acting Chairman: Deputies may move their amendments when they are reached but the discussion occurs now.

Mr. R. Bruton: We are being penalised. We have no right to wrap up because our amendments have been bunched together.

Acting Chairman: I do not make the rules. They are made by the House. I enforce the rules of the House.

Mr. R. Bruton: We did not vote on whether this grouping was acceptable to the House. We expected more latitude to contribute. Perhaps we

will be more prudent and not agree to future groupings.

Acting Chairman: It is a matter for the Chair and not the House to decide. The Chair does not require the agreement of the House to group amendments. Once these amendments are proposed their proposer has the right of reply at the end of the debate on the amendment. Other Deputies have the right to propose an amendment but the discussion takes place when the first amendment is proposed.

Mr. R. Bruton: When a Minister introduces an amendment which completely tears up what was debated on Committee Stage and replaces it with a new approach, to apply rules of grouping of this nature denies the House the opportunity to have the sort of debate it should have. In this case the Chair has erred and has restricted our ability to deal with this debate properly. I know Deputy Cowley was not in the Chair when this decision was made. However it has damaged the quality of the debate and that is regrettable.

Acting Chairman: The decision was made before I took the Chair.

Mr. R. Bruton: I accept that.

Acting Chairman: The decision was made by the Ceann Comhairle. My obligation is to enforce the rules of the House. If Members wish to change Standing Orders they have the power to do so in a different setting.

Mr. R. Bruton: In this instance the Chair erred in denying the House the opportunity to have the sort of debate which is appropriate when the Minister is introducing a radical redirection of the Bill as debated on Committee Stage. In the normal course of events, if this had occurred a Minister would have accepted recommittal and we would have had a free ranging debate. The combination of the Chair's decision and the Minister's refusal to recommit means that the House is not properly debating this issue. That is unfortunate because these are important issues.

Acting Chairman: The House has already ruled on this matter.

Mr. Boyle: The grouping of motions is determined by the Minister and his Department. Members receive a piece of paper saying groupings are proposed but they are never voted upon. While there may be a logic to grouping motions with common themes, the fact that 19 are included in the first set of motions and the Minister has two minutes to reply means the Minister can give only six second to each amendment. One of those amendments is fourteen and a half pages long and is being proposed for the first time on Report Stage. Members of the House should have more rights

in determining these amendments as they come before us.

Acting Chairman: This is a long-standing arrangement of the House. If Deputy Boyle wishes to change it he has the opportunity and the right to make a submission on the matter. I enforce the rules as they are.

Mr. Boyle: The rules of the House say nothing about grouping amendments. The grouping of amendments is a practice that has developed in the House. It is not mentioned in Standing Orders and only exists for administrative convenience. Grouping amendments in a certain way can undermine the ability of Opposition Members properly to contribute to legislation.

Mr. N. O'Keeffe: The amendments are related.

Mr. Boyle: It is determined elsewhere whether they are related or not.

Acting Chairman: This is a matter for the Chair. It is a long standing convention that it is the prerogative of the Chair to group amendments.

Mr. Boyle: Standing Orders do not mention the grouping of amendments. We are entitled to take each of these amendments one by one. We can say we are discussing only amendment No. 1 and then proceed to amendment No. 2.

Acting Chairman: Members are entitled to propose that the question be put to the House. The amendments are grouped for the purposes of discussion, a long-standing tradition in the House. If Members wish to change that tradition they should, as they are entitled to do, make a submission on the matter. The Chair must observe the rules.

Mr. Boyle: We need clarification on the matter. It is my understanding that Standing Orders do not refer to the grouping of amendments and that the practise is more a common practice than a legal requirement in terms of how we order the business of this House. I believe we are entitled to speak to the amendments individually. There has been no vote on the matter.

Acting Chairman: The Deputy has made his point and is entitled to make a submission in that regard.

Mr. R. Bruton: I reiterate the points I made earlier. The Minister has not dealt with my concern that while the legislation proposes wide-ranging penalties in different sections, this omnibus enforcement mechanism does not address proportionality to the offence, the capacity of the credit union, company or person to bear it. The Bill states that the regulatory authority will not drive people to bankruptcy, an admittance of the problem I pointed out in terms

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of the lack of proportionality. The only concession it makes in terms of proportionality is to state it will not bankrupt people. That is an inadequate response to the issue.

I reiterate my frustration at the Minister's refusal to allow the Bill to be recommitted to allow the type of debate to which Deputies who have sat here for the past two hours are entitled. We take part in the process of enacting legislation. It is not something cooked up by Ministers and their officials, taking into account the consultations which take place behind the scenes. We take part in the statutory process of legislating. This is a truncated debate which does not do justice to the issue being introduced at the last minute by way of ministerial amendment.

Acting Chairman: It is traditional for the House to deal with matters in this way. If the Deputy wishes to change that, he is entitled to make a submission in that regard.

Mr. R. Bruton: It is not traditional for the Minister to introduce such a substantive amendment and to refuse to recommit the Bill. Such a proposal would allow the Chair off the hook. That is what most Ministers would do in such circumstances.

Acting Chairman: The Deputy has made his point.

Ms Burton: I regret the Minister is unable to reply to any of the substantial issues I raised. I welcome the appeals structure which ensures the legislation is constitutionally safe. I believe the Minister for Finance has been got at by the financial services industry and its agents, and I will state my reasons in that regard.

The current regulations contain elements of discretion. If a financial services institution puts its hands up and admits its guilt the regulator may effectively withdraw. Earlier I pointed out that if the penalties are so swingeing they potentially bankrupt a person, again the financial regulator may withdraw. The Minister has refused to accept the Labour Party's reasonable amendment that proportionality be addressed by relevant percentages. In that regard, we suggested a figure of 10%.

I do not understand why the Minister has not accepted the Labour Party amendment. As stated, a €5 million fine for AIB or the Bank of Ireland is not a great deal. However, a fine of €500,000 is, to most credit unions and individual financial service providers, a huge amount. I agree that the penalties ought to be severe and graduated. I would like at this stage to return to what I said previously on this issue. My remarks are pertinent to the recent disclosures in terms of AIB.

I am aware, as I am sure is the Minister, that it is the responsibility of the audit function within a bank to spot fraud and know if customers are

being ripped off and if executive or senior directors are misbehaving. The audit function exists to protect not alone the bank, its owners, shareholders and employees but its customers. Banks are powerful organisations. It is interesting to note from recent reports that this may have come to the attention of the internal audit structures in the banks. I agree with Deputy Ned O'Keeffe that the regulatory structure is an expensive one. We will only become aware of its cost as the years pass. The Bill makes no reference to the internal audit function, the cornerstone of regulation in any financial services body. It is absolutely critical to that sector and prevents staff from defrauding the bank of money and from abusing its charter in terms of customers' rights and so on.

There is no reference in the Bill to audit committees, which are convened by banks' board of directors and which are the cornerstone of Stock Exchange regulation of banks and financial institutions from the United States to Australia and around the world. In that regard, one has only to read the published books on what happened to Barings Bank. I share the Minister's concern that the prudential element of a bank is the most important in terms of supervision. It is disastrous when, following a run on a bank, depositors and investors lose their money. However, that does not mean one cannot provide alongside for proper regulation which primarily serves consumers' interests. The Minister should remember that consumers are individual customers and, more importantly, commercial and business consumers, and we must ensure they get a fair deal.

It is wrong that we do not have enough time to tease out this issue in a Committee Stage debate. The Minister has failed to provide for an audit function. Audit functions are expensive, with banks employing large teams of people to check paper records and carry out continuous computer checks. A whole industry is devoted to this area. In setting up our regulatory structure, we are not enhancing in any respect internal audit or the audit committee function in terms of the board of directors, particularly in big institutions.

I agree with the Minister that depositors in credit unions must be protected. However, that protection is best afforded by the provision of a proper audit function. The regulatory authority will follow many years later. The regulatory authority will, in this case, also report to the Central Bank and will have, as the Minister rightly said, as its most important duty safeguarding of the bank's security. The Minister has not resolved those conflicts and he could have done so.

Caoimhghín Ó Caoláin: I am dealing with a vacuum in so far as the Minister has not yet responded to the points I raised. However, I would like to focus on the issue of the entitlement of the regulatory authority to dispense with the requirement of inquiry in circumstances where

the offending service provider acknowledges its misdeeds. That is a little like the legislation which provided that up to 20% of new housing development be given over for social housing purposes. Following pressure from construction companies and their respective representatives the Government introduced a buy-out clause for housing developers whereby they could pay to the local authority a sum of money rather than provide housing units. The losers in that case were, unquestionably, local authority housing waiting list applicants.

The regulatory authority is offered a similar proposition, an opportunity for a service provider to acknowledge contravention of its responsibilities and, in so doing, not face a full inquiry. In this case, the losers will be all those who depend on a trustworthy financial services sector.

Debate adjourned.

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

Ceisteanna — Questions.

Priority Questions.

European Commission.

1. **Mr. G. Mitchell** asked the Minister for Foreign Affairs the way in which he views the interests of small member states of the European Union being protected in the context of proposals to reduce the size of the European Commission and to introduce greater intergovernmentalism into the institution via the appointment of a permanent President of the European Council; and if he will make a statement on the matter. [14850/04]

Minister for Foreign Affairs (Mr. Cowen): I do not view the proposed creation under the constitutional treaty of the position of permanent President of the European Council in the context of either the institutional balance between large and small member states or of a movement towards intergovernmentalism. The provisions on the President of the European Council as they developed in the Convention debate essentially reproduce the functions of the current rotating President. The role of the European Council President will be to chair the European Council and drive forward its work, to prepare the work of the European Council in co-operation with the President of the Commission and on the basis of the work of the General Affairs Council, to facilitate consensus and cohesion within the European Council and to present a report to the European Parliament. He or she shall also ensure the external representation at his or her level of the Union in the common foreign and security

policy without prejudice to the role of the EU Foreign Minister.

A broad consensus was reached on the proposals at the Convention. Among the original supporters of the idea were Sweden and Denmark, two smaller member states that had recently held the Presidency. While the Government was not among those advocating this proposal, it recognised from an early point that as the Union continued to enlarge and develop, some change was both necessary and desirable. In the Government's opinion the new provisions as finally drafted do not cut across the role of the Commission nor undermine the position of smaller member states and they are acceptable on that basis. No participant in the Intergovernmental Conference opposes them.

The Deputy will be aware that the Presidency tabled for discussion this week a paper on the future composition of the Commission. It builds on its report to the March European Council and the Taoiseach's subsequent speech to the European Parliament. The Presidency's strong view is that any proposals on the Commission must meet the twin needs of efficiency and legitimacy. The discussion paper suggests these twin needs might best be met by maintaining one Commissioner per member state until 2014, whereupon a move would be made to a smaller Commission of a pre-determined size, composed on the basis of equal rotation among the member states.

The Government's suggested approach, which received broad support at the meeting of Foreign Ministers this week, would fully protect the rights of all member states, irrespective of size. This approach is fully in line with the provisions of the Treaty of Nice which states that once the Union comprises 27 member states, a decision must be taken to reduce the size of the Commission on the basis of absolute equality.

At the IGC meeting this week, significant progress was made on a wide range of issues of both an institutional and non-institutional nature. The discussions were positive and constructive and, if member states continue to take this focused approach, agreement can be found on a constitutional treaty to which all member states, large and small, can subscribe.

Mr. G. Mitchell: What is the Minister's response to criticism by the Finnish Foreign Minister that Ireland is treating the issue of the voting weights as a bilateral issue between Germany and France on one side and Poland and Spain on the other, rather than involving other member states? What is the Minister's response to the view that small member states are being asked to accept more majority voting and the loss of a seat in the Commission while larger member states seek to insulate themselves from the effects of these changes by lifting the weighted majority threshold as high as 65% and increasing intergovernmentalism generally through the

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creation of the office of a permanent President of the Council?

It was seen in the Nice treaty that the desire to achieve a result rather than to solve problems can lead to an imperfect solution. Will the Minister agree that no result at the June summit would be better than a fudge? There are difficulties in respect of some countries and also the possibility of the rejection of a referendum. Following what I heard at the COSAC meeting, I have the case of Denmark in mind where the referendum could be rejected if each member state does not have a Commissioner.

Mr. Cowen: On the question of the weighted voting system to be adopted by the Council, the Government is continuing its bilateral discussions with everyone regarding the problem. This is one of the more difficult issues which must be resolved. It is not a question of dealing solely with a few member states. Therefore the Government is dealing with all member states. Next Monday, 24 May, an opportunity will arise within the IGC format at a meeting which I have convened on that day to deal with these wider institutional questions. This will allow for a collective discussion on these matters.

The Presidency is making available on the world-wide web all its documentation pertaining to those issues where a broad consensus has existed and pertaining to proposals for the orientation-type debates that are taking place. The aim is to inform the Presidency and inform everyone of the range of views that exist. This means when the Presidency puts forward a proposal, people will have a clear understanding of why the Presidency is proceeding in a certain way in an effort to achieve full consensus. In reply to the first part of the Deputy's question, those issues will be discussed in plenary session of the IGC next Monday.

The last thing Ireland or any small country wishes is the notion of gridlock in decision-making. We need decisions at European level. The integration of the Irish economy into the wider European economy has been the greatest economic development in this country since independence. It has brought us the standard of living we all now enjoy in the main but not exclusively. The extension of qualified majority voting, QMV, is a facet of every treaty that has been signed since Amsterdam and Maastricht. Increasing numbers of QMV decisions have been taken in a wider range of areas. It amounted to 30 in the case of the Nice treaty. We were prepared to move on 47 out of 49 in Nice. The collective decision ultimately was just 30. In the proposed draft constitutional treaty it has been suggested by a colleague of mine that up to 42 new areas will move to QMV. That is to be welcomed because it will create more effective decision-making.

Moving to QMV from unanimity does not in itself guarantee more effective decision-making.

Another part of achieving that is the type of voting system that will be agreed at the Council. This has yet to be fully discussed and decided upon.

There is no question of a fudge, as the Deputy suggests. It is a question of achieving a balance. It is not the role of the Presidency to be an advocate for one particular country which on one side of the argument might be very much in favour of further integration and further QMV and in another situation might not be as advanced as other countries. People have different positions on a wide range of issues. Nothing is agreed until everything is agreed.

The ambition of the Presidency is not dimmed. The Government's approach is realistic but will also ensure that advances are made on the present treaty provisions as agreed at Nice and before.

Human Rights Issues.

2. **Mr. M. Higgins** asked the Minister for Foreign Affairs his views and those of the other European Union Foreign Ministers on the establishment of a high level independent international tribunal to examine compliance with the Geneva Conventions on all sides since the invasion of Iraq. [14777/04]

5. **Mr. Gormley** asked the Minister for Foreign Affairs if he will make a clear protest against the torture of Iraqi detainees by US soldiers when President Bush visits Ireland in June 2004; if he has already made such a protest to the US administration; and if he will make a statement on the matter. [14865/04]

Mr. Cowen: I propose to take Questions Nos. 2 and 5 together.

The Government has publicly and strongly condemned the mistreatment and abuse of prisoners in Iraq by US and UK forces. It made its concerns known directly to the US and UK authorities when the allegations first came to light.

The Government fully supports the recent insistence by UN Secretary General, Kofi Annan, that all detainees should be fully protected in accordance with the provisions of international human rights law. Moreover, Security Council Resolution 1483 of 22 May 2003 calls upon all concerned to comply fully with their obligations under international law. The treatment of prisoners of war is specifically covered by the third Geneva Convention.

On Monday, the EU Council of Ministers, acting on the initiative of the Irish Presidency, adopted the following conclusions. The Council expressed its abhorrence at recent evidence of the mistreatment of prisoners in Iraqi prisons. It condemned any instances of abuse and degradation of prisoners in Iraq, which are contrary to international law, including the Geneva Conventions. It welcomed the commitment by the relevant governments to bring to justice any individuals responsible for

such acts involving the abuse of Iraqi detainees, and their commitment to rectify any failure to adhere to international humanitarian law.

I have also been active in ensuring that similar statements were included in the Presidency conclusions issued after last week's EuroMed ministerial meeting in Dublin and in the joint communiqué adopted at Monday's meeting between the European Union and the Gulf Cooperation Council.

The issue of the abuse of prisoners by US personnel was raised at last Friday's meeting between G8 Foreign Ministers and President Bush and the subsequent ministerial meeting, both of which I attended. President Bush and the Secretary of State, Colin Powell, condemned the mistreatment of prisoners in the strongest possible terms and expressed the Administration's determination that those responsible should be brought to justice. I am confident this matter will be raised next month at both the G8 summit and the EU-US summit.

Several formal investigations led by senior military officials are under way. The US military has filed criminal charges against a number of soldiers who are accused of abusing Iraqi prisoners and several senior officers have been reprimanded. As regards the UK, the Foreign Secretary, Jack Straw, briefed the EU External Relations Council yesterday on his Government's investigation into allegations of prisoner abuse. He made clear that such abuse would not be tolerated, all allegations were being thoroughly investigated and anybody found to be responsible for the mistreatment of prisoners would be brought to justice. He confirmed that recent photographs published by the *Daily Mirror* showing abuse of Iraqi prisoners by British troops were forgeries.

In addition to these inquiries into the specific allegations of abuse, an independent report on human rights in Iraq is being prepared by the Office of the United Nations High Commissioner for Human Rights. This report will examine the period between April 2003 and May 2004. It will cover, among other issues, the treatment of prisoners in detention. Given that the Office of the UN High Commissioner for Human Rights is regarded as independent and that preparation of its report is already under way, I do not consider it timely to seek an independent international tribunal to examine compliance with the Geneva Convention since the invasion of Iraq. I await with interest the publication of the high commissioner's report. In addition, the US and UK Governments are now clearly focusing on their own internal investigations.

The recent evidence of prisoner abuse in Iraq has reminded the entire international community of the need to respect and maintain international law regarding the treatment of prisoners. The Government will continue to work to reinforce this point and thereby ensure that something positive may yet come from this appalling episode.

Mr. Gormley: On a point of order, did the Minister indicate that he was answering Questions Nos. 2 and 5 together?

An Ceann Comhairle: Yes.

Mr. Gormley: He certainly did not answer Question No. 5.

An Ceann Comhairle: The matter does not arise.

Mr. F. McGrath: It is not the first time he has failed to answer a question.

Mr. M. Higgins: I am grateful for the Minister's long reply. In one sentence, he disposed of the substance of the first question which asked whether he favoured an independent international tribunal, as favoured by Amnesty International and others, to examine compliance with the Geneva Convention on all sides since the invasion of Iraq.

While his statement on behalf of the Presidency on Monday evening is welcome, the absence of a statement by the Department of Foreign Affairs or the Presidency for such a long time after the atrocious acts in question took place caused great concern. Was the Minister aware of the report issued by the International Committee of the Red Cross last year? Does he agree the report suggests systematic abuse, rather than aberrant behaviour by a few individuals or those who have already been punished, to whom he referred? This raises a further question as to why, in the long period since the publication of the report, during which the Minister informed the House that he could not provide figures on the number of prisoners being held in Iraq, the issue of the systematic torture and abuse of prisoners was not addressed.

Is the Minister in a position to state that all those detained by US and British forces have available to them the protections of the Geneva Convention? He quoted the Secretary of State, Colin Powell, who has indicated that many people are citizens in disguise and that he will not accord the protections of the Geneva Convention to all of those detained. Is the Minister indicating that the Secretary of State's position has changed or that all prisoners are now in the same category of protection? Is this not a matter of interest to the Presidency of the European Union?

Is it the Minister's view that a female reservist aged 21 years from West Virginia who lived in a trailer park before joining the US army has suddenly invented these horrors with a couple of other people, given that photographs are available showing people standing around supervising torture and breaches of the Geneva Convention? The Minister is unable even to indicate how many people are being held prisoner in Iraq, the prisons in which they are being held or the level of protection they have been afforded.

[Mr. M. Higgins.]

Is the Minister suggesting that because the photographs which appeared in the *Daily Mirror* have been proved to be fake, British soldiers have not committed abuses? The British Ministry for Defence has sat on cases reported to it last year in breach of every known convention. Is it not disgraceful that we have been silent and waited so long to express an opinion?

Mr. Cowen: I do not agree with the Deputy. The Government has publicly and strongly condemned the mistreatment and abuse of prisoners in Iraq by US and UK forces. I made the point regarding the statement by the British Foreign Secretary, Mr. Straw, on the photographs in the *Daily Mirror* for the purpose of providing information to the House. Mr. Straw also clearly stated that any member of the military under UK command would be answerable for any mistreatment, abuse or non-compliance with Geneva Convention requirements. I made the same point regarding the United States.

As regards the question on whether I support an independent tribunal, I simply made the point that the Office of the United Nations High Commissioner on Human Rights, which is regarded as independent, is conducting such an investigation and I await the findings of its report.

I did not personally have the contents of the Red Cross report but as soon as these matters came to light, the international community demanded that they be dealt with in a proper, transparent and comprehensive manner. Democracies must respond in a manner which shows that those who do not comply with requirements or meet their responsibilities will be held to account. We must also ensure that such incidents never happen again.

I share Deputies' abhorrence at what happened. I am simply informing the House that independent investigations are taking place, the outcome of which we await. We also await the results of the current congressional investigations and the manner in which countries whose forces have been involved in this type of behaviour deal with it.

Mr. Gormley: Instead of using mealy-mouthed words in the House, will the Minister and the Taoiseach condemn these acts of abuse and torture to George W. Bush's face when he arrives here in June? There seems to be a pattern whereby the Minister claims, on the one hand, that he is on the side of the Americans while, on the other, that he is representing the values of the European Union.

Let us get to the nub of the issue. Does the Minister accept the reports published by the International Committee of the Red Cross and Amnesty International? In particular, does he accept the most damning evidence provided by Seymour Hersh of the *New Yorker* magazine who has stated that abuse and torture were systematic and part of a secret operation approved by

Donald Rumsfeld and Condoleezza Rice of which George W. Bush was aware? If that is the case, does he agree the best possible protest he could make would be to withdraw facilities at Shannon Airport for the American war effort in Iraq? What will it take for the Minister to act in a responsible way and to show he totally abhors this abuse and torture?

Mr. Cowen: I will probably never be able to compete with the level of indignation the Deputy experiences while he questions everyone else's sincerity when they do not engage in the semantics and rhetoric in which he engages all the time.

Mr. Gormley: It is not rhetoric.

Mr. Cowen: I represented the EU Presidency correctly on this matter. I have had no criticism from colleagues about it. I stated our position clearly at every meeting and engagement the EU had with Arab countries, the Gulf Co-operation Council and President Bush and Secretary of State Powell. When the EU-US summit takes place in Ireland, these matters will be discussed, as they will at the G8 summit. We will make that clear consistently, as we have done.

Processes are in place to deal with these appalling events. Six congressional investigations are taking place in respect of the country concerned. The human rights commissioner's report is independent and I hold the International Red Cross in the highest esteem. I met the director general both here and in Geneva before Ireland took up the Presidency, and possibly during it, if I recall correctly. I need no lectures in this regard. I accept there has been an appalling breakdown, which needs to be addressed transparently. That is what democratic societies do.

Mr. Gormley: Why will the Minister not withdraw the facilities provided at Shannon?

Mr. Cowen: Shannon is a constant fixation of the Deputy's. The present political and diplomatic effort at the UN is to bring forward a resolution that will address the hand-over to an interim Government in Iraq from 1 July, consistent with transitional administrative law and to be decided upon by Iraqis themselves, and how the UN can create a political transition to end occupation and restore sovereignty to Iraq.

Mr. Gormley: What has that got to do with Shannon?

Mr. Cowen: Exactly.

An Ceann Comhairle: I call Question No. 3. Twelve minutes were allotted for the two questions and they have concluded.

Mr. Gormley: The Minister did not answer the question about Shannon.

An Ceann Comhairle: The Chair has no responsibility in that regard.

3. **Mr. Gregory** asked the Minister for Foreign Affairs if he will make a statement on the action he can take to help ensure the safe repatriation of the Colombia three following the recent trial verdict. [14784/04]

Mr. Cowen: Since the judge's decision in the case was announced on 26 April, officials from our embassy in Mexico, which is also accredited to Colombia, have been in close contact with the Colombian authorities, as well as the Dutch Ambassador in Bogota, who is representing our interests, and the Irish Honorary Consul in Bogota and they have reported back to me on a regular basis.

The judgment permits the men to be released from prison under "conditional freedom", on payment of a bond which is refundable at the end of their sentence. The amount of the bond for the three men is approximately €17,000. My Department has indicated that, to secure their early release and at the request of the defence team, it is willing to advance the funds to facilitate the payment of this bond, to expeditiously secure their safe release on the basis of a firm undertaking to repay this sum.

The present position is that the Attorney General of Colombia has lodged an appeal against the judgment in the case. The men's lawyers made a petition to the judge to allow them to leave the country after their release from prison while the appeal was being heard. Both the Taoiseach and I sent personal messages to the Colombian President and Foreign Minister respectively reiterating the desirability of facilitating the men's early departure from Colombia as the best way of ensuring their safety.

The judge ruled against the petition of the defence and, consequently, the men are required to remain in Colombia for the duration of the appeal. I have asked the Colombian authorities to expedite the hearing of the appeal so that this case can be concluded as quickly as possible. I assure the Deputy that, as from the start of this case, the Department of Foreign Affairs will continue to do its utmost to ensure the safety and well-being of the three men.

Mr. Gregory: Both I and the families of the three men are appreciative of the work of the Minister and his officials. I have followed this case at the Oireachtas Joint Committee on Foreign Affairs. The Minister has been interested in it and has done everything to the best of his ability, as have other Members, including Deputy Finian McGrath, who attended the trial. Appeals in Colombia can take years and there is no safe place for the men there. They have been found innocent of the main charge and they have served two years and nine months in appalling conditions in prison for a relatively minor offence. Does the Minister agree justice demands

the men should be permitted to leave Colombia pending an appeal?

Will he clarify whether he or the Taoiseach has made direct contact with President Uribe or members of the Colombian Government? That is required to ensure the men are repatriated. Given that they have been found innocent of the main charge and have spent a long time in dreadful conditions in prison, will the Minister and the Taoiseach take the next step, which is to contact President Uribe directly and ask that these men be repatriated?

Mr. Cowen: Contacts have been made on the basis of instructions from us and they are made through our ambassador and the Spanish. It helps to ensure that is done properly. The person making contact speaks with the full authority of the Government.

The problem in this case, as always, is the Colombian Government cannot interfere in the judicial system in the same way I cannot in Ireland. By the same token, given that the case has been sent to three appeals judges and the previous judge is no longer in the picture, I will make representations in every effective and appropriate way I can to convince people they should allow for the conditional freedom to be effected in a way that will enable them to come home and return to Colombia when the appeal is ready to be heard. I share the legitimate concern of people about the time an appeal will take and we also are making our views known on that matter. The question of influencing the situation for the better remains our top priority and we will continue to do everything we can.

Northern Ireland Issues.

4. **Mr. G. Mitchell** asked the Minister for Foreign Affairs the further action proposed, following the report of the Independent Monitoring Commission, to ensure that all parties fully comply with their obligations under the Good Friday Agreement; and if he will make a statement on the matter. [14852/04]

Mr. Cowen: The Independent Monitoring Commission was set up by the two Governments and has three main functions. It is mandated to monitor and report on paramilitary activity, security normalisation and participation by the Northern Ireland parties in the political institutions established under the Good Friday Agreement.

Its first report on paramilitary activity was published on 20 April and its conclusions and recommendations have been accepted by the two Governments. The commission has since been requested to make a report on security normalisation and has indicated that it intends to do so by July. Regrettably, due to the suspension of the Northern Ireland Assembly, it is not currently possible for the commission to carry out its functions in relation to participation by the parties in the institutions of the Agreement.

[Mr. Cowen.]

The restoration of the devolved institutions in Northern Ireland, the stable operation of all the political institutions of the Good Friday Agreement and the full implementation of all its commitments remain the Government's key priorities. As the Taoiseach and I have made clear on many occasions, the requirements for the restoration of devolved government in Northern Ireland include an end to paramilitary activity of all kinds, as required by paragraph 13 of the Joint Declaration and, in that context, a commitment by all sides to full and wholehearted participation in the political institutions of the Agreement.

The Government will continue to engage with all parties, including in the context of the current review of the operation of the Agreement, with a view to the earliest resolution of these key issues of trust and confidence.

Mr. G. Mitchell: Is the Minister aware that, according to the commission's report, violence and crime are increasing in Northern Ireland? The report states that many paramilitary groups remain active and have the capacity to reopen a terrorist campaign. It also states that, while the number of murders has reduced, it is still high but has not exceeded 18 since the signing of the Agreement. However, the report points out that is not an insignificant number and the number of shootings and assaults between 1999 and 2002 was almost double the number between 1991 and 1994.

Given Northern Ireland's population of 1.17 million, is the Minister aware that the report indicates that these figures would be the equivalent of 63,000 shootings in Britain at the same time? The report describes what it calls horrible violence. Is the Minister aware that a paramilitary group is suspected of hijacking a vehicle on the Border earlier this year which contained a consignment of tobacco worth €3 million? Is he concerned that an organisation has the capacity to fence and distribute such a consignment and use the proceeds to fund political activities?

The report states politicians must respond to this challenge. What further action is proposed in light of the very grave findings in the report?

Mr. Cowen: Obviously, I am aware of the full contents of the IMC report. As the Deputy stated, paramilitary activity has not been eliminated from Northern Ireland, although we are in a totally different position qualitatively than we were in at the height of the conflict.

One depressing aspect of the report that might not have been highlighted so much as others is that the level of loyalist paramilitary violence is higher than it was before the ceasefire. The Deputy can be sure that, through the British-Irish Intergovernmental Conference, there exists the fullest possible co-operation between the Garda and the PSNI with a view to dealing with all criminal activity. All activity of the kind

mentioned by the Deputy is being fully investigated all the time. One would have serious problems with some sophisticated heists that may provide funds for other activities. This is obviously an issue for the Garda to investigate and on which it must provide evidence.

The wider issue in this context concerns the need for political progress in Northern Ireland. In the absence of politics and, more particularly, working politics, paramilitarism fills the void. This is in the nature of divided societies and it is a legacy of the violence we have seen over the past two generations. There is a need to address it. The Irish and British Governments are committed, through this review process, to trying to bring about a restoration of the institutions. The relevant discussions are obviously more difficult than before, but they need to take place. The whole purpose of the engagement of the Irish Government is to bring to an end, once and for all, all forms of paramilitary activity and to ensure that the restoration of the institutions is consistent with the objectives and values of the Good Friday Agreement. It is not easy but we will not falter in our efforts. I believe the right circumstances can be created to deal with this matter appropriately.

Mr. G. Mitchell: Does the Minister agree there is another issue to be considered, namely that people seem to be involved in paramilitary organisations who are quite comfortable in their "cash, no-VAT" businesses? To draw them away from this is difficult. If somebody steals cigarettes to the value of €3 million, he obviously has business outlets in which to distribute and sell them. Is the Minister concerned that this culture still exists and that there is a financial disincentive for people to abandon paramilitarism because they have such business interests?

Mr. Cowen: As the Deputy knows, there are people in every society with conditions such as those in Northern Ireland who try opportunistically to benefit, financially and otherwise, from such conditions. Unfortunately, this is a reality and we need to use all the forces of law and order to deal with it effectively. The level of co-operation between the PSNI and the Garda Síochána is at its maximum and there is certainly no reluctance in either jurisdiction to co-operate to the greatest extent possible, consistent with the rule of law.

We now have the Assets Recovery Agency and the Criminal Assets Bureau. Many developments have taken place and more tools are available to law enforcement agencies to deal with the problems. We must continue to support them in every way we can by providing resources and the other requisite supports they need to deal with this menace.

International Agreements.

6. **Mr. Connaughton** asked the Minister for Foreign Affairs his views on the procedures in

place for the transfer of persons and goods to the Russian enclave of Kaliningrad, now surrounded by European Union countries; and if he will make a statement on the matter. [14531/04]

Mr. Cowen: Arrangements regarding the transit of persons to and from Kaliningrad were agreed at the tenth EU-Russia Summit in Brussels on 11 November 2002. Both the EU and Russia consider that these arrangements have operated smoothly to date.

In light of the enlargement of the European Union on 1 May 2004, a detailed customs arrangement for the transit of goods to and from Kaliningrad was agreed in December 2003. Until a formal agreement is concluded, this arrangement will implement the principle of freedom of transit of goods between the Kaliningrad region and the rest of Russia.

The Joint Statement on EU Enlargement and EU-Russia Relations, adopted at the first EU-Russia Permanent Partnership Council on 27 April 2004, commits the EU and Russia, as soon as they are ready from legal and practical points of view, to conclude a comprehensive agreement on the interconnection of the EU and Russian customs transit regimes. This agreement would also be applicable to the transit of goods to and from Kaliningrad.

Mr. Durkan: In view of the very obvious tensions that have existed between the region in question and Russia in recent years, including tensions over the transfer of goods, people and services to Kaliningrad, will the Minister ensure that steps are taken during the Presidency to bring about a healing of the differences that exist and which could cause serious problems?

Mr. Cowen: As I stated, I attended the first EU-Russia Permanent Partnership Council on 27 April last. This is a very significant development in that it mirrors the idea of sectoral councils in which meetings take place between justice and home affairs Ministers, transport Ministers and finance Ministers. In other words, there is now an institutional framework for a far greater degree of co-operation and dialogue between Russia and the EU to deal with some of the problems that have arisen in the aftermath of enlargement.

One of the important objectives of our Presidency was to ensure the Permanent Partnership Council agreements were signed prior to enlargement. As one knows, these negotiations went right up to the wire and were concluded very successfully to the satisfaction of all the applicant countries.

Mr. M. Higgins: Will the Minister indicate what he considers to be the status of Kaliningrad? Is it a governorship, an autonomous trading area or a special trading area with the European Union? In other words, do its relationships, as referred to in the question, require the assent of the Russian Government on every occasion?

An Ceann Comhairle: Before the Minister replies, I will allow a very brief question from Deputy Durkan.

Mr. Durkan: Will the Minister in his reply, refer to the 300,000 stateless Russians in Latvia, which, as he knows, have caused problems in the past? Under the new conditions that prevail—

An Ceann Comhairle: I ask the Deputy to allow the Minister to reply. We are running out of time.

Mr. Durkan: Under the new conditions that prevail, it is important to deal with the associated tensions earlier rather than later.

Mr. Cowen: On that point, we are absolutely satisfied that the newly acceded countries meet the Copenhagen criteria, which involve respect for minorities. The Commission is engaged with the Governments of the relevant countries in promoting programmes that will enable the rights of minorities to be vindicated and validated in every way possible, consistent with the territorial independence and integrity of the countries in which they live.

Kaliningrad is an integral part of the Russian Federation. Given Kaliningrad's strategic location, any potential prospects for its development should obviously be explored by both Russia and the European Union in the years ahead.

Official Engagements.

7. **Mr. P. McGrath** asked the Minister for Foreign Affairs his travel plans and overseas engagements to the end of 2004; and if he will make a statement on the matter. [14535/04]

Mr. Cowen: As holder of the EU Presidency, Ireland hosts a wide range of regular meetings in Brussels as well as representing the Union at a range of meetings in Ireland and in third countries. In this regard, the following is a list of my confirmed overseas engagements until the end of the Presidency.

Tomorrow and Friday, I will be in Moscow for the EU-Russia summit. I will attend the Arab League summit in Tunis, which is on Saturday, and the EU-Latin America-Caribbean summit in Mexico next week. On 14 and 15 June, I will chair the General Affairs and External Relations Council in Luxembourg and I will attend the European Council in Brussels on 17 and 18 June. There will also be a GAERC meeting next Monday, 24 May.

Following the conclusion of the Presidency, I will review my travel plans for the remainder of 2004. However, I can confirm that I will attend the General Affairs and External Relations Council meetings in July, September, October, November and December, God willing. I will also attend the meetings of the European Council in Brussels in November and December.

Mr. Durkan: With regard to the Arab League summit, does the Minister intend to use his considerable influence in that area with a view to accelerating the discussions that have taken place in a haphazard way between the Israelis and the Palestinians?

Mr. Cowen: When the last scheduled summit of the Arab League was postponed, I went to Cairo to speak to the Secretary General of the Arab League, Amr Moussa, the Foreign Minister of Egypt, Mr. Maher, and President Mubarak. I spoke to my Tunisian colleague yesterday on the phone and I am looking forward to attending the Arab League summit in Tunis. Arrangements have yet to be confirmed but I hope, given that we are holders of the Presidency, that I will be able to address the league on the efforts we continue to make in the development of our neighbourhood policy through developing a strategic partnership with the Mediterranean and Middle East region.

With regard to the peace process, I welcome the recent meetings between the Secretary of State, Condoleeza Rice and Abu Allah in Berlin. Despite what is happening in Rafah and the continuation of a difficult situation, let us hope that the re-engagement taking place shows there is an interlocutor for peace on the Palestinian side, as there always has been. Perhaps the Arab League will be able to reiterate its commitment to the Beirut initiative which sets out a prospect for normalisation of relations between the Arab world and Israel on the basis of a negotiated settlement based on the 1967 borders with final status matters to be negotiated between the parties directly, as confirmed at the quartet meeting in New York recently.

Mr. M. Higgins: Does the Minister agree that the thousands of dispossessions and people rendered homeless in Rafah make the meeting particularly urgent? Will the meeting facilitate an initiative that will respond to what is happening at present, which probably renders the more positive aspects of the agenda fragile? Will the Minister say what has been happening, by way of a European Union initiative or an initiative on his behalf since events in Rafah were drawn to his attention?

Mr. Cowen: Javier Solana and Marc Otte, the EU representative in the region, have been doing what they can to impress upon the Israeli Government the severity of the actions being taken in Rafah. They involve not only destruction of property but also deaths. The concern is that the action in Rafah is in preparation for a unilateral withdrawal from Gaza. It is the quartet's strong view that such a withdrawal could have the potential to reactivate the roadmap if certain criteria are met. Obviously, the Arab League will have something to say about the situation there at present.

I will meet Saeb Erekat today at 4.10 p.m. before meeting a delegation from the Organisation of the Islamic Conference. I will get an update from him. The Arab League must deal with statements on the present situation in the Middle East, its preparedness to put the Beirut initiative on the table and a commitment from the region regarding reforms and the need to meet the significant requirements and needs of that part of the world as outlined in the 2002 UN development report from Arab intellectuals. The important point the EU has been making in its interaction in the Euro-Med process, the G8 process and in the EU-US context — I met the Secretary of State in Washington in preparation for the EU-US summit — is there must be recognition of the importance of reform deriving from the region itself as the only way to sustain progress in this area.

Mr. Durkan: May I ask another question?

An Ceann Comhairle: There are two problems, Deputy. The first is that we have run out of time on this question and the other is that we are going outside the remit of the question. There will be an opportunity on Question No. 10 on the same subject.

EU Presidency.

8. **Mr. Kenny** asked the Minister for Foreign Affairs the steps being taken to progress the Lisbon agenda in the final weeks of Ireland's Presidency of the European Union; and if he will make a statement on the matter. [14526/04]

Mr. Cowen: The Lisbon agenda was considered at the spring European Council on 25 and 26 March, chaired by the Taoiseach. Discussion focused on the priority issues of sustainable growth and employment. Following the successful outcome of the European Council, the focus of work in this area is on ensuring that key Lisbon agenda dossiers are finalised or advanced before the end of Ireland's Presidency.

The Irish Presidency has secured agreement on a number of important Lisbon agenda dossiers. These include the transparency and financial instruments markets directives of the financial services action plan, the second railway package and the revised trans-European networks guidelines. Agreement has also been reached on the reform of EU Regulation No. 1408 aimed at making it easier for EU citizens to access social insurance entitlements in other member states. The introduction of the European health insurance card on 1 June will simplify access to necessary health care for any European citizen while on a temporary stay in another member state.

In addition, political agreement has just been reached in Council on the mutual recognition of professional qualifications and we also hope to reach agreement on a further dossier, which is the Europass. These two dossiers are aimed at

facilitating citizens in having their educational and professional qualifications recognised throughout the Union. The June European Council is expected to note progress achieved on a number of major dossiers relevant to the implementation of the Lisbon agenda.

We are also engaged in the process of preparing Ireland's national contribution to the mid-term review of the Lisbon agenda. All member states were asked at the spring European Council to prepare national inputs to the mid-term review in consultation with national reform partnerships. These national inputs, in addition to the report due in November this year by the recently established independent high level group headed by Wim Kok, will be considered by the European Commission in its report to the spring European Council next year.

Mr. Durkan: It was indicated that Ireland would become the most competitive knowledge-based economy in the world by 2010. However, many people now indicate that Ireland is at the lower end of the European scale in terms of research and development. Given that Europe is at the lower end of the scale in comparison with the US, Ireland, as a competitor in the worldwide economy, is at a serious disadvantage unless recognition is given to the targets for 2010 and the need to make headway in bringing the country back to the position it held eight or nine years ago.

Mr. Cowen: Many initiatives have been taken by the Government and its predecessor on funding both pure and applied research through the establishment of Science Foundation Ireland and the significant moneys made available for it. This has been well received by the heads of our third level institutions where this research is taking place. Clearly, there is a need to improve the level of funding throughout Europe for research and development. It is one of the Lisbon agenda indicators which is not being met.

According to recent reports on investment coming into Europe, Ireland has been high up on the list after Britain and the Netherlands, as a recipient of significant high technology industrial investment. This is being resourced and labour is being provided from the investment we make in our educational system and the sciences generally.

We started from a low base ten or 15 years ago. When I was Minister for Health and Children, I recall the Health Research Board pointing out to me that there was a need for greater research facilities. The Government has been proactive in this area. I do not accept we are falling behind or complacent, or that we are not doing anything. While I do not suggest we are at the height of our powers in this area, I believe that thankfully many well qualified research scientists have returned to Ireland on the basis that the Government has been receptive to ideas as to how we might build research facilities here. I

agree there is more to do but we are not at the back of the class, and Europe has much more to do.

Mr. M. Higgins: Does the Minister agree that in addition to competitiveness and innovation the Lisbon Agenda also included the fundamental principles of social Europe? Is the Minister not concerned that so far in terms of social protection, the gaps have widened between countries with adequate social protection and Ireland, for example? Compared to Sweden with 33%, Ireland has 14%, which is second last. Is it not the case that the social dimension of the Lisbon agreement is growing further away from our attainment with incredible results in terms of inequality?

Mr. Cowen: We must study exactly what these statistics mean. Some countries, which traditionally have had very high levels of social protection, are now facing reforms in these areas, particularly in terms of future pension provision. They are even coming under pressure to reform areas of basic benefits. In that context being prepared to consider reforms does not mean walking away from the principle of social protection but it means ensuring that social protection is sustainable into the future. Thankfully for us we are making the sort of future pension provision of which other countries are envious, even though our policy has been criticised in this House as we have not made use of the money for present requirements. However those, like the Deputy, who make the case for a social Europe and having social protection systems such as pensions in the future recognise the need to make that provision now. It is a question of balancing priorities.

The Deputy's wider question about the competitiveness of Europe and how we can ensure we do not move to what the Deputy would regard as a *laissez-faire* capitalist model is one of which I would also be mindful.

Mr. M. Higgins: The Minister has gone right.

Mr. Cowen: I am coming over to meet the Deputy.

Military Aircraft.

9. **Mr. Sherlock** asked the Minister for Foreign Affairs the conditions laid down for the use by foreign military aircraft of Casement Aerodrome, Baldonnel; if his attention has been drawn to a recent incident in which a US military aircraft at Baldonnel flew a skull and crossbones flag; his views on whether this is appropriate; and if he will make a statement on the matter. [13389/04]

105. **Ms Enright** asked the Minister for Foreign Affairs if he has raised with the US authorities the flying of a skull and crossbones flag on aircraft using Irish facilities; and if he will make a statement on the matter. [14503/04]

Mr. Cowen: I propose to take Questions Nos. 9 and 105 together.

I refer the Deputies to my reply to Parliamentary Question No. 212 of 6 April 2004 on this matter. In that reply I stated that the use of Shannon Airport by the US military is a long-standing practice, which has been in place for a number of decades. In this regard, the carriage of US troops by civilian aircraft carriers takes place in accordance with the Air Navigation (Carriage of Munitions of War, Weapons and Dangerous Goods) Order 1973, as amended in 1989, for which the Minister for Transport has responsibility. This legislation is concerned specifically with the carriage of munitions of war and weapons and allows the Minister for Transport to issue exemptions for the carriage of such goods. There is no requirement for the identification of any specific military unit being transported.

Permission for foreign military aircraft to land, which is a matter for the Minister for Foreign Affairs, must take place in accordance with the provisions of the Air Navigation (Foreign Military Aircraft) Order 1952, and is normally granted on certain conditions, including that the aircraft be unarmed and not carrying arms, ammunition and explosives.

Records show that the landing of the C-130 at Baldonnel military aerodrome in late March took place in conformity with these criteria. The flying of the “jolly Roger” by that aircraft, which is an informal flag with no particular status, was raised with the United States Embassy. The embassy confirmed that the hoisting of unauthorised flags on US military aircraft is not permitted. Any further action would be a matter for the US authorities and we have made it clear we do not want to see a repeat.

Mr. M. Higgins: The question remains as to why this airplane landed at Baldonnel rather than Shannon. Apparently it was suggested that it was flying between a US airbase and Sicily. When it happened a spokesperson for the Department of Defence suggested that the airplane was not flying either to or from a war zone. Who is in a position to establish the veracity of that? They were hardly going to a bridge conference in Sicily.

The flying of the “Jolly Roger” is a kind of what might be called US Air Force “laddism”. These flags, which the Minister’s reply states are unauthorised, are flown as the airplane goes into combat. That part was established. While I am not straying from the question, we know what informal “laddism” does in armies. Does the Minister regard it as offensive and unnecessary? Given that it landed on the Irish Air Corps strip in Baldonnel, is it not extraordinary that if the airplane complied with everything the Minister said — I do not question that if he tells me so — why did it land at Baldonnel and not use Shannon, for example?

Mr. Cowen: I do not have that information here, but I can get it for the Deputy. I agree that the hoisting of that flag is not to be repeated and it is accepted as such.

Mr. Durkan: Was an explanation sought or given as to why the flying of that flag should have been allowed? As we know from our school days, the flying of the “Jolly Roger” could denote piracy, poison or death. I presume it was meant to convey one or all of these in a way that encompassed bravado or “laddism”, as my colleague, Deputy Michael Higgins, said. In the field of international relations it is not a great idea and some explanation should be provided for the incident.

Mr. Cowen: The matter came to my notice on publication of the newspaper carrying the photograph, whereupon my officials on my behalf promptly brought the matter to the attention of the United States Embassy. We were clearly not happy with the situation. The embassy was very co-operative in investigating the matter and confirmed that the flying of livery by a US military aircraft other than officially sanctioned flags was against military regulations. The question of further action is a matter for the US authorities and I understand that the issue has been taken up internally by them. I particularly wanted to ensure such an action would not happen again and I am confident this is the case. I will find out for Deputy Higgins why the airplane landed at Baldonnel rather than Shannon, as I do not know,

Middle East Peace Process.

10. **Mr. Gogarty** asked the Minister for Foreign Affairs the status of the Quartet plan on the Middle East; and if he will make a statement on the matter. [14671/04]

40. **Mr. Crawford** asked the Minister for Foreign Affairs the position regarding the Middle East peace roadmap; his view on whether the European Union, the United Nations and Russia have been sidelined in the process by the United States; and if he will make a statement on the matter. [14492/04]

127. **Mr. G. Mitchell** asked the Minister for Foreign Affairs the actions which have been undertaken by the Government to make clear, in particular to the Israeli authorities, its concern at the failure to progress the road map agreed by the Quartet; and if he will make a statement on the matter. [14883/04]

Mr. Cowen: I propose to take Questions Nos. 10, 40 and 127 together.

The current status of the road map is that neither party has met its commitments under it and that it is unlikely that the original timeframes envisaged in the road map can be met at this point. That said, the road map remains the preferred and only option of the international

community and both parties have repeatedly declared their intention to implement it. The road map contains all the elements, which will be essential if a just and comprehensive settlement based on the objective of two states living in peace and security side by side is to be achieved.

I led the delegation of the European Union at a meeting of the Quartet in New York on 4 May. I was accompanied by the high representative, Javier Solana, and the Commissioner for External Relations, Chris Patten. Other delegations were led by the Secretary General of the United Nations, the Secretary of State of the United States and the Foreign Minister of Russia. Discussion at the meeting was intense and focused on the principles underlying the peace process. All were agreed that the road map still represented the best way forward.

A statement was issued after the Quartet meeting in which all four participants reaffirmed their commitment to the road map and the principles of the peace process, which include the following: a settlement to be negotiated and agreed between the two parties on the basis of the relevant United Nations Security Council resolutions and other relevant documents; no prejudgment of final status issues; and unilateral initiatives to be consistent with the road map and the two-state solution.

The meeting also identified a series of measures to be taken by the Quartet in conjunction with the parties and international organisations to monitor progress and compliance by all sides. The special representative of the European Union for the Middle East peace process is currently pursuing more detailed discussions with our Quartet partners with a view to taking these measures forward. The meeting of the Quartet was conducted in an atmosphere of frankness and openness to differing views and on the basis of a shared determination to achieve a just and comprehensive peace. I do not consider that any member of the Quartet has been sidelined.

I took the opportunity of my meetings with the Israeli and Palestinian Foreign Ministers in Dublin on 5 May to make clear our continued commitment to the road map and our expectation of compliance by both side as set out in the Quartet statement.

Mr. Durkan: Given the possible sidelining of some members of the Quartet, is the Minister satisfied their role is as significant as was intended? Can he indicate whether or not they are all included in the ongoing debate? We have all seen instances in which President Bush has encouraged a particular line at a specific time. That there is not always a chorus of support suggests some of the people involved are being sidelined.

Mr. Cowen: All members of the Quartet are entitled to hold bilateral meetings with whomsoever they wish. The Tullamore

declaration, which resulted from the Foreign Ministers' Gymnich meeting, made our position very clear. We are anxious to ensure the basic principles which have informed the peace process remain intact. While it is open to people like the supporters of the Geneva accord to surmise how the ultimate design of a full and final settlement may appear, it is important to avoid a scenario in which people believe negotiating cards are being taken from any party's hand. The reiteration that these matters must be agreed among the parties regardless of the views expressed at bilateral meetings was an important restatement of a fundamental principle which must be adhered to if we are to have a working negotiating process.

Mr. M. Higgins: I support the Minister in any initiative which can be taken. This matter is far too important for any partisan advantage to be taken. I put it to the Minister without pleasure that it is very hard to reconcile the Sharon plan with the Quartet's fundamental proposals. As I listened to his reply, I agreed with the Minister that it is important for all parties to the Quartet's original proposals on the road map to play all the cards and maintain all the key components he listed. The Sharon plan does not do that. The Tullamore declaration and the other statements have indicated a willingness to consider proposals if a withdrawal from Gaza can be reconciled with the road map. It is clear the Sharon plan rows back on some of the fundamentals of the road map and the Quartet's original proposals. This is particularly true in the case of UN resolutions on settlements and a series of other areas.

I do not know how the Minister can answer this. Is it the case that the Tullamore declaration put the best possible face on a clear breach of the road map in the Sharon plan? If that is the case, is it not true that the original judgment that one could somehow operate with the Sharon plan on a temporary basis has been proved entirely false by recent events? I say that with no celebration. We must return to the original principles if we are to make any progress.

Mr. Cowen: I will answer as best I can. The Tullamore declaration is a very clear restatement of the EU's view of the road map and the way in which this process should work. It has the merit of being a far clearer exposition of our position than any previous statement one can find. That degree of clarity was required when the declaration was made.

In the context of Mr. Sharon's unilateral withdrawal, I agree that unilateralism will not solve the problem or, by definition, bring about a negotiated settlement. There has been total gridlock in which the process has gone nowhere due to requirements of sequencing and the raising of certain issues. In that context, we are prepared to consider the potential of a declaration that a full withdrawal from occupied lands will take place if it meets certain criteria and can be shoe-horned into the road map process. While many

[Mr. Cowen.]

pessimists claim that will not happen, it is the responsibility of the Quartet to ensure it does. Any withdrawal from Gaza must be full and complete. There can be no question of the Israeli Defence Forces returning whenever it suits or determining according to its own security requirements that a reoccupation should take place. There must be an assurance that those who leave the Gaza settlements do not move to the West Bank. There can be no question of moving settlers from one occupied territory to another.

We must make it clear that we will support a proposal and work with people on the basis that it is part of a two state solution. Any process must ensure an orderly transfer to the Palestinian Authority. If we allow unilateralism to proceed without any effort by us to control it or create circumstances in which a proposal can be used to effect positive change, there will be total chaos in Gaza. There will be a withdrawal simply to suit Israel. We contend strongly that as the occupying force, Israel has responsibilities in terms of the reconstruction of Gaza. The European taxpayer cannot be expected to build up the port and airport if they are to be thrashed in five weeks or five months. Certain assurances are necessary and a monitoring system must be put in place. The Secretary General of the UN has spoken about the opportunity provided by the Sharon plan despite its unilateral nature to bring in a monitoring presence. It may be possible to establish a process of withdrawal like the Israeli withdrawal from Lebanon where a UN presence was achieved to ensure it was complete and in line with international law.

While this is not the most hopeful time in the Middle East peace process, the Quartet has a responsibility to consider any initiative which comes our way to establish whether it can be used as a mechanism to reactivate a road map which has been moribund for months. We must ask if we can use this as an opportunity to effect an orderly transfer to the Palestinian Authority to build up its capacity to operate within Gaza again. We wish to ensure the withdrawal is not merely to the outskirts of Gaza with the creation of a reservation. The economic life of Gaza must be reinvigorated and prospects for its inhabitants provided. The Palestinian Authority must have control over its airspace and ports and access to the sea. There are many ways in which the daily lives of the Palestinian people in the area can be improved if the international community decides to engage based on certain criteria which are consistent with the road map ultimately becoming operational.

Mr. Durkan: Is the Minister satisfied the EU has a sufficiently major role and will be allowed to play it in the same way as the USA and other players?

Mr. M. Higgins: I can see how the Tullamore declaration requires the best possible spin to be

put on the meeting between Mr. Sharon and President Bush. I am being positive but one must exercise judgment. The Sharon plan did not provide airspace control or a number of other functions to the new Palestinian entity. Since its announcement, there has been an expansion of the settlements on the West Bank and an appropriation of property in east Jerusalem. All the indications are that Mr. Sharon never had any intention of living with the Sharon-Bush plan described by the Minister for Foreign Affairs. The present American position is akin to riding two horses. On the one hand, there is a commitment to the road map through the Quartet and, on the other, there is the co-sponsorship of a proposal that cuts the ground from under the road map's significant proposals.

Mr. Cowen: Though I agree that the Sharon plan is brilliant in its vagueness, I disagree with the Deputy's argument. We will not accept withdrawal from Gaza unless certain criteria set out in the Tullamore declaration are met. It was interpreted by helpful colleagues as putting a good face on the plan. Though not many positive aspects could be drawn from the interpretation of the bilateral meeting, we drew what we could from it and held to those promises at the Quartet meeting. It was reconfirmed at the meeting that the final status issues are for negotiation between the parties. We must work with what we have in a way that does not undermine the road map. Criteria have been set that need to be met for us to participate constructively in making withdrawal from Gaza a contribution to the operation of the road map.

There are those on both sides whom it suits to claim that the sole supporter of Israel is the US and the sole supporter of Palestine is the EU. That simplistic approach is used by those who do not want to see the EU, the US, the UN and the Russian federation bring their respective and various strengths to bear on the different parties to implement a common analysis set out in the road map. That is why the Quartet is an important new feature in attempts to resolve this conflict. Unfortunately, I admit, it has not brought the success I would have liked. However, we will continue to work through the different political and diplomatic channels to convert this difficult background into a positive one.

Mr. M. Higgins: On the ground, it is now near impossible for the Palestinian Authority to meet the preconditions that are set down for the next stage. The events at Rafah undermine the only negotiating party for the Palestinians, leading to a growth in influence of extra-constitutional groups. I do not see the US relationship to the Sharon plan as anything other than an abuse of power. One wants to see the exercise of power as a commitment to the whole process rather than to a singular party which is now altering an alternative challenge to the road map.

Mr. Cowen: At the international Quartet meeting in New York, the US made a public recommitment to the road map as the only basis to a full and final settlement to this problem. There is a need to build up the capacity of the Palestinian Authority. One can contend that part of Israeli policy has been to give the impression to the wider world that there is no interlocutor for peace on the other side. However, the Palestinian Authority needs to be as proactive as possible. This weekend the Arab League conference must use the opportunity to confirm there is an interlocutor for peace on the other side, based on UN resolutions.

The Palestinian Authority should also take the opportunity to test the bona fides of its prospective partner as to whether the withdrawal from Gaza can be a building block to the full implementation of the road map. The international community, the EU in particular, has established criteria consistent with road map which will determine our support, or otherwise, for it. The direct engagement by the US Secretary of State and the US National Security Adviser with the Prime Minister of the Palestinian Authority was an important development. It is hoped that this re-engagement will help overcome the stasis seen in the past due to the policy of isolation of Mr. Yasser Arafat.

Written Answers follow Adjournment Debate.

Adjournment Debate Matters.

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputy Ferris — the difficulties caused for draft and drift salmon fishermen due to reductions in fishing days and quota; (2) Deputy Ó Snodaigh — the need for the Government to respond to the increasingly widespread belief among local communities that tackling the drugs issue is no longer a political priority; (3) Deputy Ó Caoláin — the need for the Minister for Education and Science to detail his plans for the provision of extra resource teachers and learning support teachers for primary schools; (4) Deputy Neville — the level of suicides in 2003; (5) Deputy Crawford — the urgent need for the Minister for Finance to re-examine the fines and penalties being imposed on people in the Border area where many had to use cross-Border accounts for business; (6) Deputy Seán Ryan — the need for the Minister to intervene to prevent the sale into private ownership by Dublin Port Company of Balbriggan and Skerries harbours; (7) Deputy Enright — the need for the Minister for Education and Science to urgently consider the proposal by Gaelscoil Phortlaoise for funding towards the provision of temporary accommodation at a new site at Kilminchy; (8) Deputy Sargent — that the Government indicate how it expects schools to take seriously the

promotion of 2004 as the year of sport in education when schools are denied necessary grant aid for temporary accommodation; (9) Deputy Pat Breen — why Shannon Development is not included in the central applications office website for the Government's proposed decentralisation plans.

The matters raised by Deputies Crawford, Neville and Seán Ryan have been selected for discussion.

Central Bank and Financial Services Authority of Ireland Bill 2003: Report Stage (Resumed).

Debate resumed on amendment No. 1:

In page 5, lines 8 to 10, to delete “PROVIDING FOR THE ESTABLISHMENT AND FUNCTIONS OF THE REGULATORY AUTHORITY SANCTIONS PANEL,”.

—(Minister for Finance).

Caoimhghín Ó Caoláin: Amendment No. 11, in the name of the Minister for Finance, has a serious deficiency in that it leaves too much discretion with the regulatory authority as to how to proceed in the event of irregularities or contraventions in financial services being discovered. The regulatory authority has the option to either instigate an inquiry or enter into a negotiable process on the admission of the respective contravention by the financial service. The legislation should be more instructive and specific, leaving no room for subsequent doubt.

Minister for Finance (Mr. McCreevy): The constitutionality behind the introduction of new penalty provisions was questioned and Part IIIC had to be replaced to address this issue. The new Part inserts a confirmation procedure by the courts. It is modelled on the recommendations of the McDowell report, but in substance, other than the procedural changes, it retains all the features of the original provision which is to sanction financial institutions and their managers.

Some Deputies sought to amend the membership of the sanctions panel. However this is overtaken by the Government amendment which will do away with the panel requirement. It is clear that the presence of credit union representatives will be required on the IFSRA advisory panel and I will ensure that is the case. Deputy Ó Caoláin commented on IFSRA's discretion in the matter of holding an inquiry. Such discretion is required as correct action depends on the scale of the issue. Deputy Boyle raised the question of non-deposit-taking institutions. I dealt with this matter on Committee Stage by submitting an amendment to the Consumer Credit Act 1995. A question was raised regarding the proportionality of sanctions. I am satisfied that IFSRA has discretion in this area and I have the power to make regulations about monetary fines. Deputy Burton raised the issue of internal audit. I am satisfied that apart from the requirements of the Companies Acts,

[Mr. McCreevy.]

IFSRA can impose conditions and requirements on financial service providers.

A number of Deputies referred to credit unions. The 2003 Act specifically requires IFSRA to regulate credit unions having regard to their special characteristics. Deputies will recall that an amendment to that effect was inserted. As I have emphasised many times before, it is essential that there be proper regulation of credit unions. As I pointed out in my two main contributions, the assets under the control of credit unions were worth about €10 billion as of last year. Deputy Richard Bruton mentioned the one-size-fits-all concept. IFSRA will be able to tailor its penalties to the circumstances. The question was raised of whether the word “may” was suitable in this context. That is the purpose of using such a phrase.

Mr. R. Bruton: Will it be obliged to refer to the earlier legislation which specified proportionality?

Mr. McCreevy: Yes. It will have reference to all the Acts rather than just one.

I dealt with the question of credit unions as best I could. In this context, Deputy Burton asked about bankruptcy. I do not think any Deputy would suggest that the credit union should be forced into bankruptcy as a result of action by IFSRA. It would not be in anybody’s interest to ensure that a financial institution would go under as a result of such an action. The use of the word “may” is essential because a judge will need to decide whether a matter merits an inquiry. A once-off error at the counter may not require an inquiry but a pattern of bad behaviour could require one. That is reasonable.

Deputy Ned O’Keeffe raised many interesting points, asking for balance in the debate. It is popular to knock the banks as nobody likes them. They are like politicians — nobody likes them either. However, if we did not have financial institutions we would never have had the Celtic tiger. It is required that institutions lend money to viable projects and take chances in lending money despite advice not to go in that direction. That is the free market. It is that attitude that has allowed Ireland to develop. Deputy Ned O’Keeffe raised the issue of the adequacy of the banks’ profits. Banks in Ireland are profitable, but in the matter of their capital base — the money they are lending — things are not so great.

Deputy O’Keeffe also mentioned the interesting issue of the ownership of Irish banks, which has been dealt with in another context. Deputies will recall that we had a debate about this some years ago. If anyone wants to take over an Irish bank there are a number of hurdles to jump. One can legitimately make the case that the Irish banks are only nominally Irish and are not owned by Irish people. Pension funds all over the world own most of the major banks on the Irish market. Yet they have an Irish ethos. The Deputy referred to what happened in New

Zealand. One morning people woke up to find that none of the country’s banks was a New Zealand bank. One can make the case that the Irish banks are owned by non-Irish people, so they are technically not Irish. There would be a big difference, however, if they were owned by a German bank. At the moment, if a certain business sector is going through a bad time — the farming industry, for example — the banks are in touch with the situation as their executives and chairman are living in Ireland and decisions are made here. The Minister for Finance could speak to the chairman of a body and explain that the sector is going through a bad patch. The chairman need not do anything about it, but the possibility exists. It would be different if the bank was German-owned. It would have no base here. That is what happened in New Zealand.

In 1999 I commissioned and published a report which dealt with this issue. We did not come down heavily on one side or the other. If the authors of the report said they were choosing one side over another we told them not to worry about it. I take a different view. The Deputy’s point was a valid one. He also raised the interesting point of whether there should be any control of bank charges. Why not let the market decide? Other people mentioned this also. The Deputy referred to the experience of the prices commission. The unintended effect of the prices commission was that cartels and lobbies grew up and prices were kept at a higher level. Competition forces prices down. The matter of bank charges is being examined in the report to be published shortly by the Competition Authority. It will be interesting to see its opinion on this matter. The issue has been raised before and there are differing opinions about it.

I do not want to go into the matter of the AIB investigation but it is the background to much of the current debate. We must await the report. Deputy Ned O’Keeffe may be correct in his assumption that at one point AIB was charging a lower rate than its competitors and that if it had applied for the 1% sanction it would have received it. The offence, if that is the correct phraseology, is that the bank was approved to charge a particular rate, yet it charged a different one. As Deputy O’Keeffe said, AIB was the most competitive player in the market at the rate it was charging.

Ms Burton: That is all the more reason heads should roll, if this is an institution that looks after people’s money. It was a stupid mistake. It is hard to imagine the bank being in possession of all that money and making a mistake such as that.

Mr. McCreevy: I do not know whether it is true — we must wait for the final report — but I have heard the same thing.

The balance between prudential regulation and the consumer has been at the heart of this debate for the past seven years. Last year’s Act, the Central Bank and Financial Services Authority of Ireland Act 2003, proves the worth of the

legislation we put before the House. Some people were critical of that legislation, which was some time in development. It was hard to obtain agreement on which way to proceed. However, the way in which we have dealt with the AIB matter shows the benefit of the legislation.

Sometimes we get carried away trying to find somebody to blame when mistakes such as this are revealed. There is no point in blaming anyone in the regulatory regime. The area
4 o'clock was under the control of the Director of Consumer Affairs for eight years and for the past year it has been under the control of IFSRA. We should not single out any body for blame. No regulatory regime in the world can turn up every mistake. It just will not happen. One hopes the institutions being regulated have sufficient control mechanisms in place so that mistakes will show up. I must refer to the AIB matter as it has been so much in the news, but let us await the report and keep a sense of proportion. I welcome the contribution of Deputy Ned O'Keeffe because it brought a sense of balance to the debate which has been lacking in recent weeks.

Acting Chairman (Cecilia Keaveney): Is the amendment agreed?

Caoimhghín Ó Caoláin: Is there no opportunity for a further comment on the Minister's response?

Acting Chairman: No. According to procedure, that was the final response.

Caoimhghín Ó Caoláin: It is a pity there was not more balance. Why was he so enthusiastic about Deputy O'Keeffe's contribution?

Mr. N. O'Keeffe: I missed my two-minute slot.

Acting Chairman: I was not here when the Minister started so I cannot take the blame.

Amendment put and declared carried.

Amendments Nos. 2 and 3 not moved.

Acting Chairman: Amendments Nos. 4, 37, 38, 67, 68 and 81 are related and will be discussed together.

Ms Burton: I move amendment No. 4:

In page 5, between lines 27 and 28, to insert the following:

1.—The Board of the Central Bank and Financial Services Authority of Ireland and all subcommittees or panels under its jurisdiction shall be so constituted as to consist of not less than 40 per cent men and 40 per cent women.”.

The Minister made a statement as to his assessment of what happened in Allied Irish Banks. I do not wish to prejudice any

investigation, but I assume he has good sources of information.

Mr. McCreevy: The same as Deputy O'Keeffe.

Ms Burton: Even though Deputy O'Keeffe is a long-standing admirer of Allied Irish Banks, more than one person in the bank is guilty of at least extraordinary stupidity and incompetence. Everyone can be stupid on occasions.

Mr. N. O'Keeffe: They are not stupid in this House.

Ms Burton: It is extraordinary that this stupidity went on for eight years, which brings me back to the central point. Partly as a result of the AIB debacle and revelations, the Minister has wisely had a major rethink of the IFSRA regulatory structure. His attempts to ensure it is in line with the Constitution are welcome. However, we heard him say that stupidity and incompetence are the reasons AIB customers were potentially overcharged to the tune of €25 million, a sum of money which the bank has now lodged with the Central Bank.

The amendment seeks to ensure that there will be an appropriate gender balance on the boards, panels and authorities of the new body when a significant number of appointments will be made. It is reasonable to propose that these appointments should constitute at least 40% men and 40% women, and the balance as the Minister sees fit. In the context of what the Minister said, it is crucially important that the boards, panels and advisory bodies associated with the IFSRA structure should comprise independent people who are qualified in the oversight required.

In the case of Allied Irish Banks — we do not know whether this applies to other banks — serious overcharging of customers appears to have persisted for eight years. This is despite an expensive regulatory structure. As I said earlier, the most important regulatory structure in most banks and financial institutions is the internal audit function and the internal audit committee, aided by the external auditors. This Bill, and the recent companies legislation, is silent in regard to the role of internal auditors, who are absolutely crucial. As a former employee of a bank, I am sure Deputy Ó Caoláin will agree that they are the front line on a day-to-day basis in regard to reporting malpractice or departure from guidelines. I recall that the DIRT malpractice was first drawn to the banks' attention by reports of the internal audit function.

Genuinely independent people must be appointed to the panels and structures of the IFSRA. The amendments deal with the issue of gender balance. Later amendments deal with the issue of persons with technical knowledge in regard to advocacy of consumer affairs and advocacy of credit unions. The Minister is putting far too much trust in the banking structure. We all accept there is a need for banks and financial

[Ms Burton.]
institutions. In the United States, to which the Minister likes to refer, and in the UK, there are genuinely powerful independent regulatory watchdogs which make many sections of the banking and financial services institutions tremble. In the United States, these bodies go back to the Wall Street crash, because the banking system failed significantly. Many years later in the United States there was the series of problems in regard to savings and loan institutions which are probably the closest to our credit union institutions.

Acting Chairman: The Deputy must speak to the amendment.

Ms Burton: I am speaking to the amendment. It is absolutely crucial that those involved in oversight are genuinely independent. I have a serious worry that the Minister is proposing to appoint and stuff the boards and panels of the new structure with the usual suspects, namely, members, including senior members, of the banking and financial services professions and institutions and the usual suspects from the Government parties. The people who will take the flak for the mistakes, or stupidity as the Minister implied, which Allied Irish Banks has been guilty of do not appear to be those at the top level but those in the middle ranks, or perhaps those who work in the front offices. These are the people who will have to take abuse from customers, not for their failures but for the failures of senior management.

Acting Chairman: The amendments, which are narrow in scope, relate to gender balance.

Ms Burton: As many of the front line people who provide bank services are women, why would the Minister refuse to accept a Labour Party amendment which would give women and men a 40% participation level in the new structures? If he passes up this opportunity, we will have an extraordinarily expensive regulatory structure which may simply serve the interests of the financial institutions.

The Director of Consumer Affairs, one of the few women appointed to a top job in the new structure, has produced a number of consumer-friendly reports, which I welcome. In the appointments the Minister will have the power to make, there is no indication of a commitment to gender balance. After seven years as Minister for Finance — I congratulated him on it this morning — during a time when many things have changed, he finally got around to appointing one woman to the board of directors of the Central Bank. The Minister said he is making a breakthrough after 60 years, which I welcome. Today the Dáil has an opportunity not just to make a breakthrough, but to ensure that women are appointed to the new structures.

I spoke previously about the amount of credit based advertising and financial product advertising which is a pervasive feature of Irish life. In its recent report, the Central Bank referred to the high credit levels in the Irish economy.

Many of those who control household budgets are women and it is they who have to pick up the pieces when households get into trouble. This can happen due to over borrowing at Christmas time or for Holy Communion when they take the financial service providers at their word. Instead of appointing the usual suspects from the top levels of the banks, the commercial bodies and from Fianna Fáil and the Progressive Democrats, the Minister should opt for people of genuine independence, including women. If the Acting Chairman considers that an unusual request, I do not. We are in the 21st century and the Minister should be big enough to acknowledge that it is desirable and necessary that women should have a central role in the new structure. That is the purpose of the Labour Party amendment.

Mr. R. Bruton: I will table a similar amendment later on the Ombudsman's council and the consumer consultative panel. However, I want to make a general comment about such panels. This elaborate structure, with an Ombudsman's council, a consumer consultative panel, an industry panel, as well as a hybrid board, is a consequence of not having got the objective correct in the first place. We should have produced tough pro-consumer legislation with competition within the banks. I agree with Deputy Ned O'Keefe on this issue. At the end of the battle, the Central Bank became the main area within which consumer protection was to develop, albeit with a cavil to make it more pro-consumer. All these panels and councils were strung along behind to compensate for the lousy pro-consumer body which had been created. What is the sense in having these extras when we could have gone for a simple regulatory regime? The Government hung back from the issue of a vigorous competition policy. This is the second report from the Competition Authority and nothing has been done. Nothing has been done to deal with the ability to move freely from account to account and nothing has been done to open up competition in areas that are not really contestable.

Where these panels exist there ought to be a balanced gender representation. We have succeeded in creating a monstrosity. If we had gone about this in the right way, there would have been a very strong pro-consumer board charged with the task of consumer protection. It would have had many women with practical experience in consumer protection. Not only will the Minister not have a proper gender balance on these councils, but they will be talking shops with no real authority to influence the direction of policy. When push comes to shove, it will be the heavy brigade within the Central Bank structure

who will call the shots. These groups will be frustrated in their work. I have not been persuaded by this legislation that we have got the simple things right. We are struggling to correct a situation that we created. Notwithstanding that, the Minister should push to make sure that there is proper gender balance. I know he will not accept these amendments as we have been through this on Committee Stage.

The Minister thinks he has been pioneering in reform for women in other areas within his remit. I do not agree with some of the actions which he claimed are pro-women, such as his refusal to support child care. However, this is an area in which he ought to make a special effort. The Fianna Fáil list of candidates for the European elections does not contain a single women. There is a problem here and I never said that my own party was virtuous but we are trying hard to get more women to run. The Minister has to make the extra effort to bring more women into the authority and not round up the usual suspects, who will almost invariably be well known men in these sectors. I support Deputy Burton's amendment and my own amendments grouped with it.

Caoimhghín Ó Caoláin: I have three amendments in this grouping. Amendment No. 38 argues that at least two of those to be appointed to the Ombudsman council should be women. The proposed configuration of the council is not less than five and not more than ten. My colleagues' amendments would ensure a greater level of female representation. I would be happy if the Minister accepted that argument because we are trying to achieve a pro-active approach to gender balance in all of these areas. The same applies to the consultative consumer panel where not fewer than five and not more than twenty members are to be appointed. Amendment No. 68 seeks that at least one third of the members must be women. Other colleagues have suggested it should be 40% and I fully support that. The same configuration applies to the consultative industry panel, and amendment No. 81 also seeks that not less than one third should be women.

The Minister heard these arguments time and again on Committee Stage, not just in respect of this legislation, but on the Oireachtas Committee on Finance and the Public Service. There is a need to take affirmative action to guarantee a greater participation of women in all of these areas. In the run up to the local and European elections, the National Women's Council made the argument repeatedly that women should be accommodated in all levels of elected public life. This is no less important and I hope the efforts of all parties to ensure a greater gender balance will be better reflected in the Minister's efforts to ensure female participation in all of these bodies.

This proposal cannot be taken in isolation from the need to reform the process of appointment. I would like to see the process of appointment

become a process of selection. It should be open. Heretofore these appointments were made from a very restrictive pool known to a circle of people who will ultimately make the decisions. It is very important that in ensuring gender equality, we ensure equality of access to these bodies. There should be a public advertisement or notice. All citizens should have the right to offer their services. Those with the suitable qualifications, expertise and interest should be taken from a pool of both applicants and people who are nominated. The argument time and again is whether one would expect A, B or C to apply. The important thing is to try to persuade them to offer their service. It can be a marriage of both nominees and applicants. It can be by nomination or application and, ultimately, from that pool of names, a suitable body of people can be appointed to these and all other bodies within the range of responsibility of the various Departments.

I urge the Minister to take on board the arguments I and others have presented, recognising that there is currently a major imbalance and that now is the time to address it.

Mr. Boyle: I support many of these amendments. I am aware the Minister comes from the school of thought that if the best man for the job is a woman, he will appoint a woman but we have to address many of the imbalances in the financial services sector and the banking industry. The banking industry is the most grey of all the grey professions and moving up along the echelons in terms of who makes decisions within the banking industry, there are progressively fewer women. The regulatory structure we put in place to police that banking system must properly reflect the fact that in its own gender make-up, the banking industry's decision making processes, and who makes up those processes, is flawed. It might even be argued that many of the difficulties the banking industry gets itself into are due to the fact that it lacks an appropriate gender make-up. On the other hand, many of the victims of either poor banking practices or banking practices that can be shown to be illegal in their effect subsequently are women. The consumer protection focus of IFSRA, and whatever legislation we put in place to strengthen the role and resources of IFSRA, should properly reflect that.

Apart from the difficulties of AIB and foreign exchange rates, the other reportage about encouraging people, largely elderly women, to move from deposit accounts to different types of investment products that carry a high degree of risk should be an area covered by this Bill and upon which IFSRA should have a strong effect. Much of the reaction to that reportage was along the lines that it was very much a case of *caveat emptor* in that if people moved from secure deposit accounts into high risk investment products, it was their look-out.

[Mr. Boyle.]

In consumer protection terms, however, a series of questions need to be asked. The Consumer Association of Ireland has asked questions on the way databases are obtained by many financial institutions and how people are subsequently preyed upon in terms of seeking to move their money from secure situations into less secure situations. We have heard stories about the school banking system, where the children supply names of fathers and mothers who are subsequently approached by either a bank directly or an arm of the bank. I have no doubt such information is also made available by banks to investment and insurance arms of other banking companies who directly approach some of their customers.

In the case of the investment fund issues, I understand a decision was made to approach a sector of the population who happened to be largely elderly women. As a result, there is a price to be paid by people who were lured into situations which would not otherwise have occurred if proper consumer legislation and regulation existed. The balance in our regulatory structures should help reflect that. I do not believe it is political correctness gone mad or a form of gender engineering to insist that, in terms of the representational role of women in these types of decision making processes, they should have a proportionate role. No one is saying it should be exactly 50%. Figures are mentioned in the Bill but it is a benchmark towards which we should aim and go beyond, if possible. I hope by putting such an example in place we are sending out a clear signal to the banking and financial services industry that it should get its act in order and properly represent the consumers to whom it is offering services, and society, because it is not doing that. Until we get that balance right in the banking industry, the fear is that the type of stories we have been hearing in recent weeks will become more rather than less prevalent regardless of the existence of IFSRA and whatever powers and resources it has to counteract that.

Mr. N. O’Keeffe: I listened attentively to many of the Opposition speakers and I was taken aback to hear someone suggest we should have another auditing system to watch the other auditor. In other words, the internal auditor should be watched by the external auditor and vice versa. The internal audit is a function of management. It has no statutory function but it exists because the chief executive of the board might want to keep an eye on the board but the external auditing system might—

(Interruptions).

Mr. N. O’Keeffe: We do not yet have an Enron in Ireland and if that happened in the banking system, I would not like to be on this side of the House because we would be blown out of it by

Members on the Deputy’s side of the House. There may be room for tightening up that area.

I listened intently to Deputy Burton who made a point about the Wall Street crash in 1929. None of us here were around at that time, although some of us may have vague memories of hearing about it from our families in America who were caught up in it because they worked in the private sector. We do not want to live through those days again.

We have to look at some of the banks who are providing more than 45% or 50% of the mortgages and moneys to the building industry. That is the level of exposure of some of those banks, and I agree with the Minister that we have an obligation to have good legislation in place to protect both the lender, the borrower and the person who deposits money. That is what we are talking about here.

On board appointments, I agree with the Minister’s criteria. Appointments are usually made on the basis of the best person for the job. In my time as a Member of this House I have never recommended anyone for appointment to a board. This Government is two years in office and I have never got involved in any way in appointments to boards.

On the question of gender balance, we would like gender balance to be a policy of our organisation. This Government has a gender balance but it is on the basis of the best people for the job. All things being equal, however, I will always take the people on this side of the House because we are the legislators. We are the Government of the day and when a board is put in place it is there to keep an eye out for the Government side also. I do not see any problem with that. If people on this side of the House are right for the job, it should be given to them.

A great deal of nonsense has been spoken about this issue but when Deputy Burton was a Minister of State, she made quite a few appointments and I do not believe they were from my side of the House, although I did not check the record in that regard. She may have got the gender balance right but she did not get the other aspects right.

Ms Burton: The Deputy should check the record.

Mr. N. O’Keeffe: I am simply making the point, and I do not often differ from Deputy Burton. Deputy Bruton agrees with me that it must be simple to do this but every time Deputy Bruton contributes he talks about more legislation and regulation. We cannot have it both ways.

Mr. R. Bruton: I thought the Deputy wanted competition.

Mr. N. O’Keeffe: Competition is the way forward. It has always been the way forward in a free enterprise society.

Mr. R. Bruton: The Government is doing nothing about it. It is piling reward on reward and it is not doing anything about it.

Mr. N. O’Keeffe: The Deputy talks more about free enterprise than I do. He is very much into that but at the same time he wants to have it every way.

Acting Chairman: I remind the Deputy that this is Report Stage.

Mr. N. O’Keeffe: I know that. I do not believe I am rambling too much from the subject.

I want to compliment the Minister because he is charged with the responsibility of regulating the financial institutions and protecting borrowers, lenders, depositors and all who do business. We have mortgage holders, the building industry and pension funds.

The pension funds are very important, and the banks are the largest investors in the pension funds. Those funds are for our blue collar and white collar workers who retire and who want to have a satisfactory pension at the end of their working lives.

The charges are not the only effect on the banking industry. The Indian general election and oil prices had as much an effect on share prices. I fully support the Minister in his endeavours to regulate this sector and keep it simple. It is a protected system. Over the years we had collapses in different sectors of industry and various issues arose. I was in Government at the time and we suffered severely because we felt the wrath of the public, the media, the Opposition and this House. That could happen again. We have an obligation to keep things right and not to go over the top.

I support the Minister. He is doing an excellent job. In the SSIA’s he has given the people an opportunity to make investments. I support the way he has appointed people to the boards of various organisations. If one cannot get the gender balance right one must appoint the best person for the job. If we do not appoint the best person we will not have the best regulation or direction at board level.

Ms Lynch: Listening to the last speaker one would imagine there is no such thing as a woman who is capable of serving on a board. Deputy O’Keeffe says that if one cannot get the gender balance right one must appoint the best man for the job.

Mr. N. O’Keeffe: I said, “the best person for the job”.

Ms Lynch: It is always the best man for the job. Women have an interest in high finance and in finance at all levels. I cannot understand why men will trust women with their children or with their most valuable possessions, which is usually their dog or their home, and will trust them to manage their money but they do not think them capable

of participating on boards such as the one the Minister is proposing to establish. The notion, which we heard articulated again today, that there is not a sufficient number of intelligent women who are willing to be appointed to the boards of financial bodies annoys me.

Women are now more and more involved in finance. I spoke to a young woman during the week who was negotiating the mortgage for her house. When mistakes were made in the mortgage document it was she who spotted them and returned to the bank to have them corrected. When she returned she spoke to a man but it was she who corrected the mistakes. Women have a great interest in finance. It is usually women who organise personal finance and it is they who pick up the pieces and negotiate second loans for holidays, cars, house improvements and so on. To indicate that women do not have an interest in finance or that there are not enough women to allow a gender balance of 40% on any board is wrong. Women are available for these appointments.

I do not claim that women will beat down the doors of financial institutions seeking appointments to their boards. Most women are inclined to believe the argument that men are better at financial business than they are.

I recall the picture of Mary Robinson signing her first document as President. All the other people in the picture were men in morning suits. She stood out as a result of that. We should aim for the day when women are so commonplace in certain areas that we do not even notice their presence.

I was interested to hear Deputy Boyle’s opinion that banking is the least progressive area in respect of participation by women. I suggest the next least progressive area in that respect is politics. It is not that we cannot find women to stand but that we do not encourage them enough and give them the supports necessary to ensure they make a contribution. Women will eventually realise they are being overlooked and bypassed with regard to boards such as this.

It is usually women who pick up the pieces when a family gets into financial difficulties. It is always women who arrange the finances to meet expenses for events such as first holy communions, confirmations, weddings, new babies, house extensions and so on. It is always women who must ensure the family’s income is sufficient to meet its outgoings.

Women are 50:50 partners in all financial transactions. They should be present at the level where finances are being regulated. I do not understand why this is not accepted. We talk about being colour blind in respect of race. I am praying for the day when we are gender blind also and the best person for the job will always be appointed. Unfortunately, in the eyes of the Government, the best person for the job is always a man. I do not believe that is right.

Mr. McCreevy: As I already explained on Committee Stage and as Deputies are aware, it is Government policy to seek to have a minimum of 40% of state boards made up of members of each gender. Unfortunately, it is not always possible to achieve this, given the pool of people available to serve on particular boards. I will continue to try to ensure adequate representation of both genders on boards for which I am the appointing Minister. However, I cannot accept the prescriptive approach suggested by these amendments, given the many matters which must be considered when making the appointments.

I must point out to Deputy Bruton that in my county there are 20 Fianna Fáil candidates for county council seats, of whom seven are women.

Mr. R. Bruton: That has not filtered up to European Parliament candidate level. The Deputy is the leading light there.

Mr. McCreevy: If some members of the hierarchy of Deputy Bruton's party had their way they might reconsider the advantage of selecting women candidates, in Leinster in any event. I will leave the matter at that.

Various panels and consultative bodies will be appointed when this legislation is enacted. During the debate on Committee Stage I gave a commitment that I would look widely and not round up the usual suspects when appointing these bodies. I agree with much of what Deputies said regarding gender balance on state boards but I do not wish to take a prescriptive approach in this matter. I will go far and wide to see that the make-up of these boards represents a cross section of the population and includes people of every hue. Politics will not come into it.

The general trend of the past ten or 12 years has been to have representational balance on boards. I have been involved in the establishment of bodies where different groups were given nominating rights to the board. I am not convinced this is always the best way to go. It has been my experience that when a board member represents a particular group he or she may feel the interests of the nominating group must be protected. These prescriptive appointments to State boards often result in board members who, while they may speak freely, are constantly concerned that if word leaks out that they did not stand up for their nominating body they will have difficulties with their organisation and may not be renominated or may feel they have let the side down. This has been my experience in the past 15 years or so.

Deputy Ó Caoláin made the point regarding nominating rights. I see certain advantages to such a system. Like the Irish electoral system it has pluses and minuses. I accept there are advantages to such a system but in recent years I have seen board members who felt obliged to stand up for the rights of their nominating body. A small board of approximately seven people appointed without fear or favour generally makes

decisions in the interest of the whole organisation. I make that point in passing as it may not have been alluded to before. What the Deputy suggests is against the general trend of what all parties have been doing in recent years. That point should be borne in mind. Deputy Ned O'Keefe brought balance to an earlier part of the discussion and I wish to bring balance to this part. I am unable to accept the amendments because I do not wish to take such a prescriptive approach. I will endeavour to ensure that the make-up of all the panels will include as wide a cross-section of opinion as possible. I will bear in mind that there are a number of women available for such appointments. Members will have to take me at my word in that regard.

Ms Burton: I am disappointed the Minister is not accepting the Labour Party amendment. However, I welcome his indication that he will agree to the participation of a significant number of women in the extraordinary number of appointments which will be made to this new structure. There will be approximately 60 appointments to different panels and boards, the largest number of appointments made by any one Minister for a long time.

The Minister made reference to groups being represented on boards. It can be problematic if somebody identifies themselves with a specific interest group. I am concerned that, in terms of appointments to the many panels and authorities involved, the appointees should be experienced and independently minded. Some of them must also be champions and advocates for consumer rights, including individual as well as business consumers. Many businesses, especially small and medium-sized ones, get a rough deal from some banks. Many banks, financial institutions and building societies apply stringent penalties for a default on loan regulations. People often find themselves out of their depth once these penalties kick in.

It is important that the appointees are independently minded. The board should not be of the type which gathers at 12 noon in the hallowed portals of the Central Bank or new IFSRA building to have a dry sherry and ginger biscuit, receive a three page report and that is it for the day. What we want and need in this oversight structure is strong men and women.

Caoimhghín Ó Caoláin: I wish to respond to the latter point raised by the Minister and to emphasise that I was not mooted nomination only but a combination of nomination and open opportunity to the wider public, which is a healthy and good way to do business. I believe it would give rise to interesting possibilities in terms of appointees not traditionally identifiable in the narrow and restrictive circles from which such appointments are traditionally drawn. I strongly recommend my proposal to the Minister. We will revisit the issue again when we come to deal with grouped amendments Nos. 40, 41, 69, 70 and 82.

This is not the last opportunity Members will have to speak on the issue.

I accept the Minister's stated position that he is positively disposed to the gender equality project. I await with interest the appointments which he will make to test his sincerity.

Mr. R. Bruton: I am disappointed the Minister is not willing to give a legal commitment on the matter although I accept his good faith in that regard. We are creating an extraordinary panoply of councils and organisations when we should take a much more aggressive approach towards consumer protection by establishing a much simpler structure to pursue it. If the Minister is to proceed with this structure, I hope he will fulfil his promise to ensure it is properly balanced.

Mr. Boyle: I acknowledge the Minister's remarks in terms of examining the possibility of direct nominations or nominating bodies for such appointments in future. That would be a positive step. However, I wonder how much further down that road he is prepared to go. There are arguments to the effect that appointments should be taken away from ministerial patronage in terms of local government and Civil Service appointments. Perhaps the new Public Appointments Commission could have a role in terms of receiving, vetting and approving nominations for appointments by Ministers to various bodies.

On Question Time recently, I raised with the Taoiseach the appointment of chairmen to the highest position on such bodies. I argue that there is a role for the appropriate Oireachtas committee to openly debate, discuss and approve appointments to such positions so the people concerned could be sanctioned by the Oireachtas before taking up their positions. Perhaps appointees to the position of chairman of IFSRA or any of the bodies under the Minister's current remit could be, by way of initiation to their appointment, exposed to the Oireachtas Joint Committee on Finance and the Public Service, as is the case in other legislatures throughout the world. Such scrutiny would add legitimacy to whatever appointment is subsequently made and would test the person in terms of how he or she is likely to perform in the position.

Ms Burton: We will be watching the Minister in terms of the balance of appointments. I am sure many of the political parties will write to him with suggestions as to how these appointments might be made to ensure a width of balance, broadness and qualification.

Amendment put and declared lost.

Ms Burton: I move amendment No. 5:

In page 5, between lines 27 and 28, to insert the following:

"1.—The members of the Board of the Central Bank and Financial Services

Authority of Ireland and all subcommittees or panels under its jurisdiction shall be required to comply with ethical requirements including requirements as to declaration of interests which shall be prescribed by the Minister for Finance."

The purpose of this amendment, which is related to the previous one, is to require that people appointed to the various boards, panels, bodies, authorities and so on, about which we spoke earlier, will be required to comply with ethical requirements, including a requirement as to declaration of interests to be prescribed by the Minister for Finance.

The boards of the various bodies will be the ultimate regulators because they will supervise the regulators. It is important that we know who these people are and that they make a declaration of interests. In the past, it has been the practice that senior people in the financial services industry have constituted a significant number of appointees. It is important such people make a declaration of interests so that we can establish whether or not they represent vested interests.

The Minister spoke earlier of the difficulties of people wearing a particular hat when taking up a position on a board and how at times they can be restricted by the terms of the body they represent. That is equally true of people who have financial, employment or directorial interests in relation to particular bodies or in certain financial services institutions. A common complaint is that people are less willing to serve on boards and public bodies because of the declaration of interests requirement. Ireland is often compared with the United States. The Minister is an admirer of the United States. However, that country has relatively limited problems getting people who are willing to serve in the public interest, whether in Government or in areas associated with Government or public regulation. A person who serves in a public capacity in the United States must make declarations. Many appointments at federal and state level must be approved following a public hearing. The purpose of those hearings can be political in some cases but in other cases it is to ensure the person has an understanding of the job to which they are being appointed and the person is willing to serve the public interest, as that is perceived at the time.

No such culture has been developed in this country. We have inherited a class and caste-ridden system from the British which has not been changed. These appointments go to a certain type of person who is usually a man, has attended a certain type of school, has served in the public service or has recently retired as a director of a prominent financial institution.

I do not have a problem with some of these people constituting some of the membership of boards. The other great qualification for public service in this country is membership of a political party. If the person is qualified and if the association with a political party is fully disclosed,

[Ms Burton.]

I do not have a problem provided he or she is in a position to serve properly.

The purpose of the Labour Party amendment is to support a climate of public service in which opportunities such as membership of boards and panels are available to a cross-section of the community and to both genders. It is reasonable that the interests of people who serve on boards and panels should be disclosed.

The Government has serious difficulties with the concept of openness and transparency. It has virtually dismantled the Freedom of Information Act. I refer the Minister to the republican ethos of the American or French models which is based on the notion of participation by all and the right of every citizen to participate. That is the model which could be used in this country. It is based on the knowledge of who these representatives are. We will want to know whether they have other interests and assess if those other interests or experiences will impact on how they carry out their functions.

The Minister has significant powers under the Bill to impose regulations. He could give an indication that he will require such regulations. It is a great pity the Minister has not taken an opportunity to re-think the appointments process and make it more worthy of a republic such as Ireland. I have heard the Minister and his colleagues in Government complain that it is impossible to find people who will serve. The Minister has failed to examine the situation in other countries where people are proud to serve. However, they do so under certain conditions and their appointments are open to challenge and scrutiny.

An old boys' club exists in this country. Retiring Secretaries General of Departments have a choice of appointments, as have former chief executives of major corporations. I see nothing wrong with that practice. However, the wider community should also be allowed to take part in the public service and to do so for a number of years. The successful American model should be examined. It has been argued that because declarations of interest are required from candidates, people are less inclined to accept appointments. This is a feeble excuse. The Government desires secrecy and the closing down of information.

The Celtic tiger did best from 1992 when the light was let in. All open societies have, by and large, done better than closed societies. I recommend the Labour Party's amendment to the Minister as a means of ensuring the widest possible choice of best people to perform in this extraordinary number of bodies which he has chosen to establish. This is an expensive superstructure of regulation. I do not know where it will lead or how effective it will be. The House deserves to know who these people are and what their interests are.

Caoimhghín Ó Caoláin: I support Deputy Burton's amendment. She referred in her contribution to the US experience. The Minister will be familiar with the work of the Senate Appointments Commission and the process employed for appointments to various state bodies. The argument is well made that in a country that espouses a republican ethos, there is a requirement for an open and transparent appointments procedure which must also include the ethical requirements of appointment.

In terms of public office it also requires the declaration of interests. Perhaps this House and the other House do not necessarily give the best example in this regard. In my time in local government, I have witnessed a member of a county authority being forced to absent himself from a debate because of a declared business interest.

I have never witnessed anything vaguely reflecting that in terms of the legislative programme which is addressed in this House. I suggest the Commission of the Houses of the Oireachtas produce and provide an updated guide for Members of the Houses of the Oireachtas in respect of the ethical requirements of their position in elected public office.

The example should be given in this House. There is little point in county managers and local authority executives imposing ethical requirements at local authority level if the Parliament of the country does not employ the same rigorous application.

At the outset of this discussion on Report Stage of the Bill, a number of Members redeclared their specific interests and that is to be applauded. However, it is required of all Members to state their respective interests properly which allows the House to make informed judgments as to the stance, source and genesis of their argument and opinion on a given issue. That is an important requirement at this level. I ask the Minister to adopt the amendment.

Mr. R. Bruton: Every institution we appoint should be guided by ethical principles and any panel or council should adopt such principles.

5 o'clock The Government should, therefore, offer councils guidelines for adopting such a policy. In that sense, I support the thrust of the amendment but I am not certain we should require members of panels which are purely advisory in nature to make declarations of interest. These are appropriate where a person's interests may impinge on the decisions he or she is making. While it is possible the panels or sub-committees will make some decisions, by and large they will have an advisory and oversight role.

There is a potential for conflicts of interest to arise in certain cases but the ethical code guiding the panel or council should provide for such circumstances. I would not go as far as to state willy-nilly that persons should be obliged to make a declaration of all their interests regardless of

whether they have a bearing on the issues that arise. One can go too far in that regard with the result that people may take a prurient interest in the affairs of persons appointed to various bodies. A balance must be struck as regards the circumstances in which declarations of interest must be made. I agree that all those appointed to panels should be governed by a clear code of ethical conduct, to which the board will expect them to adhere and which should alert it to conflicts of interest.

Mr. Boyle: I support the amendment. Although it was probably not required, as it did not relate directly to the matter being discussed, I declared an interest during this morning's debate. The reason for making declarations of interest is to place them in the public domain to allow people to make of them what they will and ensure that no questions are subsequently asked.

Deputy Richard Bruton is correct that declarations of interest are more directly applicable to people in decision making roles. For example, if a member of the board of the Central Bank or the IFSRA owned shares in AIB, I would want to be made aware of that fact. The requirement to inform the public about how decisions are made also applies to the role of members of advisory panels. While they do not make direct decisions, they can influence decisions on general policy and, more importantly, they also influence the allocation of resources and the setting of priorities in the general organisation regarding what investigations take place and how. It is important that wide-ranging and direct declarations of interest are available in all circumstances.

Making a declaration of interest open to any member of the public should not be difficult for anyone in an open, democratic society. This type of culture should be a matter of course and we should not cloak the matter of interests in secrecy. People should not be affronted by a requirement to declare their interests because it requires them to act in a manner to which they are not accustomed.

Mr. McCreevy: As I explained on Committee Stage, while I have no problem in principle with the amendment, existing legal provisions are adequate. Schedules 1 and 3 of the Central Bank Act 1942 require directors of the bank and the regulatory authority to disclose any direct or indirect pecuniary interest they may have in matters coming before the board of the bank or the authority. In addition, the directors and senior managers of the bank are required to make declarations under the Ethics in Public Office Act.

Given the overlap between the membership of the board of the bank and the authority and the fact that two members of the authority are executives, seven of the ten members of the authority are already required to make declarations under the Ethics in Public Office

Act. Senior staff in the regulatory authority are also required to make such declarations. I am currently considering designating the regulatory authority separately for the purposes of the Ethics in Public Office Act. This will mean that all members and senior staff of both the bank and the regulatory authority will be required to make the declarations described in the Ethics in Public Office Act. There is, therefore, no further need for the provision suggested in the amendment.

The amendment also proposes that all sub-committees or panels under the jurisdiction of the board be required to comply with ethical requirements, including requirements as to declaration of interests. I agree with Deputy Richard Bruton in this regard. While I do not want to rule anything out for the future, as the panels will not be boards, they do not need to be governed by the same requirements as the board of the Central Bank as this would, for example, limit the number of people who may wish to serve on them.

The requirements and public scrutiny currently in place with regard to public appointments make it increasingly difficult to find people to serve on boards. The issue is not only ethical requirements and openness, with which some people do not have a problem, but also the time taken up in such service for minimal remuneration. In addition, the names of board members regularly appear in newspapers and the couple of thousand euro they receive is portrayed as a fortune. The time they give up impinges on their other activities. As I stated on Committee Stage, this problem will get worse.

Deputy Burton referred to the influence of the people who serve on such bodies. It is important that we have people of standing serving on boards and authorities. Experience gained in the public service, politics or large corporations brings expertise to the board.

We tend to look to the same pool of people all the time. There are hundreds of thousands of people throughout the country about whom nobody in Dublin hears. We also have a tendency to believe that everything happens within a mile radius of Kildare Street. Many of those involved in wealth creation, public service and entrepreneurship are outside Dublin but unless one can get one's name into the proper media circles or one drinks in the right places, one is never heard about. One of the good features of our political system is that one is inclined to hear about people from colleagues of all parties. Politicians also hear about people because they generally travel around.

It is important to have a balance, and having people from different parts of the State brings balance to boards. It is important to take on board that people in County Monaghan may not be exercised by the same financial regulation issues as people in Ranelagh.

Deputy Burton referred to some of the people who serve on these boards. It is peculiar that over the years when controversy has arisen concerning

[Mr. McCreevy.]

the appointment of wives or husbands of members of political parties, the Fianna Fáil Party seems to be the only party mentioned. Prominent wives and partners of members of other parties do not fall into odium and are never mentioned. If the partner of a prominent Fianna Fáil Party activist or associate is appointed, he or she will be referred to in the commentary of the appropriate Dublin press. This does not seem to happen when people are——

Ms Lynch: Perhaps it is because they do not declare their connections.

Mr. McCreevy: These matters are well known. Perhaps Deputy Ó Caoláin has also noticed this tendency. Incidentally, people associated with Deputy Bruton's party are often mentioned. The problem mainly affects the Fianna Fáil Party, but the Fine Gael Party is affected to an extent. When people with a close relationship to other Opposition parties are appointed, it is never mentioned in the public press. This has come to my attention over the years.

Caoimhghín Ó Caoláin: Perhaps the House will note that observation.

Amendment put and declared lost.

An Ceann Comhairle: Amendment No. 6 is out of order.

Caoimhghín Ó Caoláin: May I make a brief comment on it?

An Ceann Comhairle: It must be brief.

Caoimhghín Ó Caoláin: The amendment seeks to bring the Bill into effect within 12 months of its enactment. How will that involve a potential charge on the Revenue? The Minister is as keen as anybody to implement the Bill quickly. Will the Ceann Comhairle be good enough to advise about the concept used in that instance?

An Ceann Comhairle: The Deputy has made the point. The amendment involves a potential charge on the Revenue.

Caoimhghín Ó Caoláin: How does that come about?

An Ceann Comhairle: The Deputy proposes the insertion of a commencement date of no later than 12 months after the Bill's enactment. The effect of the amendment would be to insert a legislative imperative that could potentially cause a charge on the Exchequer through different costs associated with implementing the Bill. It has been ruled out of order in accordance with rules of the House going back to the foundation of the State.

Mr. R. Bruton: Would it be in order for the Deputy to recommit the amendment?

An Ceann Comhairle: No, that would not be possible.

Amendment No. 6 not moved.

Mr. R. Bruton: I move amendment No. 7:

In page 5, between lines 36 and 37, to insert the following:

“2.—Section 33E of the Central Bank Act 1942 (as inserted by section 26 of the Central Bank and Financial Services Authority of Ireland Act 2003) is amended by the insertion of the following subsection after subsection (1):

‘(1A) At least one non-executive person with experience in consumer protection to be appointed to the Board.’.”

Someone with experience of consumer protection should be appointed to the board and should be at the heart of a successful, pro-consumer policy to be implemented by the IFSRA. This person should be in the powerhouse of the authority and should not only be a member of the panels that will trudge along behind the authority. At least one non-executive member of the board of the Central Bank and the financial regulatory authority should have experience of consumer protection. We must go behind the ramparts and appoint someone who is pro-consumer to the heart of the body.

The Director of Consumer Affairs is on the IFSRA board. She is a former employee of the Central Bank and is doing an excellent job but a non-executive member, whose livelihood does not depend on the attitude of those within the authority, should be appointed to the board. We should take the bull by the horns and ensure consumer protection is at the heart of the authority. Everyone suspects it of being weak when it comes to consumer protection. This is a minor amendment but it would go some way to mending the hand of the authority.

There is a widespread perception among Members that the Central Bank's relationship with the banks has been too cosy and it is hostile to the notion of being tough and pro-consumer. Its attitude is banks should be profitable and run prudentially. The Central Bank never poses questions about the stability of the banking sector or the currency. It is right and proper that it should take that attitude but someone who is determined to push pro-consumer codes of practice and regulations should be appointed to the authority to ensure it does not ignore its role in monitoring, for example, the obligation on a bank to only charge that to which it is entitled under law.

The Minister suggested we should not attribute blame to the IFSRA or the Director of Consumer Affairs because for eight years they did not make

an effort to police this sector. He stated anyone can make mistakes and any regulatory system can fail. That mistake would not have been made if someone was in place who saw it as their role to champion consumers and who pursued cases in which the rights of consumers were trodden on.

There should be red faces within the authority, the Office of the Director of Consumer Affairs, the office of the Tánaiste and the Minister for Enterprise and Trade and Employment and the Department of Finance because breaches of the law went untouched for eight years. A whistleblower discovered the overcharging in AIB. All the regulators ran around furiously and discovered they could not apply a sanction against the bank for this practice.

I oppose the Minister's view that all is well within the regulatory system. A structure was established, which came a cropper at the first hurdle it met. The system was unable to address an issue that was brought to its attention by a whistleblower and it was found to have failed in fulfilling its obligations.

Mr. McCreevy: It proved the opposite.

Mr. R. Bruton: The Minister replied on Committee Stage that Deputy Rabbitte, the leader of the Labour Party, handled these issues when he served as Minister for State. Why was there no sanction? The Minister, the Tánaiste and their officials spent four years wrestling with the issue of how to introduce decent consumer protection in the financial services sector and they never once examined the sanctions provided in the earlier legislation.

One of the Minister's officials, whom I hope I am not getting into trouble, sent me a letter about this issue and referred to the work of the McDowell group. The letter stated: "The group recommends that an examination of all relevant existing legislation be undertaken to ensure that existing enforcement powers, including powers to enforce sanctions, are adequate and, in so far as practicable, uniform." The Minister, the Tánaiste and their officials did not act on paragraph 7.11 of this worthy report by Deputy McDowell. That is a failure.

The Minister was told to do this before he published the legislation. He drove the legislation through even though we tabled an amendment to defer Second Stage for three months because the legislation was premature and an audit was required to establish whether our consumer protection provisions were in line with best practice. The Minister did not accept the amendment and voted it down. However, consumer protection provisions were found to be inadequate on the first occasion the legislation was tested. No sanction is in place to deal with AIB's offence. AIB did not monitor this activity over a period of eight years. That is not a sign that we have discovered the correct structures were in place.

When the issue came to light, courtesy of a whistleblower, the regulators said they had various powers under licensing provisions and they could do plenty to force the banks to deposit money or they could withdraw their licences. The Central Bank has always had draconian powers but they were never applied in the interest of consumers. When consumers were under pressure, the bank never championed their cause and it has been found out once again. This is a significant problem.

The amendment makes a simple proposal to appoint someone who is a champion of the consumer to the board of the authority. If this is accepted, we will have done a good day's work. It may be only one appointment to a large board but the appointee would have a defined interest, which gets rare expression within the hallowed halls of that institution. This is a worthwhile amendment which would go a little way to mend the hand of the Minister and his colleagues in Government who have let the consumer down in this area.

Ms Lynch: I support the amendment. I am always fascinated that banks never leave themselves short when they make mistakes. It is always the other way around and the State or bank customers pick up the tab. The banks always get away with paying less than they should. I refer to offshore accounts in this instance. Banks always get the better end of the deal. I agree entirely with the intent of the amendment and I do not understand why the Minister will not accept it. He may provide a reasonable explanation but it will not satisfy us.

At the end of the day, consumers must have confidence in the new body. There is no point in establishing consumer panels for consultation purposes because they will merely serve in an advisory capacity. I hope they push certain issues and their interests are declared. There should be someone at the table whose specific purpose is to protect the consumer, as proposed in the amendment. Surely the main role of the board is to ensure transparency and protection for those who use credit institutions. I am sure stating the contrary will make people very wary.

It is a wonder the recent scandal about overcharging in foreign currency transactions was not spotted long before now. Why did the regulations not apply? Where were the people charged with keeping an eye on such matters and why did they not spot what was happening? The minute the scandal was publicised, the bank came out into the open and stated overcharging occurred and that it would pay people back. However, one wonders whether the overcharging would have continued had the issue not been highlighted. If so, when would we have known about it?

I agree with Deputy Richard Bruton that we need someone on the board whose sole responsibility is protection of the consumer's interests, someone who has knowledge of this

[Ms Lynch.]

area. If the consumer is the engine that fires our economy — we are all consumers — surely he or she needs to be protected more than anyone else. It is not that great a leap forward to ask, in the interest of the consumer, that somebody with knowledge of consumer protection be on the board. I do not understand why this cannot be done.

All the scandals of recent years indicate that the consumer needs to be protected rather than the banks and financial institutions. The banks and financial institutions are capable of protecting themselves. The consumer needs to know his interests are being promoted and represented on the board.

Mr. Boyle: Deputy Richard Bruton's amendment seeks to have at least one non-executive person with experience in consumer protection included on the board. Other amendments refer to the representation of consumer interests on the advisory panel but Deputy Bruton's amendment is even more important because it refers to the board itself. I find it difficult to understand the reluctance of the Minister for Finance to accept amendments of this nature. He must recognise that the interaction that has occurred outside this Chamber regarding the Bill has been led largely by consumer interest groups. Their interest in the regulation of the financial services industry is obvious. This interest cannot be questioned. It would be to the benefit of the authority if it had people with such a background and drive included on its board.

The rejection of this amendment would send out all the wrong signals and indicate that there is no interest in consumer protection and that it is not regarded as important. It was obvious that the Minister, in his initial contribution on Report Stage, emphasised prudential issues. As Minister for Finance, he is in a good position to do so. However, the argument made by many on this side of the House is that, in terms of a regulatory authority, the consumer protection industry is as important, if not more so. One way of putting that across is by appointing to the board and the various panels representatives with a consumer protection background who have the consumer interest at heart. If this is not done, the body may be dominated solely by the banking industry itself — the men in grey — or may be unduly influenced by individuals whose political background is such that they are more able to influence the attitude of the Minister for Finance who is in power when the boards are being appointed. The legislation should indicate the desirable backgrounds of the people we want on the board and panels. Otherwise, we could end up with a great imbalance on the board and its sub-committees and panels.

Caoimhghín Ó Caoláin: Deputy Richard Bruton's amendment seeks to establish what I

regard not only as an important voice but an essential voice on behalf of consumers. Every one of us is a consumer. The Deputy's amendment is specific in what it advocates. It seeks somebody with "experience in consumer protection". Such a person would make a vital contribution to the work of the board that is envisaged. As Deputy Lynch stated, in the current climate failure to accept this very reasonable amendment will undoubtedly be interpreted as an unwillingness to place a voice for consumer protection at the heart of what this Bill seeks to put in place.

Against the backdrop of our concerns about banking institutions, not just the AIB, it is an imperative for the Minister to accede to this very important amendment, which seeks to achieve something essential. I strongly urge him to agree to the appointment to the board of at least one non-executive person with experience in consumer protection, as the amendment advocates. I wholeheartedly support the case.

Mr. McCreevy: As I indicated on Committee Stage, this amendment relates to an issue that was fully debated in the course of the passage of the Central Bank and Financial Services Authority of Ireland Act last year. I stated at the time that the board of the financial regulator was intended to be a public interest board. I believe the board has performed very well since its appointment, including in its consumer protection role.

We fully debated the composition of the board during the debate on the previous Act. As the Deputies know, various groups are represented on it and there is now a consumer director taking an active role in the matter pertaining to the AIB, to which Deputy Lynch referred. One member of the authority's board is Deirdre Purcell, who was previously a member of the Insurance Ombudsman Council. Dermot Quigley was former chairman of the Revenue Commissioners.

In the 12 months since the authority was set up — this is a relatively short period — the regulator has taken a number of initiatives, particularly regarding consumer protection measures. Independent consumer guides on mortgages, savings and investments and personal loans and credit have been published. Cost surveys on motor insurance, personal current accounts and credit cards have also been undertaken. A consumer helpline, information office and website have been established.

The consumer director monitors the market and co-operates with the Competition Authority where appropriate and ensures financial service providers act in a fair and transparent way. The authority has supplemented pre-existing codes of practice by issuing an interim code of practice to guide the activities of insurance companies, mortgage intermediaries and moneylenders. A comprehensive review of all codes of practice has commenced and three consultation papers have been published on the conduct of business, the marketing and sale of trackers and mandatory

competency requirements of financial services providers when dealing with consumers.

In order for us to monitor financial institutions in the competitive market, new client money requirements that apply to investment firms and stockholders have been amended and new money laundering guidance notes have been issued. New governance requirements for stockbrokers have been introduced and the financial services regulator staff are assisting my Department in reviewing client asset legislation. In the 12 months since the new board was set up, the body has put consumer issues to the forefront. Most independent people would agree that it has been most effective in doing that and this serves the purpose which Opposition Deputies put forcefully to me during the debate on the other Act. They were concerned there would not be a great emphasis on consumer issues in the board but the actions it has taken show that is not correct. The IFSRA board has been exceptionally active in promoting consumer interests.

In response to Deputy Bruton, my experience over many years is that while people might write about great conspiracies and marvellous plans, most events fall into the cock-up category rather than the conspiracy category. People should not get so hung up on conspiracies. It makes life much easier and one sleeps better at night.

Mr. R. Bruton: The Minister, in suggesting a cock-up theory, is missing the point. The reason cock-ups occur is that people do not have proper compliance standards in place and the reason for that is they believe they will get away with it and they do not regard them as a high priority. In this instance, AIB did not have compliance procedures in place. It appears that senior officials at the bank, even when they discovered this was happening, did not think it constituted anything serious enough on which to act.

The regulator had no monitoring system in place and had imposed no requirement to sign off on compliance. The result might well have been a cock-up but the framework of regulation had created the likelihood that it would occur. The Minister seeking a pat on the back because the consumer director is doing good things is not the answer. Certainly, Mary O'Dea is doing good things and we take our hats off to her. However, that does not get away from the fact that the reason this cock-up occurred was not an accident but was due to an inadequate approach being taken, even under the new regime, to ensure there was compliance. That is the lesson of this event. If there is to be compliance and regulation, they must work effectively and be filtered down in obligations that people take seriously.

Ms Burton: The Labour Party's reason for supporting this amendment, and the party has put forward similar amendments, is that it wants consumer champions and advocates on the various regulatory structures of the new body. The consumer director and the director of IFSRA

have acted promptly and have been forthcoming in talking to the public and in setting out a public affairs perspective by giving out information. That is welcome.

However, some of the Minister's amendments to the Bill are in response to queries and representations from the existing voluntary ombudsman for banking and insurance. Until now there was a requirement that all consumer complaints be passed to IFSRA. Now, that need only happen under certain, more limited circumstances. In the oversight boards, bodies, panels and so forth, there should be people who are advocates of consumer interests and they should be there as an essential component of oversight.

Much of the content in the reports of the Director of Consumer Affairs, which the Minister correctly applauded, arises from reports by the Consumers Association of Ireland and various other bodies, including financial commentators and journalists who frequently wear a pro-consumer hat when writing about financial matters. In many ways these are the critical influences which have been shown to have borne fruit through the Director of Consumer Affairs. It is even more important that champions and advocates of consumers' rights are among the appointees to the new panels and boards. The case for that is unanswerable.

I am surprised by the Minister. I understand why he does not have a problem with the concept that representatives of the financial institutions should comprise part of these boards. However, why will he not agree to have representatives of consumers on these panels and boards? Various bodies specialise in consumer advocacy and they have detailed and expert knowledge on consumer matters. What is involved here is highly technical. It is real anorak country to know the difference between notices, bank rates, bank charges, the different rates of bank charges and so forth. Few people are specialists in this area unless they have some experience of the industry or of matters related to the industry. For that reason, the Minister ought to seek people who have such experience.

Consumer bodies in Ireland are largely voluntary and they do good work highlighting where consumers are ripped off or get a bad deal. It is surprising that the Minister is not prepared to acknowledge the work they have done as much as he has acknowledged and applauded the banks when he said the AIB problem is due to the cock-up theory rather than a conscious error.

Amendment put and declared lost.

Mr. McCreevy: I move amendment No. 8:

In page 6, line 44, to delete "to consumers".

This is a technical amendment. It removes a potential ambiguity in the definition of financial service provider. The definition is meant to cover all providers of financial services, not just those

[Mr. McCreevy.]
 providing such services to private customers. The deletion of the words “to consumers” removes the potential ambiguity.

Amendment agreed to.

An Ceann Comhairle: Amendment Nos. 10, 50 and 51 are cognate to amendment No. 9. Amendments Nos. 9, 10, 50 and 51 may be taken together by agreement.

Mr. McCreevy: I move amendment No. 9:

In page 12, lines 39 and 40, to delete “services” and substitute “service”.

These are technical amendments to correct an error in terminology in Committee Stage amendments.

Amendment agreed to.

Mr. McCreevy: I move amendment No. 10:

In page 12, line 46, to delete “services” and substitute “service”.

Amendment agreed to.

Mr. McCreevy: I move amendment No. 11:

In page 14, to delete lines 10 to 46, to delete pages 15 to 25, and in page 26, to delete lines 1 to 45 and substitute the following:

“10.—(1) The Central Bank Act 1942 is amended by inserting the following Part after Part IIIB (as inserted by section 26 of the Central Bank and Financial Services Authority of Ireland Act 2003):

‘PART IIIC

ENFORCEMENT OF DESIGNATED ENACTMENTS AND DESIGNATED STATUTORY INSTRUMENTS

CHAPTER 1

Interpretation

33AN.—In this Part—

“contravene” includes fail to comply, and also includes—

- (a) attempting to contravene, and
- (b) aiding and abetting and counselling and procuring a person to commit a contravention, and
- (c) inducing, or attempting to induce, a person (whether by threats or promises or otherwise) to commit a contravention, and
- (d) being (directly or indirectly) knowingly concerned in, or a party to, a contravention;

“decision of the Regulatory Authority” means—

(a) in relation to an inquiry held by the Regulatory Authority under section 33AO, a finding made by that Authority in accordance with section 33AQ and any decision of that Authority imposing a sanction under that section in consequence of the finding, or

(b) any decision of that Authority imposing a sanction under section 33AR;

“disqualification direction” means a direction given under section 33AQ or 33AR disqualifying a specified person from being concerned in the management of a regulated financial service provider;

inquiry” means an inquiry held under section 33AO or section 33AR;

“prescribed contravention” means a contravention of—

(a) a provision of a designated enactment or designated statutory instrument, or

(b) a code made, or a direction given, under such a provision, or

(c) any condition or requirement imposed under a provision of a designated enactment, designated statutory instrument, code or direction, or

(d) any obligation imposed on any person by this Part or imposed by the Regulatory Authority pursuant to a power exercised under this Part;

“notify” means notify in writing.

CHAPTER 2.

Power of Regulatory Authority to hold inquiries

33AO—(1) Whenever the Regulatory Authority suspects on reasonable grounds that a regulated financial service provider is committing or has committed a prescribed contravention, it may hold an inquiry to determine whether or not the financial service provider is committing or has committed the contravention.

(2) Whenever the Regulatory Authority suspects on reasonable grounds that a person concerned in the management of a regulated financial service provider is participating or has participated in the commission of a prescribed contravention by the financial service provider, it may hold an

inquiry to determine whether or not the person is participating or has participated in the contravention. Such an inquiry may form part of an inquiry held under this section in relation to the suspected commission of a prescribed contravention by the financial service provider.

33AP.—(1) Before holding an inquiry under section 33AO, the Regulatory Authority shall give notice in writing of the proposed inquiry to the financial service provider or other person concerned.

(2) The notice must—

(a) specify the grounds on which the Regulatory Authority's suspicions are based, and

(b) specify a date, time and place at which the Regulatory Authority will hold the inquiry, and

(c) invite the financial service provider or person concerned either to attend the inquiry or to make written submissions about the matter to which the inquiry relates.

(3) A regulated financial service provider or other person concerned may, before the date of the inquiry, lodge with the Regulatory Authority any written submissions that the regulated financial service provider or person wishes that Authority to take into account when considering the matter to which the inquiry relates. This subsection applies whether or not the financial service provider or other person has been invited to attend the inquiry.

(4) The Regulatory Authority may adjourn an inquiry from time to time and from place to place, but if it does so it shall ensure that the regulated financial service provider or other person concerned is notified of the date, time and place at which the inquiry is to be resumed.

(5) The Regulatory Authority may proceed with an inquiry in the absence of the financial service provider or other person concerned so long as that financial service provider or person has been given an opportunity to attend the inquiry or to make written submissions to it.

33AQ.—(1) At the conclusion of an inquiry held under section 33AO, the Regulatory Authority shall make a finding as to whether the financial service provider concerned is committing or has committed the

prescribed contravention to which the inquiry relates.

(2) At the conclusion of an inquiry relating to the conduct of a person concerned in the management of a regulated financial service provider, the Regulatory Authority shall make a finding as to whether the person is participating or has participated in the prescribed contravention to which the inquiry relates.

(3) If the Regulatory Authority makes a finding that a regulated financial service provider is committing or has committed a prescribed contravention, it may impose on the financial service provider one or more of the following sanctions:

(a) a caution or reprimand;

(b) a direction to refund or withhold all or part of an amount of money charged or paid, or to be charged or paid, for the provision of a financial service by the financial service provider;

(c) a direction to pay to the Regulatory Authority a monetary penalty not exceeding the prescribed amount;

(d) if the financial service provider is a natural person, a direction disqualifying the person from being concerned in the management of a regulated financial service provider for such period as is specified in the order;

(e) if the financial service provider is found to be still committing the contravention, a direction ordering the financial service provider to cease committing the contravention;

(f) a direction to pay to the Regulatory Authority all or a specified part of the costs incurred by that Authority in holding the inquiry and in investigating the matter to which the inquiry relates.

(4) For the purpose of subsection (3)(c), the prescribed amount is—

(a) if the financial service provider is a body corporate or an unincorporated body, €5,000,000, or

(b) if the financial service provider is a natural person, €500,000, or

(c) if the regulations prescribe some other amount for paragraph (a) or (b), that other amount.

(5) If the Regulatory Authority makes a finding that a person concerned in the

management of a regulated financial service provider is participating or has participated in the commission by the financial service provider of a prescribed contravention, it may impose on the person one or more of the following sanctions:

(a) a caution or reprimand;

(b) a direction to pay to the Regulatory Authority a monetary penalty not exceeding the prescribed amount;

(c) a direction disqualifying the person from being concerned in the management of a regulated financial service provider for such period as is specified in the order;

(d) if the person is found to be still participating in the commission of the contravention, a direction ordering the person to cease participating in the commission of the contravention;

(e) a direction to pay to the Regulatory Authority all or a specified part of the costs incurred by that Authority in holding the inquiry and in investigating the matter to which the inquiry relates.

(6) For the purpose of subsection (5)(b), the prescribed amount is—

(a) €500,000, or

(b) if the regulations prescribe some other amount of money for paragraph (a), that other amount.

(7) At the conclusion of an inquiry relating to the conduct of a regulated financial service provider, the Regulatory Authority shall notify its decision to the financial service provider. The decision must set out in writing—

(a) its finding as to whether or not the financial service provider is committing or has committed the prescribed contravention to which the inquiry relates, and

(b) the grounds on which its finding is based, and

(c) if the Regulatory Authority finds that the contravention is being or has been committed, the sanctions (if any) imposed under this section in respect of the contravention.

(8) At the conclusion of an inquiry relating to the conduct of a person concerned in the management of a regulated financial service provider, the Regulatory Authority shall notify the

person of its decision. The decision must set out—

(a) its finding as to whether or not the person is participating or has participated in the commission of the prescribed contravention to which the inquiry relates, and

(b) the grounds on which the finding is based, and

(c) if the Regulatory Authority finds that the person is participating or has participated in the contravention, the sanctions (if any) imposed under this section in respect of the participation.

33AR.—(1) If, in a case where the Regulatory Authority suspects on reasonable grounds that a regulated financial service provider is committing or has committed a prescribed contravention, the financial service provider acknowledges that the financial service provider is committing or has committed the contravention, the Regulatory Authority may—

(a) with the consent of the financial service provider, dispense with an inquiry and impose on the financial service provider any sanction that it is empowered to impose on regulated financial service providers under section 33AQ, or

(b) hold an inquiry to determine what sanction (if any) should be imposed on the financial service provider in accordance with that section.

(2) If, in a case where the Regulatory Authority suspects on reasonable grounds that a person concerned in the management of a regulated financial service provider is committing or has committed a prescribed contravention, the person acknowledges that the person is participating or has participated in the commission of the contravention, the Regulatory Authority may—

(a) with the person's consent, dispense with an inquiry and impose on that person any sanction that it is empowered to impose on persons concerned in the management of regulated financial service providers under section 33AQ, or

(b) hold an inquiry to determine what sanction (if any) should be imposed on the person in accordance with that section.

(3) At the conclusion of an inquiry under subsection (1)(b), the Regulatory Authority shall notify its decision to the financial service provider concerned. The decision must set out in writing the sanctions (if any) imposed under that subsection in respect of the relevant contravention.

(4) At the conclusion of an inquiry held under paragraph (b) of subsection (2), the Regulatory Authority shall notify the person concerned of its decision. The decision must set out the sanctions (if any) imposed under that paragraph in respect of the participation.

33AS.—(1) If the Regulatory Authority decides to impose a monetary penalty on a regulated financial service provider under section 33AQ or 33AR, it may not impose an amount that would be likely to cause the financial service provider to cease business.

(2) If the Regulatory Authority decides to impose a monetary penalty on a person under section 33AQ or 33AR, it may not impose an amount that would be likely to cause the person to be adjudicated bankrupt.

(3) If conduct engaged in—

(a) by a regulated financial service provider constitutes two or more prescribed contraventions, or

(b) by a person concerned in the management of such a financial service provider constitutes participation in two or more prescribed contraventions by such a financial service provider,

an inquiry may be held under section 33AO or 33AR in relation to one or more of the contraventions, but only one monetary penalty may be imposed under section 33AQ or 33AR in respect of the same conduct.

33AT.—(1) If the Regulatory Authority imposes a monetary penalty in accordance with section 33AQ or 33AR and the prescribed contravention in respect of which the sanction is imposed is an offence under a law of the State, the financial service provider or other person concerned is not liable to be prosecuted or punished for the offence under that law.

(2) The Regulatory Authority may not impose a monetary penalty on a financial service provider, or on a person concerned in the management of the financial service provider, in

accordance with section 33AQ or 33AR, if—

(a) the financial service provider or other person has been charged with having committed an offence under a law of the State and has either been found guilty or not guilty of having committed the offence, and

(b) the offence involves a prescribed contravention.

33AU.—A regulated financial service provider shall ensure that a person is not permitted to be concerned in the management of the financial service provider while the person is subject to a disqualification direction that is in force under this Part.

33AV.—(1) If the Regulatory Authority suspects on reasonable grounds that—

(a) a regulated financial service provider is committing or has committed a prescribed contravention, or

(b) a person concerned in the management of the financial service provider is participating or has participated in such a contravention,

it may enter into an agreement in writing with the financial service provider or person to resolve the matter.

(2) Such an agreement is to be on such terms as are specified in the agreement and is binding on the Regulatory Authority and the financial service provider or person concerned. Those terms may include terms under which that financial service provider or person accepts the imposition of sanctions of the kind referred to in section 33AQ.

(3) The Regulatory Authority may enter into an agreement under this section—

(a) without having held an inquiry into the matter under section 33AO or 33AR, or

(b) after beginning (but not after completing) such an inquiry.

(4) The Regulatory Authority may, by proceedings brought in a court of competent jurisdiction, recover as a debt due to the Bank the amount of any amount agreed to be paid under an agreement entered into under this section.

33AW.—(1) A decision of the Regulatory Authority imposing a caution or reprimand takes effect—

(a) if no appeal against the decision is lodged with the Appeals Tribunal within the period allowed for lodging such an appeal—at the end of that period, or

(b) if such an appeal is lodged with the Appeals Tribunal within that period and the decision is confirmed by that Tribunal (with or without variation) — at the time when the period allowed for lodging an appeal with the High Court against that decision has ended, no appeal having been lodged within that period, or

(c) if such an appeal is lodged with the Appeals Tribunal within that period but is later withdrawn — at the time of the withdrawal of the appeal, or

(d) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the decision and, on the hearing of the appeal by that Court, that determination is confirmed (with or without variation) — at the time of confirmation of that determination, or

(e) if an appeal is made to the High Court against the determination of the Appeals Tribunal but is later withdrawn — at the time of the withdrawal of the appeal.

(2) A decision of the Regulatory Authority directing payment of a monetary penalty, a refund of money or costs takes effect—

(a) if—

(i) the amount of the penalty, refund or costs is not paid to the Regulatory Authority within the period allowed for appeals against such a decision, and

(ii) no appeal to the Appeals Tribunal is lodged within that period or, having been lodged within that period, is later withdrawn,

at the time when the decision is confirmed by an order of a court of competent jurisdiction,

or

(b) if such an appeal is lodged with the Appeals Tribunal within that period and the decision is confirmed by that Tribunal (with or without variation) — at the time when the period allowed for lodging an appeal with the High Court against the determination of that Tribunal in respect of the decision has ended, no

appeal having been lodged within that period, or

(c) if such an appeal is lodged with the Appeals Tribunal within that period but is later withdrawn — at the time of the withdrawal of the appeal, or

(d) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the decision and, on the hearing of the appeal by that Court, that determination is confirmed (either with or without variation) — at the time of confirmation of that determination, or

(e) if an appeal is made to the High Court against the decision of that Tribunal but is later withdrawn — at the time when the appeal is withdrawn.

(3) A disqualification direction takes effect—

(a) if no appeal to the Appeals Tribunal is lodged within the period allowed for bringing such an appeal, or is lodged within that period but is later withdrawn — at the time when it is confirmed by an order of a District Court, or

(b) if such an appeal is lodged with the Appeals Tribunal within that period and the direction is confirmed by that Tribunal — at the time when the period allowed for lodging an appeal in the High Court against the determination of that Tribunal in respect of the direction has ended, no appeal having been lodged within that period, or

(c) if such an appeal is lodged within that period but is later withdrawn — at the time when the appeal is withdrawn, or

(d) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the direction and, on the hearing of the appeal by that Court, that determination is confirmed (with or without variation) — at the time of confirmation of that determination, or

(e) if an appeal is made to the High Court against the determination of the Appeals Tribunal but is later withdrawn, at the time when the appeal is withdrawn.

(4) Any other decision of the Regulatory Authority under this Part takes effect—

(a) if no appeal against the decision is lodged with the Appeals Tribunal within the period allowed for lodging such an appeal, at the end of that period, or

(b) if such an appeal is lodged with the Appeals Tribunal within that period and the decision is confirmed by that Tribunal (with or without variation) — at the time when the period allowed for lodging an appeal with the High Court against the determination of that Tribunal in respect of the decision has ended, no appeal having been lodged within that period, or

(c) if such an appeal is lodged with the Appeals Tribunal within that period but is later withdrawn — at the time of the withdrawal of the appeal, or

(d) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the decision and, on the hearing of the appeal by that Court, that determination is confirmed (with or without variation) — at the time of confirmation of that determination, or

(e) if an appeal is made to the High Court against the determination of the Appeals Tribunal in respect of the decision but is later withdrawn — at the time of the withdrawal of the appeal.

(5) A court of competent jurisdiction may hear an application by the Regulatory Authority under this section otherwise than in public if—

(a) evidence may be given, or a matter may arise, during the hearing that is of a confidential nature or relates to the commission, or to the alleged or suspected commission, of an offence against a law of the State, or

(b) a person's reputation would be unfairly prejudiced unless the court exercises its discretion under this section.

33AX.—A decision of the Regulatory Authority made at the conclusion of an inquiry held under section 33AO or section 33AR is an appealable decision for the purposes of Part VIIA.

CHAPTER 3

Conduct of Inquiries

33AY.—(1) The Regulatory Authority shall conduct an inquiry with as little formality and technicality, and

with as much expedition, as a proper consideration of the matters before it will allow.

(2) At an inquiry, the Regulatory Authority shall observe the rules of procedural fairness, but is not bound by the rules of evidence.

(3) The Regulatory Authority may be assisted by a legal practitioner when conducting an inquiry.

(4) A financial service provider or other person who has, in accordance with section 33AP, been invited to attend an inquiry or a part of it is entitled to be represented at the inquiry or part by a legal practitioner or, with the leave of the Regulatory Authority, by any other person.

33AZ.—(1) Except as provided by subsection (2), the Regulatory Authority shall hold its inquiries in public.

(2) The Regulatory Authority and the financial service provider or other person to whom an inquiry relates may agree that the inquiry should be held in private, but even if they do not agree, that Authority may nevertheless decide to hold an inquiry in private if it is satisfied that—

(a) evidence may be given, or a matter may arise, during the inquiry that is of a confidential nature or relates to the commission, or to the alleged or suspected commission, of an offence against a law of the State, or

(b) a person's reputation would be unfairly prejudiced unless that Authority exercises its powers under this section.

(3) The Regulatory Authority may at any time vary or revoke a decision made under subsection (2).

33BA.—(1) At an inquiry, the Regulatory Authority may, in writing—

(a) summons a person to appear before the inquiry to give evidence, to produce specified documents, or to do both, and

(b) require the person to attend from day to day unless excused, or released from further attendance, by that Authority.

(2) The person presiding at an inquiry may require evidence to be given on oath, and may for that purpose—

(a) require a witness at the inquiry to take an oath, and

(b) administer an oath to the witness.

(3) The oath to be taken by a person for the purposes of this section is an oath that the evidence the person will give will be true.

(4) The person presiding at an inquiry—

(a) may require a witness at the inquiry to answer a question put to the witness, and

(b) may require a person appearing at the inquiry in accordance with a summons issued under this section to produce a document specified in the summons.

(5) The person presiding at an inquiry may allow a witness at the inquiry to give evidence by tendering a written statement, which, if the person presiding so requires, must be verified by oath.

33BB.—(1) The Regulatory Authority may, on its own initiative or at the request of the financial service provider or other person concerned, refer to the Court for decision a question of law arising at an inquiry.

(2) If a question has been referred under subsection (1), the Regulatory Authority may not, in relation to a matter to which the inquiry relates—

(a) give a decision to which the question is relevant while the reference is pending, or

(b) proceed in a manner, or make a decision, that is inconsistent with the Court's opinion on the question.

(3) If a question is referred under subsection (1)—

(a) the Regulatory Authority shall send to the Court all documents before that Authority that are relevant to the matter in question, and

(b) at the end of the proceeding in the Court in relation to the reference, the Court shall cause the documents to be returned to that Authority.

33BC.—(1) If on the holding of an inquiry under section 33AO the Regulatory Authority has found that—

(a) a regulated financial service provider is committing or has committed a prescribed contravention, or

(b) a person concerned in the management of the financial service provider is participating or has participated in such a contravention,

it shall publish the finding, and details of any sanction imposed in consequence of the finding, in such form and manner as it thinks appropriate.

(2) If the Regulatory Authority has, in accordance with section 33AR, imposed—

(a) a sanction on a regulated financial service provider in respect of the commission of a prescribed contravention, or

(b) a sanction on a person concerned in the management of a financial service provider in respect of the person's participation in the commission by the financial service provider of such a contravention,

it shall publish details of the sanction imposed, in such form and manner as it thinks appropriate.

(3) Subsections (1) and (2) do not apply to findings or details that the Regulatory Authority determines—

(a) to be of a confidential nature or to relate to the commission of an offence against a law of the State, or

(b) would unfairly prejudice a person's reputation.

(4) The Regulatory Authority shall publish annually, in a summary form, information on its actions under this Part.

33BD.—(1) The Regulatory Authority may prescribe guidelines with respect to the conduct of inquiries under this Part, and may for that purpose, incorporate by reference any procedure prescribed by Rules of the Superior Courts as in force at a specified time or as in force from time to time.

(2) The Regulatory Authority may at any time amend or revoke guidelines prescribed under this section.

(3) Guidelines prescribed under this section, and any amendment to, or revocation of, those guidelines, must be in writing and be published in a manner determined by the Regulatory Authority.

33BE.—The Chief Executive, and such other officers of the Regulatory Authority and such employees of the Bank as the Regulatory Authority designates from time to time, are responsible for performing and exercising the functions and powers of the Regulatory Authority under this Part.

33BF.—An application for leave to apply for judicial review of a decision of

the Regulatory Authority under this Part must be made—

(a) within 2 months after the date on which notice of the decision was first notified to the financial service provider or the person concerned, or

(b) if the High Court makes an order extending that period, within that extended period.”.

Amendment put and declared carried.

Amendments Nos. 12 and 13 not moved.

An Ceann Comhairle: Amendment No. 14—

Mr. Boyle: I did not receive any correspondence about amendment No. 13.

An Ceann Comhairle: It was decided with the discussion on amendment No. 1. That amendment was accepted so a number of other amendments fell as a result and amendment No. 13 was one of them. Amendments Nos. 14 and 15 are out of order.

Amendments Nos. 14 to 28, inclusive, not moved.

An Ceann Comhairle: Amendments Nos. 29 to 32, inclusive, 99, 100 and 105 are related and may be discussed together by agreement.

Mr. McCreevy: I move amendment No. 29:

In page 27, between lines 12 and 13, to insert the following:

“12.—Section 57G of the Central Bank Act 1942 (as inserted by section 28 of the Central Bank and Financial Services Authority of Ireland Act 2003) is amended by inserting the following subsection after subsection (1):

“(1A) A decision of the Regulatory Authority is not an appealable decision for the purposes of this Part if the Governor certifies in writing that the Governor has exercised the powers conferred by subsections (9) and (9A) of 33C in relation to the decision, but instead a person who is dissatisfied with the decision may appeal to the High Court against the decision, within 28 days after the date of notification of the decision or within such extended period as that Court allows.’.”.

I have two main reasons for these amendments. I wish to address a concern of the European Central Bank on the Bill that a non-judicial body such as the appeals tribunal should not have the power to overrule the decision of the regulatory authority in relation to which the Governor of the bank has exercised his powers on financial stability grounds. I also wish to address a broader concern of the regulatory authority that that the appeals tribunal does not become a substitute

supervisory body. The effect of the new section 11A will be that if the Governor certifies in writing that he has exercised his powers under section 33C(9) or 33C(9A) of the Act regarding the decision of the regulatory authority, that decision will not be appealed to the appeals tribunal but may be appealed to the High Court.

The effect of the new section 11B and 11C will be that in the event of an appeal to the appeals tribunal against a supervisory decision of the regulatory authority, the only options open to the tribunal will be to affirm the decision or remit them for reconsideration by the authority in accordance with any directions or recommendations of the tribunal. In the case of appeals against the decision of the regulatory authority to impose a sanction on an institution, the appeals tribunal will continue to have the power to stay, vary or substitute the decision.

The new section 11D puts a time limit of 28 days for appeals to the High Court against decisions of the appeals tribunal unless the High Court decides to extend this period. Amendments Nos. 99 and 100 are consequential amendments on supervisory decisions affecting regulated businesses. Amendment No. 105 inserts a right of appeal to the appeals tribunal on decisions under the Investment Intermediaries Act, which was omitted in error.

Mr. R. Bruton: I referred to this matter earlier. IFSRA is being somewhat precious about its view that nobody can second-guess its decisions on supervisory matters and, if an appeals body existed, it would undermine its position. Everyone can see it is the main player and that an appeals body would only be used in the rare event of a challenge coming through. I do not understand why the Minister would establish an appeals body and restrict it to rubber-stamping the decision already made or put it back into the loop again. This is not a satisfactory appeals mechanism. The Minister should explain why the process of supervision is so sacred that nobody can be allowed to establish where an injustice had occurred in a decision by the authority on its initial consideration. I do not understand why we are taking such a circumspect view of the authority and I ask the Minister to explain this in his contribution.

Ms Burton: Do the proposed changes arise from the advice of the Attorney General that the previous structure which was on offer up to Committee Stage was likely to prove unconstitutional? The Minister is seeking to create a structure which is likely to be more favourably regarded by the courts in that IFSRA will be the principal regulatory body and the appeals tribunal will be just that and represent an alternative route to heading straight for the High Court. In the Minister’s earlier structure, the appeals tribunal had a much more prominent role in addressing concerns about the levels of fines etc. The Minister seems to be going back to the

[Ms Burton.]

McDowell model and drawing in his horns considerably compared with the original structure, which I presume the Department of Finance and the Central Bank wanted.

The Minister should explain the significance of all of this. Since IFSRA has been established, its executives may have developed much stronger views of what their powers ought to be and the Minister may have listened to these. The critical question is who minds the minders. Bearing in mind earlier comments, the appointments to the oversight body will be crucial in the context of how the Minister has restructured this. I believe this proposal is likely to be more constitutional and I presume that is part of the Minister's reason for going back to it.

An Ceann Comhairle: Deputy Boyle asked about a number of amendments, which cannot be moved. While they were discussed with amendment No. 1, they cannot be moved because amendment No. 11 was accepted.

Mr. Boyle: I presumed that was the case. As I missed the beginning of the debate, I take some of the responsibility for not knowing that.

I note that the advice of the European Central Bank determined some of what is being proposed here. It is a somewhat rich irony that the comments and views of the European Central Bank seem to carry more weight in how our legislation is changed than the views of many Members on this side of the House. Perhaps this might change over a period. Following the Committee Stage discussion, it was clear we needed to examine getting the balance right between IFSRA's need to deal with problems within the banking and financial industry quickly and efficiently and keeping on the right side of the laws of natural justice.

This was being compromised in two general areas: the right to further appeal and the principle of not being a judge in one's own court, which still might not have been fully addressed. We will only find out to what extent we are still operating within the laws of natural justice when this is enacted and in practice. We are still in the process of finding that balance. Given the constitutional constraints under which we operate, a somewhat fair balance has been achieved. However, I suspect that on testing this legislation, some flaws will become apparent, which needs to be placed on record.

Caoimhghín Ó Caoláin: I was looking for a certain reference that I had noted on my first reading of the Minister's amendments. I note in particular the point Deputy Richard Bruton made that there is unquestionably — I am unable to refer to the particular section — almost an incredible arrogance in terms of second-guessing what position the authority might take. It is trite to say the least. I hope the Minister will throw further light on this and we can have a better

understanding of what is mooted in this sequence of amendments which must give rise to some concern.

Mr. McCreevy: As I pointed out in my reply, on foot of the changes which came about as a result of the intervention by the European Central Bank we were anxious to ensure in the legislation that where the Governor of the Central Bank has exercised his powers on financial stability grounds there can be no appeal. We have no discretion in this matter. That is what we have signed up to and anything which touches on the independence and powers of the Governor of the Central Bank will always be knocked — anything which even hints at that will be rejected. It was the same with the last Act and it will be the same with any subsequent Bill I bring before the House.

The regulatory authority was concerned to ensure that the appeals tribunal should not become a substitute supervisory body. The changes we have made have not been the result of advice from the Attorney General. This issue has exercised the regulatory authority since I first published the Bill. The authority was not happy that the Bill provided for an appeals tribunal above it which would become a kind of second regulatory authority. The key change applies to regulated matters such as licensing and authorisations where the role of the regulator is clearly pre-eminent. Where financial penalties are concerned, the appeals tribunal may set aside a decision.

Mr. R. Bruton: The Minister is simply telling us again what the amendments provide and why it was felt necessary to table them. I am not terribly persuaded by his arguments. There is no question of an appeals body becoming an alternative regulator as it will handle rare cases. It seems a strange provision.

Ms Burton: When does the Minister expect to have a consolidated Central Bank Act? A problem when discussing this legislation is the number of detailed amendments to the Central Bank Act. We now have three substantial Acts addressing regulation. It is very difficult to understand the regulations. Refining the appeals mechanism may assist with the constitutionality of this Bill.

Mr. McCreevy: Over the past few months we have been considering in the Department an informal consolidation of the regulations which we could publish on our website. A formal consolidation may take a little longer — perhaps it can take place in 2005. I agree with the Deputy that there is a need to consolidate legislation in this area as it is very confusing. Only specialists are in a position to follow the way we have amended certain Acts through this Bill. Hopefully, we will be able to at least conclude the work on consolidation in 2005. It may be a little

later before a consolidated Bill can come before the House.

Amendment agreed to.

Mr. McCreevy: I move amendment No. 30:

In page 27, between lines 12 and 13, to insert the following:

“13.—Section 57R of the Central Bank Act 1942 (as inserted by section 28 of the Central Bank and Financial Services Authority of Ireland Act 2003) is amended by inserting the following subsection after subsection (2):

‘(2A) Subsection (2) applies only to an appealable decision made under Part IIIC.’”.

Amendment agreed to.

Mr. McCreevy: I move amendment No. 31:

In page 27, between lines 12 and 13, to insert the following:

“14.—Section 57Z of the Central Bank Act 1942 (as inserted by section 28 of the Central Bank and Financial Services Authority of Ireland Act 2003) is amended—

(a) in subsection (2), by substituting the following paragraph for paragraph (d):

‘(d) remit the matter concerned for reconsideration by the Regulatory Authority, together with any recommendation or direction of the Appeals Tribunal as to what aspects of the matter should be reconsidered and, in the case of an appealable decision made under Part IIIC, set aside the decision.’;

(b) by inserting the following subsection after subsection (2):

‘(2A) Paragraphs (b) and (c) of subsection (2) apply only to an appealable decision made under Part IIIC.’”.

Amendment agreed to.

Mr. McCreevy: I move amendment No. 32:

In page 27, between lines 12 and 13, to insert the following:

“15.—Section 57AK of the Central Bank Act 1942 (as inserted by section 28 of the Central Bank and Financial Services Authority of Ireland Act 2003) is amended by substituting the following subsection for subsection (3):

‘(3) An appeal under this section must be made within 28 days after the notification of

the decision or within such extended period as that Court allows.’”.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 33 and 34 are related and may be discussed together, by agreement.

Mr. R. Bruton: I move amendment No. 33:

In page 28, between lines 42 and 43, to insert the following:

“(iii) to provide reports on the experience of his/her office and the climate for consumers in the Financial Services Sector which would better inform policy makers within and outside the Authority of the position of consumers;”.

This amendment deals with the objectives of the financial services ombudsman. According to the existing legislation, the objectives of the ombudsman are to investigate, mediate and exercise such other jurisdiction as is conferred on his or her office. I suggest that in addition to simply investigating, mediating and adjudicating, the ombudsman should provide reports to the Oireachtas, in particular, and other policy makers in the field detailing the experience of the office and the climate for consumers in the financial services sector. Such reports would better inform policy makers and outside authorities of the position of consumers. On Committee Stage, the Minister indicated kindly that he would bring forward a Report Stage amendment in this area. While I do not wish to be churlish and object when the Minister seeks to make a provision I sought, he seems to have limited the type of information the ombudsman will produce. Reports will only relate to complaint procedures but I was looking for a more general provision.

We have seen the development of a number of abuses and unhappy practices not all of which have been the subject of formal complaints. I would prefer to provide the financial services ombudsman with a freer hand. Deputy Boyle referred to the misselling of products to certain persons. It seems the people involved would not be subject to the same level of regulation and requirements of prudence and good practice if they were chartered accountants like the Minister advising clients on investments. It would be desirable if the financial services ombudsman were in a position to alert policy makers to the issues or practices he or she felt were unsatisfactory even if they fell outside his or her limited remit to handle the complaints to which the Minister’s later amendment seems to confine the office. While there is merit in the Minister’s proposal, he should choose the wider canvas offered by my amendment.

Ms Burton: I welcome the acceptance by the Minister in amendment No. 34 of the need for the IFSRA and the ombudsman to improve public

[Ms Burton.]
 understanding of issues raised in complaints against financial service providers. Why is the Minister changing the requirement that a copy of every complaint made to the banking and insurance ombudsman schemes must be provided to the IFSRA? If we are to get a handle on the volume of complaints about the insurance industry and the banking and financial services industry the ombudsman must be made aware of them all. I understand from the Minister's officials that the requirement was dropped because the ombudsman schemes of the banking and insurance industries suggested that as complaints to the ombudsman were confidential, sending them to the IFSRA would breach confidentiality requirements. This is specious reasoning. A complaint is a complaint, and we are trying to ensure that consumers receive the best possible service whether they are business or individual bank customers.

We are also trying to envisage the kind of public reporting the ombudsman would undertake to draw attention to ways in which consumers are likely to be cheated and areas where they should be careful. Already today we have mentioned a number of specific examples, including that of financial institutions advising elderly people with money safely on deposit. While Deputy Ned O'Keefe would claim that pensioners would not receive interest on such accounts, is it appropriate to advise them to put their money into a long-term investment that they cannot then access? A recent media report highlighted the case of a 90 year old woman who was advised to move her money from a boring yet safe deposit account into a ten year bond. Subsequently, the lady died but the money was still locked into the bond, unavailable to her representatives and heirs. This type of classic complaint is one with which I would expect the banking ombudsman would concur and would seek redress. The ombudsman under the IFSRA Act must have an oversight and overview. I can understand why the ombudsman might not go into the nitty gritty of a case, rather like the appeal panel referred to by the Minister. If the ombudsman at the industry level is doing a good job, then the whole case does not need to be re-investigated in detail. However, the information is necessary and I do not understand why the Minister for Finance has dropped this provision in his amendment.

I welcome the main thrust of amendment No. 34 but it does not go as far as Deputy Richard Bruton's proposal on Committee Stage. Some of the Minister's amendments seem more than a little contradictory.

Mr. Boyle: The real divide in the House is that, while the Opposition believes there is no such thing as too much information, the Government believes there is more than enough already. On those grounds, Deputy Richard Bruton's

amendment is to be supported. The uncertainty and lack of consumer confidence in the general banking and financial sector has come about because of how information is disseminated and made accessible. No price can ever be put on the value of information being made available at every opportunity.

While the Minister's amendment is an advance on discussions on Committee Stage, it refers only to the general area of complaints, showing the same ministerial mindset during the debate on the Freedom of Information (Amendment) Act. Whereas the listing of complaints is a value in itself, the quality of information received informs what has changed over time and what must be done to prevent the recurrence of bad practices. Without the in-depth information regular reports provide, the Minister's amendment is meaningless. While I recognise the advance the Minister has made, his amendment would be enhanced if he accepted the spirit and practice of Deputy Richard Bruton's amendment.

Caoimhghín Ó Caoláin: I support Deputy Richard Bruton's amendment but I have some concerns as to the Minister's one. It may be a small matter but one of the key differences between the two is the absence of a prescriptive approach to the role of the financial services ombudsman in imparting the information. The Minister's amendment seeks to improve public understanding on issues related to complaints against regulated financial service providers and consumer protection matters. However, the amendment gives no indication as to how this will be achieved. Does "public understanding" refer to a broader understanding or to an understanding by members of the public who engage with the office of the financial services ombudsman?

Deputy Richard Bruton's amendment, however, specifically proposes the provision of reports on the experience of the ombudsman's office and the climate for consumers in the financial services sector. This would better inform policy makers as to the position of consumers. Reports should be published on a regular basis. The office of the financial services ombudsman will have an important role, as underscored by both amendments, in keeping society aware of developments in consumer protection matters. The placing of amendment No. 33 in terms of its association with the elements of the ombudsman's key functions and role is the appropriate location in the legislation for such a measure. Accordingly, I support Deputy Richard Bruton's amendment.

Mr. McCreevy: Amendment No. 34 in my name arises from an amendment tabled on Committee Stage by Deputy Richard Bruton which he has resubmitted as amendment No. 33. My amendment provides that one of the purposes of this Part is to improve public understanding of issues that give rise to complaints against

financial institutions and how they might be addressed. Under other sections, the financial services ombudsman will have specific obligations to publish information on his or her activities and to advise the regulatory authority on steps it might take to address persistent patterns of complaints so as to improve how financial institutions deal with them. The difference between my amendment and Deputy Richard Bruton's reflects the view of the parliamentary counsel on what is an appropriate formulation for sections setting down the object of this Part.

Deputy Burton raised the transfer of information from the ombudsman to the IFSRA. That matter is dealt with in amendments Nos. 53, 54, 56 and 66, some of which are in my name. These amendments arise from concerns expressed by the existing voluntary ombudsman schemes that complaints should be treated as confidential matters between the complainant, the ombudsman and the financial institution. A separate provision for co-operation between the ombudsman and the authority provides adequate scope for the authority to be informed about patterns and trends rather than individual complaints. The various ombudsman schemes believed this was best practice.

Mr. R. Bruton: The Minister's amendment will curtail the ombudsman's freedom to report findings on, say, misselling of products. However, these might not eventually be eligible to be considered as complaints that could be investigated under the terms. I will be satisfied if the Minister can give assurances that the ombudsman will not be curtailed in making reports to all policy makers instead of those reports being filtered through the regulatory authority.

Mr. McCreevy: That is the intention.

Amendment, by leave, withdrawn.

Mr. McCreevy: I move amendment No. 34:

In page 29, line 3, to delete "manner." and substitute the following:

"manner;

(d) to improve public understanding of issues related to complaints against regulated financial service providers and related consumer protection matters."

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 35, 36 and 39 are related and may be discussed together by agreement.

Ms Burton: I move amendment No. 35:

In page 29, line 10, after "persons" to insert "(a majority of whom shall be consumer representatives)".

The purpose of this amendment is to ensure that consumers of financial services and consumer organisations are represented on the financial services ombudsman council. There are also a number of financial journalists who do good work in highlighting wrongs done to consumers. The majority of persons on the panel should be consumer representatives. I do not see why the Minister cannot easily agree to this. We are talking about the financial services ombudsman, which is part of the general structure of financial services regulation. This Bill is a large camel. Rather than having one or two humps, it appears to have about ten.

The ombudsman, by definition, will be dealing with complaints, inquiries and incidents of confusion. People will not be writing to thank the banks, like Deputy Ned O'Keeffe, for their wonderful services to borrowers and lenders. They will be people who for different reasons believe they have been badly dealt with. It is appropriate in light of recent cultural changes that we include representatives of bodies such as the Consumers' Association of Ireland. As I said, there are also a number of financial journalists who have carried out outstanding work through the years, since the days when Gay Byrne used to be on the radio. I remember, as I am sure the Minister does, listening to journalists such as Colm Rapple explaining what people could do. That tradition has continued. Down through the years these journalists have highlighted various ways in which banks and financial institutions were in default. Looking back at a number of scandals, including those involving investment intermediaries, one remembers that a number of financial journalists warned about risks to consumers.

While I do not want to dictate precisely who the appointees ought to be, there are people available who have acted as consumer defenders in the past as well as those who have an understanding of the seamier side of the financial services industry. I remind the Minister that there are institutions in Dublin and throughout the country that are effectively charging interest rates of 200% to 300%. In another age they were simply called moneylenders. Now they are licensed moneylenders. The argument rages about whether these merchants are better than unlicensed people who call to the door. Nonetheless, there are financial services that operate at extraordinary cost to their customers. I see nothing wrong with this area coming under the remit of people with expertise.

On Committee Stage I gave the Minister two examples of people and organisations with such expertise. One was the members of the Society of St. Vincent de Paul who specialise in assisting people who have fallen into debt and are in trouble with moneylenders, licensed and unlicensed. The other example is the State's own money advice and budgeting service with which I was involved when I was Minister of State at the then Department of Social Welfare. The then

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Minister, Deputy Woods, and I worked on expanding the service. This was partly because both of us represent constituencies in which there are significant numbers of people who obtain credit on a door-to-door basis. Men drive up, come to the door and give a person €200 or €300 for a Holy Communion or some other event, which sum the person pays back at the door week by week. The charges for these services are astronomical. It is a highly specialised area of financial services and is desperately important for people who are not well off.

My first experience of financial services was arranging to pay money into a Christmas club, which was for the benefit of the people who lived on my street, for a lady who lived on another street. Arrangements such as these are still very much part of life today. Not everyone has a bank account or the services of a local credit union. When we think of financial services we think of the IFSC and people doing big deals, but there is also a significant financial services business at the poorer end of the market. Some of the people in this area make extraordinary amounts of money because of what they do to consumers.

I expect the Minister to bear in mind the needs of consumers and agree to appoint consumer champions and advocates. I have offered him a range of bodies, including non-governmental, not-for-profit organisations which have a good reputation in Irish life and would bring to the area the breadth of their experience.

I am concerned about the number of people who, because they can easily obtain store cards and so on, end up acquiring credit cards which carry high rates of interests. When the Director of Consumer Affairs published a report recently, she did not include store cards. She is probably carrying out a study in this area. I and other Members, along with people in similar jobs, often deal with people who quickly run up large debts. It is their own decision. I am not talking about nannying people. However, once they are in default, the penalties are horrendous. Their debts are often sold on to solicitors and financial legal debt agencies and once they get into the clutches of these people, another set of charges is added. MABS, the Society of St. Vincent de Paul and other institutions often come to the rescue of such people, holding off the agencies and trying to make a sensible settlement. It would be wise of the Minister to ensure that consumer advocates and people with a knowledge of the less publicised side of the financial services industry are also represented on the council.

Mr. Boyle: These three amendments — those of Deputy Burton, Deputy Richard Bruton and myself — have the same aim but attempt to achieve it through three different mechanisms. Deputy Burton wants a majority of consumer representatives on the financial services ombudsman council, while Deputy Bruton wants a majority who are not involved in the financial

services sector. I suggest that no more than 50% of the council's membership should consist of people from the financial services sector.

Running through all the discussions on this Bill has been a theme of getting the balance right between prudential regulation and consumer protection. It is interesting that the Minister has yet to accept any amendments that include the words "consumer protection". The only one of the Minister's amendments that referred to the word "consumer" was one that deleted the word. That should not be the message that comes from Report Stage. I would be disappointed if the Minister did not take the opportunity to correct that balance. Each of the amendments is self-evident and either would achieve what many of us have been arguing for. I urge the Minister to accept one or other of the amendments.

Mr. R. Bruton: As Deputy Boyle said, the amendments are self-evident. We are talking here about the council which will deal with and appoint the financial services ombudsman. It is important that the body responsible for the appointment, issuing guidelines and developing the framework within which the financial services ombudsman operates should be a pro-consumer council rather than one that could be construed as having a majority of people who are on the gamekeeper as opposed to the poacher side. We are trying to protect consumers, not financial institutions. They have a view which must be heard, but the logic of what is being sought is fairly obvious.

Caoimhghín Ó Caoláin: I support the amendments which propose to ensure that the financial services ombudsman council is neither dominated by nor becomes the preserve of those who represent the financial services sector. I hope the Minister will concur with that view because it will erode efficiency and public confidence in this body, which will number between five and ten people, and which we have already argued must be addressed in terms of gender balance. In this instance, we want to see an imbalance in favour of broad consumer interest, which is the broad thrust of the amendments. I hope the Minister will concur this is a requirement in the body.

Mr. McCreevy: As I indicated on Committee Stage, some of the amendments are based on a misunderstanding of my intentions in regard to the ombudsman council. The idea of the council arose from the public consultation process on the Bill. Both existing voluntary ombudsman schemes have such councils. There has been no objection to the principle of such a council. The council will play an important role in setting out the detailed regulations covering the ombudsman scheme, as well as appointing the ombudsman and the deputy ombudsmen. The intention is that there should be a broad balance between representatives of the financial services industry and representatives of consumers, and the

chairperson should have knowledge or experience of consumer issues. Given its central role, it is important that the council should have the confidence of consumers and the financial services industry. The provisions for appointment of its members are drafted accordingly.

The Bill provides that I must consult with my colleague, the Minister for Enterprise, Trade and Employment. In addition, I am expected to consult widely among both consumer and industry bodies before making appointments to the council, therefore, I cannot accept the amendments. There are currently two non-statutory ombudsman councils. There will now be one statutory council due to rationalisation. I intend to ensure that representation on the council will include consumer advocates and public interest persons.

Ms Burton: I welcome the Minister's assurance that there will be consumer advocates and consumer champions on the new council. The ombudsman will deal with complaints against the financial services industry. What is the point in this if the majority of the council is composed of people from the financial services industry? In this country we know that self-praise and self-regulation normally does not amount to a hill of beans. I wish the Minister would break out of the straitjacket of fear of the Central Bank so that consumers can exert their rights and balance the financial regulatory structure. It is important that while there may be representatives of banks on the council, the majority should not be people from the industry. They should include people who are genuinely independent who can act on behalf of consumers, particularly those who make complaints about being ripped off, misled, lied to and overcharged and who get a very bad service.

Amendment put and declared lost.

Mr. R. Bruton: I move amendment No. 36:

In page 29, line 11, after "decides" to insert the following:

" , a majority of whom shall be persons independent of ties to business engaged in the provision of financial services".

Amendment put and declared lost.

Amendments Nos. 37 to 39, inclusive, not moved.

An Ceann Comhairle: Amendments Nos. 40, 41, 69, 70 and 82 are related and will be discussed together.

Mr. R. Bruton: I move amendment No. 40:

In page 29, lines 14 and 15, after "Employment" to insert the following:

"and after the advertising of the positions for application by individuals and after a process

of independent short listing of applicants with suitable experience".

The amendment proposes to make the appointments from the best available candidates. The approach to generate that membership should be to publicly advertise the positions so that the best people would have an opportunity to apply. The applicants should be short listed to select those with suitable experience.

As I said on Committee Stage, my experience is that when the Government advertises posts — it would be worthwhile to have a similar approach to many of the State boards — the quality of candidates is remarkable. Ministers or their officials would never think of appointing to bodies these people. As Deputies have said, we should break away from the usual suspects in making appointments to this group, and the best way to do this is to hold an open competition where anyone who is interested can apply. I hope the Minister will accept my amendment which is similar to Deputy Ó Caoláin's.

Caoimhghín Ó Caoláin: I wish to speak to amendment No. 40 and amendments Nos. 41, 70 and 82 in my name. I have employed the same wording in each of the three amendments, applying them to their respective location within the Bill. Appointments should be made from a short list of candidates drawn up following an open competition which is publicly advertised, and interviews of short listed candidates, based on published criteria of qualification.

This is a reasonable proposal. We addressed this argument in previous Bills and earlier today during the debate on gender equality. It is appropriate that the appointments procedure to all State boards be revisited. It should be open, transparent and free of cronyism. If the maximum number are to be employed on the various councils and panels, then 50 people will be appointed. Will there be duplication with people on other State boards, committees and quangos or will the Minister look at a new group of people? I encourage the latter option, and the only way that can be done is to open up the process of appointment to the wider public. Appointments need to be made on a clear, transparent basis that can be supported by everyone.

There are many people who would more than adequately fill any of these positions. However they do not move within circles to which the Minister or his colleagues in the Department and other parts of the country belong. If they are not moving in these circles, their names will not be made known to the Minister and, therefore, we can not make a choice.

If consumers are to have trust in these bodies, they will have to see a process that is free even of the hint of favouritism and any party political association. That is not to say that people who support political parties or are involved in them are not entitled to consideration. What will make the critical difference in public confidence is how

[Caoimhghín Ó Caoláin.]

the Minister goes about his business. We need a process that is open, competitive, publicly advertised and with interviews arranged from a shortlist of candidates. It must also be based on published criteria of qualification.

I have no doubt that it would open up a new vista for State boards in the future. The Taoiseach would not then have the complaint that the main task with which he must deal in State board appointments is the arm-twisting of those with special knowledge to take up these roles. There is no body of people with a monopoly over such special knowledge. There are people throughout this country capable of fulfilling these roles and who may have even better qualifications and a keener sense of what needs to be done. We might have trust in these people and recognise that they want to bring their professional experience to the patriotic service of their people.

Ms Burton: I support the general thrust of the amendments put forward by Deputy Bruton and Deputy Ó Caoláin. The Minister complains that he can not get anyone to fill boards. The way to do that is to take a radical look at how people are appointed to boards. To restore confidence in boards, the Minister should take lessons from the US and France, two republics where public service is as an important element, and subject those who undertake that service to hearings and an examination of their qualifications. A public appointments advertisement process would enhance this. The idea is not to limit appointments to boards but rather to extend them from the usual suspects.

What has been the greatest financial scandal in this country in the past 30 years? A section of the elite of society robbed the public purse by failing to pay their due taxes. We can look at the chaos in the health services and the underfunding of education, and then we can look at pillars of the Fianna Fáil establishment on the Ansbacher list and at tribunals. They failed to be compliant with the law. Many of these people served on boards in this State at different times. Anyone can make a mistake and people are entitled to order their tax affairs to mitigate their tax bill, yet this elite was in a conspiracy to avoid paying any tax by putting it off shore. These people served on top notch boards and let us down badly.

When the Minister spoke on Second Stage, he referred to the erosion of confidence in public institutions in Ireland, ranging from various religious bodies, to politicians and so on. People do not have complete confidence in financial services either or in many of those at the top of the financial institutions. This is because they were in part aiding and abetting tax avoidance and tax evasion in this country. Tax avoidance is legal but morally questionable. Ordinary people who serve their local community and ordinary business people who pay their taxes, are not in

the golden circle from which the appointments to these bodies will be made.

If the Minister wants to restore confidence in public institutions, then they should be opened up. Candidates should state their qualifications, be examined on them, be allowed to serve for three, five or seven years and then make way for others. That should be done in the open so that a structure would be created which would allow people to be proud to serve this State in different capacities. It is an honourable and a proper thing to do in a republic.

If the Minister does this, the culture will change and that which has been disclosed in recent years will be put in the past. No one should argue that prudence is best served by the same suspects placed on the boards. One can look at what happened to tax collection in this country at the hands of those people in the financial services and those often appointed as top company directors. I would prefer to put my faith in a wider range of ordinary people, and I encourage the Minister to do that.

Mr. McCreevy: As I indicated on Committee Stage, I do not accept that an open competition method of recruitment would be suitable for either the ombudsman council or the consumer or industry panels.

In the case of the ombudsman council, it is necessary to ensure an appropriate balance between industry and consumer representatives. As required in the Bill, I will consult the Minister for Enterprise, Trade and Employment before making the appointments. I also intend to consult industry and consumer representative groups.

In the case of the panels, the Bill again obliges me to consult the Minister for Enterprise, Trade and Employment and, in the case of the industry panel, the Taoiseach, because of the close involvement of his Department with the international financial services sector. The Bill also obliges me to consult the industry and consumer representative groups. These methods of selection are the most appropriate in the circumstances.

I am open to trying to widen the base of expertise available to me to choose the various people for these panels, and I am willing to consider some of the ideas that have been put forward. I will examine them to try to be as inclusive as possible, but I cannot accept the amendments as put down.

Mr. R. Bruton: I am disappointed with that response for all the reasons that have been articulated on this side of the House. We need to open up access to State boards to a wider range of people than those who are considered. I am aware the public service has many contacts but they do not have all the contacts that might be worth tapping into, and the best way of generating those contacts is by open advertisement and allowing people put

themselves forward. If the Minister tried this once, even if he is not willing to accept it on a statutory basis, he would be surprised by the high quality of people who would come forward. If he is saying he is open to experimentation, I hope he will do this in respect of at least one of the groups he is to appoint to see how it works.

Caoimhghín Ó Caoláin: It is difficult to understand the Minister's resistance to this straightforward formula which is open and transparent and in which we can have public confidence. I do not understand the reason there is such resistance to adopting this new method of recruitment and appointment to State bodies. Like Deputy Bruton, I again appeal to the Minister to take the bold step and not have any fear as to what may be involved. On the contrary, we should regard it as an exciting new departure that offers real equality of opportunity to all citizens to give service at State board level. That is an important aspect of real equality in practice, and the practice heretofore has been elitist and exclusive. It has marginalised and excluded many people from consideration and I have no doubt, with all respect to those who have taken up these positions and whose suitability I do not question, that we have been less well served as a result of our failure to accommodate an open policy of appointment to these bodies.

As I have exhausted the arguments in this regard on so many occasions in the past, I tire at this point and remain incredulous of the stoic refusal of the Minister and his colleagues, the Taoiseach in particular, to make these effective changes. I appeal to the Minister once. We will try again.

Amendment put and declared lost.

Caoimhghín Ó Caoláin: I move amendment No. 41:

In page 29, lines 14 and 15, after "Employment." to insert the following:

"Appointments shall be made from a short-list of candidates drawn up following an open competition, publicly advertised, and interviews of short-listed candidates based on published criteria of qualification."

Amendment put and declared lost.

Mr. R. Bruton: I move amendment No. 42:

In page 30, between lines 10 and 11, to insert the following:

"(f) to report to the Oireachtas any matter in relation to public policy or to legislation which it views as important to ensure an efficient, competitive and consumer oriented Financial Services Sector, and"

To some extent this amendment has been debated already. The one aspect on which I would like to get the Minister's views is the extent to which he sees the Oireachtas playing a role in supervising the activity of all the financial service regulatory vehicles we are now putting in place.

Mr. McCreevy: Through the committees.

Mr. R. Bruton: Exactly. How does the Minister intend that the committee would effectively do its work in this area? A report was produced recently by Professor Westrup in which he set out the case that to have a regulatory system which worked well in the long term, we needed an Oireachtas committee armed with the capacity and the inclination to supervise performance under all these criteria. Most people considering the resources available to the Committee on Finance and the Public Service and the capacity to do these functions would say it is very weak. I wonder whether the Minister agrees with the view of that academic that a significant part of a successful regulatory structure is having an Oireachtas element where these agencies are held to account in an intelligent and well-informed way or does he share Professor Westrup's view that without that, we do not have a long-term, appropriate regulatory body.

I am aware the Minister is supportive of the development of the powers of the Oireachtas but as we sign off on this Bill, we should at least be also envisaging the need to strengthen the Oireachtas scrutiny in this area. There will be a real problem with the Oireachtas Committee on Finance and the Public Service in terms of the sheer complexity of what we are putting in place without significant professional input to hold those bodies accountable in the way many say we should.

Caoimhghín Ó Caoláin: I support amendment No. 42 in Deputy Bruton's name regarding the financial services ombudsman council. The arguments are well put. Reporting to the Oireachtas must be an important function of the ombudsman council in terms of any matter regarding public policy, as the amendment states, or legislation which it views as important to ensure an efficient, competitive and consumer oriented financial services sector. That information flow is important. The emphasis is on the Oireachtas and all Members participating having the opportunity to be informed of the different views.

The situation regarding finance spokespersons from the Opposition parties is that we are denied access and exposure to many information flows that are geared solely within the Department and to the respective Ministers who come before our committee. Apart altogether from the barrage of information we must try to assess on European directives, there is a serious deficit and it is

[Caoimhghín Ó Caoláin.]

important that information the ombudsman council would view as important to bring to public scrutiny and attention would be directed in report form to both Houses of the Oireachtas in order that Members can then address and seek redress of whatever deficiency problem or issue they highlight.

Ms Burton: I am aware the Minister has always been sympathetic to the argument that the Oireachtas should be better resourced and I understand he allocated significant sums of money to the Houses of the Oireachtas Commission recently when that Bill was going through the House.

There is a serious problem. Deputy Bruton referred to a lecture by Mr. Jonathan Westrup who worked in Trinity College Dublin, having previously worked in the financial services industry. He argued that the capacity of the Oireachtas, particularly the Joint Committee on Finance and the Public Service, to act in an oversight capacity was limited because of a lack of resources. In a lecture to the ACCA which the Minister was listed as having attended, Mr. Westrup pointed out that the joint committee does not even use a newspaper cuttings service of articles relating to financial regulation. It is my recollection that most Departments use such a cuttings service for news coverage of interest to the Department. Some committees also use such a service. The Joint Committee on Transport does so, for example, due to Deputy Eoin Ryan being slightly more modern than others. Members of the Oireachtas are trying to pursue regulatory and oversight issues without support. This is difficult and is part of the reason people have so little confidence in institutions such as the Dáil and committees of the Oireachtas. These bodies are either slow to react or do not react at all.

The Government's model of regulation, based on the EU model, is to establish expensive regulatory structures. It then becomes difficult to question Ministers directly because regulation is a matter for the regulatory body. The body is only required to send an annual report six or eight months after the end of a particular year. This takes all the dynamism out of the structure. It probably makes life easier for Ministers but it is a bad model. This neo-liberal model devised by the EU takes regulation further away from ordinary people and businesses, small and large, and is part of making politics more remote from people. This is why people become increasingly less connected with politics.

I hope the Minister will monitor the implications of this new structure. Is it to be mere self-advertisement by IFSRA? A significant amount of that has been done and much of it is welcome because it also informs customers.

However, there is little oversight provision and that is a fundamental weakness.

Mr. McCreevy: I as I indicated on Committee Stage, this amendment does not take account of the existing provisions of the Bill which provide for extensive accountability arrangements to the Oireachtas for the ombudsman scheme. Section 57BH provides that the chairperson of the council must appear on request before an Oireachtas committee and provide such information, including documents, as the committee specifies. Section 57BW imposes a similar obligation on the financial services ombudsman. Section 57BH provides that I must lay the detailed regulations governing the ombudsman scheme before the Houses and that either House can annul these regulations. There is also provision for the publication of various reports from the ombudsman and for the laying of his or her strategic plan before the House of the Oireachtas.

The existing provisions of the Bill provide for ample accountability to the Oireachtas, including, crucially, my accountability as Minister for policy legislation governing the ombudsman and, more generally, the financial services sector. Therefore, I do not propose to accept the amendment.

Mr. R. Bruton: I have looked at many SMI reports by agencies which are intended to assist accountability. Generally, they are designed to show how clever the agency is and not to assist accountability. The capacity of the Oireachtas to supervise the strategic performance of a complex agency such as this will become an issue. Mr. Westrup, in his paper, states: "The fact remains that the Oireachtas has given regulators great powers but has largely chosen to leave them to their own devices, leaving a major gap in any accountability structure." There is a dimension of accountability here to which the Oireachtas is not getting to grips.

I know the Minister will see his responsibility as having been fulfilled when this Bill is enacted and he can hightail it having seen the last of the IFSRA legislation for his lifetime. Nevertheless, how does the Oireachtas set about holding agencies to account? The Minister should bend his thoughts to how that will be done. Perhaps he should, by ministerial order, set performance indicators on which quarterly, six monthly or annual reports would be made to the Oireachtas. This would give the Oireachtas ammunition for real scrutiny of the performance of an agency such as this. It will be difficult for the Oireachtas itself to develop and devise such a framework but the Minister might be able to do it by way of order. This would be immensely helpful to the Oireachtas and would leave a permanent way of scrutinising the performance of such agencies.

Mr. McCreevy: The Irish Financial Services Regulatory Authority is required to publish a

statement of strategy and not just an annual report. That would be an opportunity to consider not just what IFSRA has done but what it plans to do.

Mr. R. Bruton: Does the Minister have the power to set out guidelines as to how the authority does that?

Mr. McCreevy: Yes.

Mr. R. Bruton: Would he consider including in those some specific reportage to the Oireachtas on performance indicators he believes are relevant and which the Oireachtas should be watching?

Mr. McCreevy: The joint committee is the adequate body to do that.

Mr. R. Bruton: The Minister is not living in the real world.

Ms Burton: To task the joint committee with that when it has no powers to do it is absurd.

Mr. McCreevy: The committee could have IFSRA before it tomorrow if it wished.

Ms Burton: The power to call someone occasionally is not the same as a genuine oversight power. Bodies are being created by the Government in several areas. *7 o'clock* Ministers will not answer questions because the bodies have been established and another layer of bureaucracy, on a neo-liberal model, is being created. This model is very expensive and when customers of banks and the taxpayers are paying for the regulatory structure, it is important that it be made accountable to the Dáil.

Mr. McCreevy: No.

Amendment put and declared lost.

Debate adjourned.

Private Members' Business.

Rights of People with Disabilities: Motion (Resumed).

The following motion was moved by Deputy Stanton on Tuesday, 18 May 2004:

That Dáil Éireann:

- affirming the rights of people with disabilities as equal citizens of the State;
- supporting the recent call by the members of the Commission on the Status of People with Disabilities for the

immediate publication of the Disability Bill and the acceleration of their programme for positive change in the provision of services;

— noting the firm and explicit commitments in the programme for Government to:

— complete the programme of expansion of appropriate care places for people with disabilities, with, in particular, the ending of the inappropriate use of psychiatric hospitals for persons with intellectual disabilities; and

— complete consultations on the Disabilities Bill and will bring the amended Bill through the Oireachtas and include provisions for rights of assessment, appeals, provision and enforcement;

— noting the lack of progress in both areas and the evident unwillingness of the Government to bring in truly rights-based legislation;

— conscious that there is a continuing and growing crisis in the legitimate demands of people with disabilities for appropriate and responsive housing, employment, residential care, respite care, training and education services;

— aware of the number of families under extreme stress and hardship as a consequence of coping with intellectual and other disabilities;

— aware of the incidence of poverty and high levels of unemployment among people with disabilities; and

— believing that there is systemic failure in the practical provision and delivery of support and services to many thousands of people with intellectual, physical and sensory disability and aware that much of the investment in disability services is eaten up by the need to cope with emergencies, and that service providers are unable to plan for new services in any area;

calls on the Government to:

(a) immediately bring forward the Disability Bill; and

(b) at the same time, to convene a disability summit of all stakeholders in the disability movement, each of whom would be entitled to attend and participate as equal partners.

This summit and national debate should be held in public, and it should consist of

representative bodies who advocate for people with disabilities, State agencies, including the NDA, service providers, social partners and policy makers, including both Government and the Oireachtas;

the summit, which could operate in plenary and committee sessions, should have an independent, agreed and high level chairperson, and should last no longer than a month;

the Government would be required to place before the summit a detailed set of plans, across all relevant Departments and public bodies, with a view to achieving agreement and consensus on the following objective:

- a national strategy for the progressive realisation of rights to provision over an agreed timeframe, setting in place the capacity-building measures necessary, identifying the capital and current resources needed and preparing a plan to eliminate all waiting lists for services within three years and including:
 - a national accommodation and support strategy for people with disabilities, including facilitating liaison between local authorities and voluntary and State agencies which support people with mental illness and the young chronic sick;
 - a national process to standardise the application of DPG, including the provision for 100% grant aid where this is necessary;
 - adequate resources for local authorities to fully implement the Barcelona Declaration;
 - a cost of disability allowance; and
 - the provision of education in an appropriate setting with the necessary and appropriate services for children with special educational needs.

Debate resumed on amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

- “ —endorses the Government’s intention to circulate a Disability Bill to the Oireachtas as soon as possible to support and underpin participation by people with disabilities in society;
- notes that the Bill will, among other things:
 - establish systems for assessment of need, service provision, and redress, including enforcement;

- facilitate access to public buildings, services and information;
- include a statutory basis for six key sectoral plans in the areas of the built environment; passenger transport, including marine transport; services to be provided by the health boards; social services including advocacy and sign language interpretation services; and training and employment services;
- limit the use of genetic data;
- put targets for the employment of people with disabilities in the public service on a statutory basis; and
- provide for a centre for excellence in universal design;
- acknowledges the complexity and cross cutting nature of the issues involved in preparing the Disability Bill;
- recognises the value of the Government’s broad ranging consultation process with the disability sector, particularly through the DLCG, a group representative of people with disabilities, their families, carers and service providers;
- recognises the need for the further development of services to people with intellectual, physical and sensory disabilities, autism and mental illness and commends the actions taken by this Government and the former Government since 1997 in meeting this commitment, which include the allocation of additional funding of approximately €733 million;
- approves the Government’s commitment to put in place an enhanced level of health service provision in line with the programme for Government;
- notes that the Government is committed to working with all stakeholders to provide the maximum support to people with disabilities in accessing vocational training and employment services, and ensure that people with disabilities get every opportunity possible to reach their full potential in the open labour market thereby increasing their independence and allowing them to play their full part in the world of work;
- commends Government policy on the mainstreaming of vocational training and employment service provision to people with disabilities involving:

- developing the skills of people with disabilities to enable them to access employment;
- stimulating awareness amongst employers of the contribution which people with disabilities can make to their businesses and encouraging companies to more actively consider recruiting people with disabilities; and
- providing specific employment supports for people with disabilities and employers;
- welcomes the fact that FÁS helped over 3,000 people with disabilities to find employment and over 1,900 people placed in training, in 2003;
- acknowledges the achievements of the Government in introducing action plans for social and affordable housing for the period 2004-08 that will make provision for the responses of each local authority in relation to their social and affordable housing programmes including the elderly and persons with a disability;
- notes the significant improvement of the funding and conditions relating to the disabled persons grant scheme since 1998:
 - the maximum grant has doubled from €10,158 to €20,320;
 - increased levels of demand with expenditure on scheme increasing from €13 million for 2,455 grants in 1998 to €50 million for 5,739 grants in 2003;
- welcomes the substantial growth in the resources which are directed towards the education of children with disabilities in the form of more than 200 extra learning support teachers, more than 2,400 extra resource teachers and an extra 1,000 special needs assistants, when compared with the levels employed in 1998;
- welcomes the framework being put in place by the Government to underpin the equal participation by people with disabilities in Irish society including:
 - the proposed Disability Bill;
 - the Education for Persons with Disabilities Bill, 2003 which is currently at Report Stage in the Dáil;
 - the Comhairle (Amendment) Bill which is being prepared in the Department of Social and Family Affairs in relation to the provision of advocacy services;

- sectoral plans for key public services; and
- equality legislation to be updated by the Equality Bill, 2004 which is currently at Second Stage in the Dáil.”

—(Minister for Defence).

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I wish to share time with Deputies Ardagh, Hoctor, O'Donovan, Flynn and the Minister for Social and Family Affairs, Deputy Coughlan.

I am pleased to have the opportunity to speak tonight on this Private Members motion on disability. The Government is conscious of and has acknowledged the difficulties faced by families caring for persons with disabilities. It is for that reason the Government identified these services as a priority area for funding.

The Government has a clear and effective strategy on the planning and delivery of health funded services to people with disabilities, including those with mental illness. The principle underpinning the planning and delivery of these services to persons with disabilities is that they should be given the opportunity to live as full and independent a life as possible and to live with their families and as part of their communities for as long as possible. Since the 1970s the main thrust of service provision has been towards the development of community based services designed to provide a range of services for the individual with a disability and his or her family or carer. Clear evidence of the Government's commitment to this area lies in the fact that additional funding of approximately €733 million has been invested in health funded support services for people with disabilities since 1997. This includes an additional €25 million in current expenditure made available by the Minister for Finance for services for people with disabilities in the 2004 budget.

Since 1997, additional funding of €643 million has been invested in health funded support services for people with intellectual, physical and sensory disabilities and those with autism. Services to people with intellectual, physical or sensory disabilities and to those with autism is one of the limited number of areas in which additional revenue funding has been provided by the Government during 2003 and 2004. In respect of services to persons with intellectual disability and autism, this revenue funding amounting to €43 million to end of 2004, was specifically provided to meet costs associated with the provision of emergency residential placements, extra day services, in particular for young adults leaving school and to enhance the health related support services for children.

Since 1997, additional revenue and capital funding of €388 million has been provided for

[Mr. T. O'Malley.]

intellectual disability and autism services. In addition to providing approximately 1,700 additional residential places, 465 extra dedicated respite places and 2,950 new day places, the Government has funded: alternative placements and an enhanced level of services for persons with an intellectual disability or autism who were resident in psychiatric hospitals or other inappropriate places. The number of persons accommodated in psychiatric hospitals in May 2003 was 438, down from 970 in 1996. There has been investment of approximately €16 million since 1998 in the early intervention, pre-school and multi-disciplinary support services for children with an intellectual disability and those with autism: an additional €11.43 million has been provided to enable health boards to put in place a range of support services for persons with an intellectual disability or autism who present with major behavioural problems and therefore require a more intensive level of support.

Key developments noted in the 2002 report of the National Intellectual Disability Database reflect this significant investment and include: a 37% growth in the number of people with intellectual disability living in full-time residential placements within local communities; a 165% increase in the provision of intensive placements designed to meet the needs of individuals with challenging behaviours. This includes individuals whose behaviour may arise as a result of a dual diagnosis of intellectual disability and mental illness; a 47% reduction in the number of people accommodated in psychiatric hospitals; a continued expansion in the availability of residential support services, in particular service-based respite services which have grown by 255% with an additional 443 people reported as being in receipt of these services between 2001 and 2002 alone; and, increased provision in almost all areas of adult day services and in the level of other support services delivered as part of a package of day services to children and adults.

Since 1997, additional funding of almost €230 million has been allocated for the maintenance and development of services for people with physical and sensory disabilities. This funding has been allocated towards service pressures as identified by health boards in consultation with the regional co-ordinating committees for physical and sensory disability; day, respite and residential places; therapy services, including speech and language, physiotherapy and occupational therapy; home support services, including personal assistance services; aids and appliances and, addressing the under resourcing of voluntary sector service providers.

Since 1997, additional revenue funding of approximately €90 million has been provided for ongoing developments in mental health services to develop and expand community mental health

services, increase child and adolescent services, expand the old age psychiatry services, provide liaison psychiatry services in general hospitals and, to enhance the support provided to voluntary agencies.

Substantial progress has already been made. There are currently 21 operational general hospital psychiatric units and it is expected that a further unit will become available to the mental health services in the near future.

Substantial progress has also been made in recent years in ensuring that those in need of mental health services receive care and treatment in the most appropriate setting. Health boards have developed, and are continuing to develop, a modern comprehensive community based mental health service resulting in a continuing decline in the number of in-patients with a corresponding increase in the provision of a range of care facilities based in the community to complement in-patient services.

It is the intention to continue to accelerate the growth in alternatives to hospitalisation with the further development of community based services throughout the country. There are approximately 400 community psychiatric residences in the country providing more than 3,000 places. This compares to 111 residences, providing less than 1,000 places in 1984. There are approximately 200 hospitals-day centres providing more than 3,500 places. This compares with 39 such centres providing approximately 1,200 places in 1984.

In accordance with a commitment in Sustaining Progress, the social partnership agreement 2003-05, my Department is required to carry out a strategic review of existing service provision in consultation with relevant interests with a view to enhancing health and personal social services to meet the needs of people with intellectual, physical, sensory disabilities and autism. This review is particularly timely. A considerable period of time has now elapsed since the publication of the relevant policy documents in this area. We need to take account of the effect of Government policy regarding mainstreaming of services. The level of additional funding invested in the services in recent years makes it timely and necessary that we should examine the results of this funding. We need to look at the implications for disability services of the publication in 2000 of the Health Strategy Quality and Fairness — A Health System for You and, the primary health care strategy.

The health services reform programme approved by Government and published in June 2003 will also have far-reaching effects which will influence the delivery of services for people with disabilities. The new legislative measures being introduced in the area of disability will have a profound effect on the future planning and delivery of the services. This review will look at a number of specific areas of service provision.

My Department sought and received initial advice from various stakeholders regarding the format and content of the review. Taking this advice into account, a number of specialist study groups have been established to look at particular topics, identify relevant issues and make recommendations on future policy on the specific topics. These topics include assessment; management of health services; links between education and health-related support services; access to mental health services; disabilities and older people; mainstreaming; the protection of vulnerable people; supported living and personal assistance; information and databases; training and sheltered work; value for money and funding.

I refer those who are interested in this debate to some statistics. Since 1997, 179 extra dieticians have been employed in the health services; 387 occupational therapists; 466 extra physiotherapists——

Mr. Connaughton: Rightly so.

Mr. F. McGrath: What about residential and respite care?

Acting Chairman (Mr. Sherlock): Please allow the Minister of State to continue without interruption. He should conclude if he is sharing time.

Mr. T. O'Malley: The Government is accused at times as if there were no extra staff employed. Eighty-two extra consultant psychiatrists have been employed; 216 extra psychologists; 745 social workers; and 132 speech and language therapists. The Government is committed to the disability sector. It hopes to continue the fantastic work done so far.

Mr. Ardagh: Deputy O'Donovan will not speak. Deputy Hoctor and I will share the time slot by agreement.

It is refreshing to see the Opposition using Private Members' Business to promote a good cause. It often makes a hames of Private Members' time by putting down motions on subjects just taken out of the newspaper on the preceding Sunday or Monday and it finds that by Wednesday the controversy has ended.

Disability is a most important matter and I commend the Opposition for putting down this motion. It deserves to be discussed and to be brought into the open. It is particularly opportune to have this debate before an election as it focuses on the needs of those with disabilities and gives an extra impetus to all those who provide services for those with disabilities to improve the service they provide. It focuses the Minister's attention on the amount of money being expended and hopefully will help to increase the funding for services for the disabled.

Mr. F. McGrath: Will the Deputy support the motion?

Mr. Ardagh: I will deal with that shortly. There are deficiencies in the motion. The Government amendment is a superior motion and I will support that motion.

I have given some thought to what constitutes disability. It is a relative condition. I am inarticulate at times and other people talk too much, which is a disability in itself. Listening to the Minister for Finance, Deputy McCreevy, in the House today, his cold and his difficulty in speaking is a disability. I require a microphone as I speak to enable everybody to hear me. All of us have some disability that is relative. Others have far greater disabilities. We are all equal in humanity; we are all people who are deserving of a full and good life, independently lived.

Ireland has changed in the past ten years. Many of us learned about Maslow's theory while in college. It concerns physical, social and self-actualisation needs. At this stage, the physical and social needs should be filled and it is now time to care for the self-actualisation needs. That is the lot of all of us who are well-abled. It should also be the lot of those who are disabled.

Ireland is a knowledge-based society and the emphasis on production of goods is diminishing. Everybody should be equally enabled to participate in employment in this knowledge-based society. Ireland is a very wealthy country and after Luxembourg it has the highest GDP *per capita* in Europe at nearly €30,000 per person.

Tourism from the North American market shows an increase of 20% over last year. Revenue has increased by 20% over last year. Tax from offshore accounts is well in excess of €1 billion already this year. There is no reason we cannot ensure that all people, able-bodied or disabled, can live independently with dignity and with the same educational, health and social benefits.

Society should work to improve services for the disabled. The Minister of State, Deputy Tim O'Malley, outlined the improvements made in the past few years. When I started political canvassing ten years ago I encountered parents of people with disabilities. They were devoting their lives to the care of their children. Their main concern was what would happen to the child when they died. There have been improvements over the years. Many people who were previously totally dependent on their close family for support are now living independently. All people, irrespective of disability, should be able to live independently. Parents should not have to worry about the future for them. We must all do the best we can to achieve that.

Relevant legislation has included the Employment Equality Act 1998 and the Equal Status Act 2000. The Employment Equality Act has helped diminish the number of cases of

[Mr. Ardagh.]
discrimination in employment. It has made employers aware of their moral and civil responsibility to ensure that all workers, irrespective of disability, can work in the workplace environment. The Equality Authority and the Equality Tribunal have been established. The Equality Authority ensures that disability is not a reason for discrimination and is to be congratulated on its work. The Equality Tribunal determines complaints of discrimination and makes findings on redress in that regard. These bodies have been established by the Government.

The disability Bill will come before the Select Committee on Justice, Equality, Defence and Women's Rights for Committee Stage. As chairman of the committee, I will be delighted to hear representations from all the groups representing disabled people or persons who may be affected by the Bill before we deal with Committee Stage. We have always facilitated groups that wish to make a representation to the select committee in order that we can articulate their concerns and have them addressed in legislation on Committee Stage.

When I refer to the equality of humanity, I mean mainstreaming. I am proud of the Government's role in introducing mainstreaming in vocational training and placement through FÁS, both of which are very important, but it must be developed and improved in all aspects of life, not only vocational training and education.

I am delighted to have an opportunity to speak on disability. The issue must be put on the table and considered to improve the quality of life for everyone, both able-bodied and, in particular, disabled. The legislation is an opportunity to do so and I support the amendment.

Ms Hctor: Go raibh maith agat as ucht an tseans labhairt anseo anocht. The area of disabilities is of particular interest to me as I acquired considerable first-hand experience of working with people with disabilities before entering politics. I have no doubt this experience will allow me to make an input to the disability Bill when it comes before the Select Committee on Justice, Equality, Defence and Women's Rights.

I am also a member of the Committee on Education and Science and was directly involved in preparing the Education for Persons with Disabilities Bill. More than 40 groups raised their needs and concerns with the committee and members listened carefully and were enlightened by their presentations. The committee is dealing with the final stages of the Bill.

We learned from this experience, particularly presentations made by a number of parents of disabled children, some of whom are adults, that disability is a complex issue. Some of the children were profoundly disabled and stayed in bed all

day and we had to address the issue of providing some form of education for this group. Others had mild or moderate disability or were physically and mentally challenged. All these areas are being addressed to the best of our ability in the Education for Persons with Disabilities Bill.

The disability Bill will shortly come before the Committee on Justice, Equality, Defence and Women's Rights. My experience of working in one of the Dublin hospitals in a voluntary and paid capacity several years ago will help me to discern what must would most benefit disabled members of the community.

Deputies will recall that a disability Bill published in December 2001 was withdrawn following concerns expressed by the disability sector, including carers and people with disabilities. This, too, was a clear indication of the complexity of the issue. Despite this, a promising partnership approach has been initiated with a consultative group representing disability groups, their families, carers and service providers brought together by the National Disability Authority. The group has met important figures such as the Taoiseach and the Tánaiste. Deputies will have an opportunity on Committee Stage to examine the legislation.

As I teacher, I recognise that the number of people with disabilities appears to be increasing. There is no doubt that a marked increase in investment in disabilities in the areas of health and education has helped people to acknowledge that their needs are recognised by legislators and elected representatives.

A renowned psychologist in the mid-west region has identified an alarming number of young people aged from birth to 6 years in the north Tipperary area who have been diagnosed with autism. As legislators, we will not only have to address the educational and medical needs of the children in question but also the cause of this alarming figure.

The Committee on Justice, Equality, Defence and Women's Rights anticipates and will welcome many submissions from members of the public and representatives of disability groups and carers. We need to listen to the people who work in the area of disability every day. I regret that I do not have time to give many more examples of areas which must be addressed in the forthcoming disability Bill.

Ms Flynn: I welcome an opportunity to speak to the motion, particularly in light of the fact that a disability Bill will shortly come before the House. The Bill has given rise to high expectations, which I hope can be realised. I have listened carefully to the comments of some Deputies on consultations on Committee Stage. I was invited to attend a meeting at 8 a.m. last Monday organised by the centre for independent

living in my constituency. Of more than 100 public representatives who were invited, only eight attended and I was the only Deputy. The meeting was held to brief public representatives on issues of concern. If the forthcoming legislation is to do right by people with disabilities, it is important that we, as public representatives, are briefed on the concerns of representative organisations. I was delighted to have such an opportunity because it enables me to make a better contribution this evening.

The Minister of State, Deputy Tim O'Malley, appeared on the "Prime Time" programme last week to discuss the first issue I wish to address. The health strategy and the programme for Government make a commitment to provide care places to people currently in inadequate accommodation. As Deputies will be aware, many people with autism and disabilities are housed in psychiatric hospitals, which is an affront to human rights. This is not only the case in St. Ita's in Portrane. It also occurs in my constituency. Today, I came across a sad and inhumane case of a teenager with autism who is housed in a psychiatric hospital surrounded by elderly people.

I hope our contributions on this motion will make the Minister's job easier. When a disability Bill that addresses the assessment of needs for people with disabilities and services comes before the House, it is critically important that a capital investment programme is made available to the Department to ensure that Government commitments are honoured. The health strategy made a commitment to provide the necessary places by 2006, whereas the end date given in the programme for Government was 2007. If this commitment is not made in conjunction with the disability Bill, it will be a serious insult to disabled people, many of whom have been in psychiatric institutions for more than 20 years. The Minister of State is committed to that but I sincerely hope the Government as a whole is equally committed.

I proposed the adoption of the Barcelona declaration by my county council at a meeting 18 months ago. The declaration proposed that we would think about people with disabilities first before designing buildings and making them accessible. Accessibility is a massive issue among people with disabilities. Sadly, despite the unanimous adoption of the declaration by the council, lip service was paid to such people. Throughout my constituency and the country a significant number of public buildings are still inaccessible and this cannot continue.

It is absolutely critical that personal assistants to people with disabilities are allowed to continue in their roles permanently. The criteria for the assessment of people for mobility allowance and the motorised transport grant must be addressed because they are completely outdated. If these issues and the housing issue are addressed, the

disability Bill will be of use to people with disabilities.

Aengus Ó Snodaigh: Thanks to the tireless advocacy of people with disabilities, their families and allies we have been made aware of statistics relating to such people. For example, half of all families headed by a person with a disability live in poverty and the unemployment rate among people with disabilities is 70%. Most of these people could work. Entire towns and villages remain inaccessible to people with disabilities. They are frequently denied adequate and appropriate services, prevented from independently living, unnecessarily institutionalised or housed in completely inappropriate facilities. Such conditions threaten their privacy and dignity at best and, at worst, they violate their human rights. This is not good enough in the midst of an economic boom.

The Government's assertion that the State, the fourth wealthiest in the world, cannot afford to ensure people's equal rights are respected is absurd. There should be no more excuses. The time has come for legislators to take appropriate action to confront the stark realities that people with physical, intellectual and sensory disabilities in this State are systematically discriminated against and they are denied equal rights. This is a stain on the nation.

We must muster political will to change the position for good. To continue to exclude people with disabilities from full and equal participation in social, political and economic life not only does these citizens an injustice as individuals, it also robs the nation as a whole of the benefit of their talents, energy, determination and capacity for innovation.

A rights-based disability Bill is required. Such legislation is an essential building block for an Ireland of equals. The people as a whole deserve and will accept nothing less. However, we must not stop there. Legislative instruments are needed at every level to effectively promote the equality of people with disabilities and to combat discrimination against them. A comprehensive EU disability directive is required to extend Union-wide harmonisation of protections that currently only apply to the areas of employment and training. A United Nations convention on the rights of people with disabilities is needed to enshrine such rights in international law. Most importantly, on this island explicit recognition of the equal rights of people with disabilities in an all-Ireland charter of rights as provided for in the Good Friday Agreement is necessary.

We advocate an all-Ireland charter of rights that will recognise not only the equal rights of people with disabilities as individuals but also the specific rights of people with disabilities as a group. Every person with a disability has the equal right to have his or her whole person

[Aengus Ó Snodaigh.]

recognised, their capabilities valued and developed to their full potential and their dignity respected. All people with disabilities should have the equal right to make choices about their lives and to be consulted and heard on all matters affecting them. We propose that such a charter must also recognise that all people with disabilities who need outside advocacy and support should have it.

People with disabilities have the right to expect adequate and appropriate support for independent living if that is their choice. The Government must deliver on this if it is to deliver on rights.

Mr. F. McGrath: I am grateful for the opportunity to contribute to the debate. I strongly support the motion and I urge all Members to row in behind us and affirm the rights of people with disabilities as equal citizens of the State. As a parent, I am fed up with the delay in the publication of the disability Bill. How long more must families wait? How long must the Government wait to tackle the waiting lists for day care, respite and residential care? It is a disgrace that children and adults must shout, kick and scream for services. It is no longer a question of a lack of availability of resources and finance. The debate is now about the political will to do something and the manner in which resources are distributed.

I refer to the financial and economic element of the debate. Recently, we witnessed two classic examples of the squandering of public money. A sum of €52 million was expended on the electronic voting fiasco while €15 million was spent on the Punchestown centre. This amounts to €67 million, funding which could have wiped out waiting lists once and for all. Taxpayers money is spent on wasteful and ill-thought out projects while families must wait for services.

I fully support all people with disabilities as equal citizens. I would like to focus on people with intellectual disabilities and refer later to other issues relating to people with disabilities. With regard to people with intellectual disabilities, it is scandalous that 621 are seeking day care places, 1,382 are seeking residential care and 823 are waiting for respite places. The €67 million recently squandered by the Government could have been used to quickly address these waiting lists. I urge the Minister of State to face up to this reality and do something about it. He has been in office for two years and significant resources have been available to him because of our strong and vibrant economy. There are no more excuses. For seven long years, the Government parties have had massive resources at their disposal but they have not delivered. That is the reality for the families of people with disabilities.

Last night, two Ministers used the word “consultation” in their contributions. Consultation with parents, disability groups and people with disabilities should also mean listening to their views and implementing their requests. There is no point engaging in a consultation process if the Government refuses to listen and care.

Ireland’s housing crisis is well established but the fact that people with disabilities are caught up in the crisis is scarcely appreciated. Traditionally the accommodation of people with disabilities has been the responsibility of the health service. However, with an emerging appreciation of the need to include such people in mainstream society, local authorities must play a more central role in responding to their accommodation needs. The national housing needs assessment compiled by local authorities completely underestimated the number of people with disabilities in need of housing.

I thank all the families of people with disabilities and disability groups for their sacrifice, determination, professionalism and commitment to a just society. I urge all Members to support the motion.

Dr. Cowley: It is terrible that people with disabilities must go to court to fight for basic services. I meet an endless succession of people at my clinics who are seeking basic services. One type of disability that may not be alluded to in this debate is arthritis. It is the greatest cause of disability in the west. It is very painful and, if left untreated, it can cripple and, believe it or not, some forms of the disease can lead to death. It is a disease of all ages. Approximately 50% of those diagnosed with rheumatoid arthritis are out of the workforce in five years. If the disease is not treated early, there is a 42% risk that a person diagnosed with it will be assessed as disabled within three years. This is frightening, especially because it can be totally prevented.

Given that early diagnosis and treatment is crucial, how can one rationalise that those on waiting lists in the west must wait for four years to be seen for the first time by a rheumatologist? A total of 1,500 people are waiting and are becoming crippled and disabled. The hands of a gentleman on the “Late Late Show” were the mark of shame of the Government. They also demonstrated the neglect of previous Governments because this has been an issue for some time. The gentleman was kept waiting and he paid the price.

A system of apartheid exists and affects the disabled, among others. If one has money, one does not become disabled. If one is among the 50% of the population covered by VHI or BUPA, one can be seen by a rheumatologist and ensure one’s hands are not crippled. It is terrible that the system operates in this way.

Ireland regards itself highly because of the Celtic tiger, but Croatia has four times more rheumatologists per 100,000 citizens than Ireland, and Russia has six times more per 100,000 citizens. The North Eastern Health Board and Midland Health Board have no rheumatology service. The Western Health Board area, which is larger than the North of Ireland and includes counties Clare and Limerick, has only one rheumatologist. The waiting list has grown from 113 in 1994 to 1,500 this year, bearing in mind that it was to have been obliterated by now.

Mr. Connolly: One of my first experiences after my election as a Deputy was my being lobbied by disability groups. One of their major concerns was that the legislation passing through the Dáil was not rights-based. The Government pulled back from that legislation and now, two years later, disability legislation is again due before the House. There would have been a reasonable expectation that it would be rights-based but the expectations of the disability groups have been thwarted again. The proposals are more aspirational than rights-based.

The simple fact is that many people with a learning disability rely on charity and will do so for years to come. They rely on those who provide an excellent voluntary service in their communities and on their parents. Quite often, their parents are elderly and their one concern is what will happen to their loved ones when they have passed on.

The "Prime Time" programme last Monday provided a vivid snapshot of the daily lives of those with disabilities and the trauma they must suffer. It also gave some idea of the level of Government underfunding of disability services. If we were to put a price on the level of care the parents provide on a 24 hour basis, seven days per week, and on the services provided by volunteers, it would also give us an idea of the extent to which disability services are underfunded. If one considers the voluntary effort that went into the Special Olympics in Croke Park, one will realise that money would not pay those concerned.

It was mentioned that 3,600 people are on waiting lists for respite. This is one of the most valuable breaks one can afford to those providing a service on a 24 hour basis, seven days per week. If carers knew they were due respite in two months' time, they would accept it. They deserve the odd break. We are putting too much pressure on the people providing services to the disabled. There are hundreds on waiting lists for day services and home help services and the service providers should be given some form of break.

Disabled persons deserve the same rights as the able-bodied. All we do is make noises in this direction and we basically tolerate the disabled. This is largely the Government's attitude. It is not

genuine in its concern. Most provisions of the disability Bill do little more than tell people what they could do if they had money. The fact is that there is insufficient funding. The North Eastern Health Board unanimously accepted that it was totally and grossly underfunded. I do not know how we can deliver anything extra under the proposed legislation.

Mr. Boyle: Last evening, the Minister for Defence in his somewhat wavering contribution listed a number of Bills the Government had promised and published in regard to people with disabilities. He referred to the Education for Persons with Disabilities Bill, the Report and Final Stages of which are to be considered by the House. He spoke about the Comhairle (amendment) Bill, which is about providing information services to the disabled and their families who live with them. We have yet to see this Bill. He also spoke about the long-promised disability Bill, which has still not been published. In essence, the Minister was saying the Government's bits-and-pieces approach to people with disabilities is exemplified by the way it puts together small pieces of legislation that meet small parts of the problems of those with a disability.

The approach that has been followed in the more progressive countries has resulted in all-encompassing, large-scale legislation that deals with all issues pertaining to the disabled. I refer to the Americans with disabilities Act and the Swedish disability legislation. However, the Government has adopted the piecemeal approach deliberately so it can avoid making decisions and making resources available. On that count, it stands grossly indicted for failing to meet the needs of the one in eight citizens who are disabled and those who live with them.

The ongoing debate on disability has been categorised by the lack of real commitment. When the Commission on the Status of People with Disabilities made a very comprehensive report with 402 recommendations, it was seen as a time of hope. People hoped many of the recommendations would be addressed. Some have been but they comprise a small number. Some years have elapsed since the publication of this report and the vast majority of the recommendations have not been acted upon and the needs of people with a disability are as pronounced as ever. For failing to respond to those needs and to implement the recommendations, the Government stands indicted.

It is shown where people with a disability stand on the Government's list of priorities. There is a political cliché in respect of those who should take part in Government that Labour must wait and that Fianna Fáil will look after people. This could be amended in terms of social policy to

[Mr. Boyle.]

state the poor must wait. Certainly, in light of the list of priorities the House seems to put forward and how it allocates resources, the cliché should be that the disabled must wait. This is no longer acceptable.

We have had a period of unprecedented economic prosperity during which resources should have been made available. The infrastructure should have been put in place and the needs that were and continue to be unmet should have been met. The failure to do so means the Government rates disability as a tiny priority at the bottom of the ladder. It does this because it does not see any political percentage in it, although one in eight citizens have a disability and although their family members represent a significant proportion over and above that. The Government has decided the needs it should meet are those of the able, the prosperous and those who participate in the electoral process. As long as it wins 51% of the seats in this Chamber, it believes the rest of society can go to hell. That is the philosophy it has been arguing.

When we listened to the Minister for Defence talking about rights-based legislation being a charter for lawyers, we understood how the Government has lost the plot. Rights-based legislation does not mean that people with disability will rush to the courts at every opportunity, it means they will have enshrined in legislation the rights they deserve and the expectation that the Government elected on their behalf will uphold those rights.

The courts and the legal system need not enter into it. However, the Government is afraid of what that will cost. That cost should be met because it is the right of everybody in Irish society.

Mr. Neville: I welcome an opportunity to contribute to this debate and congratulate Deputy Stanton on putting down this motion. I wish to share my time with Deputies Enright, Lynch and Sherlock.

I will deal specifically with the mental health issue, which has been neglected by the Government. I am pleased the Minister of State with responsibility in this area, Deputy Tim O'Malley, is present. Since 1997, the investment in mental health services as a proportion of the total budget has dropped from 11% to 6.6%. That is a considerable decrease. The increase in funding for mental health services in that period is the lowest across all medical specialities. Given that one in four people will suffer from a mental illness at some time in their lives, this is a serious issue.

The Minister boasted earlier that since 1997, additional revenue funding of approximately €90 million was provided for ongoing developments in the mental health services. That is what has

been invested over eight years. Compare this with the €52 million lost on electronic voting machines. It amounts to an average of €11 million per year, which is €4 million less than was invested in the Punchestown project. The Minister's words demonstrate the total neglect of the mental health services. The Government is not investing in them, it has no interest in doing so.

A recent meeting of the Oireachtas Joint Committee on Health and Children was attended by representatives of the Irish College of Psychiatrists. Their reports shocked some of the committee's members. There has been no investment in developing multi-disciplinary teams. In 1984, it was recommended that multi-disciplinary teams should be introduced. In addition to psychiatrists, such teams would include psychologists, occupational therapists and so forth. This recommendation has not been implemented.

Each year there are 20 training places for clinical psychologists even though 50 are required to maintain numbers at the present level. The service is deteriorating. There is an urgent need to train 100 clinical psychologists to introduce the multi-disciplinary teams. There is a direct correlation between multi-disciplinary teams and the level of non-drug treatment. The more prevalent such teams are, the more frequent is non-drug treatment. The opposite also applies because psychiatrists, due to not having the services, are obliged to use drug treatment. In this country, 83% of consultant psychiatrists have no access to a psychologist or a psychotherapist, 76% have no access to a family therapist and 33% have no access to an occupational therapist. That demonstrates that no attention or investment has been given to proper services for people with a mental illness.

Nothing has been done to implement the recommendations made since Planning for the Future in 1984 even though there are numerous such recommendations. This attitude of the Government compounds the problem of marginalisation and stigmatisation of the mentally ill. There was an announcement yesterday by the Irish College of Psychiatrists about the total absence of services for young people in the 14 to 18 year age group. I refer the Minister to the comprehensive report in the *Irish Examiner* today on what Dr. Ganter of the Irish College of Psychiatrists said about this.

There is a requirement for 224 beds for persons between the ages of 14 and 18 years suffering from a psychiatric condition. We have 20 such beds. A total of 20% of our prisoners are mentally ill, the prison doctors are on strike and nothing is being said or done about it. The national treatment purchase fund has been ignored for people with a mental illness. These

people are on waiting lists. Why is the fund not used for them?

Ms Enright: I will focus on the education aspects of the motion. The Government has been quick to quote figures and statistics to try to make the situation appear better than it is. However, if one asks the parents of a child with a special educational requirement if they believe they can rely on the State for the support they need, their answer would be a resounding "No".

When they try to access support, parents and schools encounter delays, cancellations, cutbacks in services and sometimes bureaucratic requirements that bear no relation to reality. I was contacted recently by the principal of a school in County Kildare. The second level school concerned has two students in wheelchairs. More than five years ago the school applied for funding to install a vertical platform to improve access to the school building. There was no progress with the application so the school applied under the much-hyped summer works scheme. The reply was that because the school already had an application in the Department for a new school building, it could not be granted this work under the scheme.

That leaves two wheelchair bound children going through the second level education system without proper physical access to the school they attend. The Minister admits that the school's application is in the early stages of architectural planning. This is bureaucratic nonsense and illustrates the disconnection between the needs of the schools and their students and the unresponsive and unhelpful actions of the Government. The Minister for Education and Science is abdicating his responsibilities to these pupils and many more in similar circumstances throughout the country. How can we live in a society in which this lack of care and absence of the most basic services is tolerated?

Yesterday, I received a reply to a parliamentary question I tabled to the Minister of Education and Science regarding the number of outstanding applications for special education resources awaiting assessment in the Department. Between February and August 2003, approximately 5,000 applications for these resources were received by the Department. A total of 4,000 of these or 80% of the total have been reviewed and considered but the resources applied for have not been sanctioned. This means the children in respect of whom these applications were made are still without the supports they require. Many of the applications are more than a year old.

Even worse, 3,400 applications received since last August have not been touched in the Department. That means 7,400 school children with special needs had nothing done for them by the Government for a year. A year of their

education has been wasted as a result of not having the services they require. The reason for this is that the Minister for Education and Science and his Department did not have the competence to put in place a proper system to deal with applications.

Look at the national educational psychological service. In a survey of more than 10% of schools, which I conducted nationally, I discovered the average waiting time for children to receive an assessment by the service is six and a half months after referral, with one quarter of schools waiting more than nine months. A child referred for a psychological assessment at the start of the school year might have to do without that assessment until next year or beyond. One principal of a school attended by children with special educational requirements told me that some of her pupils had not been assessed for eight to ten years. This is no way to treat these students or to find out what special educational resources would benefit them and what supports they need.

Worryingly, the responses I received showed there might be 10,000 children throughout the country waiting to see an educational psychologist. Add that number to the 7,400 mentioned earlier and one can see the crisis that exists. The Minister's announcement of 350 additional resource teachers was typically blurred. He says they are additional but teachers throughout the country fear a reduction in the allocation to their schools. One size does not fit all for students with special needs and the Minister must understand that. I acknowledge the Minister has made some progress with the Education for Persons with Disabilities Bill but, as always, this is subject to resources, striking fear into the hearts of the families who had such high hopes for this legislation.

The motion before the House calls on the Dáil to affirm that people with disabilities are equal citizens of the State. Unfortunately, it is obvious that this is not the case in the education sphere. The report of the Commission on the Status of People with Disabilities stated it was the responsibility of the State to provide sufficient resources to ensure that pre-school children, children of school-going age and adults with disabilities have an education appropriate to their needs in the best possible environment. This is not being met. If the Government wants to meet this responsibility, it should support this motion, commit to supporting those with disabilities as equal citizens of the State and introduce the rights-based legislation for which we call.

Ms Lynch: I wish to share my time with Deputy Sherlock. I am sorry that the Minister of State, Deputy Tim O'Malley, has left. I do not say that to bring attention to his absence as most people do. Having spoken to him on many occasions, I believe he is genuinely interested. However, he

8 o'clock

[Ms Lynch.]

does not seem to have enough courage or commitment to get the type of resources needed to do what in common decency our sense of morality should ensure is done as a matter of urgency.

I will not go through all the facts and figures of people with disabilities. However, we should take notice of some of them. Some 3,500 people with an intellectual disability are on waiting lists for services. In many ways this is such an enormous figure and in other ways it is such a manageable figure. We could address this problem if we had the political will to do so. More than 16,000 people are waiting for a residential place — in other words, somewhere to live. However, guidelines have not been issued to local authorities to ensure specially adapted homes are built in housing estates to ensure that people can live almost independently with the minimum of help. Some 1,400 people are on waiting lists for respite service and 680 are waiting for a day service in support and training workshops. These could also be addressed if the political will existed. Some 457 people are at home without any service, the majority with elderly parents.

We try to put ourselves in other people's shoes to judge how we would react to difficult circumstances. Regardless of where we come from, our social background, or how much or little money we have, we all have great plans at the expectation of a child coming into the world. The arrival of a new baby gives us great hope and we plan for the baby's childhood, upbringing and future. When a baby is born and is not quite as expected, the plan changes. The parents still have a plan but their demands are different. When their demands fail to be met, not alone are they in the first instance thrown off beam because their plan has to change, but they then realise the potential of the child cannot be met because the State refuses to establish the necessary services. Regardless of the intellectual disability, we are not doing what we should to ensure such children can reach their full potential.

I would like to talk about people with a condition of which I have some experience. I spent many years on crutches and I know the difficulties of people with a physical disability. This might be one they are born with. It might come about as a result of old age or accident. I know how difficult it is to operate in a world steps and stairs. Our obsession with steps and stairs and the design of our buildings is unreasonable. The reason for this is that we do not have a Government that insists that all our buildings are accessible. Regardless of whether people are unable to walk or are visually impaired, they should have complete access to public and private areas. However, we continue to design buildings which people cannot enter.

I would like Members to think about how they could get into this Chamber without going up or down stairs. It is not possible. When I was on crutches and wanted to come here, I had to stand at the top of the stairs and allow my crutches to slide down and hope they would stop before going too far. I then had to hop down to my seat. One of the ushers used to pick up the crutches and return them to me. On leaving I had to hobble back up and hope someone would bring the crutches up to me. I cannot fathom our obsession with steps and stairs in the world of the able-bodied.

At the time I wondered what would have happened had I been in a wheelchair. Would I have had to go through the indignity of being lifted in and out? What toilet could I have used? How would I have done it? If I were in a permanent state of incapacity, I could not become a Deputy because I could not access this building and do the job. Not being able to walk should not debar someone from doing a job. However, those of us who stand upright and can walk have ensured that those with a physical disability are debarred not just from public buildings but are virtually debarred from doing certain jobs as a result. This is not because of lack of talent or ability, but simply because they cannot get in or out. I find that reprehensible.

A well-constructed disability Bill would ensure that we exclude nobody, regardless of whether they have a mental or physical disability. When Members are leaving tonight and are walking home, I ask them to find an area that does not need to be accessed by steps. This should be possible, given that we can go to the moon and have mapped DNA.

Mr. Sherlock: To affirm the rights of people with disabilities as equal citizens of the State, I call for the immediate publication of the disability Bill and the acceleration of the programme for positive change in the provision of services. As the Minister of State, Deputy Michael Ahern, will know, the St. Joseph's Foundation, formerly the Charleville and District Association for the Handicapped, is seeking funding for its children's residential service, the implementation of the Joe Wolfe and Associates report that was submitted in 2001 and the elimination of care funding deficits. The foundation is projecting a budget deficit of €818,000 this year and, unless the situation is addressed, it will have no choice but to cut back on services.

The area of special needs in primary education is not being addressed. It is estimated that 1,000 additional teachers are needed to address the problem. Parents are angry because of the lack of special attention in schools that some children need.

I recently spoke to representatives of Schizophrenia Ireland. The committee wrote

highlighting the difficulties that exist at national and local level. The health care budget allocated to mental health has declined in recent years and now stands at 6.8% of overall health spending. I call on the Government to prioritise the need to increase the funding for mental health services, which will foster the recovery process.

Recently we discovered that the disabled person's grant, which had been suspended for 12 months in the local authorities, was restored, but only at 90%. The additional 10% must be fought for or found by some other means. This is what the Government is doing to disabled persons. When the Minister stands up to speak, I hope she will give a definite date for introducing the disability Bill. I support the recent call by the members of the Commission on the Status of People with Disabilities for the immediate publication of the legislation and the acceleration of the programme for positive change in the provision of services.

Minister for Social and Family Affairs (Mary Coughlan): We have listened to our colleagues on the benches opposite accuse the Government of a deliberate attempt to delay publication of the disability Bill. Members opposite have continuously refused to acknowledge that the Government has pursued a progressive disability equality agenda over many years and continues to do so. It appears to be suggested that disability issues are being managed as a form of useful electoral ploy. While Opposition Deputies may choose to pursue this as a tactic, I propose to confine my remarks to matters of fact.

The Opposition motion refers to the enactment of "truly rights-based" legislation. Members have suggested that laws which bear this label are the best way to accelerate the provision of appropriate supports for people with disabilities. In truth, no formula is available to any Government to transform instantly existing levels of service provision. Our approach is based on reality and a recognition that reaching our goals involves continued capacity building and structural development. This process will accelerate positive change, improve services and help people with disabilities to participate as equal citizens in our society. There are three important phases in the process including the enactment of anti-discrimination legislation and the mainstreaming of service delivery for people with disabilities. The third phase is the strengthening of service delivery which will involve preparation of a broad-ranging positive action framework, one key element of which will be the disability Bill.

Significant additional funding for disability support services has been provided over several years. The Department of Social and Family Affairs has a sound track record of dealing with income support and other needs of people with

disabilities. Almost €2 billion of my Department's total expenditure this year of €11.2 billion will fund schemes and services relating to illness, disability and caring. The Comhairle (amendment) Bill, which is at an advanced stage, will facilitate the introduction of a new personal advocacy service by Comhairle, the national information agency. The service will provide for the assignment of a personal advocate to persons with a disability. The advocate's main function will be to assist, support and represent the person with a disability in applying for and obtaining social services and pursuing any right of review or appeal in connection with it. It is my intention that a sign language interpretation service will form part of my Department's sectoral plan as provided for under the disability Bill and will be published in its final version.

There have been suggestions that the Government lacks a proper strategy and is not engaging effectively with core disability policy issues.

Mr. Sargent: There is evidence.

Mary Coughlan: Our strategy has been the product of extensive and sustained consultation with the disability sector, especially in the preparation of the disability Bill.

Mr. F. McGrath: The Government is not listening.

Mary Coughlan: The Taoiseach has taken an active part in this process and the Government remains committed to consultation. There are considerable commonalities between the Government approach and the range of proposals in the disability legislation consultation group document, Equal Citizens. The disability Bill reflects issues raised in this document to a significant degree. I do not accept that there is a need for the special summit sought in the motion as there will be further opportunities to express views on the Bill when it is published.

Mr. Sherlock: When will that be?

Mary Coughlan: There is no good reason to assume the normal parliamentary process will fail to produce the necessary debate as is usual in respect of legislation generally.

I reiterate that the Government is committed to the implementation of a broadly based framework of measures, of which the disability Bill will be the key element. We will deliver what we promised in the agreed programme for Government. The Bill will include provisions for rights of assessment, appeals, provision and enforcement. The other elements of the framework are also well advanced and it will be capable of delivering tangible results which is what this debate is all about. Tangible results are

[Mary Coughlan.]

what we all want to achieve. The work is difficult, complex and requires sustained effort and financial commitment across Departments and a wide range of public bodies. Our firm commitment is to see it through.

Mr. Connaughton: Many people will be disappointed having listened to the Minister speak tonight about this issue. The time for talking about how to help the disabled and their families has been over for a long time. It is time for sensible, imaginative and constructive measures to ensure that everyone with a disability no matter what its nature receives the best possible care and treatment at the appropriate time by right. The words “by right” are all important in tonight’s debate but the Minister’s speech showed that she has reneged on the commitment to provision on that basis.

I have seen first hand the magnificent work of the voluntary sector which is usually though not entirely populated by parents, family members and friends of disabled people. While one can only call them God’s angels on earth, there are serious limitations to what even they can do. It is one of the great sins of the Republic of Ireland that a child can sit for five or six years in a primary school 80 years after we were granted our independence without receiving a professional assessment of his or her disability. Whether a child receives or partially receives the treatment or care that would make a world of difference to his or her life depends on the wealth or lack thereof of his or her parents.

After professional evaluation, the focus is on services. As many Members have said this evening, unless the integrated multi-disciplinary programmes which should be available are put in place, we are going nowhere. It is only when the system is rights-based that the disabled will receive their full entitlements. I understand such a system would require greater financial resources and that there will be times as the Minister has pointed out that Government spending will tighten. Surely, compassionate Ireland will not stand back and allow the elderly and the disabled to suffer. I commend my colleague, Deputy Stanton, who has put so much work into this area, on his call for a disabilities summit involving all stake holders. Properly motivated by a Government which shows compassion and a willingness to care for the disabled, the people would open their purse strings to provide greater financial resources.

I hope we move away from a system which is an insult to everybody involved. I put down a parliamentary question on behalf of the Ballinasloe Advocates last week which was answered by the Minister of State at the Department of Health and Children, Deputy Tim O’Malley. I do not have the time to outline the

wishes of the Ballinasloe Advocates. Suffice it to say that the answer I received was that the Minister of State was referring the matter to the chief executive officer of the Western Health Board. I have yet to receive a letter from the health board but when I do it will state simply that if the money was available, it would be spent with the Ballinasloe Advocates. That is the sort of see-saw carry on which is so disgusting. If provision were rights-based, the money would be forthcoming. It was provided for everything else and it would certainly be provided for this.

The Minister referred to the disabilities Bill which has been so long in preparation to be brought to the House. If its provisions were to be rights based in the sense understood and sought by the groups dealing with the needs of the handicapped, it would certainly be announced before 11 June. Such provisions will not be made as the Government has announced everything available including provisions for Killorglin rowing club.

Mary Coughlan: The Deputy did not do too much when he was on this side of the House.

Mr. Connaughton: The Bill will come after 11 June because the Government is to let people down again.

Mr. Sargent: Gabhaim buíochas leis na Teachtaí Connaughton agus Stanton as a gcuid ama a roinnt. Ba mhaith liom tacaíocht a léiriú don rún seo ar son daoine le míchumas, ón gComhaontas Glas, ó Fhine Gael agus ó Pháirtí an Lucht Oibre. This joint motion from the Opposition highlights one of the many crucial differences between it and the Fianna Fáil-Progressive Democrats Government. The Government’s mindset belongs to the time before the marriage ban and votes for women. Theirs is the time of the penal laws and the African slave trade. The Minister for Finance and other Government members claim that if rights-based legislation was introduced, it would cost a fortune, ruin the country and we would all be broke. Yet, the penal laws were repealed, the African slave trade has been abolished, women have the vote and the marriage ban no longer applies. We are still managing fine and the country is not on its knees. The debate for a rights-based disability Bill will fall into the same historical context when people look back at it in the future.

The Opposition is determined to factor in the needs and rights of people with disabilities. The yardstick for any ethical Government should be the words of Gandhi, “The greatness of a nation is to be judged on how it treats its most vulnerable people.” Last night, I listened to the Government’s defence, delivered in the heartless amendment to this motion by the appropriately named Minister for Defence. He spoke of

consultation and the so-called Government response. His make-believe world is a creation of his forgetful mind as there has been consultation. In 1993, the then Government formed the Commission on the Status of People with Disabilities under the chairmanship of Mr. Justice Flood. In 1996, it recommended the need for rights-based legislation.

The Minister for Social and Family Affairs is correct in saying that this cannot happen overnight. However, these recommendations were made a number of years ago. This campaign is not just about the families who care 24 hours a day, seven days a week for a loved one with an intellectual disability. It is not just about the provision of respite and residential care and other help for organisations such as Prosper Fingal, the ARCH clubs, St. Michael's House, FADE in Balbriggan or the many Special Olympics clubs around the country. This campaign is about the dignity of every person in this country where those with disabilities have poorer education standards and worse employment rates than their EU counterparts. This is about the rights of anyone who after a car crash or serious illness, as Deputy Lynch testified, could be left in a position of not just empathising but experiencing what it is really like to live under a Government that refuses to respond to the need for rights-based disability legislation.

Mr. Stanton: I thank all Members who took part in what Deputy Ardagh described as an important debate. There is not much of a difference between all sides in the House as all want to see progress for people with disabilities. It is the way it is achieved that separates us. The Minister for Social and Family Affairs, Deputy Coughlan, suggested that disability issues were being managed as some useful election ploy. She should recall how, on January 25, when the Chief Whip announced the Government's legislative programme for the forthcoming parliamentary session, the headlines stated that the disability Bill was on top of the legislative agenda. All Members expected it to be published during that session but it was not.

Mr. F. McGrath: The Government did not deliver.

Mr. Stanton: Hardly a day goes by without Deputies asking where the Bill is and why it has not been published. Though the Tánaiste recently said that there was one issue outstanding, the House is not told what that is. In spite of all the speeches from the Government side tonight, no light was thrown on why the Bill is not being published. The people deserve to be told what is holding it up. Consultations have gone on for years. If there are problems, the Government should just publish the Bill so all sides of the House can work together on resolving them.

The Minister also said that there is no formula available to the Government that will instantly transform existing levels of service provision. No Member suggested there ever was. Why is the Minister thinking like that?

Mary Coughlan: I am not thinking like that.

Mr. Stanton: The Minister must be receiving strange messages then.

Mary Coughlan: I am receiving no strange messages.

Mr. Stanton: Maybe the Minister should get her filters sorted out and listen to what people are saying.

Mary Coughlan: Of all the Members of this House, I certainly do not have any filters.

Mr. Stanton: This has been an interesting but disappointing debate, not least because it cast little light on the Government's intentions on the disability Bill. It has emerged that there is another strategic review of disability services, admitted by the Minister of State. The Minister seems to be getting excited again.

Mary Coughlan: With two members of my family affected, I know more about this than some of the Deputy's colleagues.

Mr. Stanton: There are more reviews and consultations, but no action. The Bill should be published and debated nationally. It is a scandal that it is put off again and again. Can people be blamed for thinking the Government is holding off on the Bill until after the local elections?

While this Bill may be published after the elections, another set of deadlines will whistle by. People with disabilities are again to be used as political pawns in a cynical game. That is what is making people so angry. I am amazed the Government is not aware of this. The Minister for Defence, Deputy Michael Smith, made a disgraceful speech last night showing how he had no idea what he was talking about.

Mr. Connaughton: He never has.

Mr. Stanton: The Government has no intention of producing rights-based legislation.

Mr. F. McGrath: Particularly when he talks about the Hanly report.

Mary Coughlan: That is sweet coming from the other side of the House.

Mr. Stanton: Last night the Minister for Defence stated that he does not believe "an uncritical acceptance of a right to services approach would realise the outcome which all concerned would like to see". He also claimed he

[Mr. Stanton.]

was “interested in ensuring everybody who has these problems are dealt with appropriately and effectively without wasting resources in litigation”. The Minister for Defence obviously believes that people with disabilities cannot be trusted not to waste money. The Minister of State at the Department of Justice, Equality and Law reform was more upfront. when he claimed:

. . . the Bill cannot ignore the reality that funding and resources are finite. Therefore, services will grow as budgetary and staffing constraints are overcome.

However, Deputy Ardagh said money was available. The Minister of State continued, “This approach is grounded in reality and deals with the actual delivery of tangible results.” Now we know that people with disabilities will have to wait.

This contrasts with the Taoiseach’s recent description of Ireland with regard to our EU colleagues. He said that the country was in a better economic position than any of the 25 member states, putting more money into infrastructure and having a more attractive tax code. However, people with disabilities do not live in the Taoiseach’s Ireland. According to the Government, they live in an Ireland where there are shortages with no Exchequer surpluses resulting in cutbacks.

In reality, they live in an Ireland that cannot afford to provide them with accessible housing or respite or residential care. They live in an Ireland where elderly parents must pray their disabled children will die before them because they cannot trust the State to take care of them. They live in an Ireland where they are told things might be better next week, next month or next year, and they may get what they need. They live in an Ireland which sees them as a drain on resources and a threat to the State. They live in an Ireland that is happy to see 60% unemployment rates among people with disabilities with inadequate income support. They live in an Ireland which lets families struggle, at risk of poverty and under severe emotional and physical stress. They obviously do not live in today’s Ireland.

People with disabilities cannot be afforded, are not valued and are consigned by the Government to another Ireland. They do not live in the Ireland that wastes €50 million on an electronic voting

farce, a Punchestown stroke or an Abbotstown debacle. Staffing constraints and resource issues are subsidiary to equestrian centres and football pitches. It is a matter of political choice. The Government chooses which Ireland people live in by deciding how money is spent. People with disabilities are equal citizens of this prosperous State about which the Taoiseach so happily boasts. They cannot be consigned to the waiting room ignored, bypassed or patronised.

Their time for recognition has now come. I ask the Government to publish the Bill to allow debate in the House and outside. Deputy Ardagh said that he would allow the Oireachtas Committee on Justice, Equality, Defence and Women’s Rights to hear submissions on the Bill, as was done at the education committee for the Education for Persons with Disabilities Bill. That Bill was changed radically as a result of this debate. In tandem, a disability summit should be convened for real engagement on the progressive realisation of rights and services for people with disabilities. Spinal Injury Ireland published a comprehensive report today on the difficulties faced by people with spinal injuries in accessing State services. Unfortunately, it is all too depressingly familiar. This will resonate with all people with disabilities. There is one quote I would like to bring to the Government’s attention and which should inform its actions in this area: “People with spinal cord injury deserve equal opportunities.”

There is much that is undignified about disability. There is much scope for disempowerment, depression and despair. There is also the possibility of challenge, opportunity and growth. The implementation of these recommendations would help make that possibility a reality. I ask the Government to help achieve this. It should publish the disability Bill so we can have a debate on this matter. I commend the motion to the House.

Deputies: Hear, hear.

Mr. J. O’Keeffe: There is no hope as far as the Government is concerned.

Mary Coughlan: There is more hope than there was when Fine Gael was in Government.

Amendment put.

The Dáil divided: Tá, 58; Níl, 47.

Tá

Ahern, Dermot.
Ahern, Michael.
Andrews, Barry.
Ardagh, Seán.
Brady, Johnny.
Brady, Martin.
Browne, John.
Callanan, Joe.
Callely, Ivor.
Carey, Pat.
Carty, John.

Cassidy, Donie.
Collins, Michael.
Coughlan, Mary.
Cregan, John.
Curran, John.
Davern, Noel.
Dennehy, John.
Devins, Jimmy.
Ellis, John.
Finneran, Michael.
Fleming, Seán.

Tá—continued

Grealish, Noel.
 Hanafin, Mary.
 Hoctor, Máire.
 Jacob, Joe.
 Keaveney, Cecilia.
 Kelleher, Billy.
 Kelly, Peter.
 Killeen, Tony.
 McDowell, Michael.
 McEllistrim, Thomas.
 McGuinness, John.
 Moynihan, Donal.
 Moynihan, Michael.
 Nolan, M.J.
 Ó Cuív, Éamon.
 Ó Fearghail, Seán.
 O'Dea, Willie.
 O'Donnell, Liz.

O'Donoghue, John.
 O'Donovan, Denis.
 O'Flynn, Noel.
 O'Keeffe, Batt.
 O'Malley, Fiona.
 O'Malley, Tim.
 Parlon, Tom.
 Power, Peter.
 Power, Seán.
 Sexton, Mae.
 Smith, Brendan.
 Smith, Michael.
 Treacy, Noel.
 Wallace, Dan.
 Wallace, Mary.
 Walsh, Joe.
 Woods, Michael.
 Wright, G.V.

Níl

Boyle, Dan.
 Breen, Pat.
 Bruton, Richard.
 Connaughton, Paul.
 Connolly, Paudge.
 Costello, Joe.
 Cowley, Jerry.
 Crawford, Seymour.
 Cuffe, Ciarán.
 Deenihan, Jimmy.
 Durkan, Bernard J.
 Enright, Olwyn.
 Ferris, Martin.
 Gormley, John.
 Higgins, Joe.
 Higgins, Michael D.
 Hogan, Phil.
 Howlin, Brendan.
 Lynch, Kathleen.
 McCormack, Padraic.
 McGinley, Dinny.
 McGrath, Finian.
 McHugh, Paddy.
 McManus, Liz.

Mitchell, Olivia.
 Murphy, Gerard.
 Naughten, Denis.
 Neville, Dan.
 Noonan, Michael.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 O'Dowd, Fergus.
 O'Shea, Brian.
 O'Sullivan, Jan.
 Penrose, Willie.
 Perry, John.
 Rabbitte, Pat.
 Ring, Michael.
 Ryan, Seán.
 Sargent, Trevor.
 Sherlock, Joe.
 Shortall, Róisín.
 Stagg, Emmet.
 Stanton, David.
 Timmins, Billy.
 Upton, Mary.
 Wall, Jack.

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

Amendment declared carried.

Motion, as amended, put and declared carried.

Adjournment Debate.

Offshore Accounts.

Mr. Crawford: I thank you, a Cheann Comhairle, for giving me an opportunity to raise this important issue and I thank the Minister of State for coming here to reply.

The issue of so-called offshore and non-resident accounts is causing serious anxiety and anger for many people living in the Border areas, particularly people living just south of the Border near towns like Aghnacloy, or any other Border town from Derry to Warrenpoint. Aghnacloy is within one mile of County Monaghan as against 12 miles from Monaghan town. I give this as an

example of people using their nearest bank, often spending money shopping in Northern Ireland or using accounts for students going to college in Belfast or Coleraine.

Under the present regulations, many of these people feel like criminals and must pay accountants to clear their names. It is strange that someone setting up a business and creating jobs south of the Border, and exporting most of the products to Northern Ireland, cannot get grants for export because the Government does not treat these as foreign exports, yet it is considered to be off shore. I got what appeared to be a reasonable answer from the Minister for Finance, Deputy McCreevy, regarding such clients as a result of a Dáil question. However, the recent "Prime Time" programme caused panic and serious anxiety. Mark Little and Kevin Rafter made public the unjust level of fines and penalties imposed on ordinary people. One woman discovered £3,810, less than €5,000, in a deposit

[Mr. Crawford.]

account belonging to her late husband, which she cashed in her local bank in the South. When discovered, the DIRT amounted to €10,436. Interest and penalties amounted to €29,647. Her settlement amounted to more than €40,000, ten times the amount she cashed from the account. How can this treatment of an ordinary widow or anyone else be justified?

I do not condone blatant tax avoidance or tax evasion, but how can penalising ordinary people be justified when €50 million was wasted on e-voting in recent weeks? Storage of these machines will cost councillors €50,000 to €80,000 a year. Punctestown cost €16.5 million while the Bertie bowl cost €220 million to €250 million. Will the Minister consider taking accounts of between €5,000 and €10,000 out of this trawl? How much would this cost the Government? How much good would it receive from ordinary people? The revenue saved from trawling through accounts could be matched by one group of drug barons or those laundering oil.

This is a serious issue and it is bringing people to the brink of suicide. I have been informed that some have already taken this course. Does the Minister not agree that the people with these small accounts who are forced to settle should give what is calculated to church, charity or the disabled? At least they would feel that they had not been treated as criminals. Would the Government pursue banks which encouraged clients to transfer their money? There are cases where banks did this, but it is clear that the Government does not want to pursue them. In a debate on "Prime Time" a spokesperson for the Revenue Commissioners made it clear that they were pursuing what he termed the real criminals. He did not see the benefit in chasing people from banks.

I urge the Minister to review this situation. He should not treat ordinary individuals with small savings in a bank in Northern Ireland as criminals. An accountant said to me that——

An Ceann Comhairle: I ask the Deputy to give way to the Minister.

Mr. Crawford: He sent more than 100 letters to the Revenue Commissioners and has not received one answer. These people should be given some relief.

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The background to the current Revenue offshore investigation is that, in December 2003, the chairman of the Revenue Commissioners met the chief executives of Irish financial institutions with subsidiaries or branches outside the State and informed them that a wide-ranging investigation into holders of offshore accounts and other financial investments

would begin early in 2004 using all available Revenue powers. He sought the co-operation of the financial institutions concerned and requested that they write to their Irish resident customers with accounts in their offshore subsidiaries and branches, advising them of the impending investigation and of the benefits to be obtained by making a disclosure of unpaid liabilities before it commenced.

All the financial institutions concerned indicated that they would do so and, although the Revenue Commissioners are not aware of the precise numbers of letters which issued from the institutions to their customers with offshore accounts, it is understood that the figure was in excess of 100,000. It is also understood that a large number of the letters were sent to holders of accounts in branches in Northern Ireland.

The Revenue Commissioners prepared a booklet, entitled Making a Qualifying Disclosure of an Offshore Related Tax Default to Revenue, to explain the basis of the investigation and the steps which taxpayers should take to make a full disclosure before the deadline dates. This booklet also contains tables which indicate the level of interest and mitigated penalties which will be applied to the qualifying disclosures.

Mr. Crawford: The interest rate is 350%.

Mr. T. O'Malley: There were two stages to the process. First, taxpayers had to give notice of an intention to make a disclosure to Revenue before 29 March. Second, they were required to submit a full statement of disclosure together with payment of tax, interest and mitigated penalties within 60 days and before 28 May 2004. In the event, about 15,000 individuals notified the Revenue of their intention to make a qualifying disclosure and these disclosures and payments are now being received.

The current Revenue investigation is aimed at those taxpayers who had not previously disclosed their full income or gains and put the funds offshore to conceal them. Consequently, tax will be levied on the underlying income or gains and, if appropriate, on the income or gains which has accrued on these funds. The investigation is not aimed at taxpayers who have funds outside the State on which they have already paid tax unless those funds generated income or gains which have not been disclosed.

The Revenue Commissioners appreciate that some of the accounts in branches in Northern Ireland were for legitimate business or other purposes unconnected with tax evasion. For example, it is clear that a number of cross-Border accounts were held to facilitate routine shopping or to fund children who may have been studying there. Revenue has responded to many enquiries from holders of such accounts in Northern Ireland and advised them no liabilities will arise.

However, it is also clear from the enquiries and disclosures already made, that significant tax liabilities will arise with some of the accounts held in Northern Ireland and the taxpayers have been so advised. Where taxpayers have unpaid liabilities, regardless of where the offshore account or investment is held, the Revenue will apply interest and mitigated penalties on the basis set out in its code of practice for Revenue auditors and reproduced in the booklet to which I already referred.

For anybody who has made a qualifying disclosure by 29 March, the normal fine or penalty will be reduced from 100% to 10%, provided there is full co-operation. However, to the extent that a tax default arose for a period before April 1991, the Revenue has no discretion to mitigate the penalty. This is because mitigation for pre-amnesty years was prohibited in the 1993 amnesty legislation.

The Revenue Commissioners appreciate that in the run up to the 28 May deadline for payment, the combined effect of interest and penalties, especially where there is no mitigation for pre-amnesty years, may cause financial hardship to many people. Where taxpayers feel that they will have difficulties in paying those liabilities, they or their tax agents should contact their local Revenue district to discuss the matter.

It is appreciated that some will find this process difficult and stressful. Nevertheless, there is a basic duty on taxpayers in the State to pay their lawful taxes in the interest of the common good. The vast majority do so conscientiously and it is not unreasonable for them to expect that the duty should be observed by all.

Harbours and Piers.

Mr. S. Ryan: This is one of the important issues that I have raised since elected to Dáil Eireann. The motion is on the privatisation of two of our major amenities in north County Dublin, namely, Balbriggan and Skerries harbours. I am well aware that the Government has plans to privatise nearly everything in my constituency, including Aer Lingus, Aer Rianta and bus and train services. However, I never envisaged that Fianna Fáil, the so-called champions of the ordinary people, would facilitate the sale of our harbours.

The Harbours Act 1996 provides for the Minister for Communications, Marine and Natural Resources, with the consent of the Minister for the Environment, Heritage and Local Government, to transfer by order all properties of the harbours to the council in which the harbour is situated. To the best of my knowledge, no such order has been made and the public is entitled to know the views of both Ministers on this issue. At the same time and with the consent of the Minister for Communications, Marine and Natural Resources, the Dublin Port

Company has decided to seek an expression of interest for the sale and privatisation of the two harbours. This is a scandal and must be resisted. Matters are developing more quickly than I envisaged as I have been informed that tender documents for the sale will be available from tomorrow. At this stage I wish to caution the company on this development.

The special amenity value of the two harbours must be protected. Deep harbours are the focal points of both towns and are attractive locations for recreation, leisure pursuits, tourist attractions and employment. These facilities are enjoyed not only by the ever increasing number of people living in the growing towns of Skerries and Balbriggan, but by thousands from the greater Dublin areas and holidaymakers from abroad.

While on the decline, fishing has been a traditional livelihood in the north Fingal area and in the two towns in particular. The sight of working fishing boats retains the
9 o'clock ambience of another era and this adds to the tourist attraction of the harbours. Our harbours still provide employment for our fishermen, and fishing will cease if the harbours are sold to private speculators.

Should the sale be allowed to proceed, it will be purchased at knock-down prices to Irish and multinational consortia more interested in profit than anything else. Access to the facilities by the general public on social or recreational grounds will not be guaranteed or deemed a priority by this group. I also envisage that in such circumstances there will be applications in the future for high density apartments and marinas at inappropriate locations which will not be in the interest of either town.

I am satisfied, having read the legislation, that it was not envisaged under the Harbours Act 1996 that either harbour would be put up for public sale. The two Ministers in question and the Dublin Port Company should reconsider their positions. In the event of a sale, what is wrong with a new Minister coming in and implementing sections 4 and 7 of the legislation? No cosy deal can override this legislation.

I want to be positive about this matter. Fingal County Council is prepared to take over the ownership of the harbours under certain conditions. The Dublin Port Company wishes to dispose of the harbours because they are a liability. The local community demands that they be given an input and their views taken into consideration, yet the two Ministers in the centre of this issue are trying to find a solution to it. There is a solution that will ensure that the public amenities of the two harbours are retained in public ownership in the interests of the general public. It is up to the Minister and the Government to ensure the proper decision is taken and that these harbours are not sold, which

[Mr. S. Ryan.]
would not be in the interests of the general public.

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne): I thank Deputy Seán Ryan for raising the issue. I do not agree with his broad statement that the Fianna Fáil-Progressive Democrats Government wants to privatise everything. I have not heard any mention of privatising Aer Rianta, which he referred to earlier.

Dublin Port Company was established in March 1997 and is statutorily responsible, as a commercial State port company under the Harbours Acts 1996 and 2000, for the management, control, operation and development of its harbour.

Section 15 of the Harbours Act 1996 makes provision with respect to the sale, leasing and acquisition of land by commercial State port companies. With regard to disposal of land, it provides that a decision by a company to dispose of any land shall only be made by the directors of the company and that the consideration for which any land is sold by a company shall, in so far as is practicable, not be less than its open market value.

Dublin Port Company has informed my Department that it has decided to offer the two harbours in question for sale because they constitute a burden on the users of the port as the company derives no revenue whatsoever from them. Dublin Port Company does not require ministerial approval to implement this decision, which has been taken by the board of directors of the company.

Mr. S. Ryan: Not according to the Act.

Mr. Browne: It has been the long-standing policy of my Department to transfer a number of regional harbours, including Skerries and Balbriggan, to the control of the relevant local authority. Section 88(4) of the Harbours Act 1996 provides for the transfer of both these harbours to Fingal County Council. The Act provides that the subsection shall come into operation on such a day as, by order made by me with the consent of my colleague, the Minister for the Environment, Heritage and Local Government, may be fixed therefor. Such an order has not been made.

My Department has been advised by the Attorney General's office that the provisions of section 88(4) of the Harbours Act 1996 do not constitute a legal impediment to the disposal by Dublin Port Company of the two harbours in accordance with the provisions of section 15 of the Act.

I am advised by Dublin Port Company that public advertisements were placed in the national print media on 24 and 31 March 2004 giving

notice of the company's intention to sell the harbours in question by way of a public tender, and interested parties were requested to register their interest with Hamilton Osborne King. This process afforded all users, local and national interest groups and potential purchasers an extended period to give consideration to the sale. I am advised that further advertisements were placed in the national print media on 12 May 2004, indicating that form of tender and conditions of sale were available to interested parties and that the closing date for return of these documents is 3 June 2004. I understand the agents are dealing with a significant number of inquiries, most of which have been for the two harbours together.

In the wider context, my Department continues to work, with the Department of the Environment, Heritage and Local Government, to progress our long-standing policy regarding the transfer of certain regional harbours to the relevant local authorities. However, it remains to be seen whether the two harbours in question will be available for transfer to Fingal County Council.

My wish is that Fingal County Council should take over the two harbours but I am led to believe, contrary to what Deputy Ryan said, that it has no interest in the two harbours. Deputies Ryan and Glennon have been in touch with me on a number of occasions in this regard and I understand they have had discussions with the county manager. Perhaps the Deputies would use their influence with the elected members of Fingal County Council—

Mr. S. Ryan: Provided we get a grant from the Minister's Department to repair them.

An Ceann Comhairle: Allow the Minister to reply without interruption. Deputy Ryan, there is no provision for supplementary questions.

Mr. Browne: —to encourage Fingal County Council to buy it. I would much prefer to see Fingal County Council take over the two harbours.

Mr. S. Ryan: Will the Minister give us a grant towards their repair?

Mr. Browne: That would be a wise decision on the part of Fingal County Council.

Suicide Incidence.

Mr. Neville: I thank you, a Cheann Comhairle, for allowing me to raise this issue on the floor of the House. The suicide figures for last year were published last week and the suicide rates do not show any significant change on recent years, with 444 people taking their lives in 2003. The Minister of State will accept, because I am aware he has

an interest in this area, that the incidents of suicide are under reported and while outlandish statements have been made about the level of under reporting, we believe it is relatively low — somewhere between 10% and 20%. The true figure is that approximately 500 people took their lives last year.

For comparative purposes, 293 people died as a result of road accidents. It is accepted there is a level of suicides among those who die as a result of road accidents. That level is not determinable but internationally it is accepted, especially in the case of people travelling in cars on their own, that a certain number are suicides. It is hoped the number is small, although it is difficult to obtain figures but 293 deaths were as a result of road accidents. Bearing in mind the attention and investment, and perhaps under investment, in this area, including the introduction of the penalty points system and other approaches to reduce the levels of road accidents, it is difficult to understand the reason the level of suicides is being ignored. There is not the same level of interest and investment in trying to reduce the suicide levels but this epidemic is causing trauma for too many families and communities. There is hardly a community in Ireland which has not been touched by suicide.

It is extremely concerning that in 2003, the biggest cause of death in the 15 to 24 year age group was suicide. A total of 29% of those in this age group took their own lives, and 81% of those were males. In the 15 to 24 year age group, therefore, one in three people who died took their own lives. That is very serious.

What we are asking for is investment in the area of suicide prevention and research. We cannot have proper prevention without research, although I would draw the Minister's attention to suicide prevention programmes that have been introduced effectively elsewhere. In Australia, because of a comprehensive programme, the levels of suicide have been reduced by 31% since 1997. Those who say it cannot be done, therefore, are wrong.

I spoke about mental health in the debate earlier today on disabilities. Investment in mental health is crucial to the reduction of incidence of suicide because 80% to 85% of people who take their own lives are suffering at the time from some psychiatric illness, usually depression. An investment in that area would have a singular effect on the level of suicide. I do not wish to rehearse the debate of earlier this evening but it is vital to point this out.

The national task force reported in 1998 and made 86 recommendations. I was disappointed last year when a Minister, in reply to a question, told me a strategic committee was to be established to look at how this should be handled. In 1998, I was told that the national suicide review group would introduce strategies to

reduce the level of suicides, based on the report of the national task force on suicide. Six years later, we are now told that a strategic committee is to be established. The strategy to reduce suicide is comprehensive implementation of the 86 recommendations of the 1998 report of the national task force on suicide.

Earlier this year we learned that 10,500 people attempted to take their lives last year. This is a frightening and worrying statistic. These were the people who presented at accident and emergency units. We do not have figures for those who did not present at accident and emergency units, who presented at general practitioners or who did not present at all. The true level of attempted suicide is not known. We must research why, in the past 40 years, suicide has increased from an average of 65 per year to an average of 450 per year. We do not know why. We need to know why there is such a crisis among our people, especially our young people, and why they feel so despondent that they take their own lives.

I ask the Minister of State not to give me the figures for what has been spent on suicide prevention over a number of years. We need to know when the annual average of 450 suicides will be significantly reduced, as happened in Finland, Hungary and Australia. If the Minister of State is planning to tell me that so much has been invested in suicide prevention since 1997 or 1990, I ask him to keep in mind the cost of electronic voting.

Mr. T. O'Malley: I thank Deputy Neville for raising this matter on the Adjournment. According to figures recently released by the Central Statistics Office there were 444 deaths from suicide in 2003. This is a decrease of seven on the 2002 figure of 451 and is lower than the average number of suicide deaths registered over the past five years. The average for the years 1999 to 2003 was 471. While I welcome this slight reduction in the number of deaths by suicide, I am fully committed to the further implementation of suicide prevention initiatives and the further development of our mental health services.

Suicide prevention is an issue with which we all must concern ourselves. Since the publication of the report of the national task force on suicide in 1998, there has been a positive and committed response from both the statutory and voluntary sectors towards finding ways of tackling the tragic problem of suicide. In response to the recommendations of the task force, the national suicide review group was established by the health boards and membership of the group includes experts in the areas of mental health, public health and research.

Health boards, in particular, have a major role to play in co-ordinating efforts to help reduce the level of suicide and parasuicide. In this regard,

[Mr. T. O'Malley.]

resource officers have been appointed in all the health boards with specific responsibility for implementing the task force's recommendations. The presence of a liaison psychiatric nurse in the accident and emergency departments of many general hospitals to deal with people who present following attempted suicide is also an important development. The provision of this service ensures that psychological problems in general hospital patients are dealt with promptly. This benefits the patient but also ensures a more efficient use of medical and surgical services.

Numerous regional initiatives are currently being run by the health boards in conjunction with non-statutory organisations which focus on mental health issues such as stress management, depression, stigma reduction and suicide related matters. These are issues of paramount importance which require further attention to ensure that positive mental health and the well-being of people is promoted.

My Department has, over the past few years, given special attention to the resourcing of suicide prevention initiatives. Since the publication of the report of the national task force on suicide in 1998, a cumulative total of more than €17 million has been provided towards suicide prevention programmes and for research.

Mr. Neville: I asked the Minister of State not to say this.

Mr. T. O'Malley: This includes funding to support the work of the national suicide review group, the Irish Association of Suicidology and the National Suicide Research Foundation for its work in the development of a national parasuicide register.

Significant additional funding has also been made available in recent years to further develop liaison psychiatry, child and adolescent psychiatry, adult psychiatry and old age psychiatry services to assist in the early identification of suicidal behaviour and to provide the necessary support and treatment to individuals at risk. In this regard, figures recently published by Comhairle na nOspidéal indicate that a total of 72 additional consultant psychiatric posts have been approved since 1998. My Department also allocates funding, through the national suicide review group, for voluntary and statutory groups engaged in suicide prevention initiatives, many of which are aimed at improving the mental health of the younger age groups. These projects include life-skills courses for high-risk youth, school-based personal development modules and mental health promotion campaigns. This year more than €3.8 million is available to voluntary organisations for their work in this area.

Work on the preparation of a national strategic action plan for suicide reduction is now well under way. This strategy is being developed by the Health Boards Executive and the national suicide review group, is supported by my Department. Since the beginning of this year more than 600 key stakeholders have attended regional consultation days which were organised to determine the priority areas to be addressed in the suicide prevention strategy. This strategy will be action-based from the outset as it will build on existing policy as outlined in the 1998 report of the national task force on suicide. All measures aimed at reducing the number of deaths by suicide will be considered in the context of the preparation of this action plan.

The Dáil adjourned at 9.20 p.m. until 10.30 a.m. on Thursday, 20 May 2004.

Written Answers.

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

Questions Nos. 1 to 10, inclusive, answered orally.

EU Constitutional Treaty.

11. **Mr. J. Bruton** asked the Minister for Foreign Affairs if his attention has been drawn to reports (details supplied) that the former President of the Convention on the Future of Europe has claimed to have brokered a deal on voting weights in the Council that would be acceptable to the Spanish and the Polish; and if he will make a statement on his consultations with him on this. [14390/04]

24. **Mr. Howlin** asked the Minister for Foreign Affairs his assessment of the prospects of concluding negotiations on a new treaty or constitution for the European Union during the period of the Irish Presidency; and if he will make a statement on the matter. [14553/04]

44. **Mr. Hogan** asked the Minister for Foreign Affairs his views on whether the agreement on the draft constitutional treaty for the European Union may be reached during Ireland's Presidency of the European Union; and if he will make a statement on the matter. [14519/04]

49. **Mr. Boyle** asked the Minister for Foreign Affairs the progress in negotiations on the draft EU constitution; the remaining constitutional issues that were addressed at the EU Foreign Ministers' meeting on 17 May 2004; and if he will make a statement on the matter. [14669/04]

63. **Mr. Cuffe** asked the Minister for Foreign Affairs if there is a plan B being considered if the EU constitution either fails to be successfully negotiated or ratified; and if he will make a statement on the matter. [14670/04]

77. **Caoimhghín Ó Caoláin** asked the Minister for Foreign Affairs if he supports the proposal to appoint an EU Commissioner for Development Co-operation with full voting power, and that this should be reflected in the new EU treaty. [14612/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 11, 24, 44, 49, 63 and 77 together.

The Presidency attaches the highest priority to seeking to negotiate a successful conclusion to the Intergovernmental Conference at next month's European Council. While obviously I cannot say with absolute certainty that agreement will or will not be achieved, all partners fully share our goal of finalising the negotiations and have engaged

with us in a positive and constructive way, including at this week's meeting of Foreign Ministers and on the Taoiseach's tour of capitals. With the necessary political will, I believe we can succeed.

The House will be aware that one of the main outstanding issues at the Intergovernmental Conference relates to the definition of qualified majority voting. We have made clear our view that only solutions based on the principle of double majority are likely to command agreement. Within that framework, and in response to the sensitivities of some member states, we can consider adjustments, including to the member state and population thresholds and to arrangements for transition from the current system. I am aware of media reports setting out possible solutions to this question, and I also am aware that President Giscard d'Estaing has suggested a certain approach. It will ultimately be for us as Presidency to table our own proposals. We have not yet done so, and are continuing to consult with partners.

Two working papers were circulated by the Presidency in advance of this week's meeting of the IGC. The first contained those proposed texts which the Presidency felt did not require further discussion by Ministers at this time. The second contained three areas for discussion by Ministers: first, a small number of issues previously discussed by officials, such as the budget, common commercial policy and Presidency of the Council of Ministers, on which we tabled revised proposals; second, the overall QMV/unanimity balance, where the Presidency did not put forward new texts but wished to have a collective discussion before moving on to make its own proposals in due course; and, third, on the Commission, where the Presidency put forward new texts on some secondary issues and a discussion paper on Commission composition.

Member states gave a broad welcome to our two papers, and I believe that significant progress was made. While nothing is agreed until everything is agreed, we have, I believe, succeeded in reducing the number of outstanding issues and clarifying the questions which remain to be resolved. We hope that further progress will be possible at next week's additional meeting of Foreign Ministers.

The Presidency is not proposing to make specific provision in the treaty for an EU Commissioner for Development Co-operation as to do so would undermine the prerogatives and independence of the Commission President. Article I-26 of the draft constitutional treaty provides that "the President of the European Commission shall ... decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and on a collegiate basis". Article III-254 provides that "the responsibilities incumbent upon the Commission

[Mr. Cowen.] shall be structured and allocated among its Members by its President". I note that these provisions are entirely in line with the existing treaty situation.

The Presidency is not considering a plan B in the event of a failure to finalise negotiations on the constitutional treaty. Our aim is to achieve an agreement on a constitutional treaty that all member states can welcome and subscribe to. I am confident that in such a situation, and after a proper public and political debate, ratification by all should be possible. I note that the convention draft includes a declaration providing that, in the case where four fifths of member states have ratified the constitutional treaty within two years and one or more member states have experienced difficulties in doing so, the European Council would discuss the situation.

EU Council Meetings.

12. **Mr. Hogan** asked the Minister for Foreign Affairs the matters discussed at the informal meeting of EU Foreign Ministers held in Offaly in April 2004; and if he will make a statement on the matter. [14491/04]

31. **Ms B. Moynihan-Cronin** asked the Minister for Foreign Affairs the matters discussed and any conclusions reached at the informal meeting of Foreign Ministers held in Tullamore on 16 and 17 April 2004; and if he will make a statement on the matter. [14560/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 12 and 31 together.

On 16 and 17 April, I hosted an informal meeting of EU Foreign Ministers, or Gymnich, in Tullamore. The purpose of this informal meeting, which traditionally takes place during every Presidency, is to allow ourselves the time and space to consider issues in more depth than would normally be available to us at the monthly Council meetings. The meeting in Tullamore was no exception and the informal setting facilitated an open and detailed discussion on a number of pressing international issues including the Middle East peace process, Kosovo and Iraq.

In light of the ethnically motivated violence in mid-March, we reviewed the situation in Kosovo. We agreed that the outbreak of violence has been a setback for Kosovo, endangering the progress made in recent years. The immediate priorities must be to ensure security, to bring those responsible to justice, the return of displaced persons and the reconstruction of property. Ministers agreed to urge all political leaders in Kosovo to work to ensure the physical security and the full protection of the rights of members of all communities.

Ministers had a comprehensive discussion on developments in the Middle East peace process

including the outcome of the meeting in Washington on 14 April between the President of the US and the Prime Minister of Israel. Although the meeting in Tullamore was informal, it was felt desirable to issue a statement reaffirming the commitment of the European Union to the basic principles underlying the peace process and the roadmap leading to a two-state solution.

We also addressed the security situation in Iraq and its impact on the political transition process. We agreed that a strong UN role is an essential element for a successful political transition process. The EU is committed to supporting the role of the UN and is ready to provide assistance. Ministers asked the High Representative and the Commission to continue their work on a medium-term strategy that will set out how the EU can play a role in support of the political process and in the reconstruction of Iraq.

There was also a discussion on effective multilateralism, one of the central priorities of the Irish Presidency. Ministers engaged in a valuable exchange of views on some of the major questions at the heart of the future of multilateralism — fundamental questions such as the nature and limits of self-defence; and the responsibility to protect in cases of gross violations of human rights and humanitarian catastrophes. We also reviewed how the political and economic strength of the EU could most effectively be deployed in support of the UN, including in the area of crisis management, as well as the preparation of the EU's contribution to the UN Secretary General's high level panel on threats, challenges and change. On Monday, 17 May, Ministers endorsed the transmission of the EU contribution to the panel.

Brief discussions also took place in relation to the ASEM, Asia-Europe Meeting, process, in advance of the attendance by the EU Ministers at the ASEM Foreign Ministers' meeting, which took place in Kildare immediately after the Gymnich meeting on 17 and 18 April.

As is the tradition at Gymnich meetings, I hosted a working lunch with the candidate countries at which Ministers briefed their colleagues from Bulgaria, Romania and Turkey on our discussions at the informal meeting. During this lunch, there was also a brief exchange of views on Cyprus in advance of the referenda on 24 April on the settlement plan presented by the UN Secretary General.

Foreign Conflicts.

13. **Mr. Stanton** asked the Minister for Foreign Affairs if he will provide a report on the political situation in Kosovo; and if he will make a statement on the matter. [14522/04]

Minister for Foreign Affairs (Mr. Cowen): The security situation in Kosovo has stabilised since

the outbreak of ethnic violence on 17 and 18 March, in which 19 people were killed, many were injured and hundreds of families were forced to flee their homes. The violence was a serious setback for Kosovo, endangering progress made in recent years. In his statement to the UN Security Council on 11 May, the Special Representative of the UN Secretary General in Kosovo, Harri Holkeri, acknowledged that the violence had challenged efforts to build a multi-ethnic Kosovo, in which all its citizens can live in peace and security.

Under the Irish Presidency, the European Council and the General Affairs and External Relations Council have considered developments in Kosovo closely. The EU has reiterated its strong support for the work of the UN Special Representative and of the UN Mission in Kosovo in implementing UN Security Council Resolution 1244. The Council has reaffirmed its commitment to the policy of standards before status, and has called on Kosovo's political leaders to demonstrate unambiguously their commitment to a multi-ethnic Kosovo and to the security and rights of minority communities.

On 31 March, Special Representative Holkeri, together with Prime Minister Bajram Rexhepi, presented the Kosovo standards implementation plan, which sets out in detail the actions and policies required if Kosovo is to achieve European standards in eight broad areas. We have welcomed the plan as an essential element in a strengthened policy of standards before status. A draft had been in preparation for some months, and following the violence in March it was revised to include a series of priority actions on the return of displaced persons to their homes. The UN has emphasised that the plan needs to be strengthened further, with additional emphasis on ensuring security, minority rights, the return of displaced persons, the strengthening of local government and economic development. It is clear that if the objective of an overall review of progress in mid-2005 is to be reached, the provisional institutions of self-government need to speed up implementation of the agreed policies, including on effective local government. The ethnic violence has seriously undermined trust between the communities in Kosovo. It is essential that the Kosovo Serb community has the confidence to engage fully in the political process. It is also clear that progress on the implementation of standards must involve a resumption of the direct dialogue between Belgrade and Pristina, which had begun to make some practical progress in early March, and which has been suspended since the outbreak of violence.

The violence in March drew international attention back to the situation in Kosovo, and to the danger that it could contribute to instability in the wider region. There is broad agreement that

Kosovo's leaders and the international community have lessons to learn from what happened. The UN is reviewing its response to the events, and its structures in Kosovo. The EU is also considering how it can enhance its role in support of the policy of standards before status. In addition to the discussions at the formal meetings of the Council, I considered it important that Ministers have a detailed exchange of views on Kosovo at the informal meeting of Foreign Ministers in Tullamore on 16 April. The situation in Kosovo will remain on the European Union's foreign policy agenda for the remainder of Ireland's Presidency. The EU will remain in close contact with the United Nations, and also with the United States, Russia and the wider international community as we examine how the structures established by the international community to assist Kosovo under UN administration should be adapted to take account of recent developments and to promote the effective implementation of standards in the interests of all communities in Kosovo.

Policy on Emigrants.

14. **Mr. Rabbitte** asked the Minister for Foreign Affairs the progress made with regard to the implementation of the report of the inter-departmental working group considering the recommendations of the task force on policies regarding emigrants; and if he will make a statement on the matter. [14545/04]

15. **Mr. Quinn** asked the Minister for Foreign Affairs the progress made with regard to the implementation of the recommendations of the task force on policies regarding emigrants; and if he will make a statement on the matter. [14546/04]

20. **Mr. Ring** asked the Minister for Foreign Affairs the actions he will take to implement the recommendations of the report of the task force on policy regarding emigrants; and if he will make a statement on the matter. [14509/04]

65. **Mr. Penrose** asked the Minister for Foreign Affairs when the promised dedicated unit will be established within his Department to deal with the issue of Irish emigrants abroad; the number of staff that will be in the unit; the financial resources that will be available to the unit; and if he will make a statement on the matter. [14548/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to answer Questions Nos. 14, 15, 20 and 65 together.

Following receipt of the Report of the Task Force on Policy regarding Emigrants, I established an inter-departmental working group to consider the task force's recommendations with a view to the submission of proposals for further action to the Government. The inter-

[Mr. Cowen.]
 departmental working group met on a number of occasions and it presented its report to me last November. The group endorsed the analysis and recommendations of the task force concerning the needs of Irish emigrants abroad and the needs of those departing from and returning to Ireland.

As regards the implementation of the task force report, action is currently being taken on over two thirds of the 71 recommendations contained therein. The following examples will illustrate the progress that is being made: the funding for emigrant services abroad has been brought together under the Department of Foreign Affairs; a substantial increase in funding for emigrant services has been provided in the Vote for Foreign Affairs this year; financial assistance will be provided this year by my Department for the first time to ÉAN, the umbrella group for voluntary agencies providing information and advice to potential emigrants, to enable it to provide more effective support to its member agencies; financial assistance will also be provided this year by my Department for the Irish Commission for Prisoners Overseas; during my visit to Washington earlier this year, I met a number of prominent members of Congress with whom I discussed the situation and status of Irish emigrants in the US and how best to advance their situation; and the Department of Social and Family Affairs has given priority to the link between migration and social exclusion during our Presidency of the EU by organising a Presidency Conference on Reconciling Mobility and Social Inclusion.

The total allocation for emigrant services in the Vote for Foreign Affairs this year is €4 million. This represents an increase of €1 million or one third over 2003. I have decided that the greater share of this, €3.57 million, should go to the Díon fund for services to Irish emigrants in the UK, €400,000 will be allocated to Irish welfare agencies in the US and €48,000 will go to agencies in Australia.

Furthermore, a special group in the Department of Foreign Affairs, chaired by the Secretary General of the Department, is meeting on a fortnightly basis to monitor progress in implementing the recommendations.

I intend to establish a dedicated unit in the Department of Foreign Affairs when the EU Presidency is over to ensure that the Government's response to the particular needs of our vulnerable emigrants is focused and prioritised to the greatest degree possible. A final decision has not yet been taken on the level of staff or other resources that will be assigned to this unit.

In implementing the report of the task force, I have emphasised the importance of working in the closest partnership with relevant governments

and, in particular, with voluntary Irish agencies at home and abroad.

Foreign Conflicts.

16. **Mr. Durkan** asked the Minister for Foreign Affairs the steps he has taken at EU or UN level to deal with the situation in Sudan; and if he will make a statement on the matter. [14621/04]

137. **Mr. Durkan** asked the Minister for Foreign Affairs if he will state what he and his colleagues at UN and EU level propose to do in regard to the ongoing situation in the Sudan; and if he will make a statement on the matter. [14795/04]

Minister for Foreign Affairs (Mr. Cowen): I propose taking Questions Nos. 16 and 137 together.

There can be no doubt about the extent of the humanitarian and human rights disaster unfolding in Darfur and the Irish Presidency of the EU is deeply concerned about this and recognises the need for urgent political and humanitarian action. Close co-operation, in particular, is being maintained with both the United Nations and the African Union.

Over the course of our Presidency, the EU has been to the forefront of the international community in trying to address the situation in Darfur. The EU was, for example, instrumental in bringing together the Government of Sudan and the two Darfur rebel groups for peace talks in Chad, which resulted on 8 April in a humanitarian ceasefire. The ceasefire has contributed to an improvement in the general security situation which has allowed greater access to internally displaced persons for humanitarian organisations. However, it is imperative that all sides to the conflict in Darfur are persuaded that a long-term ceasefire is an essential prerequisite for dealing with Darfur's political problems.

The General Affairs and External Relations Council in April expressed its grave concern at the situation in Darfur and called on the government of Sudan to provide unhindered and safe access to the region for the UN and humanitarian agencies. In addition, we called on the government of Sudan to take command of the Arab militia groups acting as government proxies in the area. These conclusions were brought to the attention of the government of Sudan by EU Embassies in Khartoum and I note that Sudan has responded to this growing international pressure by establishing a commission of inquiry to investigate human rights violations in Darfur. At the Council meeting this past Monday we discussed this latest event and agreed that a thorough investigation by the commission and the early publication of its findings is crucial.

Returning to the issue of the ceasefire in Darfur, the EU is working closely with the

African Union to establish an African Union ceasefire monitoring mechanism for the Darfur region. An EU official is currently taking part in an Africa Union reconnaissance mission to the region and we have also accepted an invitation from the AU to appoint an official to the joint commission monitoring the ceasefire. This is a clear example of the improved practical relations between the EU and Africa which was evident at the troika meeting I hosted in Farmleigh on 1 April. When established, the monitoring mechanism should help strengthen the ceasefire currently in place and contribute to the overall security situation for local populations.

The EU has invested financial as well as political support in bringing peace to Sudan. In addition to funding the Darfur peace talks in Chad and preparations for the ceasefire monitoring mechanism, the European Commission has also provided substantial funding to the North/South peace talks in Naivasha, and the verification and monitoring team observing that ceasefire. Humanitarian assistance to Darfur is likely to be in excess of €10 million for 2004, with a further €4 million for Sudanese refugees in Chad. My Department is in the process of releasing €1 million in emergency funding for Darfur, of which €750,000 will be channelled through the UN Office for the Co-ordination of Humanitarian Affairs.

The EU and the UN continue to work closely together on the situation in Darfur. In February the EU persuaded the government of Sudan to allow its embassy officials to visit Darfur and UNICEF and the World Food Programme were invited to take part in the mission. As Presidency, we have asked EU member states who are also members of the UN Security Council to continue to push for a greater level of engagement by the Council on the issue of Darfur. At the UN Commission on Human Rights in April, Ireland as EU Presidency was instrumental in achieving a consensus chair's statement on the situation in Sudan which secured an important objective of the Union, an international mechanism for reporting to the UN on human rights in Sudan. This important provision was achieved through close and constructive engagement with the African group at the commission. No such consensus had been possible the previous year.

EU-African Co-operation.

17. **Ms O. Mitchell** asked the Minister for Foreign Affairs the matters discussed and agreements reached during the recent European Union/South Africa Troika meeting held in Dublin; and if he will make a statement on the matter. [14490/04]

43. **Mr. Gogarty** asked the Minister for Foreign Affairs if he will report on the EU-African Union troika meeting at Farmleigh in April 2004; and if

he will make a statement on the matter. [14672/04]

85. **Ms McManus** asked the Minister for Foreign Affairs the outcome of the recent EU-African Union Troika held in Dublin; and if he will make a statement on the matter. [14558/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 17, 43 and 85 together.

The Irish Presidency has attached major importance to promoting and strengthening the EU's engagement with Africa. We have sought to use our Presidency to focus increased international attention on the major challenges which Africa still faces, including peace and security, promotion of human rights and good governance, and support for attainment of the Millennium Development Goals. The Irish Presidency has attempted to build on the long-standing priority which Africa has been accorded nationally, with six of our seven priority countries for development assistance located in Africa. Ireland has the largest current deployment of UN peacekeeping personnel serving in Africa among EU member states, principally composed of the contingent serving with UNMIL in Liberia.

The discussions with the African Union troika, led by Foreign Minister Simao of Mozambique and also comprising Foreign Minister Dlamini Zuma of South Africa and African Union, AU, Commissioner Said Djinnit took place in a very positive and constructive atmosphere and covered peace and security and good governance issues, as well as regional integration and trade and development issues, such as external debt and food security.

I welcome the fact that two important reports were agreed at the EU-Africa meeting, the first a joint paper on effective multilateralism and the second an agreed report on Africa's external debt. The latter paper represents a considerable achievement as agreement on this issue had not proved possible up to now within the framework of the dialogue. The Joint Declaration on Effective Multilateralism reflects a shared approach and commitment to conflict prevention and resolution, economic development and strengthening multilateralism within the international system. It will provide a good platform for co-operation with our African partners in multilateral fora.

I was also very pleased to be able to announce at the EU-Africa meeting agreement on the financing arrangements for the European Union's African Peace Facility. This facility, which will make €250 million available through the European Development Fund to strengthen African peacekeeping capabilities, is an important development which will directly help to save lives in Africa, through empowering

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African countries to mount effective peacekeeping efforts.

The inaugural EU-South Africa Ministerial Troika was held on 2 April 2004, with the South African side led by Foreign Minister Zuma. Discussions centred on EU-South Africa relations and we welcomed the completion of ratification procedures for the Trade, Development and Co-operation Agreement, TDCA. In recognition of South Africa's celebration of ten years of democracy, the achievements of that country in a post-apartheid context were discussed as well as the significant challenges that still remain. The EU reaffirmed its commitment to aid South Africa in overcoming these difficulties through the TDCA and a sustained programme of co-operation. Zimbabwe and conflict areas on the African continent were also discussed. Underlying multilateralism as a common foreign policy goal, we agreed that there would be closer co-operation between the EU and South Africa in international fora, including UN bodies such as the UN Commission on Human Rights, and on the International Criminal Court.

On 2 April, I was delighted to sign a bilateral Declaration of Intent with my South African counterpart instituting the Ireland-South Africa Partnership Forum. This opens a new chapter in Irish-South Africa relations, solidifying and formalising the relationship between our countries. This ensures regular consultations on issues of mutual concern, and will serve as an instrument for deepening Ireland-South Africa co-operation in political, economic and developmental spheres.

EU-Africa relations are now in a strong state and the dialogue is working well. There is a real engagement with our African partners on the crucial issues of peace and security, and democracy and good governance, and a determination on both sides to strengthen our co-operation in these areas and make it more effective. There is also now a willingness on both sides to engage in frank discussion on issues where there may be differences, such as Zimbabwe, and this is also a development which I welcome as confirmation of a healthy and productive relationship.

Africa will continue to be a major priority throughout the remainder of the Irish Presidency, with particular focus on the serious humanitarian and political situation in Darfur where the EU is working actively with the UN and the African Union to address the situation and ensure all necessary humanitarian access. Implementation of the EU's regional strategy for West Africa and continued active support for the preparations for the holding of the international conference on the Great Lakes region later this year will also be important tasks.

Death Penalty.

18. **Mr. Noonan** asked the Minister for Foreign Affairs his views on the adoption by the United Nations Commission on Human Rights of a resolution against the death penalty; and if he will make a statement on the matter. [14505/04]

70. **Mr. S. Ryan** asked the Minister for Foreign Affairs if in regard to his statement welcoming the adoption by the UN Commission on Human Rights of a resolution opposing the death penalty, he intends to make representations to the major users of the death penalty, such as the United States and China, seeking the end to the practice; and if he will make a statement on the matter. [14568/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 18 and 70 together.

As I have previously stated in this House, the Government is adamantly opposed to the use of the death penalty and accordingly seeks its universal abolition. We believe that its abolition would contribute to the enhancement of human dignity and the progressive development of human rights.

As Deputies will be aware, the resolution on the death penalty is an annual initiative presented by the European Union. Ireland, as Presidency of the European Union, had the responsibility of introducing and ensuring its adoption by the Commission on Human Rights, which is the primary UN body with responsibility for human rights.

I very strongly welcome the adoption of the resolution, which calls for the complete abolition of the death penalty and, in the meantime, a moratorium on executions in those states which still maintain it. The resolution was adopted with a record number of member states of the Commission on Human Rights voting in favour of it. The outcome is a demonstration of the growing support within the international community for the EU's policy of opposition to the death penalty in all circumstances. It is also a sign of the growing international trend in favour of the abolition of the death penalty.

Deputies will be aware of the efforts we have made in conjunction with our EU partners, and in accordance with the common EU guidelines on the issue of the death penalty, to seek its universal abolition. The EU guidelines adopted in 1998 set out clearly the common EU position on the use of the death penalty. These guidelines form the basis for Ireland's concerted interventions, along with other EU member states, in death penalty issues. In addition to interventions on the use of the death penalty in principle, it has also been agreed that, where the facts of individual cases suggest a violation of basic minimum standards under international law, the Union will consider making a specific

intervention. The Government is of the view that an EU intervention on this issue carries significantly greater force than individual bilateral intervention. On the basis of the guidelines the EU has pressed for abolition and has also undertaken *démarches* on the use of the death penalty in many countries, including the United States and China.

Since the beginning of the Irish Presidency the EU has made known its concerns on a number of occasions regarding the use of the death penalty in the US. The EU has regularly raised the death penalty issue in its human rights troika meetings with the US. The EU has also intervened in a number of individual death penalty cases at both federal and state level. It is currently finalising an *amicuscuriae* brief in connection with a death penalty case under consideration by the US Supreme Court.

The issue of the death penalty in China has also been pursued. The use of the death penalty in China is a major item on the agenda of each session of the EU-China dialogue, the most recent meeting of which took place on 26 and 27 February in Dublin. The EU also makes *démarches* about individual cases of special concern. The EU also expressed its concerns about the use of the death penalty in China during the recently concluded session of the Commission on Human Rights.

During the remainder of our Presidency, the issue of the death penalty will continue to be a priority for the EU. The EU will continue to monitor death penalty cases worldwide and make interventions as appropriate.

Foreign Conflicts.

19. **Mr. Naughten** asked the Minister for Foreign Affairs his views on the situation in Afghanistan and on the recent Afghan donor conference; and if he will make a statement on the matter. [14507/04]

Minister for Foreign Affairs (Mr. Cowen): The overall situation in Afghanistan remains complex, despite some measure of progress on a number of fronts. It is important that the international community remains focused on how best to support Afghanistan in the next stages.

The security situation in Afghanistan remains grave, as illustrated by the recent factional fighting in the north-west, the assassination of the Civil Aviation Minister in March, and a number of attacks on personnel involved in preparations for elections. At the same time, we have seen some progress with the agreed expansion of ISAF through the Provincial Reconstruction Teams. It is envisaged that six such teams will be in operation under ISAF command by the time of the NATO Summit on 28 June 2004 in Istanbul.

I participated in the conference, Afghanistan and the International Community — A

Partnership for the Future, to which the Deputy refers and which took place in Berlin on 31 March and 1 April 2004. In my EU Presidency capacity, I set out for the Berlin conference the position of the EU and its member states. My statement emphasised the EU's continuing firm commitment to the reconstruction of Afghanistan and underlined the fact that the EU will continue to be one of the major donors towards the cost of reconstruction.

The conference also provided an opportunity to review the achievements of the Afghan Transitional Authority, ATA, and of the international community in the reconstruction of Afghanistan. The international community undertook to continue to address Afghanistan's development requirements beyond the Bonn process. Total pledges at the conference, taking into account those countries in a position to enter into multi-year pledges, were \$8.2 billion. Some \$4.5 billion was pledged for 2004, of which the EU pledged some €700 million, including Commission assistance of some €245 million.

This constituted a successful outcome for the conference, the main objective of which was to secure funding for the ATA's development programme, which estimated the external financing requirement from March 2004 to March 2005 at some \$4 billion and some \$28 billion over seven years to 2011. Following the Tokyo conference on Afghanistan in January 2002, Ireland disbursed €12 million in reconstruction assistance to Afghanistan. At the Berlin conference, Ireland pledged a further €5 million to be expended over the next two years.

At the Berlin conference, President Karzai announced that presidential and parliamentary elections will take place in September 2004. The elections will constitute the next and final step in the implementation of the Bonn agreement of December 2001 on arrangements for the re-establishment of permanent government institutions in Afghanistan. In order for the elections to be credible, a successful registration process is needed. The European Commission has committed €15 million towards the total cost of the registration process. Over two million Afghans have registered to date, approximately 70% of whom are men. The most recently reported daily registration figures have been steady at around 35,000 registrants per day with women comprising over 30% of those registering.

The European Commission is currently putting in place arrangements for effective EU support for the elections. These will include: the deployment of additional expert staff in the European Union Special Representative's office in Kabul to enhance the office's analytical capacity regarding electoral law and practice; support for domestic observation teams; and media monitoring support to the Afghan Joint Electoral Management Body to deliver a report

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after the elections and to provide training to Afghans in media monitoring.

In order to ensure a secure environment for elections, it is important that all irregular forces are disarmed and demobilised or integrated into the national army. I welcome the steps already taken towards this end, but much more needs to be done so that the future Afghan government has unified armed forces at its disposal.

Ireland, together with our EU partners, fully supports the Afghan Transitional Authority's uncompromising stance on the illicit cultivation of and trafficking in drugs. It is vital that the international community and the Afghan people work together to eliminate the production, trafficking and consumption of opium in particular.

Question No. 20 answered with Question No. 14.

21. **Mr. English** asked the Minister for Foreign Affairs if he will report on the situation in Uganda; the level of assistance given to Uganda since 2000; his views on the level of human rights abuses in Uganda and in neighbouring Congo;

	Country Programme	Civil Society	Emergency Assistance	Fellowship
	€	€	€	€
2000	15,912,033	738,190	95,230	
2001	24,527,996	1,623,000	49,259	
2002	35,336,678	1,535,932	139,640	
2003	34,327,675	1,703,119	400,000	245,133

Approval was recently given for a new country strategy paper, CSP, which provides for country programme assistance of around €30 million annually over the period 2004-06.

Continuing insecurity in the northern region of Uganda has caused widespread disruption and loss of life. The 17 year old civil conflict, caused by the brutal campaign of the Lord's Resistance Army, LRA, involving atrocities against the civilian population and large-scale abduction of children, intensified in 2003, resulting in a humanitarian crisis with more than 1.5 million people displaced. The ongoing tragedy represents a major challenge to the Ugandan government, which is pursuing its military campaign against the LRA but also recently indicated a willingness to seek a negotiated settlement.

On the domestic political front, Uganda has commenced a process of transition from its current "no party" movement democratic system to a multi-party system. It is hoped that this process will culminate in multi-party presidential and parliamentary elections in 2006. The debate on opening up the political space to allow for a more pluralist political system and multi-party

and if he will make a statement on the matter.
[14512/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): The situation in Uganda is characterised by relative political and economic stability and steady development progress over the past decade. The macroeconomic stability is continuing, though recent trends have indicated a fall in the levels of growth and some inequities in the distribution of its benefits.

The Ugandan government, in consultation with civil society, the private sector and the international community, is adjusting its poverty eradication action plan to respond to emerging challenges and priorities. Assistance is given to Uganda primarily through our country programme, which is carried out in partnership with civil society, including NGOs and missionaries. In addition, emergency humanitarian assistance is being provided and a small number of fellowships to enable Ugandan students to attend third level institutions in Ireland are also being made available. A total of €116,633,885 in development assistance was given over the period 2000-03. Of this, €110,104,382 was provided under our country programme and €6,529,503 through other channels. The following are the details of this assistance:

democratic process is currently under way. While the move to multi-party democracy is welcome and will be a prerequisite for further development, proposals emerging from some quarters for a change in the Ugandan constitution, which would facilitate a third term by President Museveni, are viewed with concern by donors.

Respect for human rights is enshrined in the Ugandan constitution and Uganda has good policies and strong institutions in support of human rights, in particular an active and respected Human Rights Commission. It also has a free press which plays a constructive role in highlighting abuses. At the same time, donors have had concerns with regard to incidents of torture and illegal detention by security forces in 2003, which were highlighted in a recent report by Human Rights Watch, and they have kept the Government under pressure in this respect.

On the Democratic Republic of Congo, DRC, we have been informed that all Ugandan troops have been withdrawn from the DRC and that the Ugandan authorities have been extending full cooperation to the former EU Operation Artemis

and current UN MONUC peacekeeping missions in the DRC. Uganda has resumed diplomatic relations with the DRC and has expressed its support for the transition process under way there.

In response to donor pressure, Uganda established the Porter Judicial Commission of Inquiry into allegations of illegal exploitation of natural resources and other forms of wealth in the DRC. The Government has underlined its commitment to following up on the commission's findings and bringing to account those implicated in such activities. While there is still unresolved business, action has been taken against key people whom the commission found to be involved, including the army chief of staff, General Kazini, who was dismissed from his post, and the President's brother, Salim Saleh, who was removed from parliament.

In the case of the DRC, the all-party interim government is making progress in establishing peace and security and is in the process of extending its authority throughout the country. The EU's Operation Artemis and MONUC peacekeeping forces have succeeded in establishing a degree of stability in the volatile north-eastern region adjoining Uganda and Rwanda. While there are no Ugandan troops remaining in the DRC, MONUC recently confirmed the presence of Rwandan troops on DRC territory, though Rwanda has denied any such incursion by its forces.

The Government's development programme is focused on reducing poverty in Uganda, one of the world's poorest countries. With our development partners — the Ugandan Government, other donors and NGOs — we have made significant progress towards achieving our objectives. I am convinced that the challenges which remain will be met by a continued policy of critical engagement.

Shannon Landing Facilities.

22. **Mr. Eamon Ryan** asked the Minister for Foreign Affairs if there is a review in progress or a review is being considered, in relation to the policy of allowing US military aircraft and civilian aircraft carrying military personnel to land at Shannon Airport in view of the recent reports of systematic abuse of Iraqi detainees by US soldiers; and if he will make a statement on the matter. [14666/04]

95. **Aengus Ó Snodaigh** asked the Minister for Foreign Affairs if the Government has reconsidered its ongoing policy of collusion in the occupation of Iraq in view of the most recent revelations and documentary evidence that US troops have committed war crimes against Iraqi prisoners in the Abu Ghraib prison; and if the Government will withdraw overflight and landing permission to US troops en route to Iraq in protest. [14607/04]

126. **Mr. Gormley** asked the Minister for Foreign Affairs if there is a review in progress, or a review being considered, in relation to the policy of allowing US military aircraft and civilian aircraft carrying military personnel to land at Shannon Airport in view of the recent reports of systematic abuse of Iraqi detainees by US soldiers; and if he will make a statement on the matter. [14866/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to answer Questions Nos. 22, 95 and 126 together.

The Government has no plans at present to review its policy to maintain overflight and landing facilities for US aircraft. The reasons the Government decided to maintain overflight and landing facilities for US aircraft were set out in the Dáil during the debate of 20 March 2003 and the Government's decision was endorsed in the motion approved by the Dáil.

I have made clear the Government's complete abhorrence of the abuse of prisoners by coalition personnel in my replies to other questions.

Passport Regulations.

23. **Mr. English** asked the Minister for Foreign Affairs the regulations concerning the expiry dates of passports that apply to Irish persons seeking entry to all EU countries, and all other countries; if he will publish this information on his Department's website; and if he will make a statement on the matter. [14532/04]

Minister for Foreign Affairs (Mr. Cowen): With the exception of travel to the UK, Irish citizens require a valid passport for travel to all other destinations in the EU.

All EU citizens have the right to enter and reside in the territory of any other member state of the Union for a period of up to three months simply by presenting a valid passport or national identity card, no other formality is required. Member states cannot set additional conditions concerning the minimum validity of duration of the identity card or passport.

Irish citizens travelling to destinations outside the EU are subject to the specific requirements of those countries for the entry of non-nationals into their territory and they should contact the relevant embassy of those countries before they travel for the most up-to-date information on these requirements. I am happy to inform the House that this information is available on the Department's website.

Question No. 24 answered with Question No. 11.

Northern Ireland Issues.

25. **Ms O. Mitchell** asked the Minister for Foreign Affairs if he will advise on developments in the Northern Ireland peace process; and if he will make a statement on the matter. [14529/04]

33. **Mr. Howlin** asked the Minister for Foreign Affairs the progress made with regard to the review of the Good Friday Agreement; the Government's priorities for the review; the length of time he expects the process to take; and if he will make a statement on the matter. [14554/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 25 and 33 together.

The review of the operation of the Good Friday Agreement continued at Stormont on 27 April and 4 May. The Government was represented by the Minister for Arts, Sport and Tourism, Deputy O'Donoghue, on both days, and by the Minister of State at the Department of Justice, Equality and Law Reform, Deputy Brian Lenihan, on 27 April, and by the Minister of State at the Department of Foreign Affairs, Deputy Kitt, on 4 May.

The discussions on both days focused on Strands Two and Three of the Agreement, and the parties presented their views and proposals in these areas. The Governments agreed that the review should go into recess during the European election campaign, but it is intended that it should subsequently resume for at least two further meetings before the summer break. The Government's priority for the review is to secure an outcome, consistent with the fundamentals of the Good Friday Agreement, that attracts consensus support among the parties.

In addition to the review and routine bilateral contacts with the parties, the Government is maintaining its engagement with the British Government on all aspects of the implementation of the Agreement, including at the meeting of the British-Irish Intergovernmental Conference in London on 21 April, which I co-chaired with the Secretary of State for Northern Ireland, Mr. Paul Murphy, MP. Moreover, the Taoiseach and Prime Minister Blair continue to accord high priority to the peace process and reviewed the matter in depth during their meeting in Dublin on 2 May. Both Governments will remain in close touch over the weeks of the European election campaign, as will officials.

Overseas Development Aid.

26. **Mr. Morgan** asked the Minister for Foreign Affairs if all increases in Irish and EU ODA will be exclusively poverty focused and not connected to broadened OECD/DAC criteria on counter-terrorism clauses. [14610/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): The Government's development co-operation programme has a strong focus on poverty reduction in the poorest developing countries and this will remain our approach.

As regards EU development assistance, Article 177 of the European Union Consolidated Treaties states, *inter alia*, that Community policy in the sphere of development co-operation, which shall be complementary to the policies pursued

by member states, shall foster "the campaign against poverty in the developing countries". Thus, poverty reduction is already anchored in the existing treaties. Last year, I joined six of my ministerial colleagues in an initiative, which secured the insertion in the text of the draft EU constitutional treaty of a reference to poverty reduction as the objective of EU development co-operation. As EU Presidency, Ireland has worked hard to strengthen the poverty reduction objective of the EU's development policy.

The annual high level meeting of the OECD Development Assistance Committee, DAC, on 15 and 16 April last debated the relationship between security and development. While participants accepted that the DAC's ODA criteria should include, for example, activities designed to promote peace and stability through the creation of more accountable security forces or the reinforcement of a human rights culture in developing countries, there was general agreement that the traditional definition of ODA should be carefully protected in this debate and that the current criteria should not be broadened, apart from three minor clarifications of existing provisions.

African Peacekeeping Operations.

27. **Mr. Stanton** asked the Minister for Foreign Affairs his views on the formation of an African peacekeeping force with funding from the European Union; and if he will make a statement on the matter. [14494/04]

Minister for Foreign Affairs (Mr. Cowen): I was very pleased to be able to announce approval of the arrangements for the establishment of the new African Peace Facility during the recent EU-Africa troika meeting in Dublin.

The African Peace Facility is financed through an initial contribution of €250 million from the European Development Fund and is intended to provide non-military assistance to African peace support operations as well as improve the institutional capacities of the African Union and other relevant African sub-regional organisations in the areas of peacekeeping and conflict resolution. Although the African Union does have plans to establish an African stand-by force by 2010, the African Peace Facility will only be called upon at present to provide non-military support for African-led peacekeeping operations, either mounted directly by the African Union or by sub-regional organisations such as ECOWAS which have extensive experience in this area. It is envisaged that all peace support operations financed through the facility should have UN endorsement and also, as a general rule, the political approval of the African Union's Peace and Security Council.

The African Peace Facility has been established by the European Union in direct response to a request from the African Union leaders, meeting at their summit in Maputo last July. I am pleased that the EU, under the Irish

Presidency, has been able to respond in such a timely fashion to this request. Through the assistance which it will provide, the African Peace Facility will directly help to save lives in Africa, through empowering African countries to mount effective peacekeeping efforts. Its establishment is also a demonstration of the EU's commitment to working with our African partners on conflict prevention and resolution and improving African peacekeeping capabilities.

Development Co-operation.

28. **Mr. Hayes** asked the Minister for Foreign Affairs his views on a recent publication by Trócaire entitled *Ireland and the Developing World, Challenges for the Irish Government*; and if he will make a statement on the matter. [14533/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): I welcome the Trócaire publication, *Ireland and the Developing World, Challenges for the Irish Government*. The paper, which highlights many of the key issues facing the Government's programme of development co-operation, is an important contribution to the development debate in Ireland. The paper covers a number of thematic areas and sets out recommendations in relation to each. It is not possible for me, in the space of a reply to a parliamentary question, to respond to all of the points raised by Trócaire. The following comments, however, seek to address the principal concerns identified by Trócaire.

In regard to development assistance and the Millennium Development Goals, at the EU General Affairs and External Relations Council, GAERC, on 27 April, the Irish Presidency secured agreement on comprehensive Council conclusions covering the eight commitments, including a commitment on official development assistance, ODA, made by the EU at the International Conference on Financing for Development in March 2002. The Commission monitoring report on these commitments shows that the EU is well on track to meet the target of a collective average EU ODA of 0.39% of EU gross national income by 2006. The Council also had an extensive discussion on the reform of the EU aid programme. Ireland's national ODA is expected to approach €480 million in 2004, or 0.41% of GNP, an all time high.

In regard to trade, agriculture and food security, these inter-related issues are key agenda items for our EU Presidency and in our national programme of development assistance. At EU level, the member states and the Commission have taken a leading role in international efforts to put the Doha development round back on track after the setback at Cancun. The Agriculture Council has adopted a major reform of the EU's cotton, olive oil and tobacco sectors. The GAERC has adopted conclusions on the EU's approach to commodities and on the particular problems of African cotton producers.

At the UN, the Irish Presidency is leading the EU in negotiations on the outcome of the eleventh UN Conference on Trade and Development, UNCTAD XI, which should support efforts to strengthen international confidence in the multilateral trading system. Nationally, Development Cooperation Ireland has worked closely with the Department of Enterprise, Trade and Employment to ensure that there is a strong development dimension in our national trade strategy.

In regard to debt and poverty reduction, on the initiative of the Presidency, EU Ministers discussed debt issues at the GAERC on 27 April. Ministers highlighted the need to address the coming into effect, at end 2004, of the sunset clause in the heavily indebted poor countries initiative, HIPC. They also stressed the importance of the work at the World Bank and the IMF on a new framework for supporting long-term debt sustainability in low income countries. We have used these discussions to promote our national debt policy, including our dissatisfaction with aspects of the HIPC.

With regard to a focus on Africa, the EU Presidency has had a strong focus on Africa. EU-Africa and EU-South Africa Ministerial Troika meetings were held in Dublin in April. The Minister for Foreign Affairs, Deputy Cowen, has visited Ethiopia, Eritrea, Rwanda and Burundi for discussions with their governments and to support UN efforts to implement the peace agreement between Ethiopia and Eritrea. I represented the EU at the EU-African Caribbean and Pacific, ACP, states ministerial meeting in Botswana in May. I have also visited Sierra Leone and Liberia recently. In April, the Council agreed to the funding of an EU Africa Peace Facility which will provide €250 million in support of African peacekeeping operations.

In regard to the HIV/AIDS pandemic, in February 2004, the EU Presidency held a major international conference in Dublin on the spread of HIV/AIDS in Europe and Central Asia. The conference adopted the Dublin Declaration which will provide the framework for fighting the disease in the region in the coming years. The Presidency, together with the Association of West European Parliamentarians for Africa, AWEPA, held a conference on HIV/AIDS and governance in Dublin in April. We will hold a meeting on the search for a HIV/AIDS vaccine in Dublin at the end of June. Nationally, we are spending over €40 million per year in our development assistance programme in the fight against AIDS.

In regard to conflict and development, in April, the Irish EU Presidency, together with the European Centre for Conflict Prevention, held an international conference in Dublin on the role of NGOs in conflict prevention. The Presidency has co-ordinated a written EU contribution to the work of the high level panel, established by the UN Secretary General, which will address new global challenges, including the challenge of

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conflict, and UN reform. The work of the panel, and the content of the EU contribution, deal with many of the issues raised by Trócaire.

In regard to international policy coherence and global governance, the Presidency has highlighted the spring meeting between the UN's Economic and Social Council, ECOSOC, the Bretton Woods Institutions and the World Trade Organisation as a key instrument for facilitating coherence at the international level. For this reason, the Presidency was represented at the 2004 spring meeting by the Minister for Finance. Nationally, Ireland is engaged in the discussions at the Bretton Woods Institutions on the issue of strengthening the voice of developing countries on the executive boards of the World Bank and the IMF, including through greater technical assistance to their constituencies, an increase in their basic votes and other possible reforms.

Foreign Conflicts.

29. **Mr. Hayes** asked the Minister for Foreign Affairs his views on reports that link the current leader of Rwanda with the shooting down of the plane carrying the former Rwandan President in 1994; and if he will make a statement on the matter. [14514/04]

Minister for Foreign Affairs (Mr. Cowen): I am aware of the reports which appeared in *Le Monde* newspaper last March, based on an internal French inquiry, alleging that President Paul Kagame of Rwanda was implicated in the shooting down of the plane carrying former Rwandan President Juvenal Habyarimana and his Burundian counterpart, Cyprian Ntuyamira, on 6 April 1994. President Kagame, however, has vigorously denied any such involvement and the precise circumstances of what occurred on that day and who was responsible for the shooting down of the plane carrying the two Presidents still remains unclear and extremely difficult to determine. It is to be doubted whether a full and proper explanation of what occurred at that time will ever become available.

The horrific and completely unjustified killing of Presidents Habyarimana and Ntuyamira in 1994 unleashed a traumatic chain of events from which Rwanda is still trying to recover. During my recent visit to Rwanda, I was genuinely impressed and moved by the progress which the government and people of Rwanda have made in rebuilding their country and launching a genuine process of national reconciliation to reunite all those who survived the genocide, including through the internal justice system known as *gacaca* which the EU has indicated its willingness to support.

The imperative at this stage must be for the international community to work with and support the people of Rwanda as they continue on the path of national recovery, and also to seek to ensure through our collective efforts that there is never again a repetition of what occurred in

Rwanda in 1994. The European Union, for its part, will continue its constructive engagement with the Rwandan government and will pay particular attention to supporting the consolidation of democracy and promotion of human rights in Rwanda as the best means of fostering true national reconciliation among all Rwandans.

Human Rights Issues.

30. **Ms Burton** asked the Minister for Foreign Affairs if in view of previous parliamentary questions he is in a position to indicate the number of prisoners being held in Iraq; when the report of the International Committee of the Red Cross was drawn to his attention; the details of such talks he or officials of his Department had with the International Committee of the Red Cross, and such similar agencies, as to prisoners' welfare since the invasion of Iraq. [14538/04]

55. **Ms Burton** asked the Minister for Foreign Affairs his views on the International Committee of the Red Cross's view that the abuse of the prisoners in Iraq amounts to torture and that such abuse has been systematic; and his further views on whether such abuses have been drawn to the attention of US, United Kingdom, and other occupying forces as long ago as 2003. [14539/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 30 and 55 together.

I am not aware that any figures on the number of prisoners being held in Iraq have been issued by the authorities concerned or any authoritative body such as the ICRC. I have not officially received a copy of the ICRC report. The report in question is strictly confidential and intended only for the authorities to whom it is presented. The ICRC expressed its concern that this report was made public without its consent and the possible damage this might cause. Consequently, the ICRC would not be in a position to discuss the issue of prisoners' welfare since the invasion of Iraq with any third party. Therefore, neither I nor my officials have had discussions with the ICRC on this issue.

It is clear that concerns in the ICRC interim report were brought to the attention of the relevant authorities prior to the presentation of the report in February. The ICRC director of operations has stated that the report represents the summary of concerns that were regularly brought to the attention of the coalition forces throughout 2003. The ICRC director of operations went on to explain that this is a routine part of the process through which the ICRC works.

It is clear that some prisoners were subjected to severe ill-treatment. Whether this comes within the international legal definition of torture would have to be decided by a competent legal body. There is no doubt that the appalling treatment meted out was contrary to

international human rights norms and was totally unacceptable.

A recent press release from the ICRC notes that ICRC delegates and officials have met representatives of the coalition forces to present them with serious concerns regarding the treatment of persons protected by the third and fourth Geneva Conventions whom the coalition forces are holding in Iraq. The Government has from the outset called on all parties in the conflict to respect their obligations under international law both in regard to the status of civilians and in regard to prisoners of war.

The Government's position is in keeping with the public pronouncements of UN Secretary General Annan. Moreover, Security Council Resolution 1483 of 22 May 2003 calls upon all concerned to comply fully with their obligations under international law. The treatment of prisoners of war is specifically covered by the third Geneva Convention. In line with this, the Government and the European Union has publicly and strongly condemned any incidents of abuse of prisoners in Iraq by occupying forces which have taken place as contrary to international humanitarian law.

Question No. 31 answered with Question No. 12.

European Defence and Security.

32. **Mr. Durkan** asked the Minister for Foreign Affairs the extent to which European defence and security commitments are evolving with particular reference to Ireland's role in such structures in the future; and if he will make a statement on the matter. [14622/04]

Minister for Foreign Affairs (Mr. Cowen): I am pleased to confirm to the Deputy that, as is reflected in conclusions adopted at this month's meeting of the General Affairs and External Relations Council, European defence and security commitments as they arise in the context of the EU's European Security and Defence Policy, ESDP, are continuing to develop in a positive and constructive way. Ireland's role in the evolution of ESDP is also developing in a similarly positive manner and in accordance with our traditional policy of military neutrality.

In keeping with established practice, the Irish Presidency will be submitting a progress report on ESDP issues for adoption by the June General Affairs and External Relations Council, prior to onward transmission to the European Council. The report will reflect how, in our capacity as EU Presidency, we have sought to facilitate enhancement of the EU's ability to engage as a force for peace through peacekeeping and crisis management missions, particularly in support of the United Nations.

EU-UN relations in the area of peacekeeping and crisis management are advancing well. Since the September 2003 Joint EU-UN Declaration on these issues, detailed consideration has been

given to the scope for EU rapid deployment capacity to be made available in support of the UN. I hope to see concrete results achieved in this regard by the end of June 2004.

In addition to EU police missions which are currently under way in Bosnia-Herzegovina and the Former Yugoslav Republic of Macedonia, solid progress has also been made on planning for the anticipated EU follow-on mission to the current UN authorised NATO led SFOR mission in Bosnia-Herzegovina. Progress is also being made in the area of EU support for development of peacekeeping/crisis management capacity by the African Union and other African regional organisations. The EU's own capabilities for both military and civilian crisis management are also being advanced, including in the area of planning. Proposals for further development of such capabilities over the longer term are also being taken forward.

Security and defence issues also remain under consideration at EU level in the context of ongoing discussions on the draft constitutional treaty. While the overall negotiations on the draft treaty have yet to be concluded, I am satisfied that the security and defence provisions are developing in a manner which is fully consistent with the Government's position on Ireland's non-participation in a mutual defence commitment, as set out in our national declaration at the Seville European Council in June 2002.

Question No. 33 answered with Question No. 25.

Situation in Eritrea.

34. **Mr. P. Breen** asked the Minister for Foreign Affairs his views on the situation in Eritrea; the matters discussed with the President of Eritrea whom he met recently; and if he will make a statement on the matter. [14493/04]

Minister for Foreign Affairs (Mr. Cowen): The Deputy will be aware that I led an EU troika mission to Eritrea and Ethiopia from 4 to 6 April at a time of heightened tension between the two countries. The purpose of the EU mission was to deliver a strong message to both countries on the need for immediate demarcation of the common border and co-operation with the UN.

My meeting with President Isaias on 4 April in Asmara took place in a constructive atmosphere. Comprehensive terms of reference had been agreed within the EU for the meeting with the President and these dealt exclusively with border demarcation and related issues, including relations with UNMEE, confidence-building measures, and the willingness of the EU to work with both parties and the UN to overcome the current impasse.

Principal among the issues raised by me was Eritrea's continued refusal to meet with the UN Special Envoy to Ethiopia and Eritrea, Mr Lloyd Axworthy. The special envoy was appointed in January 2004 by the UN Secretary General to

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facilitate efforts by both countries to resolve the impasse over border demarcation. As a result of our conversation, the President agreed to engage with the special envoy subject to clarification of the special envoy's mandate. I have since exchanged correspondence with President Isaias on this issue and the Presidency has also maintained close contact throughout with the Office of Secretary General Annan. The matter is now one to be resolved between the UN and Eritrea and it is my sincere hope that this will be successful.

Situation in Iran.

35. **Mr. Coveney** asked the Minister for Foreign Affairs if he will report on the political situation in Iran; if he will advise on the humanitarian situation in the wake of the Bam earthquake and of the progress being made to restore housing and living conditions in the region; and if he will make a statement on the matter. [14525/04]

Minister for Foreign Affairs (Mr. Cowen): Conservative forces achieved victory in the parliamentary elections in Iran on 20 February. However, the victory was tainted by the interference in the electoral process by the Council of Guardians, who disqualified a large number of candidates prior to the election. The new Majlis will begin its term on 27 May. The February General Affairs and External Relations Council expressed its deep regret that candidates were prevented from standing in the Majlis elections and its hope that Iran would return to the path of reform and democratisation. On his recent visit to Dublin, Foreign Minister Kharrazi noted that, as Iranian foreign policy had been based on internal consensus, it will not change with the establishment of the new Majlis.

The earthquake that struck the ancient Iranian city of Bam on the morning of 26 December 2003 left the city and surrounding communities utterly devastated. Some 87% of the structures in Bam collapsed, including houses, schools and health centres. The earthquake killed an estimated 26,000 people, left some 30,000 injured and over 80,000 homeless.

According to the International Federation of the Red Cross, the general living conditions of people in Bam have improved over the intervening months as families are moving from tents into prefabricated housing. There is slow progress in clearing the rubble and on reconstruction works in the city. Although the situation has generally improved, many families continue to live in tents along the roadside. There is still also a great need for medical care and treatment. There is insufficient access to good quality water and sanitation is of serious concern. Relief operations are now integrating into longer-term recovery, rehabilitation and reconstruction programmes.

On the day the earthquake struck, the Government allocated €1 million in humanitarian

funding for the rescue operation and for immediate humanitarian needs. This funding was divided between the Red Cross/Red Crescent and the United Nations Office for the Co-ordination of Humanitarian Affairs. Ireland has been commended by the United Nations for being one of the first donors to respond to the disaster.

As the situation has moved from one of emergency relief to recovery, further funding of €570,000 was allocated to our Irish NGO partners Concern and Trócaire in February of this year. This funding has now been fully disbursed and is being used to rehabilitate schools and to provide housing and local infrastructure in Bam and the surrounding villages.

Further assistance for the victims of the disaster will be considered by the Government in light of needs assessments and situation reports from the United Nations, Red Cross and other relevant humanitarian agencies.

Northern Ireland Issues.

36. **Ms Lynch** asked the Minister for Foreign Affairs the matters discussed and conclusions reached at the meeting of the British-Irish Intergovernmental Conference in London on 21 April 2004. [14555/04]

Minister for Foreign Affairs (Mr. Cowen): Together with the Secretary of State for Northern Ireland, Mr. Paul Murphy MP, I co-chaired a meeting of the British-Irish Intergovernmental Conference in Millbank, London on 21 April 2004. The Minister of State at the Department of Foreign Affairs, Deputy Kitt, accompanied me at the meeting. The Secretary of State was accompanied by John Spellar, MP, and Ian Pearson, MP, Ministers of State at the Northern Ireland Office.

The conference on 21 April reviewed political developments, including the recent publication of the report of the Independent Monitoring Commission and the two Governments' responses to its conclusions and recommendations. The conference stressed that political stability in Northern Ireland required a definitive end to all forms of paramilitarism.

The conference also stressed the importance of engagement between all the political parties, including through the review of the operation of the Agreement. Both Governments re-affirmed their commitment to the full implementation of the Agreement, the early restoration of devolved government on an inclusive basis in Northern Ireland and the full operation of all the political institutions of the Agreement.

The conference reviewed progress on the implementation of the non-conditional commitments made in the Joint Declaration. It welcomed recent developments, including the review of section 75 of the Northern Ireland Act 1998, the preparation of a consultation paper of the Single Equality Bill and the recent announcement by the Secretary of State that the

Irish language TV and film production fund would come on stream by July 2004.

The conference also discussed the Cory reports. I confirmed that the preparations were under way for a public inquiry into the murders of RUC officers Breen and Buchanan and urged the British Government to establish a public inquiry into the murder of Patrick Finucane, as recommended by Justice Cory, as soon as possible. There was also a discussion of the recent difficulties affecting the Northern Ireland Human Rights Commission and of the establishment of a forum on the Bill of Rights for Northern Ireland.

The Conference also reviewed security and criminal justice issues. It welcomed the peaceful beginning to the marching season and noted the important work of those who continually strive to diffuse tensions on the ground. Cross-Border justice and security co-operation and the Justice (NI) Bill were also discussed. There was a discussion on the respective current work programmes of the North-South Ministerial Council and the British-Irish Council, as well as an exchange of views on the proposed amendment to Article 9 of the Irish Constitution relating to citizenship and its application to Northern Ireland.

I raised the concerns of some sporting organisations in Northern Ireland with regard to funding and also about the restrictions that currently prevent Irish citizens from holding certain positions in the Northern Ireland Civil Service. I have arranged for copies of the conference communiqué to be placed in the Oireachtas Library.

Human Rights Issues.

37. **Mr. M. Higgins** asked the Minister for Foreign Affairs if he has raised the recently documented abuses in flagrant violation of the basic tenets of international law and the Geneva Convention in particular by the armed forces of countries with whom Ireland enjoys friendly relations, such as the United Kingdom and the United States; the parties with which he has raised these issues; and the outcome of such discussions. [14536/04]

53. **Mr. Allen** asked the Minister for Foreign Affairs his views on the situation in Iraq; if the treatment of prisoners in Iraq has been discussed with any of his European Union counterparts; and if he will make a statement on the matter. [14523/04]

61. **Mr. Sargent** asked the Minister for Foreign Affairs if the abuse of Iraqi prisoners by US soldiers in violation of the Geneva Conventions has been raised with the United States Administration by the Government or by him on behalf of the European Union; and if he will make a statement on the matter. [14667/04]

84. **Mr. Broughan** asked the Minister for Foreign Affairs if he will give details of such discussions as he may have had with Foreign

Ministers of the EU and other countries on the report of the International Committee of the Red Cross on Iraq, and on the recently published pictures of the abuse of prisoners in Iraq. [14540/04]

99. **Mr. M. Higgins** asked the Minister for Foreign Affairs if he has, on behalf of the Presidency of the European Union, and on Ireland's behalf, condemned the abuses of prisoners in Iraq by occupying forces as documented by the International Committee of the Red Cross. [14537/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 37, 53, 61, 84 and 99 together.

The Government has publicly and strongly condemned the mistreatment and abuse of prisoners in Iraq by US and UK forces. We made our concerns known directly to the US and UK authorities when the allegations first came to light.

The Government fully supports the recent insistence by UN Secretary General, Kofi Annan, that all detainees should be fully protected in accordance with the provisions of international human rights law. Moreover, Security Council Resolution 1483 of 22 May 2003 calls upon all concerned to comply fully with their obligations under international law. The treatment of prisoners of war is specifically covered by the third Geneva Convention.

On Monday, the EU Council of Ministers, acting on the initiative of the Irish Presidency, adopted the following conclusions: The Council expressed its abhorrence at recent evidence of the mistreatment of prisoners in Iraqi prisons. The Council condemned any instances of abuse and degradation of prisoners in Iraq, which are contrary to international law, including the Geneva Conventions. The Council welcomed the commitment by the relevant governments to bring to justice any individuals responsible for such acts involving the abuse of Iraqi detainees, and their commitment to rectify any failure to adhere to international humanitarian law.

I have also been active in ensuring that similar statements were included in the Presidency conclusions issued after last week's EuroMed ministerial meeting in Dublin and in the joint communiqué adopted at Monday's meeting between the EU and the Gulf Co-operation Council.

The issue of the abuse of prisoners by US personnel was raised at last Friday's meeting between G8 Foreign Ministers and President Bush and at the subsequent ministerial meeting, both of which I attended. Both President Bush and Secretary of State Powell condemned the mistreatment of prisoners in the strongest possible terms and expressed the Administration's determination that those responsible should be brought to justice.

The UK Foreign Secretary, Jack Straw, briefed the EU External Relations Council yesterday on

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his government's investigation into allegations of prisoner abuse. He made clear that such abuse would not be tolerated, that all allegations were being thoroughly investigated and that anybody found to be responsible for the mistreatment of prisoners would be brought to justice. He confirmed that recent photographs published by the *Daily Mirror* showing abuse of Iraqi prisoners by British troops were forgeries.

The recent evidence of prisoner abuse in Iraq has reminded the entire international community of the need to respect and maintain international law in relation to the treatment of prisoners. The Government will continue to work to reinforce this point and thereby ensure that something positive may yet come from this appalling episode.

Situation in Burma.

38. **Mr. Eamon Ryan** asked the Minister for Foreign Affairs if he will report on recent representations by the Government to the Burmese Government concerning the detention of a person (details supplied); and if he will make a statement on the matter. [14673/04]

50. **Mr. Murphy** asked the Minister for Foreign Affairs if the Government have had contact with the Burmese authorities in connection with the detention of a person (details supplied); and if he will make a statement on the matter. [14496/04]

51. **Mr. Costello** asked the Minister for Foreign Affairs the progress which been made in relation to Burma as might have justified the recognition by the Government of the military regime in that country while the imprisonment under house arrest of Aung San Su Chi continues. [14543/04]

58. **Mr. Coveney** asked the Minister for Foreign Affairs the reason the Government has started to refer to Burma as Myanmar in recent months; his views on the message that this may send to the military rulers of Burma; and if he will make a statement on the matter. [14497/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 38, 50, 51 and 58 together.

Both Ireland, and our EU partners, remain strongly critical of the continued detention under house arrest of Daw Aung San Suu Kyi, the absence of political progress, serious and persistent human rights abuses and the lack of fundamental freedoms in Burma.

The External Relations Council of 17 and 18 May 2004 adopted conclusions on Burma, which expressed the EU's concern and deep disappointment at the failure of the Burmese authorities to release Daw Aung San Suu Kyi, or allow the National League for Democracy to reopen its offices. The conclusions also reiterated the EU's commitment to democratic change in Burma and our determination to work with our Asian partners to this end.

The EU Common Position on Burma, which provides for a visa ban on members of the regime and a freeze on all their financial assets in the European Union, was rolled over for a further 12 months at the External Relations Council of 26 and 27 April 2004.

Throughout our participation in the troika, and during our Presidency, Ireland has ensured that Burma is included in our political consultations with third countries. Burma was therefore included in the agenda for the EU Ministerial Troika to India on 16 February, and was discussed during the troikas at political director level with China on 26 February, and Japan on 27 February.

The EU's concerns about Burma also featured in discussions at the ASEM Foreign Ministers' meeting ASEM FMM, which I hosted in Kildare, in April 2004. Ministers said that they looked forward to the early lifting of the remaining restrictions placed on Daw Aung San Suu Kyi and the National League for Democracy.

Since the ASEM Foreign Ministers' meeting, Ireland continues to work with Burma's Asian neighbours to encourage them to bring their influence to bear on Rangoon. For this reason, I decided to appoint a special envoy to the region, Mr John Campbell, who formerly served as Ireland's Permanent Representative to the European Union and the United Nations at New York, and as Ambassador to China, France and Portugal.

Deputies will be aware that the National League for Democracy, NLD, announced on 14 May 2004 that it would not participate in the National Convention, which reconvened on 17 May 2004, because of the junta's refusal to release Daw Aung San Suu Kyi and to reopen NLD offices.

The Government normally refers to the country as Burma, though in the press release announcing the establishment of diplomatic relations Myanmar was used as a courtesy. In EU documentation, Burma/Myanmar is the usual usage. The country is known officially at the United Nations as Myanmar.

Our goals continue to be the return of democracy to Burma, an end to human rights violations and the realisation of peace and prosperity for the long suffering people of Burma.

EU-US Summit.

39. **Mr. Timmins** asked the Minister for Foreign Affairs the matters to be discussed with US President Bush in June 2004; the duration and number of meetings to be held with the President when here; and if he will make a statement on the matter. [14518/04]

72. **Mr. Costello** asked the Minister for Foreign Affairs if an agenda for the planned EU/US summit to be attended by President Bush in June 2004 has been finalised; if a location has been agreed; and if he will make a statement on the matter. [14544/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 39 and 72 together.

The Government attaches considerable importance to the EU's relationship with the US and we look forward to continuing our work as EU Presidency to enhance this close transatlantic partnership. There has been a noticeable improvement in the relationship since last year and as EU Presidency, we are building on this improvement. We aim to deliver a summit that restores stability and vitality to the EU-US relationship and reconfirms the importance of this partnership.

We are currently working closely with our EU partners and the US authorities on the preparation of this important meeting. The summit will be held in Dromoland Castle, County Clare. President Bush is scheduled to arrive on the evening of 25 June and the summit will take place on the morning of 26 June, followed by a working lunch. After a press conference, President Bush will depart. At the summit, the EU will be represented by the Taoiseach and myself. President Prodi will lead the Commission delegation and High Representative Solana will also attend.

While the agenda for the summit has not yet been finalised, it would be our expectation that following the appalling act of terrorism perpetrated against innocent people in Madrid in March, counter-terrorism will be a key area of co-operation with the US for discussion at the summit. As regards other international issues, we anticipate that the Arab-Israeli peace process, as well as wider relations with the Middle East region, all aspects of the Iraqi situation, Afghanistan, North Korea and non-proliferation are some of the issues which are likely to feature in our discussions. The summit is also likely to highlight the continued commitment and leadership of the EU and the US in the global fight against HIV/AIDs.

On economic and trade issues, too often the focus tends to be on disputes rather than on areas of co-operation. For that reason, we believe it is important to put these differences into perspective and, under Ireland's Presidency, we are concentrating on the positive economic agenda between the EU and the US, while seeking to manage effectively the limited number of outstanding disputes, which account for less than 3% of overall trade. It is expected that the EU-US Summit will recognise the need to strengthen and widen the transatlantic economic relationship to include the many aspects which affect our investment relationship as well as trade in goods and services. In order to advance this objective, the summit is likely to consider how to conduct a fundamental reassessment of all aspects of our bilateral economic relationship, identify any underlying impediments to trade and investment and accelerate their elimination, as well as identify areas for increased integration

and growth. The summit is likely to acknowledge the valuable role played by business, consumer and other organisations in this process.

I believe a close EU-US partnership is central to prosperity and growth on both sides of the Atlantic and is key to addressing many of the issues on the international agenda. Our belief as EU Presidency is that the best way to restore confidence in the relationship is to focus on pragmatic co-operation on specific issues and to consult regularly and honestly with each other on an ongoing basis. As Presidency, we are working to reaffirm the strength, depth and significance of this relationship in a spirit of partnership with the aim of concluding a successful summit on June 26.

Question No. 40 answered with Question No. 10.

Cypriot Referendum.

41. **Mr. Kehoe** asked the Minister for Foreign Affairs his views on the recent referendum in Cyprus regarding reunification of the island; and if he will make a statement on the matter. [14498/04]

Minister for Foreign Affairs (Mr. Cowen): The Government regret that following the outcome of the referendums in Cyprus on 24 April, the accession of a united Cyprus was not possible on 1 May. The accession of a united Cyprus had been the strong preference of the European Union.

I would like to place on record again the deep appreciation of the Government for the determined and sustained efforts of UN Secretary General, Kofi Annan, and his colleagues in the search for a comprehensive settlement of the Cyprus problem. We also welcome the positive role played by the Governments of Greece and of Turkey.

The meeting of the General Affairs and External Relations Council, which I chaired on 26 April, reviewed the situation in the light of the referendum results. The Council expressed its determination to ensure that the people of Cyprus will soon achieve their shared destiny as citizens of a united Cyprus in the European Union. The Council noted that, through the referendum, the Turkish Cypriot community have expressed their clear desire for a future within the EU. It expressed our determination to end the isolation of the Turkish Cypriot community and to facilitate the reunification of Cyprus by encouraging their economic development.

In the coming weeks, at the request of the Council, the Commission will present comprehensive proposals on assistance for the Turkish Cypriot community, with particular emphasis on the economic integration of the island and on improving contacts between the two communities and with the EU. The Commission proposals will also include measures to implement the recommendation by the

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Council that the €259 million already earmarked for the northern part of Cyprus in the event of a comprehensive settlement should now be used to promote the economic development of the Turkish Cypriot community.

The UN Secretary General is expected to submit a full report to the UN Security Council in the near future on his mission of good offices on Cyprus. This will include his account of the negotiations he undertook with the parties, which led up to the referendum on 24 April. Secretary General Annan is expected to draw conclusions and to make recommendations to the Security Council. We will be paying very close attention to his report and to the response of the Security Council.

Ministerial Visits.

42. **Mr. Quinn** asked the Minister for Foreign Affairs if he will make a statement on his recent visit to Egypt and his meeting with representatives of the Arab League. [14565/04]

Minister for Foreign Affairs (Mr. Cowen):

Following the postponement of the Arab League Summit scheduled for 22 March, I travelled to Cairo, where I met the Secretary General of the Arab League, Mr Amre Moussa and with the President of Egypt, Mr Hosni Mubarak, in order to offer the support of the Presidency to their efforts to ensure that the summit was reconvened at an early date. I am very pleased to be able to inform the House that the summit is now expected to be reconvened this coming weekend and I hope to participate in it.

In addition to my discussions with President Mubarak and Mr. Moussa on the reconvening of the summit, we also exchanged views on a number of important issues affecting the region, including the Israel-Palestine conflict, the situation in Iraq, and the EU's proposed strategic partnership for the Mediterranean and Middle East.

Question No. 43 answered with Question No. 17.

Question No. 44 answered with Question No. 11.

45. **Ms B. Moynihan-Cronin** asked the Minister for Foreign Affairs if he will make a statement on his recent visit to Rwanda and his address to mark the tenth anniversary of the genocide in that country. [14559/04]

Minister for Foreign Affairs (Mr. Cowen): I was very honoured to represent the European Union, and to demonstrate its full solidarity with the Rwandan people, at the commemoration ceremonies to mark the tenth anniversary of the genocide in Rwanda which took place in Kigali on 7 April 2004. The ceremonies themselves and the dignity of the Rwandan people, including

survivors of the genocide, who attended were deeply moving, as well as providing testimony of the impressive progress which Rwanda has made in recovering from the horrific and traumatic events of ten years ago.

In my address at the commemoration ceremonies, I emphasised that the international community must learn from the mistakes which were made both before and during the 1994 genocide. The European Union has been working hard to take on board the lessons deriving from Rwanda's experience, through improving its capacities to react quickly to crisis situations and focusing more on conflict prevention as a goal in our foreign policy. I also made clear the EU's support for the proposals of the UN Secretary General for a stronger UN role in the effective prevention of genocide.

The challenge of how to prevent such atrocities as the 1994 genocide recurring will continue to be a major preoccupation for the European Union and its common foreign and security policies as we go forward. The reality is also, as I stated in Kigali, that if we really want to avoid a repetition of the horrors of 1994, then Africa must occupy a higher priority in the international agenda and this is precisely why we have accorded such priority to African issues during our Presidency.

During my visit to Kigali, I also had the opportunity to meet with Foreign Minister Murigande of Rwanda. We discussed a range of issues, including developments within Rwanda and in the Great Lakes region as a whole. I commended Rwanda for the leading and constructive role which it has played in relation to the proposed international conference on the Great Lakes region. I also emphasised the EU's desire to deepen its political dialogue with the Rwandan government within the framework of the Cotonou Agreement, particularly on issues such as democracy and human rights which can contribute greatly to the promotion of national reconciliation within Rwanda.

State Visits.

46. **Mr. Broughan** asked the Minister for Foreign Affairs if he discussed the abuse of human rights in China and the position of Falun Gong practitioners in particular with the Prime Minister of China in his recent visit here. [14541/04]

57. **Mr. Stagg** asked the Minister for Foreign Affairs the matters discussed and conclusions reached at his meeting with the Chinese Prime Minister, Mr. Wen Jiabao; if the issue of human rights abuses were raised; and if he will make a statement on the matter. [14550/04]

67. **Mr. Wall** asked the Minister for Foreign Affairs if he has raised with the Prime Minister of China in his recent visit here the widespread concern at the suppression of human rights in Tibet. [14542/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 46, 57 and 67 together.

The Chinese Premier, Mr Wen Jiabao, visited Ireland on 11 and 12 May 2004, as part of his first official visit to Europe. In the course of his visit, he had official talks with the Taoiseach, attended a business breakfast hosted by the Tánaiste, which was attended by over 100 Irish business people, and paid a courtesy call on the President. He also visited the National Technology Park and the University of Limerick.

I accompanied the Taoiseach during his official talks with Premier Wen at Dublin Castle on 11 May, at which Premier Wen was accompanied by Foreign Minister, Mr Li Ziaoxing, Minister of Commerce, Mr Bo Xilai, and Minister for National Development, Mr Ma Kai. There were two broad themes for discussion during the talks, Ireland's bilateral relations with China, including political co-operation, investment and trade relations, culture, education and human rights, and EU-China relations. We also reflected on regional and international issues of common concern, including ASEM, the Asia Europe Meeting, non-proliferation and the Korean Peninsula.

On bilateral relations, both sides agreed that while relations have developed significantly in recent years to our mutual benefit, there remains much potential for further engagement across a wide range of issues, including co-operation in the fields of education, software, information technology, construction services and agricultural development. Premier Wen, the spectacular economic advances achieved by China in its own right notwithstanding, emphasised throughout his hope that his government could yet gain insight from the experience of Ireland in economic and social development. We also agreed that cultural exchanges, such as the recently launched Irish cultural festival in China, will encourage better understanding, as will the increased tourism between the two countries that should result from the signature of the new Authorised Destination Status, ADS, Agreement between China and Ireland.

We also raised the issue of the human rights situation in China, which is a constant point of discussion with the Chinese authorities at both national and European Union level. During the discussions, we outlined Ireland's strong commitment to the protection and promotion of human rights and fundamental freedoms. Both sides agreed on the importance of co-operation and dialogue in working together to bring about respect for international obligations. Premier Wen noted that the continuing EU-China Human Rights Dialogue was particularly useful in this regard. The Premier reported on the measures his government are taking in the field of human rights, which included the addition of an express provision on human rights into China's constitution earlier this year. At the same time,

he outlined the difficulties China continues to face in its work to guarantee the right of subsistence to the entirety of its 1.3 billion people.

We emphasised that Ireland is willing to share our experience and expertise with China in relation to human rights, and in this regard we looked forward to the first EU-China Seminar on ratification of the International Covenant on Civil and Political Rights, ICCPR, which will take place at the end of our Presidency in Beijing. Both sides looked forward to further discussion of these and other matters during the next session of the Human Rights Dialogue, which is scheduled to take place next September, at which experts will continue to discuss particular issues including Tibet, and the protection of freedom of religion and expression, which have a particular impact on practitioners of Falun Gong.

Northern Ireland Issues.

47. **Ms Lynch** asked the Minister for Foreign Affairs his views on the decision of the British authorities not to proceed with the establishment of a public inquiry into the circumstances of the murder of a person (details supplied) as recommended in the Cory Report; and if he will make a statement on the matter. [14556/04]

Minister for Foreign Affairs (Mr. Cowen): On 1 April last, the British Government published reports by Judge Peter Cory into the murders of Pat Finucane, Rosemary Nelson, Robert Hamill and Billy Wright. At that time, I welcomed the publication of those reports and the announcement that inquiries will be held into the circumstances of the murders of Rosemary Nelson, Robert Hamill and Billy Wright, as recommended by Judge Cory.

I also expressed disappointment, however, at the decision of the British Government to delay a decision on the judge's recommendation that a public inquiry be established quickly into the circumstances of the murder of Pat Finucane.

Recently, Judge Cory made clear again in his statement in Washington to the Helsinki Commission hearings his view that this was one of the rare instances where a public inquiry should take precedence over a prosecution if there is to be peace in the community. He went on to say that until that happened, "then suspicion grows like a cancerous sore and just will grow greater and greater until the exploration is made". His comments clearly underline his conviction that a public inquiry should be held without delay. The Government shares this view, as the Taoiseach has previously made clear to this House.

The case of Pat Finucane has been, and remains a cause of the most serious concern. The Finucane family has called for a public inquiry for over 14 years. Like the other three families involved, they want and are entitled to see the timely establishment of inquiries into all of the cases, in full accordance with the commitments made by the two Governments at Weston Park in

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August 2001. I will continue to express this view to the British Government, and will urge that a public inquiry should be established as soon as possible.

Ministerial Meetings.

48. **Mr. Boyle** asked the Minister for Foreign Affairs if he will report on his meeting in April 2004 with the Spanish Foreign Minister, Mr. Miguel Ángel Moratinos; and if he will make a statement on the matter. [14668/04]

Minister for Foreign Affairs (Mr. Cowen): I had the pleasure of meeting the Minister for Foreign Affairs of Spain, Mr. Miguel-Ángel Moratinos, in Dublin on 20 April 2004. The Deputy may wish to note that this was the first overseas visit by Minister Moratinos since his appointment as Foreign Minister and I was especially grateful to him for travelling to Dublin so soon after his appointment.

During my meeting with Minister Moratinos we discussed a range of EU and international issues. These included the IGC, in regard to which Minister Moratinos expressed his support for the Presidency's approach and set out the views of the new Spanish government.

Concerning international issues, we had a very constructive exchange of views on Iraq, the Middle East and the forthcoming EU-Latin America and Caribbean Summit, due to be held in Guadalajara on 28 May 2004.

Question No. 49 answered with Question No. 11.

Question No. 50 answered with Question No. 38.

Question No. 51 answered with Question No. 38.

Foreign Conflicts.

52. **Ms McManus** asked the Minister for Foreign Affairs the latest information received from the authorities in Burundi regarding the circumstances of the murder of a person (details supplied); the progress that has been made with regard to efforts to bring those responsible to justice; and if he will make a statement on the matter. [14557/04]

Minister for Foreign Affairs (Mr. Cowen): I raised the ongoing investigation by the Burundian authorities into the murder of Archbishop Michael Courtney last December when I met with both President Ndayizeye and Foreign Minister Sinunguruza in Bujumbura on 8 April 2004.

The Foreign Minister informed me that the investigation by the Burundian public prosecutor is still ongoing and efforts are still being made to apprehend three other individuals suspected by the Burundian authorities of involvement in the

murder. Deputies will be aware that one individual is already in custody on suspicion of involvement in the ambush which resulted in the nuncio's death. No date has as yet been set for the trial of this individual. The Foreign Minister confirmed that he has communicated to the judicial authorities in Burundi the wish of the Irish Government that the suspect now in custody not be sentenced to death, should he be found guilty. I requested Foreign Minister Sinunguruza to ensure that the Government continues to be kept fully informed, through appropriate diplomatic channels, of all developments in relation to this case.

The Government will continue to monitor closely developments in relation to this very troubling case, both directly with the Burundian authorities and through other sources, including via our Ambassador to the Holy See.

Question No. 53 answered with Question No. 37.

Emigrants Status.

54. **Mr. Deenihan** asked the Minister for Foreign Affairs if his attention has been drawn to the difficulties being experienced by thousands of undocumented Irish emigrants in the USA; if he will report on recent Government initiatives to regularise the status of these persons; and if he will make a statement on the matter. [14614/04]

Minister for Foreign Affairs (Mr. Cowen): During my visit to Washington on 2 March, I discussed the situation and status of Irish emigrants in the United States with a number of prominent US politicians.

I met with Senator Chuck Hagel who, together with Senator Tom Daschle, the Democratic Leader in the Senate, has recently initiated a Bill in Congress which would enable undocumented foreign nationals in the US to legalise their status if they fulfilled certain conditions. This initiative followed the announcement by President Bush of his proposal, Fair and Secure Immigration Reform, which also seeks to address the situation of undocumented foreign workers in the US. I welcomed the Daschle-Hagel initiative which I see as a constructive effort to deal with the situation of the undocumented in the US in a pragmatic and compassionate way. I had previously welcomed President Bush's initiative when it was announced in January.

I also met with Senator Edward Kennedy who was working on proposals for an immigration initiative. I understand that since our meeting he has introduced a new immigration reform Bill this month entitled the Safe, Orderly Legal Visas and Enforcement Act, the SOLVE Act. Under his proposals, immigrants who have been in the US for five or more years on the date of introduction, 4 May 2004, and can demonstrate two years in aggregate of employment, including self-employment, in the US and payment of taxes would be eligible for legalisation. The principal

applicant's spouse and unmarried children under 21 years of age are also eligible. Applications will be adjudicated outside the current caps on visas. Current grounds of inadmissibility related to undocumented status would be waived.

Also, applicants would be able to travel and work with authorisation while their application is pending. The Bill would also extend the current system for reunification of immigrant families and aims to reduce processing backlogs.

The Bill would address the need for temporary workers in low-skilled positions and would include a path to permanent residency, wherein an employer could immediately petition for a worker upon initial employment or a worker could self-petition after two years of employment. The Department of Labour must approve, through a strengthened attestation process, that US workers are not available and that the employment of foreign workers will not adversely affect the wages and working conditions of US workers.

I welcome this initiative which goes further than other recent immigration initiatives in providing opportunities for undocumented immigrants to regularise their status.

Each of these initiatives will have to follow the legislative paths within Congress. However, I was pleased to have this early opportunity to flag our concerns about the position of Irish emigrants in the US. I will continue to monitor the progress of these initiatives closely in the coming months.

Question No. 55 answered with Question No. 30.

Humanitarian Assistance.

56. **Ms O'Sullivan** asked the Minister for Foreign Affairs the humanitarian assistance the Government has provided to help the victims of the recent serious train disaster in North Korea; and if he will make a statement on the matter. [14563/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): On 22 April 2004, a massive explosion occurred at Ryongchon railway station in the Democratic People's Republic of Korea when railway wagons, reported to be loaded with highly-combustible ammonium nitrate, detonated and exploded.

Initial reports of casualties caused by the explosion varied greatly. There were early reports that up to 3,000 people had perished. However, latest assessments indicate that the train disaster has left 161 people dead and approximately 1,300 people injured. Among the dead were 76 children, whose school was destroyed in the blast. Some 1,850 homes were also destroyed and over 6,000 more sustained partial damage.

The Government responded immediately to appeals for international assistance for victims of the disaster and on 23 April funding of up to €200,000 in emergency assistance was approved. Of this funding, €100,000 has been allocated to

the International Federation of the Red Cross for its disaster appeal. The Red Cross has requested US\$1.25 million for 12 months to assist 2,000 families affected by the explosion. Temporary shelter, blankets, food and medical assistance have been provided to those left homeless by the disaster and further rehabilitation assistance will be provided by the Red Cross in the coming months.

Further assistance for victims of the disaster will be considered by the Government in the light of needs assessments and situation reports from the United Nations, Red Cross and other relevant humanitarian agencies.

In the past year, approximately €900,000 has been provided by the Government for ongoing humanitarian operations in the Democratic People's Republic of Korea. This funding has been channelled through the World Food Programme, WFP, and the NGO, Concern, and aims to meet food needs as well as bringing about improvements in water supply and sanitation.

Question No. 57 answered with Question No. 46.

Question No. 58 answered with Question No. 38.

European Council Meetings.

59. **Mr. Deasy** asked the Minister for Foreign Affairs the cost of holding a meeting of European Ministers for Foreign Affairs at Tullamore; the value of sponsorship which was associated with the meeting; and if he will make a statement on the matter. [14534/04]

Minister for Foreign Affairs (Mr. Cowen): The informal meeting of European Union Foreign Ministers took place in Tullamore on 16 and 17 April 2004.

As a number of invoices are still outstanding, it is not possible at this stage to say what was the cost of holding the meeting. My Department is in contact with the relevant suppliers in relation to finalising these costs. It is envisaged that the Department of Foreign Affairs will incur costs in the following areas: accommodation; transport; catering; media and communications; and miscellaneous costs — printing, signage etc.

The Department of Foreign Affairs availed of sponsorship arrangements offered by Eircom, Audi, Tipperary Water and Kerrygold for the meeting. We also co-operated in this regard with some local organisations and companies. As in the case of the total costs of the meeting, it is not possible to say, at this time, the value of the sponsorship.

Human Rights Issues.

60. **Mr. G. Mitchell** asked the Minister for Foreign Affairs the steps that he will take during the last weeks of Ireland's Presidency of the European Union to address international

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concerns with regard to human rights abuses in West Papua; and if he will make a statement on the matter. [14500/04]

Minister for Foreign Affairs (Mr. Cowen): As a demonstration of our commitment as Presidency to raise the level of our political dialogue with Indonesia, I led an EU ministerial troika meeting with the Indonesian Foreign Minister, Mr. Wirajuda. This was held in the margins of the ASEM Foreign Ministers' meeting, which I hosted in Kildare from 17 to 18 April 2004.

This was the first such meeting between the EU Presidency and Indonesia in a number of years. Among the matters discussed at this meeting was the situation in Papua. I used this opportunity to express the EU's continuing concerns about the situation there, including human rights abuses. Minister Wirajuda took note of our concerns, and added that respect for human rights and the rule of law were two of the most important pillars of the Reformasi process launched after the fall of Suharto in 1999. Special clauses have been inserted into the constitution to that effect, and an *ad hoc* human rights court had been set up. It is to be welcomed that this dialogue will be followed through under the Dutch Presidency.

The meeting in Kildare followed on a bilateral meeting that my colleague, the Minister of State with responsibility for overseas development and human rights, Deputy Kitt, held with Mr. Wirajuda at the ASEM Foreign Ministers' meeting, which Minister Wirajuda hosted in Indonesia in July 2003. During this meeting issues of particular concern, including the human rights situation in Papua, were raised.

On 9 July 2003, the European Commission published a communication, A New Partnership with South East Asia. At the outset of our Presidency, in the January 2004 meeting of the EU External Relations Council, conclusions were adopted endorsing the communication, and the six strategic priorities set out therein, including the promotion of human rights, democratic principles and good governance.

In these conclusions, the EU welcomes the progress Indonesia has made in its democratic reform process and recognises the importance of the 2004 elections. The EU notes that the Indonesian government has taken steps to punish members of the security forces responsible for human rights violations. While acknowledging Indonesia's legitimate concern to preserve its territorial integrity, we encourage the Government to strengthen its efforts to protect human rights and put an end to human rights violations occurring in particular in Papua, such as extra-judicial executions, disappearances and torture. Indonesia should take all necessary measures to ensure the safety of civilians, human rights defenders, humanitarian workers and political activists.

In the course of the Presidency, officials of my Department continue to meet regularly with representatives of the West Papua Action Group. On 25 March 2004, they met Mr John Rumbiak, a human rights advocate of the Papua-based Institute for Human Rights Study and Advocacy, ELSHAM, Mr Viktor Kaisiepo, the European spokesperson, Papua Presidium Council, PDP, and Dr. John Otto Ondawame of the West Papua People's Representative Office.

The Government also continues to monitor closely the situation in Papua and encourages the authorities in Indonesia to act with full regard to the interests of the people of Papua. Together with our EU partners, Ireland will continue to support the development of a strengthened partnership and effective dialogue between the EU and Indonesia. The Government, at this time, sees this as the framework that is most likely to be effective for addressing our serious concerns about the situation, including human rights, in Papua.

Question No. 61 answered with Question No. 37.

Overseas Development Aid.

62. **Mr. Gilmore** asked the Minister for Foreign Affairs the allocation for ODA in his Department's Estimates for 2004; if it remains the Government's commitment to meet the target for ODA of 0.7% of GNP by 2007; the proportion of that target that will be met in 2004 and in each successive year up to 2007; and if he will make a statement on the matter. [14551/04]

92. **Mr. Sargent** asked the Minister for Foreign Affairs if he has had a meeting with development agencies on the subject of Ireland's overseas development aid contribution; and if he will make a statement on the matter. [13792/04]

123. **Caoimhghín Ó Caoláin** asked the Minister for Foreign Affairs if the achievement of 0.7% overseas development assistance by 2007 continues to be Government policy; the way in which it is proposed to accelerate ODA provision in view of the fact that the current level is 0.42% when the target for 2002 was 0.45%; the steps that will be taken during the remainder of 2004 to make better progress towards the 0.7% target; and if he will make a statement on the matter. [14870/04]

131. **Mr. Durkan** asked the Minister for Foreign Affairs when it is expected that Ireland can increase its contribution to overseas development aid in line with the UN objectives; and if he will make a statement on the matter. [14789/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): I propose to take Questions Nos. 62, 92, 123 and 131 together.

The Government continues to have as an objective the achievement of the ODA target of

0.7% of GNP by 2007. Despite the many pressures on the public finances at present, an allocation of €400 million has been made in the 2004 Estimates to my Department's Vote for International Co-operation. In addition, elements of ODA which are administered by other Departments are expected to total some €80 million this year. Total spending on ODA, therefore, is expected to approach €480 million in 2004, the highest ever in the history of the programme. This level of expenditure demonstrates the strong commitment of the Government to the attainment of the UN target.

In 2001 and 2002, our aid expenditure amounted to 0.33% and 0.41% of GNP, respectively. Provisional figures indicate that we maintained the percentage at 0.41% in 2003. This year, it is likely to reach the same level or possibly exceed it. In percentage terms, Ireland is one of the world's leading donors, we are currently in joint seventh place, and well ahead of the EU average. The Government hopes that increased allocations, the scale and timing of which will be considered on an ongoing basis, will be possible over the coming years with a view to the achievement of our objective.

As Minister of State with responsibility for development co-operation and human rights, I have regular meetings — with development agencies and other organisations and individuals with an interest in development co-operation — at which Ireland's overseas development aid contribution is among the subjects discussed.

Question No. 63 answered with Question No. 11.

Millennium Development Goals.

64. **Caoimhghín Ó Caoláin** asked the Minister for Foreign Affairs if he has sought agreement from the EU Foreign Ministers on a role for the EU Commission in monitoring implementation of Millennium Development Goal eight on coherence. [14611/04]

80. **Aengus Ó Snodaigh** asked the Minister for Foreign Affairs the specific actions the Government has taken on the Millennium Development Goals since assuming the EU presidency in January 2004; and the additional specific actions the Government will take on the Millennium Development Goals up to the conclusion of the EU Presidency in June 2004. [14608/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): I propose to take Questions Nos. 64 and 80 together.

From the outset of our EU Presidency, Ireland has promoted strong leadership by the EU on the Millennium Development Goals, MDGs. In January 2004, we used the occasion of the annual Orientation Debate on the Effectiveness of the EU's External Actions, at the General Affairs and External Relations Council, GAERC, to

highlight the central importance of the Millennium Development Goals to the EU's foreign and development policies.

The GAERC adopted conclusions which state that achieving the MDGs is a key objective for the European Union and the wider international community, and that the commitments made by EU member states at the 2002 Monterrey Conference on Financing for Development reflect the Union's leadership role in international efforts to achieve the MDGs.

UN member states have agreed to convene a major event, possibly a summit at heads of state or government level, in New York in September 2005 to review progress towards achieving the MDGs in the period 2000 to 2005. As most of the MDGs have set 2015 as the target date for their achievement, the 2005 review meeting in New York will be the first major milestone on the road to 2015.

Ireland believes that the EU should contribute to this UN stocktaking exercise through a co-ordinated EU report. At the GAERC on 27 April, on the basis of a Presidency initiative, Ministers mandated the Commission to co-ordinate an EU input to the September 2005 UN stocktaking. The Council conclusions provide that each member state must submit a national MDG report to the Commission on the basis of an agreed reporting format. The Commission will then synthesise these national reports into a joint EU report which, after discussion and approval by Ministers, will be submitted to the UN next year.

The Council conclusions make clear that the national MDG reports must pay particular attention to MDG eight, global partnership for development, which embraces such issues as levels of official development assistance, debt and trade. This particular goal is most relevant to donors and needs to be examined in detail in the national MDG reports.

In addition to these actions at the GAERC, the Presidency has used every possible opportunity to highlight the importance of the MDGs and to promote the EU's view that development policies and programmes need to be aligned with the objectives of the goals. In his address to the spring meeting of the UN's Economic and Social Council, ECOSOC, with the Bretton Woods Institutions and the World Trade Organisation, the Minister for Finance, Deputy Charlie McCreevy, expressed the EU's profound concern over the faltering progress towards the MDGs in Sub-Saharan Africa. He called for greater policy coherence at the national and international levels and for UN members to meet the commitments made at the International Conference on Financing for Development in March 2002.

The Irish EU Presidency will also work to ensure that the MDGs are placed at the centre of the development related discussions in the forthcoming meeting of the World Health Assembly in Geneva, at the eleventh UN

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Conference on Trade and Development, UNCTAD XI, in Brazil in June and at the ministerial high level segment of ECOSOC on 28 June.

Question No. 65 answered with Question No. 14.

Citizenship Applications.

66. **Mr. Gilmore** asked the Minister for Foreign Affairs if he has received representations from other EU countries suggesting that the current right to Irish citizenship of anyone born in the island of Ireland was being abused by residents of their country or that the law or the Constitution should be changed; and if he will make a statement on the matter. [14552/04]

Minister for Foreign Affairs (Mr. Cowen): I have not received any such representations.

The substantive issues referred to by the Deputy are matters for the Minister for Justice, Equality and Law Reform. The Deputy will be aware, however, of the case referred to the European Court of Justice by the UK Immigration Appellate Authority. The Advocate General has now delivered his opinion in favour of the applicants' right to reside in the territory of a member state of the EU.

In the course of the proceedings in that case, the United Kingdom Government disputed the court's jurisdiction to give a ruling on the matters which had been submitted to it. In that context, it argued that the only element of the case which was not internal to the United Kingdom was the child's Irish nationality. Its view was that her nationality was acquired as "the result of subterfuge resorted to by Mr. and Mrs. Chen, which should be seen as an abuse of law". The Advocate General, in his opinion, stated:

The fact is that the problem, if problem there be, lies in the criterion used by the Irish legislation for granting nationality, the *jus soli*, which lends itself to the emergence of situations like the one at issue in this case.

In order to avoid such situations, the criterion could have been moderated by the addition of a condition of settled residence of the parent within the territory of the island of Ireland. But there is no such additional condition in Irish legislation, or in any event no such condition was applicable to Catherine.

Question No. 67 answered with Question No. 46.

Foreign Ministers' Meeting.

68. **Mr. S. Ryan** asked the Minister for Foreign Affairs if he will make a statement on the outcome of the Euro-Mediterranean Foreign Ministers meeting in Dublin from 4 to 6 May 2004. [14567/04]

Minister for Foreign Affairs (Mr. Cowen): The Euro-Mediterranean mid-term meeting of Foreign Ministers reaffirmed their strong political commitment to the Barcelona Process and all its activities. In addition, the meeting provided a forum for the European Union and its Mediterranean partners to discuss issues relating to reform and democratisation in the region. They noted that the existing instruments such as the association agreements and national plans under the European neighbourhood policy could be utilised to support reforms and modernisation.

Agreement was reached on the location of the Anna Lindh Foundation for the Dialogue of Cultures and Civilisations in Alexandria. Ministers welcomed the setting up of the Euro-Mediterranean Parliamentary Assembly, which held its inaugural meeting in Athens on 22 and 23 March. They also welcomed agreement on the Presidency's proposals for improving the working methods of the partnership.

Aside from the Barcelona Process, the meeting afforded an opportunity to discuss regional issues including the Middle East peace process and Iraq. Ministers agreed that the clear commitment to pursuing the Middle East peace process through the implementation of the roadmap was central to the success of such a policy and committed themselves to continue to help the Iraqi people rebuild their country and regain its proper place in the regional as well as the international family.

I led the EU troika in meetings with Israel and the Arab countries which provided further opportunities for dialogue on the Middle East peace process and the EU's strategic partnership with the Mediterranean and the Middle East.

The troika also met on 6 May with the Libyan Foreign Minister to express the Union's concern over the verdict and death sentences which had been handed down that day on five Bulgarian nurses and a Palestinian doctor charged with deliberate infection of Libyan children with HIV.

I also held bilateral meetings with the Foreign Ministers of Israel and the Palestinian Authority and with the Secretary General of the Arab League. The Presidency conclusions have been made public through the Presidency website.

Citizenship Regulations.

69. **Mr. Kehoe** asked the Minister for Foreign Affairs if he has had contact with his European Union counterparts with regard to the current regulations governing Irish citizenship; and if he will make a statement on the matter. [14517/04]

Minister for Foreign Affairs (Mr. Cowen): I have not had any such contacts other than our contacts with British counterparts regarding the Interpretative Declaration on the 1998 British-Irish Agreement, which has since been published. Citizenship legislation is primarily a matter for the Minister for Justice, Equality and Law Reform.

Question No. 70 answered with Question No. 18.

Foreign Conflicts.

71. **Mr. P. Breen** asked the Minister for Foreign Affairs if he will provide an account of the political situation in Haiti; and if he will make a statement on the matter. [14521/04]

Minister for Foreign Affairs (Mr. Cowen): As the Deputy is aware, President Aristide left office on 29 February 2004. I refer the Deputy to the reply I gave the House on 31 March last, in which I outlined the political progress that had been made in Haiti in the first month following Mr Aristide's departure. Since then, the country has continued a gradual return to peace and stability, although some unrest remains outside the capital of Port-au-Prince, in areas where governmental institutions are largely absent.

The 3,400 strong Multinational Interim Force, MIF, established by UN Security Council Resolution 1529 of 29 February 2004 for a period of three months, continues to play an important role. With effect from 1 June 2004, the MIF will be replaced by a United Nations Stabilisation Mission, MINUSTAH, authorised by UN Security Council Resolution 1542, which was adopted on 30 April 2004. MINUSTAH is expected to comprise some 6,700 troops and some 1,600 police.

Efforts are continuing to establish democracy and the rule of law. The interim Government which was sworn in on 17 March last has announced a timetable for elections, with presidential elections expected to take place in late 2005, with a view to the inauguration of a new President in February 2006. An eight member Provisional Electoral Council, charged with the task of overseeing the electoral process, was sworn in on 4 May 2004.

Meanwhile, the European Commission is examining the mobilisation of approximately \$110 million for emergency programmes and rehabilitation projects in Haiti under the eighth European Development Fund. The Commission's delegation in Port-au-Prince has been reinforced with five additional experts to facilitate and

accelerate the identification of Haiti's emergency assistance needs.

In addition, the EU is monitoring developments with a view to assessing whether conditions are right for the restoration of aid, which was partially suspended under Article 96 of the Contonou Agreement following allegations of fraud in the parliamentary elections of 2000. This will be dependent on the degree of progress towards democratisation.

Question No. 72 answered with Question No. 39.

Passport Applications.

73. **Mr. O'Shea** asked the Minister for Foreign Affairs the reason his Department is unable to supply details of the numbers of Irish passports issued by Irish embassies abroad to those qualifying for Irish citizenship through the descent rule; if records of such numbers are kept; if he will arrange to publish details of the numbers of passports so issued; and if he will make a statement on the matter. [14562/04]

Minister for Foreign Affairs (Mr. Cowen): I refer the Deputy to my reply to a similar question to the above raised by Deputy Burton which I answered on 29 April last. The information sought cannot be produced from the existing passport issuing system. This system was developed 12 years ago and does not have the capacity to produce reports of the detail requested by the Deputy. The new automated passport issuing system, which is being developed at present and will be operational in the autumn of this year, will have a much greater capacity to produce management information reports.

Over 3.1 million passports have been issued worldwide since 1997, almost 500,000 of these by overseas missions. Compiling a breakdown by descent from these application files could not be done manually except with the expenditure of a disproportionate amount of time and resources. I am however happy to provide details of the numbers of passports issued on an annual basis since 1997 for the information of the Deputy and this is as follows:

Year	1997	1998	1999	2000	2001	2002	2003
Dublin & Cork	264,267	305,594	358,429	388,276	394,637	449,043	467,653
London	36,000	38,000	40,379	41,562	41,769	53,491	47,581
Other Missions	12,000	13,000	31,854	33,217	32,219	34,289	36,813
Total	312,267	356,594	430,662	463,055	468,625	536,823	552,047

EU Conflict Prevention.

74. **Mr. Gormley** asked the Minister for Foreign Affairs if he will report on the outcome of the Conference on Conflict Prevention held in Dublin in April 2004; and if he will make a statement on the matter. [13469/04]

Minister for Foreign Affairs (Mr. Cowen): I have prioritised conflict prevention as a key

aspect of our EU work programme and I welcome the interest expressed by the Deputy in the Conference on Conflict Prevention recently held in Dublin.

The conference, hosted by the EU Presidency, took place from 31 March until 2 April. It focused on the overall theme of The Role of NGOs and Civil Society in the Prevention of Armed

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Conflict. A broad range of non-governmental organisations, NGOs, and civil society representatives participated in the conference, as well as officials from the EU member states and, at that time, accession states, and EU institutions.

I have arranged for a copy of my address to the conference to be placed in the Oireachtas Library. It is also available on the EU Presidency website. In addition to contributions from the Presidency, EU representatives and NGO-civil society participants, keynote contributions were also delivered by the Foreign Minister of Mozambique and chair-in-office of the African Union, Dr. Leonardo Simao, the Foreign Minister of South Africa, Dr. Zuma, Assistant Secretary General, Danilo Turk, of the UN Department for Political Affairs and Ms Birgitta Dahl, member of the UN Secretary General's High-Level Panel on Civil Society and UN Relationships.

The conference usefully highlighted the role to be played in conflict prevention by NGOs and by civil society in general, as well as underlining the European Union's own activities in the area of conflict prevention. Factors such as the need to address root causes of conflict, particularly through poverty reduction, and the importance of upholding relevant international law were also emphasised, as were EU-UN and EU-Africa dimensions in this area. Also, following deliberations among the NGO and civil society representatives, the Presidency was presented with a series of policy recommendations entitled Dublin Action Agenda on the Prevention of Violent Conflict.

Exchanges at the conference indicated that much common ground exists between governments and EU-UN institutions and their NGO-civil society counterparts in their respective approaches to conflict prevention. Openness was apparent on both sides to exploring scope for further interaction over the period ahead. A further international seminar on the role of NGOs-civil society in conflict prevention due to be held at UN headquarters in New York in 2005 is likely to be a particular focus in this regard.

On 1 April, *en marge* of the conference, the Presidency invited members of the EU Committee for Civilian Aspects of Crisis Management to meet informally with their counterparts holding expertise on conflict prevention in the development assistance area. The purpose of this informal meeting of officials was to explore themes linking security and development at EU level and to examine areas where the two sides might co-operate more closely to enhance the EU's capacity to prevent conflict. Further themes which arose included how EU security and development can work together to enhance effective multilateralism, particularly in support of the role of the United Nations, capacity building, coherence between EU action and bilateral action, security sector

reform, "lessons learned" mechanisms and the concept of human security.

As Presidency, we will be submitting a report on conflict prevention issues to the June European Council. My intention is that it should be a forward-looking document and that it should also acknowledge the valuable role which can be played by our NGO and civil society partners.

Irish Media.

75. **Mr. R. Bruton** asked the Minister for Foreign Affairs if he will make a statement on recent comments made by a former US diplomat in relation to attitudes within the Irish media; and if he will make a statement on the matter. [14528/04]

Minister for Foreign Affairs (Mr. Cowen): I am aware of the comments reportedly made by a former US diplomat, Mr. George Dempsey, to which the Deputy refers. I am confident that Mr. Dempsey, as a former diplomat, appreciates the importance of a free and independent media in an open democracy and that he understands the need to have as wide a range of views as possible on issues of public concern. Freedom of expression and diversity of opinion go hand in hand. Deputies may already know that in the recently released Table of Global Press Freedom Rankings for 2004, as compiled by Freedom House, a non-profit, non-partisan organisation, Ireland, along with the United States, was ranked in the top 25 of 192 countries surveyed for press freedom. I would not agree with Mr. Dempsey's reported comments that there is a prevailing view in the Irish media that vilifies American foreign policy.

Northern Ireland Issues.

76. **Mr. McGinley** asked the Minister for Foreign Affairs his views on the report of the Independent Monitoring Commission regarding continuing paramilitary activity; and if he will make a statement on the matter. [14499/04]

Minister for Foreign Affairs (Mr. Cowen): The Government has accepted the conclusions and recommendations of the report of the Independent Monitoring Commission, IMC, on paramilitary activity, which was published on 20 April, and painted a disturbing picture in relation to paramilitary activity and criminality.

In its acceptance of the report, the Government acknowledged the constructive contributions that have been made by various parties in advancing the peace process to this point. However, six years after the Good Friday Agreement, it is now clear what must be done if stable politics and a peaceful society in Northern Ireland are to be assured. The transition to exclusively peaceful and democratic means must be definitively completed and must happen as soon as possible.

The people of Northern Ireland want a restoration of the devolved arrangements of the Good Friday Agreement. Everyone, including the

two Governments and all the political parties in Northern Ireland, has a part to play in this but in order to make real progress it is essential that the issues raised in the IMC report are addressed before the commission publishes its next report on paramilitary activity in the autumn.

Question No. 77 answered with Question No. 11.

International Agreements.

78. **Mr. Crawford** asked the Minister for Foreign Affairs if during Ireland's Presidency of the European Union discussions have been held with the United States of America with regard to the International Criminal Court; and if he will make a statement on the matter. [14520/04]

Minister for Foreign Affairs (Mr. Cowen): As the Deputy will be aware, the United States of America has differing views from Ireland and its EU partners on the International Criminal Court, ICC. The United States has stated its opposition to the court, has declared its intention not to ratify its statute and seeks to have its nationals exempted from the court's jurisdiction, while Ireland and the EU are committed to the effective functioning of the court, the integrity of its statute and the widest possible ratification and implementation thereof. In this regard, I would refer the Deputy to my reply to Parliamentary Question No. 4314 of 12 February last. No discussions have been held with the US on the ICC in the period mentioned by the Deputy.

Foreign Conflicts.

79. **Mr. Allen** asked the Minister for Foreign Affairs if he will report on the political and security situation in Burundi; and if he will make a statement on the matter. [14495/04]

Minister for Foreign Affairs (Mr. Cowen): There has been significant political progress in Burundi since the signing of the Arusha peace accords in August 2000 and the overall prospects for peace have probably not been as strong in a very long time. Peace agreements concluded between the Transitional National Government and the CNDD-FDD movement in November 2003 mean that there is now only one armed group, the Forces Nationales de Liberation, FNL, continuing to oppose the peace process. Efforts are continuing to urge the FNL to resume peace negotiations with the Government. These had begun in January but have since been suspended. There have been some indications recently that the FNL may be prepared to declare a unilateral ceasefire and the EU, in a declaration issued by the Presidency on 30 April, has welcomed these indications and has called on all sides to conclude a ceasefire and once again urged the FNL to abandon its military campaign and commit fully to the peace process.

While the CNDD-FDD announced their withdrawal from the Transitional National

Government on 3 May, they have also made clear that they have no intention of withdrawing from the peace process or returning to violence and efforts are continuing to bring about an end to their withdrawal, through satisfying their demand for the full level of representation within the transition institutions accorded to them in the November 2003 peace agreement.

Ireland, as EU Presidency, has remained very closely engaged in the Burundian peace process and has had a series of contacts with the Burundian Government since the murder of Archbishop Michael Courtney last December, including when I met with President Ndayizeye and Foreign Minister Sinunguruza on 8 April 2004 during my visit to Burundi.

During my talks with the President and the Foreign Minister, I reiterated the EU's full support for the current peace efforts and willingness to extend whatever assistance we can to further the peace process in Burundi. I also urged progress in implementing all the provisions of the Arusha peace accords, including those relating to tackling impunity and safeguarding human rights, and also raised ratification of the Statute of the International Criminal Court by Burundi as a step which would offer assurance of justice to all those who have suffered human rights abuses during the latter years of the conflict in Burundi. President Ndayizeye indicated, in response, that his government is now considering steps to ratify the statute of the International Criminal Court.

The efforts to ensure satisfactory completion of the transition process in Burundi will be greatly strengthened by the planned deployment of a UN peace-keeping mission in Burundi to oversee the remaining period of the transition up until the holding of scheduled national elections at the end of October. Consultations are continuing within the UN Security Council on the mandate for the mission, to be known as ONUB, and which will contain a significant human rights component. It is hoped that a decision formally establishing the mission will be taken shortly.

Question No. 80 answered with Question No. 64.

Northern Ireland Issues.

81. **Mr. Neville** asked the Minister for Foreign Affairs his views on a statement made by the Deputy chairperson of the Policing Commission recently who stated that the Irish Government were disengaged from the peace process; and if he will make a statement on the matter. [14506/04]

Minister for Foreign Affairs (Mr. Cowen): As the Taoiseach has already stated, the person to whom the Deputy refers is very highly regarded by the Irish Government for the outstanding work that he, together with the other members of the policing board, carries out in often very difficult circumstances. However, I do not share

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his assessment that the Government is disengaged from the peace process. The Government remains deeply committed to achieving a lasting peace on this island and we attach the highest priority to achieving this goal.

In recent weeks and months we have, together with the British Government, continued our intensive dialogue with all the parties to achieve a resolution to the current political impasse. On 23 March, the Taoiseach and Prime Minister Blair met with all the parties at Hillsborough. Since then, the Taoiseach separately met Sinn Féin, the SDLP and Prime Minister Blair in Dublin. The Government has also held meetings with all the parties in recent weeks as part of the review of the operation of the Good Friday Agreement. In addition, I had an opportunity for an in-depth discussion with the DUP in Belfast on 29 April.

In all our contacts, we have been forthright in expressing our view that the achievement of progress requires a definitive end to all forms of paramilitarism, together with assurances from all sides about the operation of stable, inclusive political institutions. We are determined to continue working with the British Government and all the parties to achieve an outcome where the threat of paramilitarism is removed and where politics works for the benefit of all.

Notwithstanding the pressures and constraints of other commitments, the Taoiseach and the Government will continue to devote whatever time and energy are needed to move the peace process forward.

Human Rights Issues.

82. **Mr. G. Mitchell** asked the Minister for Foreign Affairs if he will report on the recent meetings held with Vice President Santos of Colombia; and if he will make a statement on the matter. [14530/04]

Minister for Foreign Affairs (Mr. Cowen): Mr. Francisco Santos Calderón, Vice President of Colombia, visited Ireland on 22 and 23 March as part of a tour of a number of European countries in preparation for this year's session of the UN Commission on Human Rights, CHR, which took place in Geneva from 15 March to 23 April and also in order to discuss Colombia's overall relations with the European Union.

During his visit to Dublin, the vice-president met the Taoiseach, the Tánaiste and officials in my Department. I was unable personally to meet the vice-president because of my participation in the General Affairs and External Relations Council on 22 March and meetings in Northern Ireland on 23 March.

I understand that the vice-president also held meetings with the Joint Oireachtas Committee on Foreign Affairs, a number of non-governmental organisations working in Colombia, as well as representatives of the Bring them Home Campaign and family members of the three Irishmen on trial in Colombia.

As well as discussing general EU-Colombia relations and human rights with Vice President Santos, the Taoiseach also took the opportunity to raise the question of the welfare of the three Irishmen detained in Colombia. The main matter covered in discussions in my Department was the human rights situation in Colombia. Vice President Santos outlined the significant improvement in the situation in 2003 as evidenced by: a significant reduction in the overall murder rate; in murders of trade unionists and other particularly vulnerable groups; in massacres of civilians; in forced displacements; in attacks against towns; and in kidnappings and hostage-taking. The vice president acknowledged, however, that notwithstanding these achievements, the level and frequency of such grave crimes continues to be extremely high.

In line with EU policy as set out in the conclusions of the General Affairs Council of 26 January 2004, the Irish side conveyed to the Vice President our concern at some aspects of the Colombian Government's policies, for example the granting of certain judicial powers to the security forces and the failure to fully implement all the specific recommendations made in 2003 by the UN High Commissioner for Human Rights.

At the subsequent discussion in the Commission on Human Rights in Geneva, the chairperson's statement on Colombia acknowledged the deepening dialogue between the Colombian Government, in particular through the Office of Vice-President Santos, and the offices of the High Commissioner in Colombia. It recognised the Government's co-operation with United Nations bodies and noted its commitment to seek a negotiated solution to the conflict. However, the chairperson emphasised the need for greater progress on the part of the Government in the following areas: the achievement of a solution to the conflict, particularly in relation to the issue of the demobilisation of illegal armed groups; alleged collusion between members of the public service and illegal armed groups; and the fulfilment of its obligations under various international human rights instruments.

EU Enlargement.

83. **Mr. Deasy** asked the Minister for Foreign Affairs if he will advise on the political reforms being undertaken by the Government of Turkey; the prospects for accession by Turkey to the European Union; and if he will make a statement on the matter. [14515/04]

Minister for Foreign Affairs (Mr. Cowen): The Helsinki European Council in December 1999 decided that Turkey is a candidate country destined to join the European Union on the basis of the same criteria applied to other candidate states. The Copenhagen European Council in December 2002 made the clear commitment that if the European Council meeting in December 2004 decides that Turkey has fulfilled the

Copenhagen political criteria, the EU will open accession negotiations without delay. The political criteria require a candidate country to have achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. December's decision will be taken on the basis of a report and recommendation by the Commission, which will be prepared following extensive consultation with the Turkish authorities under the terms of the revised accession partnership between the EU and Turkey.

Deputies will be aware that the Government has welcomed the remarkable progress made by Turkey in recent years in legislating for reform. Most recently, on 7 May, the Turkish Parliament approved a significant package of constitutional amendments which include provision for the abolition of the State Security Courts, further measures to bring civil-military relations into line with EU standards and to strengthen freedom of the press, and the insertion of a constitutional clause on gender equality. The measures also remove all references in the constitution to the death penalty, which has been abolished in all circumstances.

The Government has had regular contact with Turkey throughout Ireland's EU Presidency. The Taoiseach has conferred regularly with Prime Minister Erdogan. Most recently, on 18 May I represented the EU at the EU-Turkey Association Council in Brussels. The Turkish delegation was headed by Foreign Minister Gul, with whom I also had a very useful bilateral discussion. We reviewed Turkey's progress towards meeting the Copenhagen political criteria and I assured Minister Gul of the European Union's welcome for the adoption of the new constitutional reforms. Minister Gul informed us that a further legislative package is now being prepared and he confirmed that a new penal code is expected to enter into force before the end of the year.

A central element in the assessment to be made by the European Council in December will be the effective implementation of Turkey's wide-ranging legislative reforms at all levels of the administration and throughout the country.

Question No. 84 answered with Question No. 37.

Question No. 85 answered with Question No. 17.

International Agreements.

86. **Mr. O'Shea** asked the Minister for Foreign Affairs if his Department has been consulted with regard to the proposals by the US authorities that Irish persons travelling to the United States will be fingerprinted and photographed before being permitted to board US-bound planes; if his Department has given its approval for these

arrangements; and if he will make a statement on the matter. [14561/04]

Minister for Foreign Affairs (Mr. Cowen): My Department was informed by the US Embassy in 2003, when the Department of Homeland Security, DHS, came into existence, that the US Government had intended, following the events of 11 September 2001, to make a number of changes to its immigration procedures. One such change was the implementation of the US-VISIT, United States visitor and immigrant status indicator technology, programme. On 2 April 2004, the US authorities further announced and informed my Department that it intended enrolling visa waiver travellers through the US-VISIT programme at all airports and seaports by 30 September 2004.

I understand that this programme is intended to allow the US authorities to record the entry and exit of non-US citizens into and out of the country and provides them with information about persons in the US who are in violation of their terms of admission. As the Deputy is aware, every State has the right to control the entry of non-nationals into its territory and to decide whether to impose specific requirements for certain nationalities to do so.

Common Foreign and Security Policy.

87. **Mr. Gormley** asked the Minister for Foreign Affairs if the EU is considering sending troops to Sudan, as suggested by the chairman of the EU's military committee, Gustav Hagglund; and if he will make a statement on the matter. [13467/04]

Minister for Foreign Affairs (Mr. Cowen): The EU is currently exploring a variety of means by which it could actively support the African Union in its efforts to attain peace in the Darfur region of Sudan. The possibility of direct military and/or civilian assistance under European Security and Defence Policy, ESDP, has been raised in this context.

At the invitation of the African Union, a representative of the EU military staff participated in a reconnaissance mission in Darfur last week. The purpose of this mission was to explore conditions for the establishment of a possible ceasefire commission, in the context of an overall African Union-led peace settlement in the region. EU participation in the reconnaissance mission underlines member states' collective support for African Union efforts in Darfur. The mission report can be expected to provide an important basis on which to explore scope for possible further EU involvement.

Consideration by the EU of practical support for the stabilisation of Darfur is very much in keeping with the emphasis the Irish Presidency is placing on African issues generally and, more specifically, on enhancing support under ESDP for conflict prevention, management and

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resolution in Africa. Therefore, I look forward to further positive exploration of this issue.

Overseas Development Aid.

88. **Mr. Morgan** asked the Minister for Foreign Affairs if the EU Foreign Ministers have agreed a timeframe and increments by which all EU members states will reach the UN target of 0.7% GNP to ODA. [14609/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): At the Barcelona European Council in March 2002, those EU member states — which have not yet reached the UN ODA expenditure target of 0.7% of GNP — committed themselves individually to increasing their ODA volume within their respective budget allocation processes. Those member states at or above the target, namely, Denmark, Luxembourg, the Netherlands and Sweden, agreed to renew their efforts to maintain this position so that collectively a European Union average of 0.39% is reached by 2006. Member states which have not reached the current EU average of 0.33% agreed to strive to reach at least this figure by 2006. This EU commitment was confirmed at the international conference on financing for development at Monterey in Mexico later in March 2002.

On 27 April last the Council, under the Irish Presidency, held a policy debate, on the EU's follow up to the commitments made at the Monterey conference. The discussion was based on a Commission report of a Monterey monitoring exercise it has been charged to conduct; at Ireland's initiative, this was a public debate. The Council noted that the Union is on track to exceed its commitment to achieve the collective target for increasing the volume of ODA by 2006 and agreed on the need for sustained effort to ensure that this commitment is met.

Furthermore, the Council welcomed the provision by a number of member states of national timetables for the attainment of the UN target of 0.7% ODA/GNI and encouraged all member states, which have not yet done so, to set a timeframe for the achievement of the UN target. The Council underlined the importance of increasing ODA volumes in order to meet the Millennium Development Goals and the need to make a substantive contribution to the UN's 2005 MDG review.

The monitoring exercise undertaken by the Commission, on foot of the Barcelona commitments, is clearly playing an important role in encouraging member states to increase their ODA levels towards the UN 0.7% target. Ireland will continue to support the close monitoring of the EU's Monterey commitments throughout the remainder of our Presidency and beyond.

Díon Fund.

89. **Mr. Penrose** asked the Minister for Foreign Affairs if, in regard to the Taoiseach's statement to the Dáil on 10 March 2004, he will give the number of development officers placed in Irish emigrant communities abroad; the regions to which they have been appointed; the funding or resources available to the development officers; and if he will make a statement on the matter. [14547/04]

Minister for Foreign Affairs (Mr. Cowen): In 2003, 16 welfare organisations in Britain, primarily in London, Manchester, Liverpool, Leeds and Northampton, received Díon grants totalling €584,359 as contributions towards the salaries of development workers. In addition, my Department provided €150,000 to the Federation of Irish Societies in Britain last year to support a five year capacity building project. This project involves the creation of three posts for community development regional workers, one covering London and the South East, one covering the Midlands and the West and the third covering the North and the East. A further €270,000 is earmarked for this project in 2004.

In the US and Australia, my Department provides funding to voluntary organisations that provide support to Irish immigrants in those countries. The grants are allocated to the organisations rather than to the development workers and it is not possible, therefore, to specify the funding available to the development officers in each case.

EU Enlargement.

90. **Mr. P. McGrath** asked the Minister for Foreign Affairs if he will advise on the time scale for the next round of enlargement of the European Union; and if he will make a statement on the matter. [14516/04]

Minister for Foreign Affairs (Mr. Cowen): The European Council in December 2003 emphasised the continuity and irreversibility of this fifth round of enlargement, of which Bulgaria and Romania form an integral part. Over the past year, both countries have significantly taken forward their preparations for membership, and this is reflected in the well-advanced state of their accession negotiations.

The Union's objective is to conclude negotiations with both countries on their own merits in 2004 and to sign a single accession treaty in 2005 in order that the two countries can accede in January 2007, if they are ready. Negotiations will be concluded on the same basis and principles applied to the other countries of this round of enlargement, the ten new member states which joined the EU on 1 May. As it holds the Presidency, Ireland is working to advance negotiations as rapidly as possible, in line with the clear political mandate given by the December European Council.

The Helsinki European Council in December 1999 decided that Turkey is a candidate country destined to join the European Union on the basis of the same criteria applied to other candidate states. The December 2004 European Council will decide on the basis of a report and recommendation prepared by the Commission whether Turkey has fulfilled the Copenhagen political criteria. If that decision is positive, the EU is committed to opening accession negotiations with Turkey without delay.

The Feira European Council in June 2000 agreed that the countries of the Western Balkans are potential candidates for EU membership. The EU-western Balkans summit in Thessaloniki last June confirmed that the shared objective of the EU and the countries of the region is their eventual integration into EU structures. It is agreed that the countries of the western Balkans will make progress individually, based on progress in negotiating and implementing stabilisation and association agreements with the EU, which involve wide-ranging institutional reforms, and on the development of increased regional co-operation.

Croatia formally applied for membership of the EU in February 2003. At the request of the Council, the Commission completed its opinion on the application in April. It concluded that Croatia meets the Copenhagen political criteria and the conditions set in the stabilisation and association process, and recommended the opening of accession negotiations. The Commission opinion will be discussed by the General Affairs and External Relations Council on 14 June, in preparation for a decision by the June European Council.

The former Yugoslav Republic of Macedonia submitted its application for membership in a ceremony in Dublin on 22 March. The Council on 17 May decided to implement the procedure laid down in article 49 of the Treaty on European Union and requested the Commission to prepare its opinion on the application, for submission to the Council. This process is expected to take about one year to complete.

Foreign Conflicts.

91. **Mr. Connaughton** asked the Minister for Foreign Affairs his views on the assassination of a person (details supplied); and if he will make a statement on the matter. [14501/04]

93. **Ms O'Sullivan** asked the Minister for Foreign Affairs if he has raised with the Israeli authorities the assassination by Israeli Defence Forces of the Hamas leader, Dr. Abdul Azis al Rantissi and the targeted killing of other Palestinian leaders; the response he has received; and if he will make a statement on the matter. [14564/04]

Minister for Foreign Affairs (Mr. Cowen): I propose to take Questions Nos. 91 and 93 together.

I condemned the killing of Dr. Rantissi in a statement on 18 April in which I also condemned a suicide bombing at the Erez crossing. I pointed out that extra-judicial killings are contrary to international law and that respect for international law should mark an important distinction between democratically elected Governments and terrorist groups. I reiterated these points to the Foreign Minister of Israel, Mr. Silvan Shalom, at our bilateral meeting in Dublin during the Euro-Mediterranean Foreign Ministers' meeting on 5 May. I pointed out that Ireland's abhorrence of extra-judicial killings was not a policy directed at Israel, but was universal. I said that this was the established position of the European Union. Foreign Minister Shalom defended the practice and claimed that Israeli actions had a legal justification — a position which I do not accept.

Question No. 92 answered with Question No. 62.

Question No. 93 answered with Question No. 91.

Arms Trade.

94. **Mr. Perry** asked the Minister for Foreign Affairs if he will report on the proposed lifting of the EU-China arms ban; and if he will make a statement on the matter. [14513/04]

Minister for Foreign Affairs (Mr. Cowen): The European Council on 12 December 2003 invited the General Affairs and External Relations Council, GAERC, to re-examine the question of the embargo on the sale of arms to China. At the GAERC on 26 January 2004, we had an initial discussion on the question and invited the Permanent Representatives Committee, COREPER, and the Political and Security Committee, PSC, to look into the matter. I had further discussions with my EU colleagues on this issue at the GAERC in April, where it was decided that the preparatory work should continue, in order that all technical issues surrounding this matter could be fully examined.

These issues are being carefully and fully considered. As the preparatory work is still ongoing, it would not be helpful for me to prejudge the issue by speculating what the ultimate outcome of the GAERC review will be. No specific date was decided by either the European Council in December, or the subsequent GAERC meetings, by which the review was to be completed.

The Government will continue to examine this issue with our EU partners, considering the broader regional and international context, our ongoing commitment to human rights, and our overall relationship with China. Our position has been conveyed to the Chinese authorities, during my meetings with Vice Foreign Minister Zhang and with Foreign Minister Li, in March and April, respectively, and most recently in the course of

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the Taoiseach's official talks with Premier Wen in Dublin last week.

Any decision must be taken by consensus of EU partners following a full and detailed consideration. As the holder of the Presidency, Ireland is engaged in taking forward the review of this issue in an effective and impartial manner.

Question No. 95 answered with Question No. 22.

International Agreements.

96. **Ms Enright** asked the Minister for Foreign Affairs his views on the extension of the Russian co-operation agreement with all new member states of the European Union; and if he will make a statement on the matter. [14504/04]

Minister for Foreign Affairs (Mr. Cowen): The protocol to extend the EU-Russia partnership and co-operation agreement to the ten new EU member states was signed by the European Union and Russia after the first meeting of the EU-Russia permanent partnership council meeting in Luxembourg on 27 April. In my role as President of the Council, I signed the protocol on behalf of the EU.

As the partnership and co-operation agreement is the essential cornerstone of the European Union's relations with Russia, it was essential that this matter was resolved in advance of EU enlargement on 1 May. The Irish Presidency played an important role in the discussions and negotiations which led up to the signing of the protocol. In ensuring that this issue was resolved, we achieved an important Presidency objective in the area of EU-Russia policy. I am very pleased with the outcome.

Now that this issue is resolved, Russia and the EU can both look forward to a productive summit in Moscow on 21 May, and to bringing the EU-Russia strategic partnership to a new level.

Foreign Conflicts.

97. **Mr. O'Dowd** asked the Minister for Foreign Affairs his views on the decision of the European Union to place the Kurdish organisation Kongra-Gel on its list of proscribed terrorist organisations; if he has had recent contacts with the Government of Turkey to ascertain the manner in which the Kurdish minority in Turkey are treated; and if he will make a statement on the matter. [14508/04]

Minister for Foreign Affairs (Mr. Cowen): EU member states unanimously decided to include Kongra-Gel on the EU list of terrorist organisations on 2 April 2004. The Council was satisfied that Kongra-Gel, the Kurdistan People's Congress; is involved in terrorist activities, is a successor organisation to PKK and cannot be separated from it in any meaningful way. As the Deputy may be aware, the PKK had previously

been designated by the EU as a terrorist organisation on 2 May 2002.

Inclusion of the list is based on the criteria set out in Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, which was adopted on 27 December 2001. This common position concerns the application of specific measures to combat terrorism and enables European Union member states to fulfil their obligations under United Nations Security Council Resolution 1373.

These criteria include, *inter alia*, acts such as attacks on a person's life which may cause death, attacks upon the physical integrity of a person, kidnapping or hostage taking, causing extensive damage to a Government or public facility, directing a terrorist group or participating in the activities of a terrorist group or by funding its activities where committed with the aim of seriously intimidating a population, or unduly compelling a Government or an international organisation to perform or abstain from performing any act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.

The relevant bodies within the Council considered the status of Kongra-Gel carefully, and were satisfied that there was a sufficient basis to conclude that they meet the criteria for designation. The Government's concerns about the human rights situation in Turkey, including the situation of the Kurdish population, are raised regularly in official contacts with the Turkish Government and its representatives and in co-operation with our partners in the European Union. I welcome the very significant progress which Turkey has made in legislating for human rights reform over the past two years. Legislation has been enacted which is aimed at strengthening the enforcement of human rights and enhancing the cultural rights of all citizens, including those of Kurdish origin. Further progress is required, especially to ensure the full and effective implementation of the reforms.

During Ireland's EU Presidency, the Government has had regular contact with the Government of Turkey. The Taoiseach has conferred regularly with Prime Minister Erdogan. I headed an EU ministerial troika delegation which visited Ankara on 8 March for meetings with Prime Minister Erdogan and Foreign Minister Gul. On 17 May, I represented the EU at the meeting in Brussels of the EU-Turkey Association Council. On the same occasion, I had a very useful bilateral meeting with Foreign Minister Gul. In all our discussions, I have welcomed the progress made by Turkey and emphasised the importance which the EU attaches to ensuring implementation of reforms at all levels of the administration and throughout the country. I have also raised the restrictive nature of the current regulations for broadcasting in languages other than Turkish and the relatively

slow progress on moves to permit Kurdish language teaching in Turkey.

Deputies will also be aware that, as EU Presidency, we issued a declaration on behalf of the European Union on 22 April expressing deep disappointment at the decision of the Ankara State Security Court confirming the prison sentence imposed in 1994 on Ms Leyla Zana and three other Kurdish former members of Parliament. While respecting fully the principle of the independence of the judiciary, the EU regrets that the conduct of the retrial of this case and the outcome are clearly at variance with the reform process to which the Government of Turkey is committed, and which is central to the development of closer relations between the EU and Turkey.

I recognise that the Turkish Government is committed to ensuring the full implementation of reforms, including those directly relating to the rights of people of Kurdish ethnic origin. The progress made will be a significant element in the decision to be taken by the European Council in December on Turkey's fulfilment of the Copenhagen political criteria for EU membership. If that decision is positive, the EU is committed to opening accession negotiations with Turkey without delay.

Common Foreign and Security Policy.

98. **Mr. Kenny** asked the Minister for Foreign Affairs his views on the level of Japanese and European Union co-operation in the Balkans; and if he will make a statement on the matter. [14510/04]

Minister for Foreign Affairs (Mr. Cowen): The EU has taken the lead role internationally in working with the countries of the western Balkans to consolidate peace, democracy and stability in the region and to promote the development of societies based on respect for human rights and the rule of law. The EU-western Balkans summit, which was held in Thessaloniki in June 2003 confirmed that the future of the region lies in its eventual integration into EU structures. It agreed that the achievement of this shared objective will be based on the fulfilment of clear and objective political and economic criteria, supported by the European Union's stabilisation and association process.

Throughout the tragic conflicts in the 1990s, Japan played a very important role in assisting the people of the western Balkans. It has to date contributed some \$1.8 billion in assistance to the south east Europe region, and has co-operated very closely with the European Union especially through the stability pact for south eastern Europe, which was established in 1999 at the initiative of the EU. The pact aims to ensure maximum co-ordination of international efforts to assist the region in the transition from conflict to stability and democracy.

The situation in the western Balkans remains as an item on the agenda for the ongoing political dialogue between the EU and Japan. The Government warmly welcomed the initiative of the Government of Japan in organising a ministerial conference on peace consolidation and economic development in the western Balkans, and, as holder of the EU Presidency, Ireland readily agreed to co-chair the conference on behalf of the European Union. The Minister of State at the Department of Foreign Affairs, Deputy Kitt, represented the Presidency at the conference, which was held in Tokyo on 5 April. He delivered the keynote speech on behalf of the EU. Other important statements were delivered by the Foreign Minister of Japan, Mrs. Yoriko Kawaguchi and by the former UN High Commissioner for Refugees and current President of the Japan International Co-operation Agency, Mrs. Sadako Ogata.

The conference brought together foreign and economy ministers from each of the countries of the western Balkans and representatives of the wider international community. There was full agreement that the future stability of the region will be promoted through its gradual integration into European structures on the basis agreed at the Thessaloniki summit.

The General Affairs and External Relations Council which I chaired on 26 April endorsed the joint conclusions adopted by the conference. The Council welcomed the sustained engagement of Japan with the western Balkans and the close co-operative relationship between the EU and Japan in support of the region and of its European perspective. The EU and Japan will continue to co-operate and co-ordinate their efforts in the interests of the people of the western Balkans, and I expect that this will be noted at the forthcoming EU-Japan summit in Tokyo on 22 June.

Question No. 99 answered with Question No. 37.

Human Rights Issues.

100. **Mr. J. Bruton** asked the Minister for Foreign Affairs if he will report on the situation in Cuba relating to the trial of 75 persons in connection with charges alleging attempts to subvert the constitutional order in Cuba; if his Department has had contact with the Cuban Embassy on the matter; and if he will make a statement on the matter. [14511/04]

Minister for Foreign Affairs (Mr. Cowen): Following the summary trial and lengthy prison sentences imposed by the Cuban authorities in March and April of last year on 75 dissidents for exercising their right to freedom of speech, the Cuban *chargé d'affaires* was summoned to my Department where the Government's very serious view of the unacceptable actions of the Cuban authorities was clearly conveyed.

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The grave violations of international human rights standards caused the EU to implement the following diplomatic measures on 5 June 2003: a limitation on bilateral high-level governmental visits; a reduction in the profile of participation in cultural events; the inviting of Cuban dissidents to national day events at EU Embassies in Havana; and the decision to proceed to an early re-evaluation of the EU common position, six months before the due date.

On 16 June 2003, the General Affairs and External Relations Council, GAERC, adopted conclusions in which it reaffirmed its grave concern about the deterioration of the human rights situation and called for the release of all political prisoners. Referring to certain provocative conduct on the part of the Cuban authorities *vis-à-vis* the EU and its member states, the Council made it clear that it regarded such behaviour as unacceptable. This was a reference to the fact that official mass demonstrations, headed by President Castro, had been mounted against the embassies of two member states in Havana and that the Cuban state media had conducted an unacceptable campaign of personal vilification against certain EU heads of government.

The human rights situation in Cuba was deemed to be so serious that the matter was taken up by heads of state and government at the European Council on 20 June 2003. Endorsing the GAERC conclusions of 16 June, the European Council reiterated the EU's deep concern regarding the violation of fundamental freedoms in Cuba. Heads of state and government also deplored and rejected the "totally unacceptable behaviour of the Cuban authorities *vis a vis* the EU and its member states".

Notwithstanding this unacceptable conduct on the part of the Cuban authorities, on 21 July 2003 the GAERC reconfirmed the positive objectives of the EU common position on Cuba, namely, to encourage through dialogue rather than isolation a process of transition to pluralist democracy and respect for human rights and fundamental freedoms, as well as a lasting economic recovery and an improvement in living standards of the Cuban people. The Council also reaffirmed the validity of constructive engagement with Cuba, to be continued through political dialogue so that tangible results might be achieved, particularly in the political, economic and human rights spheres.

However, not only has there been no improvement this year in the human rights situation in Cuba but recent weeks have seen an actual deterioration with the sentencing of a further group of 13 Cuban rights activists and journalists, all of whom were arrested while peacefully exercising their rights to freedom of expression, opinion, association and assembly. In response, the Irish Presidency, on behalf of the European Union, issued a declaration on 13 May

2004 expressing its concern at these events and calling on the Cuban authorities to release all political prisoners and prisoners of conscience without delay. It also called for Cuba's compliance with international rights standards and norms for the treatment of prisoners. In addition to the publication of the declaration, the Cuban *chargé d'affaires* was summoned to my Department where these concerns were conveyed directly to her.

Foreign Conflicts.

101. **Mr. Murphy** asked the Minister for Foreign Affairs his views on the political situation in Liberia; if he will report on the number of Irish Defence Force personnel now taking part in the mission to Liberia; the types of activities in which they have been involved to date; and if he will make a statement on the matter. [14524/04]

Minister for Foreign Affairs (Mr. Cowen): Under the comprehensive peace agreement of 18 August 2003, the Liberian parties committed themselves to a peaceful, democratic Liberia, to be administered by a transitional government until parliamentary and presidential elections are held before the end of 2005. The agreement, which had been brokered by the Economic Community of West African States, ECOWAS, was subsequently endorsed by the United Nations Security Council. On 14 October, Mr. Gyude Bryant was inaugurated as chairman of the transitional government. The Irish Government was represented at his inauguration by Minister of State at the Department of Foreign Affairs, Deputy Kitt. Mr Bryant pledged to introduce transparency in government and respect for human rights. The process of selecting members of the transitional government and legislative assembly has only recently been completed.

Preparations for the elections in 2005 have commenced. The National Electoral Commission, NEC, of Liberia was reconstituted under the terms of the comprehensive peace agreement to take account of the new situation obtaining in Liberia since the departure into exile in August 2003 of ex-President Charles Taylor. The NEC is currently engaged in voter registration and civic education programmes in collaboration with international organisations and under the supervision of the United Nations. On 11 May 2004, the international contact group on Liberia — of which the EU is a member alongside, among others, the UN and the African Union — urged all Liberian parties to engage constructively in preparations for 2005 and underlined the need for the National Election Commission to operate effectively.

The Liberian peace process remains fragile, despite recent improvements in the security situation in UN-controlled areas and progress in the implementation of the comprehensive peace agreement. Monrovia is now a weapons-free zone but the situation is less stable in other areas.

Sporadic outbreaks of fighting in rebel strongholds highlight the need for a comprehensive process of disarmament, demobilisation and reintegration. The programme of disarmament, demobilisation and rehabilitation, DDR, for rebel groups, co-ordinated by the United Nations Mission in Liberia, UNMIL, recommenced on 15 April 2004, after an earlier launch last December had been postponed. UNMIL is currently operating with approximately 14,500 military personnel on the ground, out of a force ceiling of 15,000. Its current one-year mandate is due to be renewed by the UN Security Council in September 2004.

Ireland, including through our Presidency of the EU, will continue to encourage all parties in and around Liberia to carry out their commitments and obligations under the comprehensive peace agreement. We will lend active support to the work of the United Nations Special Representative in Liberia, Jacques Klein, and to the EU Special Representative for the region, Hans Dahlgren of Sweden.

The Irish Defence Force contingent in UNMIL, deployed since December 2003, comprises a motorised infantry battalion with 427 Irish Defence Force personnel, as well as a further eight personnel who are serving at force headquarters in Monrovia. The main Irish contingent operates as the force commander's rapid reaction reserve, and in that role provides an immediate response capability, deployable in sufficient strength and with the required level of force to provide a swift and decisive military reaction to any crisis situation.

To date, the Irish battalion in UNMIL has mainly operated in a path-finding and reconnaissance role supporting the deployment of other UN contingents. It has also conducted long-range patrols beyond Monrovia and well into the interior of Liberia in order to display a strong UN presence, deter lawlessness and protect local populations. The contingent also undertakes regular daily patrols within the Monrovia area. While the UN contingents have now deployed to their areas of operation throughout Liberia, the Irish battalion remains available to the force commander to provide support and a rapid response capability in the event of a breakdown in law and order or further conflict.

The Irish battalion in Liberia also assists with a number of local humanitarian projects such as a local AIDS hospice. Development Co-operation Ireland is contributing €15,000 to the humanitarian work of the current contingent in this regard.

102. **Mr. McGinley** asked the Minister for Foreign Affairs the political situation in Chechnya following the assassination of a person (details supplied); and if he will make a statement on the matter. [14527/04]

Minister for Foreign Affairs (Mr. Cowen): I would like to reiterate my condemnation of the

bomb attack at the victory day celebrations in Grozny on 9 May last, in which the person to whom the Deputy refers was killed. I also condemn the attack on Monday which killed eight Russian soldiers and three local policemen. No cause can ever justify this kind of violence.

This attack is a negative development in relation to political stability in Chechnya. It is clear that the security situation in the republic is still very serious. Over the past year and a half, the Russian authorities have made a concerted effort to build up a political system in Chechnya. This policy has included the adoption of a new Chechen constitution in March 2003, and a Chechen presidential election in October 2003, in which Akhmad Kadyrov was elected President. On 14 March, Chechnya took part in the Russian presidential election, which was won by President Putin. Turnout in Chechnya was recorded at 94.99% of voters.

An extraordinary presidential election is scheduled to take place in Chechnya in September 2004. I hope that OSCE and Council of Europe standards will be observed in the conduct of this election, and that the outcome will reflect the will of the Chechen people, freely expressed. The EU welcomes Russian efforts aiming at a political settlement of the conflict in Chechnya. The EU wants to see a durable settlement put in place which respects Russia's territorial integrity, which has the support and confidence of the population of Chechnya, and which restores security, the rule of law, and respect for human rights in the republic. The Union acknowledges the right and responsibility of the Russian Government to combat terrorism and crime and to protect its citizens. We strongly condemn the terrorist attacks which have caused significant loss of life in Chechnya and throughout Russia in recent years. However, the EU has consistently stated that the fight against terrorism, in the Russian Federation as elsewhere, must be conducted in accordance with internationally-accepted human rights standards. If the situation in Chechnya improves, the European Union stands ready to assist further in the reconstruction effort there.

Díon Fund.

103. **Mr. Stagg** asked the Minister for Foreign Affairs if, in view of the fact that he accepts that the support centre for elderly Irish emigrants in Coventry, England, known as Teach na hÉireann, provides an excellent service and improves the quality of life of those it tends to, and in view of the fact that the funding for this new service allows it to open on only two days per week, he will now provide the necessary funding to allow the service to allow it to open on five days per week thereby more than doubling the service it provides; if, in this regard, he can indicate if the Díon committee at its recent meeting allocated extra funding to the centre as requested; and if he will make a statement on the matter. [14549/04]

Minister for Foreign Affairs (Mr. Cowen): I can confirm to the Deputy that the Díon committee has received and considered the application from Rehab Irish elders' resource centre, Teach na hÉireann, Coventry for continuation funding for the two existing posts of project manager and a part-time support worker, and new funding for two new part-time posts of administrator and outreach worker.

The grant recommendations, including the Rehab Coventry grant, are due to be submitted to me in early to mid-June and will be considered sympathetically given the important and admirable work been done by the centre. Payments will be made towards the end of June 2004. The grants will be formally announced at a Díon reception in the Irish Embassy in London, probably in July, though I expect the amount involved will be made public before that time.

Human Rights Issues.

104. **Mr. Rabbitte** asked the Minister for Foreign Affairs if he has received a report from consular officials on the outcome of the trial of three persons in Colombia; if money has been provided from his Department's funds to pay fines on same; the conditions attached to this payment; and if he will make a statement on the matter. [14566/04]

Minister for Foreign Affairs (Mr. Cowen): I refer the Deputy to the answer I gave to Priority Question No. 3.

Question No. 105 answered orally with Question No. 9.

Illegal Immigrants.

106. **Mr. Deenihan** asked the Minister for Foreign Affairs if he will include the illegal status of thousands of Irish emigrants in the USA in his discussions with President George Bush during his visit to Ireland in June 2004; and if he will make a statement on the matter. [14588/04]

Minister for Foreign Affairs (Mr. Cowen): As Ireland currently holds the Presidency of the EU, we will host the forthcoming EU-US Summit in June. The main issues for discussion will relate to foreign policy, economic and trade relations and other areas of shared EU-US interest. It would not be appropriate at an EU Summit to have the issue of undocumented Irish people in the US discussed.

Recently, three proposals aimed at helping to regularise the situation of undocumented foreign nationals in the US have been put forward.

On 7 January, President Bush announced a proposal to introduce a new form of temporary work permit which would be available to both undocumented foreign nationals currently in the US and those seeking to enter with a job already arranged. Shortly afterwards, Senator Tom Daschle and Senator Chuck Hagel announced a

bipartisan plan for immigration reform that would enable undocumented foreign nationals in the US to legalise their status if they fulfilled certain conditions. Earlier this month, Senator Edward Kennedy introduced a new immigration reform Bill entitled the Safe, Orderly Legal Visas and Enforcement Act — the SOLVE Act. This Bill goes further than other recent immigration initiatives in providing opportunities for undocumented immigrants to regularise their status.

I welcome these proposals as constructive efforts to deal with the situation of the undocumented in the US in a constructive and sympathetic way. While there appears to be no prospect of a formal amnesty for the undocumented at the present time, the Daschle-Hagel and the Kennedy proposals in particular appear to offer undocumented Irish people an opportunity to obtain permanent legal residency.

These proposals will have to be approved by the US Congress and it is too early to say what changes or amendments may be made in the course of their consideration by Congress. I will continue to monitor the progress of both initiatives through the US Congress closely in the coming months.

During a visit to Washington earlier this year, I discussed the situation and status of Irish emigrants in the US with a number of prominent US politicians. I was pleased to have this early opportunity to flag our concerns about the position of Irish emigrants in the US. I can assure the Deputy that, through our embassy in Washington and through my own contacts with political leaders in the US, I will continue to encourage and support measures that would benefit Irish citizens in the US.

Unemployment Levels.

107. **Mr. N. O'Keefe** asked the Taoiseach the number of unemployed persons at a location (details supplied) in County Cork in 2002, 2003 and to date in 2004. [14685/04]

Minister of State at the Department of the Taoiseach (Ms Hanafin): The exact information as requested by the Deputy is not available. Statistics on employment and unemployment are compiled at a regional level from the quarterly national household survey. The latest statistics show that there were 10,600 people classified as unemployed in the south west region in the September to November quarter of 2003. The south west region consists of Cork City, Cork County and Kerry. Sub-regional statistics, of the kind requested by the Deputy, are not available from the quarterly national household survey.

Figures for the south west region from 2002 to 2003 inclusive, from the quarterly national household survey, Q1 2002 to Q4 2003, are as follows:

Unemployment in the South West Region

	'000	%
December-February 2002	11.4	4.5
March-May 2002	10.3	4.1
June-August 2002	11.9	4.5
September-November 2002	11.7	4.6
December-February 2003	11.0	4.4
March-May 2003	11.3	4.4
June-August 2003	12.7	4.8
September-November 2003	10.6	4.1

The live register series gives a monthly breakdown of the number of people claiming unemployment assistance, unemployment benefit and other claimants registered with the Department of Social and Family Affairs. Figures are published for each county and each local social welfare office. A breakdown by postal district is not available. The most recent information available is for April 2004. It should be noted that: the live register is not a definitive measure of unemployment as it includes part-time workers, seasonal and casual workers entitled to unemployment assistance or benefit. Statistics on unemployment are measured at regional level by the quarterly national household survey. The exact area covered by each local office is not limited to the immediate locality of the particular office. For instance, in the Tallaght local office there may be registered persons from the Blessington area.

Persons from the Mitchelstown area normally register in the local office in Fermoy. Thus we cannot provide a separate set of data for the area requested but only list the figures for the Fermoy office which are as follows:

Live Register Fermoy Local Office Total

	2002	2003	2004
January	814	819	890
February	801	768	861
March	749	737	820
April	699	769	795
May	689	742	
June	742	818	
July	782	870	
August	807	897	
September	733	831	
October	741	833	
November	796	841	
December	822	864	
Average	765	816	

Computer Software.

108. **Mr. Cuffe** asked the Tánaiste and Minister for Enterprise, Trade and Employment if she proposes to allow the patenting of software implementations for computing; if her attention

has been drawn to the difficulties that this may raise in the educational and other sectors; and if she will make a statement on the matter.
[14674/04]

Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney): It is important to note that computer programmes as such are excluded from patentability by member states' patent laws and the European Patent Convention, EPC, which applies to the operation of the European Patent Office, EPO. However, computer implemented inventions may be patentable under certain conditions and many such patents have already been granted within the EU.

The position facing the Community is that the application of the case law and the administrative practice of member states in this area is divergent. As a result, it is currently possible to patent a particular computer implemented invention in one member state and not in another, with negative consequences for the efficient functioning of the internal market.

For this reason, the Commission brought forward, in 2002, a proposal for a directive of the European Parliament and of the Council on the patentability of computer-implemented inventions, the aim of which was to rectify this situation and to make the conditions for patentability more transparent — to give innovators and enterprises the ability to compete effectively in the single market.

In September, 2003, the European Parliament adopted a number of amendments to the proposal. On 18 May, the Competitiveness Council reached political agreement on a common position, based on a proposal put forward by the Irish Presidency, which took account of discussions at EU Council working group, and the Committee of Permanent Representatives. The final text agreed took account of a number of amendments put forward by delegations to further clarify the conditions under which a computer implemented invention might be patented. It will now go back to Parliament for second reading, the next stage in the co-decision process.

I am satisfied that the agreement reached represents a good balance and will be beneficial for both innovators and users of computer implemented inventions throughout the Union.

Article 6 of the agreed position provides that acts permitted under articles 5 and 6 of Directive 91/250/EEC on the legal protection of computer programs by copyright, and, in particular, the provisions in respect of decompilation and interoperability are not affected by the rights to be conferred by the proposed directive. The proposed directive also makes clear that the provisions of articles 81 and 82, which relate to competition rules, and, in particular, abuse of a dominant position, apply.

In addition, the text as agreed makes it explicit that a computer program as such cannot constitute

[Ms Harney.]

a patentable invention and that inventions involving computer programs, whether expressed as source code, object code or any other form, which implement business, mathematical or other methods and do not produce any technical effects beyond the normal physical interactions between a programme and the computer, network or other programmable apparatus in which it is run shall not be patentable.

Corporate Enforcement.

109. **Ms B. Moynihan-Cronin** asked the Tánaiste and Minister for Enterprise, Trade and Employment if she, or any agency under her aegis, has carried out an inquiry into the financial, operational and management structures of organisations (details supplied). [14718/04]

Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney): No investigation of the kind referred to by the Deputy has been carried out by my Department in relation to either of these companies.

Since 28 November 2001, the Director of Corporate Enforcement is responsible for enforcing and for securing compliance with the Companies Acts. He is required under the Company Law Enforcement Act 2001 to be independent in performing those functions. He is also obliged as a general principle to keep confidential any information obtained by him in that context. I am not in a position to say, therefore, whether or not any investigation has been or is being carried out by the Office of the Director of Corporate Enforcement in regard to these companies.

Genetically Modified Organisms.

110. **Mr. Ferris** asked the Minister for Agriculture and Food the details of the membership of the interdepartmental and interagency group established to examine issues concerning the possible introduction of genetically modified crops. [14710/04]

111. **Mr. Ferris** asked the Minister for Agriculture and Food the stakeholders, which the interdepartmental group established to examine issues concerning the possible introduction of genetically modified crops, has met. [14711/04]

Minister for Agriculture and Food (Mr. Walsh): I propose to take Questions Nos. 110 and 111 together.

The membership of the interdepartmental/interagency working group established in my Department to develop proposals for a national strategy and best practices to ensure the co-existence of GM crops with conventional and organic farming is as follows: Department of Agriculture and Food, eight members; Department of Environment, Heritage and Local Government, two members; the Environmental Protection Agency, one member; and Teagasc,

one member. I am happy that the membership of the working group includes persons with the required knowledge and expertise to evaluate all the issues relevant to co-existence.

The working group has had meetings with the following stakeholders: the Irish Seed Trade Association; Teagasc — tillage specialist division; An Bord Glas; the Organic organisations of Ireland; and the Irish Grain and Feed Association. The working group proposes to meet other relevant stakeholders, including their counterparts in Northern Ireland, in the near future before the final proposals are recommended.

Grant Payments.

112. **Mr. N. O’Keeffe** asked the Minister for Agriculture and Food if payment of a number of premia can be made to a person (details supplied) in County Cork who is owed substantial payments. [14796/04]

Minister for Agriculture and Food (Mr. Walsh): Between 1997 and 2003 the person named was paid full entitlements under the following schemes: 1997 suckler cow premium scheme, paid on 68 animals less late application penalty of 5% and late area aid application penalty of 8%; 1998 de-seasonalisation slaughter premium schemes, on 22 animals; 2000, 2001 and 2002 slaughter premium schemes, on 14, 169 and two animals, respectively; 2003 area-based compensatory allowance scheme, on the maximum 45 hectares allowed. The position in respect of the only other schemes for which he submitted applications during this period is as follows: 2002 and 2003 suckler cow premium schemes, neither of which he could be paid under as he had no suckler cow quota as required by their terms and conditions. In respect of the 2003 special beef premium scheme, he applied on six animals but one of these was found to be under-age. He will be paid soon on the five remaining eligible animals. 2003 extensification scheme. Payments under this scheme will not commence until next month. His application will be processed for payment in the normal way.

The herd number was withdrawn from the person named between July 1998 and May 2000 and, as a result, he could not apply under livestock schemes during that period of withdrawal. He has contended that the withdrawal was unfair and that he should have been allowed to submit livestock applications during that time. The district livestock office of my Department contacted his agricultural adviser in connection with this matter late last year. So far, however, no further contact has been made with the district livestock office.

113. **Mr. Connaughton** asked the Minister for Agriculture and Food when forestry grant approval will be issued to a person (details supplied) in County Galway; if his attention has been drawn to the fact that the original

application for approval was mistakenly made for native woodlands species but that approval is now sought for softwood species; and if he will make a statement on the matter. [14825/04]

Minister for Agriculture and Food (Mr. Walsh): Two applications for afforestation grant aid on behalf of the person in question have recently been received in the forest service of my Department. These applications were previously ruled ineligible for the native woodland scheme. One of the applications has been rejected because it did not meet the minimum width requirements for the afforestation grant scheme. The other application requires referral to the national parks and wildlife service section on environmental grounds. I have asked that a decision be given in this case as quickly as possible.

114. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason the ten month special beef premium was not awarded on all cattle applied in 2002 on behalf of a person (details supplied) in County Galway; the reason the cards were punched, thereby dramatically reducing the value of the animal in the mart, in view of the fact that a number of the animals were deemed ineligible; and if he will make a statement on the matter. [14827/04]

Minister for Agriculture and Food (Mr. Walsh): Under EU regulations governing the 2002 special beef premium scheme a stocking density limit of 1.9 livestock units per hectare applied based on the forage area declared on an applicant's area aid application. The area aid application of the person named declared a forage area of 9.11 hectares which gave entitlement to 17.30 livestock units. Each producer's reckonable livestock units for the calendar year in question were calculated as follows, based on the declared forage area of 9.11 hectares an entitlement to 17.30 livestock units equates with 28.8 premium rights, where the animals concerned each represent 0.6 livestock units. While the person named submitted applications under the 2002 special beef premium scheme in respect of a total of 34 animals, payment of premium was restricted to 28.8 premium rights. As EU regulations governing the scheme specifically provide that animals applied on in excess of the individual's permitted stocking rate of 1.9 livestock units per hectare be deemed paid premium, the cattle identity cards of all 34 animals in question were correctly stamped and punched to reflect this.

115. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason a person (details supplied) in County Galway has not received the second part of the suckler cow grant 2003; and if he will make a statement on the matter. [14828/04]

Minister for Agriculture and Food (Mr. Walsh): Seven animals were submitted for 2003

suckler cow premium scheme on 19 June 2003. At an inspection carried out on 21 November 2003 it was found that one animal, tag number GCB154643, was applied on in error. That animal has now been deleted from the application. As two unclaimed animals were found to be non-compliant with the identification and registration requirements as set out in paragraphs 37 and 38 of the terms and conditions of the scheme, the applicant was advised that the application would be subject to a reduction penalty in accordance with paragraphs 40 and 43 of those terms and conditions and was given the opportunity to write to my Department within 21 days in order to have this decision reviewed. As the person named has confirmed recently by telephone that the application of the penalty was accepted, calculation of the total suckler cow premium due for 2003 can be made now.

The applicant was paid €1,255.24 on 16 October 2003 in respect of the seven animals applied for on 16 October 2003, that is, before discovery of the facts outlined in the previous paragraph. Application of the penalty arising from the non-compliant animals and of the recalculation necessitated by payment on six instead of seven animals shows that only €1,178.81 should have been paid. This means the overpayment of €76.43 arising will now have to be sought from the applicant.

Rural Environment Protection Scheme.

116. **Mr. Ring** asked the Minister for Agriculture and Food his views on the fact that farmers who have commonage included in their REP scheme plans will have their payments reduced dramatically; his further views on whether this will cause great hardship to the farming community; and if he will consider not implementing this cut. [14831/04]

Minister for Agriculture and Food (Mr. Walsh): The regulations governing the implementation of the single payment scheme oblige member states to ensure that double payment for the same commitment does not occur under the single payment scheme and agri-environment measures such as the REP scheme.

Election Expenses.

117. **Mr. Haughey** asked the Minister for Finance the costs of the elections to Seanad Éireann in 2002 to both the NUI and University of Dublin constituencies particularly in relation to candidates postal mailing to the electorate, printing ballot packs, delivering ballot packs and administrative and other matters associated with both elections; and if he will make a statement on the matter. [14678/04]

Minister for Finance (Mr. McCreevy): It has not been possible to provide the information sought by the Deputy in the time available. However, the information requested by the Deputy may not be available in the format

[Mr. McCreevy.]
sought, but my officials are examining the relevant records in my Department, and as soon as the available information has been collated, I will supply it to the Deputy.

Flood Relief.

118. **Mr. J. Bruton** asked the Minister for Finance further to Parliamentary Question No. 146 of 11 May 2004, if a supplementary estimate will be sought and obtained by his Department to ensure that funds will be provided for measures necessary and able to be provided in order that there is no repeat of the flooding in Mornington in view of the additional increased revenue which exceeded the Government's expectations; and if he will make a statement on the matter. [14682/04]

Minister of State at the Department of Finance (Mr. Parlon): I refer the Deputy to my response to his most recent parliamentary question on this matter, Question No. 146 of 11 May 2004. The position as outlined in my reply of that date remains unchanged.

Charitable Status.

119. **Ms B. Moynihan-Cronin** asked the Minister for Finance if the charitable status of an organisation (details supplied) has been or is being reviewed; if concerns have been raised about such status; and if he will make a statement on the matter. [14719/04]

Minister for Finance (Mr. McCreevy): I am advised by the Revenue Commissioners that the organisation in question was granted charitable tax exemption in 1979 and continues to hold such exemption. The Revenue Commissioners have also informed me that bodies which are granted charitable tax exemption are subject to periodic review with a view to ensuring their continued compliance with the terms of the exemption. However, it is not the practice of the Revenue Commissioners to divulge the names of charities which either have been or are being reviewed by them. Similarly, it is not the practice of the Revenue Commissioners to divulge whether or not concerns may have been raised with them in relation to the tax-exempt status of any particular charity.

Tax Code.

120. **Ms Harkin** asked the Minister for Finance if he will extend the date for payment of interest and penalties on accounts held in Northern Ireland in view of the severe penalties involved and the charges being levied by banks when providing the required information for the Revenue Commissioners. [14817/04]

Minister for Finance (Mr. McCreevy): The issue of the deadline for paying tax, interest and penalties in relation to accounts held outside the

State is a matter for the Revenue Commissioners. I have no function in that regard.

Non-Resident Accounts.

121. **Ms Harkin** asked the Minister for Finance the reason accounts held in financial institutions in Northern Ireland are deemed offshore or non-resident in view of a matter (details supplied). [14818/04]

Minister for Finance (Mr. McCreevy): I am advised by the Revenue Commissioners that in regard to tax matters, accounts held in Northern Ireland are regarded as accounts held outside the State. The term "offshore", when used in this context, is a colloquialism to denote accounts held outside the jurisdiction. It is not a legal term.

Charitable Status.

122. **Mr. Perry** asked the Minister for Finance if charitable status can be restored to a group (details supplied) in County Sligo; and if he will make a statement on the matter. [14836/04]

Minister for Finance (Mr. McCreevy): I am advised by the Revenue Commissioners that the group in question has never held charitable tax-exempt status. However, it is understood that an application for charitable tax exemption has been received from the group and is currently being considered. In this regard, a letter issued to the group's agents on 10 March 2004 seeking certain information and as soon as a reply to this is received, the application will be progressed.

Question No. 123 answered with Question No. 62.

Human Rights Issues.

124. **Mr. Gregory** asked the Minister for Foreign Affairs if he will make representations to the US authorities to express serious concern at the additional measures announced on 6 May 2004 by the US to further tighten its blockade and make even worse the already very difficult conditions caused by the blockade against Cuba; if he will also raise this matter at EU level. [14783/04]

Minister for Foreign Affairs (Mr. Cowen): The Irish Government's position on the US embargo has been made very clear over the years by our consistent vote against it — together with our EU partners — in the UN General Assembly, most recently on 4 November 2003. In bilateral contacts with the US administration we have never left them in any doubt regarding our strong opposition to the embargo. The effect of the embargo is to work contrary to stated EU and US aspirations for a democratic and prosperous Cuba. We welcomed the partial easing of the embargo in the year 2000, whereby the ban on the sale of food and medicines was lifted, and since then we have continued to urge that the embargo be removed completely.

A Commission for Assistance to a Free Cuba was established by President Bush on 10 October 2003. Its mandate was to identify “additional measures by which the US could help the Cuban people bring about an expeditious end of the Castro dictatorship”, as well as “US Government programmes that could assist the Cuban people during a transition”. The Commission, chaired by Secretary of State Powell, reported to President Bush on 6 May 2004. Upon publication of the report, President Bush directed that certain immediate actions should be taken, including a decision to limit recipients of remittances and gift parcels; limit family visits to Cuba; reduce the authorised daily expenditure during a trip to Cuba; and step up law enforcement measures against those carrying funds to Cuba in contravention of US policy.

President Bush also directed that up to US\$59 million should be committed over the next two years to implementing other Commission recommendations, including democracy-building activities and support for family members of the political opposition, as well as support for young people, women and Afro-Cubans and “public diplomacy” efforts. The concern of the Cuban authorities at the new US measures has been conveyed to the Government by the Cuban *chargé d'affaires* in Dublin.

While the new US measures are essentially a bilateral matter between the US and Cuba, the US authorities are in no doubt as to the Irish and EU view as to how best to promote a democratic transition in Cuba. The aim of the EU Common Position remains to “encourage a process of transition to pluralist democracy and respect for human rights and fundamental freedoms, as well as a sustainable recovery and improvement in the living standards of the Cuban people”. We believe that the way to achieve this is by engagement rather than by isolation.

Admittedly, it has to be realistically acknowledged that the Cuban authorities do not always seem to wish to respond positively to our constructive approach. Events in recent weeks in Cuba represent a further serious setback for the cause of human rights, as manifested in particular by the trial and sentencing of 13 dissidents for peacefully exercising their rights to freedom of speech, opinion, assembly and association. This follows the harshly repressive measures taken in March and April last year, which resulted in lengthy prison sentences for 75 dissidents, as well as the summary trial and rapid execution of three ferry-boat hijackers in breach of international minimum standards for the implementation of the death penalty.

Notwithstanding these disappointing setbacks, Ireland and our EU partners will continue to persevere with our policy of constructive engagement with Cuba with a view ultimately to seeing the aims of the common position achieved, namely, the initiation of a transition to a system

of pluralist democracy embracing human rights and fundamental freedoms.

125. **Mr. G. Mitchell** asked the Minister for Foreign Affairs if, in view of the information now available concerning the treatment of prisoners in Iraq, the Government has satisfied itself with arrangements in place to ensure that prisoners being held in Guantanamo Bay in Cuba are being humanely treated; and if he will make a statement on the matter. [14853/04]

Minister for Foreign Affairs (Mr. Cowen): As the Deputy is aware, I have previously expressed to the House the Government's concern that the detainees in Guantanamo Bay be treated in accordance with the provisions of international human rights and humanitarian law. The United States authorities are well aware of the Government's position, which has been conveyed to them on a number of occasions. These concerns were conveyed previously to the US Embassy in Dublin by my Department and were raised by the Taoiseach when he met President Bush on 17 March in the White House. In all contacts with the US authorities on the issue we have been assured that they are keenly aware of their obligations under international humanitarian law.

Dr. Jakob Kellenberger, president of the International Committee of the Red Cross, ICRC, during a visit to Ireland in January, stressed the ICRC's position that under the Geneva Convention, the Guantanamo detainees should be given the status of POWs, unless a “competent tribunal” decides otherwise, which as the Deputy knows, has not been the situation with these detainees. This has been and remains the consistent view of this Government as well. The US is well aware of international concern about this issue and, as the Deputy may know, the matter is also before the US Supreme Court, where a judgment is expected before the current court session concludes.

Together with our EU partners, the Government recognises the danger posed by terrorist networks such as al-Qaeda and is committed to working with the United States and all our other international partners in the fight against international terrorism. However, the Government and our EU partners are concerned that any action taken in the fight against terrorism should be fully in accordance with the provisions of international human rights and humanitarian law.

The Deputy will also be aware of the Taoiseach's statement on the abuses of Iraqi prisoners being detained at the Abu Ghraib prison.

Question No. 126 answered with Question No. 22.

Question No. 127 answered with Question No. 10.

Human Rights Issues.

128. **Mr. Durkan** asked the Minister for Foreign Affairs the extent to which he has used his good offices during the Irish Presidency to combat slavery and trading in human beings; and if he will make a statement on the matter. [14786/04]

Minister for Foreign Affairs (Mr. Cowen): The Government is fully committed to the active promotion of full observance of universal human rights standards, and opposes and seeks the elimination of all contemporary forms of slavery. Through its participation at international fora such as the UN General Assembly, the UN Commission on Human Rights, the Council of Europe and the OSCE, Ireland raises its concerns in tandem with like-minded countries regarding these issues. These activities have continued during Ireland's current presidency of the EU.

One of the most egregious forms of modern slavery is certainly the forced recruitment and use of children as soldiers in armed conflict. Unfortunately, the practice remains widespread. Therefore, in my opening address to the UN Commission of Human Rights in Geneva in March 2004, I directly addressed the plight of children in armed conflict and urged state parties to speed up the process of ratification of the Rome statute of the International Criminal Court (ICC), which includes, as a war crime, conscription or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts. In this regard I also reiterated the need to put an end to impunity by bringing to justice any perpetrators of crimes against children.

In addition, my officials are actively leading the development of implementation modalities for the EU Guidelines on Children in Armed Conflict, which were adopted by the European Council on 8 December, 2003. At the initiative of the Irish Presidency, the EU, for the first time, delivered a strong statement on contemporary forms of slavery at the Commission on Human Rights, in which the EU reaffirmed its strong commitment to work for the elimination of all forms of this practice.

Also at this year's CHR, we actively supported a decision by consensus to create a new special rapporteur on trafficking in persons, especially women and children. The special rapporteur, who will be appointed for an initial period of three years, will focus on the human rights aspects of the victims of trafficking. Starting in 2005, he/she will submit an annual report to the Commission, together with recommendations, on measures required to uphold and protect the human rights of victims.

Foreign Conflicts.

129. **Mr. Durkan** asked the Minister for Foreign Affairs the extent to which the situation

in the Balkans have stabilised; and if he will make a statement on the matter. [14787/04]

Minister for Foreign Affairs (Mr. Cowen): The EU has taken the lead role in working with the countries of the western Balkans to consolidate peace and stability in the region, and to promote economic development and respect for human rights and the rule of law. During Ireland's Presidency, the Government have maintained the priority attached by the EU to the development of relations with the countries of the western Balkans. The situation in the region is reviewed every month by the General Affairs and External Relations Council. At the Council meeting which I chaired last Monday, 17 May, we considered recent developments in the region, especially the situation in Kosovo.

The situation in Kosovo has stabilised since the outbreak of ethnic violence in March. The priorities now are to ensure security, to facilitate the return of displaced persons and the reconstruction of property, and to bring those responsible for the violence to justice. The Council called on Kosovo's political leaders to demonstrate in an unambiguous manner their commitment to a multi-ethnic Kosovo and to the security and rights of members of all communities. The EU remains fully committed to the UN-led policy of standards before status, and is working closely with the United Nations and with the US and Russia and the wider international community to ensure that the international presence in Kosovo can promote real progress in the implementation of standards in the period ahead.

The overall framework for relations with the countries of the region was confirmed by the EU-Western Balkans Summit, which was held in Thessaloniki last June. The summit confirmed that the future of the region lies in its eventual integration into European structures. The achievement of this aim will involve the fulfilment of clear and objective political and economic criteria by the democratically-elected Governments of the countries of the region, under the EU's stabilisation and association process. As Presidency, Ireland set the objective that the commitments made in the Thessaloniki Agenda, which was agreed at last year's summit, would be fully implemented on the EU side. At the Council on 17 May, Ministers completed the third annual review of progress by countries of the Western Balkans in the stabilisation and Association process. Progress remains uneven, but it is clear that the region generally is moving steadily away from instability and violence towards the consolidation of democratic politics.

I look forward to approval by the Council before the end of May of European partnerships for each of the countries of the western Balkans, which will outline the specific progress required for further movement in the integration process. The partnerships are based in large part on the experience gained in the current enlargement

process, and their completion represents delivery by the EU on an important element of the Thessaloniki commitments.

The December 2003 European Council requested the incoming Irish Presidency and High Representative Solana, in co-ordination with the Commission, to present concrete proposals for the implementation of the European Security Strategy in a number of areas, including the elaboration of a comprehensive policy towards Bosnia and Herzegovina. Work on the comprehensive approach is going well and I expect that it will be considered by the General Affairs and External Relations Council in June, with a view to adoption by the June European Council. As Presidency, Ireland is also facilitating practical steps for the possible transition from the NATO-led SFOR peacekeeping force in Bosnia to an EU-led force. The EU police mission has made good progress in co-operation with the Bosnian authorities since it was launched in January 2003. The General Affairs and External Relations Council on 23 February 2004 appointed Assistant Garda Commissioner Kevin Carty as head of the police mission.

Croatia formally applied for membership of the European Union in February last year. The Commission Opinion on Croatia's application for membership, which was presented on 20 April, concluded that Croatia meets the Copenhagen political criteria and the conditions under the stabilisation and association process. The Commission recommended that negotiations for accession to the European Union should be opened with Croatia. The General Affairs and External Relations Council will consider the Commission opinion at its meeting on 14 June, with a view to a clear decision by the June European Council.

The Council on 17 May formally requested the Commission to prepare its opinion on the application for EU membership by the former Yugoslav Republic of Macedonia. The Macedonian Prime Minister, Mr. Branko Crvenkovski, presented his country's application to the Taoiseach in Dublin on 22 March. Prime Minister Crvenkovski was elected President on 28 April, filling the vacancy caused by the tragic death of President Boris Trajkovski.

The unstable political situation in Serbia and Montenegro over the past year has regrettably resulted in a slowdown of the reform process in the country. A new Government was formed in Serbia in March under Prime Minister Vojislav Kostunica. It has indicated its clear commitment to the implementation of the wide-ranging reforms required for the development of closer relations with the EU, including improved co-operation with the war crimes tribunal in the Hague. Progress in these areas, and on the harmonisation of the economies of Serbia and of Montenegro, would facilitate the completion of the Commission's feasibility study on a possible stabilisation and association agreement with the

state union. Presidential elections will be held in Serbia on 13 June.

Negotiations on a stabilisation and association agreement with Albania are continuing. Progress has been relatively slow and further significant progress is needed in the implementation of reforms to enable the conclusion of the negotiations. I recognise the strong desire on the part of the Government of Albania to make progress in implementing the necessary reforms, and I hope that an agreement can be reached over the coming year.

Human Rights Issues.

130. **Mr. Durkan** asked the Minister for Foreign Affairs the progress in dealing with human rights issues in Africa with particular reference to the extent to which he has used his influence during Ireland's Presidency of the EU; and if he will make a statement on the matter. [14788/04]

Minister for Foreign Affairs (Mr. Cowen): Ireland is prioritising conflict prevention during the Presidency as there can be no development without peace. Many African countries continue to experience or are gradually emerging from conflict, including Liberia, Cote d'Ivoire, Burundi, the DRC, Sudan, Somalia and Ethiopia-Eritrea. Our commitment to peacekeeping in Africa is also demonstrated through our contribution of an Irish force to the United Nations Mission in Liberia, UNMIL.

A number of cross-cutting issues which the Irish Presidency has sought to progress have particular resonance in Africa. The Presidency attaches priority to "children and armed conflict" and "human rights defenders". The issues of children and armed conflict and slavery are closely linked and the role of human rights defenders in highlighting instances of slavery and bonded labour is vital in focusing national and international attention. We are currently overseeing satisfactory progress in the implementation of EU Guidelines on Children and Armed Conflict and EU partners have been circulated by the Presidency with a paper on draft EU guidelines for the support of human rights defenders. The Presidency secured a degree of success at the recent sixtieth session of the UN Commission on Human Rights in respect of human rights in Africa. Achievements include the establishment of a special UN mechanism on the Sudan, and the agreement with the African Union of a resolution on the Democratic Republic of the Congo, the DRC. In addition, the Presidency and our partners secured the adoption of the Italian technical resolution regarding assistance on human rights in Somalia and supported similar resolutions by the African Union on Chad, Sierra Leone and Burundi.

The EU thematic resolution on the death penalty was adopted with a record margin and a record number of co-sponsors. The resolution on the rights of the child which we co-tabled with

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the Latin American-Caribbean grouping and the resolution on religious intolerance were also adopted. All these resolutions are universal in their application.

In addition, at the initiative of the Irish Presidency, the EU, for the first time, delivered a strong statement in which the EU reaffirmed its steadfast commitment to work for the elimination of all contemporary forms of slavery, which scourge still exists in some parts of Africa. On the other hand, the EU's resolution on Zimbabwe was, regrettably, not adopted.

Question No. 131 answered with Question No. 62.

Overseas Development Aid.

132. **Mr. Durkan** asked the Minister for Foreign Affairs the extent to which he proposes to use his influence to address the problem of AIDS in Africa; and if he will make a statement on the matter. [14790/04]

133. **Mr. Durkan** asked the Minister for Foreign Affairs the extent of the problem of AIDS in each of the African countries; the extent to which he can report success in dealing with the issue; and if he will make a statement on the matter. [14791/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): I propose to take Questions Nos. 132 and 133 together.

Recent statistics published by the Joint United Nations Programme on HIV/AIDS, UNAIDS, indicated that in 2003 over 40 million people were living with the HIV/AIDS virus. Sub-Saharan Africa, by far the worst affected region, is now home to over 26.6 million people living with HIV/AIDS. Approximately 3.2 million new infections occurred there in 2003, while the epidemic claimed the lives of an estimated 2.3 million Africans in the past year.

HIV/AIDS is a key priority for the Development Co-operation Ireland programme. Ireland was one of the first donors to develop a HIV/AIDS strategy and we have worked to ensure that the issue is high on the agenda of the EU and of the UN's funds and programmes. Since 2001 our financial allocations to the fight against AIDS have increased tenfold with a budget allocation of €40 million in 2004. These resources are directed at HIV/AIDS activities at the global, regional, national and community levels and are implemented through international and regional organisations and in our programme countries. The latter include six highly-affected countries in southern and eastern Africa.

We have made HIV/AIDS a key priority of our EU Presidency. We hosted a major conference on the pandemic in the European and central Asian region in February, followed by a seminar in April on the role of parliamentarians in the fight against HIV/AIDS in sub-Saharan Africa. A final

conference will be held in June on the status of research and development into preventive technologies including a HIV vaccine. These meetings have provided a forum for high-level policy dialogue on HIV/AIDS and have reinforced political commitment within the EU member states to combat the spread of HIV/AIDS and alleviate its impact.

Ireland has advocated a strong response to HIV/AIDS through financial support and representation on the executive boards of UN agencies such as UNDP and UNICEF. In addition, we provide funding to UNAIDS. The Government will continue its support to the Global Fund to Fight AIDS, TB and malaria and will be represented at all the fund's board meetings in 2004. We use our membership of the board to contribute to strategic policy orientation and our work at country level also feeds into policy dialogue. At the country level, Development Co-operation Ireland will be working with the Clinton Foundation and other donors, such as Norway and Canada, to support the Government of Mozambique in its efforts to implement a national HIV/AIDS strategy, including a plan to provide life-saving drugs to infected poor people.

In 2003, global resources for HIV/AIDS totalled approximately €4.7 billion — a 500% increase since 1996. This figure is, however, less than half the estimated \$10.5 billion that will be needed by 2005. Uganda, one of our programme countries, has managed to halt and reverse the spread of HIV/AIDS, with infection rates dropping from above 20% to less than 10%. There have also been important successes in Senegal and Botswana. The South African Government recently reversed its opposition to the establishment of a national programme of HIV/AIDS treatment with anti-retroviral drugs and is now in the process of rolling out a national treatment regime.

Such examples of progress give some hope that this pandemic can be surmounted but a lot more work and effort is needed for this to be realised and the challenges are enormous. HIV/AIDS continues to be the biggest single obstacle to reducing poverty and to attaining the Millennium Development Goals. Through the Development Co-operation Ireland programme, the Government will do all in its power to combat the pandemic at the global, regional and national levels in developing countries.

Foreign Conflicts.

134. **Mr. Durkan** asked the Minister for Foreign Affairs the extent to which the European Union and the UN can assist with the ongoing situation in Iraq; and if he will make a statement on the matter. [14792/04]

Minister for Foreign Affairs (Mr. Cowen): We believe that a strong and vital UN role is an essential element for the success of reconstruction efforts in Iraq. We are pleased that

the Iraqi Governing Council has invited the UN to help with the transfer of sovereignty at the end of June and future national elections and that the Secretary General of the UN has accepted this invitation. We welcome the provisional ideas which the United Nations Secretary General's Special Adviser Lakhdar Brahimi has submitted as a basis for the formation of an interim Iraqi Government. We support the continuing efforts of the special adviser and his team. This political process is crucial. It aims at restoring Iraqi sovereignty and independence, preserving the country's unity and making the Iraqi people truly masters of their own destiny, with the political system of their own choice and control over their natural resources. While this process will not solve the security problems in itself, it will be a powerful contributing factor. The UN involvement in the process is also vital as it lends a strong sense of legitimacy to the process. We look forward to the UN playing a vital and growing role endorsed by the UN Security Council in the run-up to transition and beyond.

The European Council in October 2003 requested the High Representative and Commission to work on a medium-term strategy for the EU's relationship in Iraq. The recent spring European Council recalled this invitation and noted the European Union's determination to assist the Iraqi people. This strategy, which will give us a framework in which to fulfil this commitment is due to be presented to the European Council in June. The EU is of course already contributing substantially to reconstruction activities in Iraq.

On 23 and 24 October 2003 representatives from 73 countries and 20 international organisations met in Madrid to pledge their support for the reconstruction of Iraq. At the conference the European Union and its member states, including accession countries, pledged €700 million until the end of 2004. Of the EU pledge €200 million will come from the Commission's community budget. The EU and its member states will contribute to the International Reconstruction Fund Facility for Iraq, IRFFI, which is administered by the United Nations Development Programme, UNDP, on behalf of itself and participating UN agencies. The facility aims to help donors channel their resources and co-ordinate their support for reconstruction and development. These resources will be used to restore and strengthen the delivery of key public services, to improve livelihoods and to reduce poverty and to strengthen governance, human rights and civil society. In addition to support for reconstruction activities, €100 million has been provided by the European Commission to Iraq for humanitarian relief.

Overseas Development Aid.

135. **Mr. Durkan** asked the Minister for Foreign Affairs the progress and objectives in regard to combating water shortage on the

continent of Africa; and if he will make a statement on the matter. [14793/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): Drinking water, in sufficient quantity and quality, is a basic human need and is also one of the key prerequisites for the achievement of the Millennium Development Goals. Immediate impacts from access to an improved water supply include improved health, as well as savings in time and effort, resulting in significant economic and social benefits.

In terms of progress in Africa, the Joint Monitoring Programme of the United Nations and the World Health Organisation reports that water supply coverage in Africa increased from 57% in 1990 to 62% in the year 2000. This improvement, however, masks tremendous disparities, with urban populations having 85% coverage while rural coverage was just 47% in the year 2000. Within the framework of its overarching objective of poverty reduction, Development Co-operation Ireland attaches very high priority to the water sector in its support for programme countries in sub-Saharan Africa. This is reflected in the fact that total support for the water and sanitation sector in our bilateral programme doubled from €6 million in 2000 to just over €12 million in 2003. A recent survey by a consortium of non-government organisations, including WaterAid and Oxfam, confirmed that Ireland, which allocates 92% of its budget for the water sector to countries in the sub-Saharan Africa region, leads the donor community in providing support for improved water supply coverage to those developing countries in most need.

The Irish Presidency of the European Union has recently played a pivotal role in bringing the European Union water facility to fruition. The facility will initially provide up to €500 million to the water sector by the end of 2005, with an additional €500 million possible by the end of 2007.

136. **Mr. Durkan** asked the Minister for Foreign Affairs his plans in the context of the Irish Presidency to combat war and starvation in Africa; and if he will make a statement on the matter. [14794/04]

Minister of State at the Department of Foreign Affairs (Mr. Kitt): I remain deeply conscious of the enormity of the challenges facing African nations as they seek to build the foundations of economic and social development, often in a climate of hunger and warfare. The reduction of poverty, hunger and conflict in Africa are some of the most important tasks to which the international community can dedicate itself in the 21st century. The key issues of conflict prevention and poverty reduction are priorities for the Irish Presidency.

As Minister of State for development co-operation and human rights, I have seen the effects of conflict and food insecurity in many

[Mr. Kitt.]

different parts of the world, from the Middle East to Timor Leste, from central America to Africa and elsewhere. In March last, I witnessed the physical, psychological and economic devastation wreaked on the populations of Sierra Leone and Liberia by decades of protracted conflict. As Presidency, Ireland is leading EU efforts to contribute to regional and country-level peace processes that are currently underway in Africa.

Conflict has many causes and many manifestations. However, it is nurtured, fed and strengthened by poverty, inequality and exclusion. The majority of wars occur in the poorest countries and they mostly affect the poorest people, particularly women and children. Conflict presents complex challenges for us all, but our efforts must be clearly focused on the underlying causes. Ireland's development co-operation programme seeks to address the root causes of conflict by ensuring that conflict sensitivity is reflected in all instruments of development support and partnership. Furthermore, our engagement with and support for civil society is a key area of our programme focus.

At European Union level it is now broadly acknowledged that development policy and other forms of co-operation provide powerful instruments for tackling conditions and problems which give rise to conflict. Within the Union we are introducing innovations and initiatives aimed at diagnosing conflict risks or conflict indicators through, for example, the country strategy process, as well as at a regional level.

The regional dimension to the various conflicts which have affected west Africa for example is very pertinent. As Presidency, Ireland is currently finalising agreement on a west Africa strategy which will endeavour, in conjunction with the UN, to ensure an integrated approach to tackling the causes of conflict and instability in that region. This was discussed at the EU Ministerial Troika meeting with ECOWAS on 10 May last.

Ireland is supportive of the decision by the EU to establish a peace facility for Africa, which will assist in supporting African Governments to prevent and solve conflicts on their continent. A total of €250 million has been allocated by the EU for the peace facility. Last March, the Irish EU Presidency hosted an informal meeting of the EU Humanitarian Affairs Committee in Dublin. At Ireland's initiative, the meeting brought together senior representatives from the humanitarian offices in member states and the Commission to share information in relation to the better management of humanitarian assistance in regions affected by conflict and related crises.

Also in March, the Irish EU Presidency hosted a three-day European regional conference on the role of NGOs and civil society in the prevention of armed conflict. The conference brought together a wide range of key actors from

governments, EU and UN institutions and non-governmental organisations to discuss the critical role that NGOs and civil society can play in the prevention, mitigation and resolution of conflict.

If we are to break the cyclical nature of food insecurity and conflict in Africa, the underlying structural problems affecting poverty and stability must be addressed. Ireland has strong development partnerships with six countries in Sub-Saharan Africa. Through these partnerships, Ireland fully engages with the Governments, donors, EU and UN agencies on the basis of poverty reduction strategy plans, PRSPs. The PRSPs outline how each country prioritises resources and policies with the objective of reducing poverty. These programmes contain a strong governance element throughout to assist in the building of democratic structures, the rule of law and a culture of respect for human rights. This comprehensive and African-owned approach by donors, Governments and civil societies stands the best chance of reversing the downward spiral of economic and social indicators in sub-Saharan Africa, reducing conflict and facilitating real and positive change in the lives of millions of Africans.

Question No. 137 answered with Question No. 16.

Spanish Death Inquiry.

138. **Mr. Gregory** asked the Minister for Foreign Affairs the assistance his Department has given to the parent of a person (details supplied); the response of the Spanish authorities; if there is further action that can be taken to ensure a more thorough investigation of this case; and if he will make a statement on the matter. [14823/04]

Minister for Foreign Affairs (Mr. Cowen): I am very aware of the case that the Deputy has mentioned. I and all who have been involved in this case on behalf of the Government, have the greatest sympathy for the family of this person. My Department, through the consular division, the Irish Embassy in Madrid and the Honorary Consulate in Las Palmas has been providing extensive consular assistance to the family since April 2003 when we became aware of the case. The person mentioned by the Deputy sustained fatal injuries on holiday in Gran Canaria, on April 27, 2003 and died in Las Palmas General Hospital on May 13.

When his family arrived at the hospital the Irish Ambassador in Madrid made representations to the Director of Health Services for the Canary Islands to secure more extensive access to the intensive care unit of the hospital for the family. The honorary consul's assistant attended the hospital to act as a translator and provide general assistance to the family. Following his death, the Embassy and honorary consul continued their efforts on behalf of the family, providing the names of English-speaking lawyers, maintaining continuous contact

with the investigating police, forwarding official medical reports and the autopsy, and the official police report to the family. Also during this time, the honorary consulate, the Embassy, and consular section remained in direct contact with the person's family.

The person's family involved the gardaí in September 2003, and they interviewed a large number of Irish holidaymakers who were in Gran Canaria in April 2003. Subsequently a chief superintendent travelled to Gran Canaria to report on their efforts to the Spanish police. In addition, the Minister for Justice, Equality and Law Reform also wrote to his Spanish counterpart about the case.

An inquest into his death was opened by Dublin City Coroner on 26 November 2003 and was adjourned until 26 February 2004 when it was further adjourned until 23 June 2004 when further evidence will be taken. At my request, the Embassy in Madrid made formal representation to the Spanish Ministry of Foreign Affairs requesting their assistance in expediting the forwarding of a copy of the investigation file from the Spanish authorities which is required by the Garda authorities for this inquest hearing. I assure the Deputy that my Department will continue to provide all appropriate consular assistance to the family.

Special Educational Needs.

139. **Mr. Ring** asked the Minister for Education and Science the number of the 380 new posts announced for classroom assistants and so in which will be allocated to County Mayo; the number which will be allocated to the west Mayo area; and the number of these posts allocated to each school. [14692/04]

Minister for Education and Science (Mr. N. Dempsey): The 350 special needs teacher posts that I announced recently will be allocated as part of a new weighted system of teacher support for pupils with special educational needs. This new weighted system will involve two main elements: (a) making a staffing allocation to schools based on a predicted incidence of pupils with special educational needs; and (b) making individual allocations in the case of children with more acute lower-prevalence special educational needs.

Transitional arrangements for the introduction of the weighted system are being developed at present in consultation with representative interests. It is not possible at this stage to confirm the outcome for schools in the Mayo area or the number to be allocated to each primary school.

Psychological Service.

140. **Mr. Stagg** asked the Minister for Education and Science the reason no provision has been made for a child psychology service for pre-school children in view of the importance at identifying learning difficulties at the earliest opportunity; when it is intended to provide the

service; and if he will make a statement on the matter. [14693/04]

Minister for Education and Science (Mr. N. Dempsey): The Government decision in February 1999 to establish the National Educational Psychological Service, NEPS, allowed for a five year development period, with an initial focus on providing a service to children of school going age. NEPS will reach the end of its development period in September 2004. My Department will consider the provision of psychological services for pre-school children in the context of the future development of NEPS and in collaboration with the Department of Health and Children.

Teachers' Remuneration.

141. **Mr. Allen** asked the Minister for Education and Science further to Parliamentary Question No. 421 of 27 January 2004, the position regarding the honours allowance for arts teachers. [14703/04]

Minister for Education and Science (Mr. N. Dempsey): The Department's consideration of the matter has been completed in recent days. I am pleased to say that teachers who successfully completed the special one-year course run by the National College of Art and Design for the academic years 2001-02 and 2002-03 and who were awarded the NUI Diploma in Art Teaching at honours level will now be entitled to the honours degree allowance. My Department is making arrangements to have the allowance paid to relevant teachers.

School Building Programme.

142. **Mr. Crawford** asked the Minister for Education and Science the position regarding the building programme for Gransha national school (details supplied); when funding will be made available for this urgent project; and if he will make a statement on the matter. [14704/04]

Minister for Education and Science (Mr. N. Dempsey): When publishing the 2004 school building programme, I outlined that my strategy going forward will be grounded in capital investment based on multi-annual allocations. My officials are reviewing all projects which were not authorised to proceed 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 and I expect to be in a position to make further announcements on this matter in the course of the year. The proposed project at Gransha national school, Clones will be included in this review.

School Services Staff.

143. **Mr. Crawford** asked the Minister for Education and Science if a person (details supplied) in County Monaghan will have a full-time person available to them for the school year

[Mr. Crawford.]
coming in September 2004; and if he will make a statement on the matter. [14705/04]

Minister for Education and Science (Mr. N. Dempsey): An application for increased special needs assistant support for the pupil referred to by the Deputy has been received in my Department. When a decision on the application is made, contact will be made with the relevant school authorities.

144. **Mr. Crawford** asked the Minister for Education and Science if a person (details supplied) in County Cavan will have a full-time person available to them for the school year commencing in September 2004; and if he will make a statement on the matter. [14706/04]

Minister for Education and Science (Mr. N. Dempsey): I am aware of an application for special needs assistant support for the person referred to by the Deputy. A decision on the application will be made as quickly as possible and my Department will make contact with the relevant school authorities.

School Accommodation.

145. **Ms Harkin** asked the Minister for Education and Science the number of schools that have applied for temporary accommodation; the number that have been sanctioned for 2004; the advice given by officials in his Department to those schools who will be unable to accommodate new pupils in September 2004; and if he will make a statement on the matter. [14712/04]

Minister for Education and Science (Mr. N. Dempsey): Applications for temporary accommodation are received on an ongoing basis within my Department's school planning section. All applications on hand at 31 March 2004 have been assessed for the purchase of temporary accommodation in 2004 and details of successful applications are published in section 10 of the revised 2004 school building programme which is available on my Department's website at www.education.ie

All applications with an absolute and demonstrated need for additional accommodation were approved. Unsuccessful applications will be considered in the context of a review which is being undertaken of all projects that did not proceed 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, details of which will be announced later in the year.

School Building Programme.

146. **Mr. P. Breen** asked the Minister for Education and Science when works will be carried out at a school (details supplied) in County Clare for a general-purpose hall as it is preventing the school from implementing the revised primary curriculum due to the lack of

facilities for PE; and if he will make a statement on the matter. [14726/04]

Minister for Education and Science (Mr. N. Dempsey): When publishing the 2004 school building programme, I outlined that my strategy going forward will be grounded in capital investment based on multi-annual allocations. My officials are reviewing all projects which were not authorised to proceed 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 and I expect to be in a position to make further announcements on this matter in the course of the year. The application from the school referred to will be considered in this regard.

Teaching Qualifications.

147. **Mr. Ring** asked the Minister for Education and Science the reason a person who teaches in an Irish speaking school, teaching through the medium of Irish still must attend a three-week course in an Irish school in the Gaeltacht. [14779/04]

Minister for Education and Science (Mr. N. Dempsey): Under the terms of circular letter 25/00, foreign-trained teachers seeking recognition as primary teachers in Ireland must provide certification that they have resided in the Gaeltacht while attending an approved three-week course, or its aggregated equivalent, before full recognition can be awarded. This requirement is regarded as an integral part of a primary teacher's training and is in line with the requirement that Irish-trained primary teachers, as part of their obligatory training, must also attend an approved three weeks course in the Gaeltacht. The Deputy will appreciate that it would be inequitable to exempt teachers who obtained their primary teacher training outside the country, and whose training included no training in the teaching of Irish, from a requirement for the teaching of Irish which applies to Irish-trained teachers.

My Department has however been prepared to consider exceptions to this rule in cases where an applicant had studied Irish in his or her degree and attended an approved Gaeltacht course as part of that degree.

School Services Staff.

148. **Cecilia Keaveney** asked the Minister for Education and Science the position in relation to an application for a classroom assistant for a person (details supplied) in County Donegal; and if he will make a statement on the matter. [14809/04]

Minister for Education and Science (Mr. N. Dempsey): I can confirm that my Department recently received an application for special education resources, SER, for the pupil referred to by the Deputy. I understand that the school

in question has not submitted all the necessary documentation. I further understand that an official from my Department is due to make contact shortly with the school regarding this matter. When all the documentation is complete this application will be considered.

Education Schemes.

149. **Mr. Howlin** asked the Minister for Education and Science the costs relating to Your Education Service under headings (details supplied); and the policy initiatives arrived at as a result of the deliberations of YES. [14810/04]

Minister for Education and Science (Mr. N. Dempsey): From the outset I have indicated that this is a year long process with the purpose of gathering material that will inform education policy in the medium and longer term.

I launched the process in January with the publication of the discussion document Your Education System. A series of 17 public meetings took place in February and March and since then a number of organisations have held sessions for their members. A number of major elements of the process have still to take place. These include the focus meetings that will allow some topics, including disadvantage and special education, to be treated in some depth and four meetings for young people of school going age. A major survey, which will provide statistical data on public attitudes to the education system, is also being planned.

The website, *www.youreducation.ie*, has been available since January. It contains information on the process, including details of progress and costs to the end of April. The information on costs is being updated at present and this will be forwarded to the Deputy very shortly. Reports on events that have taken place as part of the process, comments/observations and suggestions submitted by members of the public and a number of longer papers can also be accessed on the website. The website is being updated on a regular basis and will remain open throughout 2004.

The secretariat for the process will produce its report at the end of the year, drawing together all of the material gathered through the process. This will provide a blueprint for policy makers now and into the future, while giving us a standard against which education policy can be measured.

Pupil-Teacher Ratio.

150. **Mr. J. Bruton** asked the Minister for Education and Science the initiatives he has put in place to reduce the pupil/teacher ratio in schools in Meath; and if he will make a statement on the matter. [14811/04]

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 school year following discussions between my officials and the education partners.

The overall maximum class size in primary schools, by reference to the staffing schedule, has been reduced from 35 in the 1995-96 school year to 29 in the 2002-03 school year. The staffing schedule for the current school year is structured to ensure that all primary schools will operate to an average mainstream class size of 29 pupils. School authorities should ensure that there is an equitable distribution of pupils in mainstream classes and that the differential between the largest and smallest classes is kept to a minimum.

The pupil teacher ratio at primary level has improved significantly in recent years. The ratio has fallen from 22.2:1 in the 1996-97 school year to 18.0:1 in the 2002/03 school year. The projected ratio for the current school year is 17.44:1.

In line with Government policy, my Department will continue to provide further reductions in the pupil teacher ratio within available resources and subject to spending priorities within the education sector. Priority will be given to pupils with special needs and those from disadvantaged areas.

Teacher Secondment.

151. **Mr. Gogarty** asked the Minister for Education and Science if the secondment of two primary school teachers to The Ark Children's Cultural Centre will be renewed; and if he will make a statement on the matter. [14812/04]

Minister for Education and Science (Mr. N. Dempsey): Following receipt of representations from The Ark, my Department approved the continuation of the secondment of two teachers to The Ark, on a non-recoupment basis, for the current school year. However, in January last the authorities of The Ark were informed that secondment on this basis cannot be approved for the future and that an application for secondments on a full cost recoupment basis would be considered but only following a full review of the project by or on behalf of my Department. There is no change in my Department's position on this matter. To date, no application for secondments on a full cost recoupment basis has been received from the Ark.

School Staffing.

152. **Mr. G. Mitchell** asked the Minister for Education and Science further to Parliamentary Question No. 275 of 24 February 2004, if his Department has approved an application for a special needs teacher for a person (details supplied) in Dublin 22; if funding has been provided for this; and if he will make a statement on the matter. [14832/04]

Minister for Education and Science (Mr. N. Dempsey): Additional documentation in support of the application for special education resources for the pupil in question was submitted by the school. The application is being considered by my officials.

The processing of the applications is a complex and time-consuming operation. However, my Department is endeavouring to have this completed as quickly as possible and my officials will then respond to all applicant schools. Pending a response, schools are advised to refer to Circular 24/03, which issued in September 2003. This circular contains practical advice on how to achieve the most effective deployment of resources already allocated for special educational needs within the school.

In the case of teacher resources, the outcome for each applicant school will be based on a new weighted system of allocation which I announced recently. This system, as part of which an additional 350 teaching posts will be allocated, will involve two main elements: (a) making a staffing allocation to schools based on a predicted incidence of pupils with special educational needs; and (b) making individual allocations in the case of children with more acute lower-prevalence special educational needs. It is expected that the change to a weighted system will bring with it a number of benefits. The new system will: reduce the need for individualised educational psychological assessment; reduce the volume of applications to my Department for additional resources for individual pupils; and give greater flexibility to schools, which will facilitate the development and implementation of improved systems and procedures in schools to meet the needs of pupils with low achievement and pupils with special educational needs.

Transitional arrangements for the introduction of the weighted system are being developed at present in consultation with representative interests. As soon as those consultations have been completed, the detailed arrangements for processing applications for resources, including those for special needs assistants and those received after 31 August last, will be set out in a circular to be issued to schools before the end of the current school year. It is intended, also, that applicant schools will be notified of the outcome in their case within this timeframe.

School Building Programme.

153. **Mr. Ring** asked the Minister for Education and Science if an application has been submitted to his Department for an extension and refurbishment at a school (details supplied) in County Mayo; if so, when the application was received; the status of the application; and when funding will be sanctioned for same. [14834/04]

Minister for Education and Science (Mr. N. Dempsey): The school authority made application almost three years ago for an extension and refurbishment at the school.

Among the issues raised at the time was the problem of asbestos in some of the prefabricated buildings in use at the school. Due to this urgent health and safety issue, arrangements were put in train by the Office of Public Works, which has responsibility for the national asbestos programme of remediation in schools to replace the prefabs affected. It is expected that this work will be completed by the end of the summer.

As I outlined when publishing the 2004 school building programme, my strategy going forward will be grounded in capital investment based on multi-annual allocations. My officials are reviewing all projects which were not authorised to proceed 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 and I expect to be in a position to make further announcements on this matter in the course of the year. The needs of the school referred to will be considered in this regard.

154. **Mr. Perry** asked the Minister for Education and Science if his attention has been drawn to the fact that the old school building at Corran College, Ballymote, does not qualify for grant of maintenance funding (details supplied); and if he will make a statement on the matter. [14838/04]

Minister for Education and Science (Mr. N. Dempsey): The upkeep and maintenance of Corran College, Ballymote is a matter for County Sligo VEC.

VECs are afforded considerable flexibility in the use of resources to meet the needs, including maintenance costs, of individual schemes. Current funding allocations are made to VECs as part of a block grant that also covers VEC overheads and other activities apart from the second-level programme. The Department does not earmark allocations for individual schools or for the various activities of VECs. The way in which the allocation is distributed among schools is a matter for each committee in line with their priorities and perceptions of need.

An application has been received by my Department from County Sligo VEC for the continued provision of courses, such as those referred to by the Deputy, in Corran College from September next, which is under consideration in my Department.

Special Educational Needs.

155. **Dr. Cowley** asked the Minister for Education and Science if and when a person (details supplied) in County Mayo will be granted five resource hours per week; when this situation will be resolved; and if he will make a statement on the matter. [14876/04]

Minister for Education and Science (Mr. N. Dempsey): I have arranged for my officials to examine the matter of resource teaching

provision for this pupil and contact will be made with the school in question shortly.

Energy Resources.

156. **Mr. P. McGrath** asked the Minister for Communications, Marine and Natural Resources the grant aid available for the installation of a geothermal heat pump in a new house. [14860/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): Sustainable Energy Ireland, which was established as a statutory agency in May 2002 implements initiatives on renewable energy and energy efficiency on behalf of my Department.

Under Sustainable Energy Ireland's house of tomorrow research, development and demonstration programme, heat pumps are one of a number of energy technologies eligible for support in the context of an integrated set of measures comprising a whole house energy efficiency solution. This programme is open to demonstration projects involving clusters of five or more homes. Funding is available for whole house measures at a rate of up to €5,000 per house in such developments. Funding is not available under this programme for homes on an individual basis and direct funding support is not available at individual householder level.

157. **Mr. P. McGrath** asked the Minister for Communications, Marine and Natural Resources the EU countries in which grant aid is available for the installation of ecologically friendly geothermal heat pumps in new houses; and the level of grant in each of these countries. [14861/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): The information sought by the Deputy is not available in my Department.

Telecommunications Services.

158. **Mr. Deenihan** asked the Minister for Communications, Marine and Natural Resources his Departments plans to provide broadband to Kenmare Town, County Kerry; and if he will make a statement on the matter. [14701/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): Although the provision of telecommunications services, including broadband, is a matter for the companies operating in a fully liberalised private sector regulated by the Commission for Telecommunications Regulation, it is evident that the market has failed to address regional broadband and infrastructural deficits. As a response to this failure an indicative €200 million was made available under the National Development Plan 2000-2006 for regional telecommunications infrastructure investments to

ensure the availability of high-speed services in all regions.

My Department has a dedicated website www.broadband.gov.ie where anyone can check the availability of broadband in their area. The website currently shows that broadband is available in Kenmare from two DSL providers, Netsource and Pure Telecom Limited, and from five satellite providers, Digiweb, Mediasatellite, Orbitlink, Applied Solutions and Pure Telecom Limited.

We are pushing ahead with the regional broadband programme, which will extend broadband connectivity to over 90 towns, including Kenmare, in addition to the 19 high-capacity metropolitan area networks that are now nearing completion. The number of broadband customers continues to rise dramatically — there are now over almost 40,000 DSL subscribers, and over 50,000 customers using flat rate Internet access.

Coastguard Stations.

159. **Mr. O'Dowd** asked the Minister for Communications, Marine and Natural Resources the funding which has been given to each of the coastguard stations in County Louth for each of the past five years; and the amount committed for 2004. [14702/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): The information sought by the Deputy is not readily available. I am arranging to have the information collated and this will be forwarded to the Deputy as soon as possible.

Radiological Protection.

160. **Mr. McGuinness** asked the Minister for Communications, Marine and Natural Resources if his Department will examine the findings of a report undertaken in the UK by the National Radiological Protection Board expressing the need for further studies to establish whether weak magnetic fields from high voltage power lines lead to childhood leukaemia; if he will consider the international studies in this area which suggest that continued exposure to low level fields can double the risk of leukaemia for children; and if he will make a statement on the matter. [14819/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): The report referred to was recently issued by the UK's National Radiological Protection Board's advisory group on non-ionising radiation, and followed on from a 1992 examination of various reports relating to alleged ill-health effects of long-term exposure to low level electromagnetic fields. There have been some 25,000 scientific papers published on this subject in the last 30 years. One of the main findings of this 1992 examination was that, while occasional studies did suggest that there could be a link between

[Mr. D. Ahern.]

magnetic fields and some instances of childhood leukaemia, these were not verified by subsequent studies. Without consistency of results from independently conducted studies, causality could not be established. The advisory group recommended the need for consolidation of positive findings and the formulation of testable hypotheses necessary for progress in the field. The group concluded: “that evidence strong enough to justify conclusion that the exposure to ... electromagnetic fields can cause cancer in humans or to allow the hypotheses to be rejected is unlikely to be obtained without high quality epidemiology research...” In response to this statement the NRPB concluded that further research would be needed.

The 2004 report revisited and evaluated the current scientific evidence. On this occasion the same advisory group within the NRPB observed that there had been “well conducted” research studies which had provided better evidence than was available for the 1992 review. The 2004 report notes that sporadic positive associations between electromagnetic fields and some cancers in children have been reported. However, the advisory group stated that the scientific evidence suggesting that exposure to power line frequency electromagnetic fields poses an increased risk of cancer is very weak. It concluded that: “...laboratory experiments have provided no good evidence to show that extremely low frequency electromagnetic fields are capable of producing cancer nor do human epidemiology studies suggest that they cause cancer in general”. Because occasional associations continued to be reported but replication of these positive findings had still not been achieved, the NRPB again recommended continuing high quality research. Such research continues around the world.

My Department maintains a watching scientific brief on all aspects of non-ionising radiation, and represents Ireland on a number of bodies within the EU, World Health Organisation and the International Committee on Electromagnetic Safety.

Swimming Pool Projects.

161. **Mr. N. O’Keeffe** asked the Minister for Arts, Sport and Tourism the position regarding the provision of funding for a specific project (details supplied) in County Cork. [14797/04]

Minister for Arts, Sport and Tourism (Mr. O’Donoghue): There are four principal stages in the local authority swimming pool programme viz. preliminary report, contract documents, tender approval and construction. Each stage of the process is subject to the approval of my Department and grant-aid is only allocated to a project when the tender documents have been approved.

The tender documentation for the provision of a replacement swimming pool in Cobh, which was

recently revised by Cobh Town Council, is currently under consideration in my Department.

National Lottery Funding.

162. **Mr. Neville** asked the Minister for Arts, Sport and Tourism the allocation by county made by his Department under the national lottery fund 2004 and the sports capital programmes. [14877/04]

Minister for Arts, Sport and Tourism (Mr. O’Donoghue): The 2004 national lottery funded sports capital programme was advertised in the national newspapers on 30 November and 1 December 2003. The deadline for receipt of applications was at 5 p.m. on 16 January 2004. A total of 1,304 applications were received before that deadline and these were evaluated against the programme’s assessment criteria, which are outlined in the guidelines, terms and conditions of the programme.

Following this evaluation process, I announced on 7 May provisional funding allocations to 717 projects totalling €50.8 million in funding, which was broken down as follows:

	€
Carlow	632,000
Cavan	925,000
Clare	1,027,000
Cork	4,874,000
Donegal	1,802,000
Dublin	11,941,000
Galway	2,702,000
Kerry	2,976,000
Kildare	2,857,000
Kilkenny	850,000
Laois	786,000
Leitrim	479,000
Limerick	1,925,000
Longford	545,000
Louth	1,294,000
Mayo	1,594,000
Meath	1,160,000
Monaghan	996,000
Offaly	857,000
Roscommon	1,027,000
Sligo	1,253,000
Tipperary	2,048,000
Waterford	1,580,000
Westmeath	1,083,000
Wexford	1,887,000
Wicklow	1,700,000

I will shortly be making further announcements under the 2004 sports capital programme in respect of funding for projects of major significance which, while meeting local needs, will also add considerably to the national and regional sporting infrastructure which is required both for increasing levels of participation and improving standards of performance.

In keeping with Government policy, the allocations reflect special priority for the development of sports and recreational facilities in areas designated as disadvantaged, that is, RAPID, CLÁR and local drugs task force areas. Projects that have been allocated sports capital funding in designated disadvantaged areas may also receive additional top-up funding under the CLÁR and RAPID programmes, administered by the Department of Community, Rural and Gaeltacht Affairs. A statement will issue from Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, at a later stage regarding top-up funding allocations under these programmes.

Medical Cards.

163. **Ms O. Mitchell** asked the Minister for Health and Children if he will investigate the circumstances whereby a person (details supplied) in Dublin 16 had their medical card withdrawn; and if the medical card will be restored for this person. [14690/04]

Minister for Health and Children (Mr. Martin): Responsibility for the provision of a medical card is, by legislation, a matter for the chief executive officer of the relevant health board-authority. My Department has therefore asked the chief executive of the Eastern Regional Health Authority to investigate the matter raised by the Deputy and to reply to her directly.

Hospital Services.

164. **Mr. Penrose** asked the Minister for Health and Children when the dialysis unit at Tullamore General Hospital which was to open some time ago will become operational and accommodate persons who require dialysis treatment from Westmeath, Offaly and Longford; and if he will make a statement on the matter. [14691/04]

Minister for Health and Children (Mr. Martin): Responsibility for the provision of services at the Midland Regional Hospital at Tullamore rests with the Midland Health Board. My Department has, therefore, asked the chief executive officer of the board to investigate the position in relation to this case and to reply to the Deputy directly.

165. **Mr. Ring** asked the Minister for Health and Children if a person (details supplied) in County Mayo can be transferred from the Mater Misericordiae Hospital in Dublin to either Galway Regional Hospital or Mayo General Hospital. [14707/04]

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 chief executive officer of the board to investigate the position in relation to this case and to reply directly to the Deputy.

Family Support Services.

166. **Mr. Crowe** asked the Minister for Health and Children the average costing for long stay beds in the medical system compared to the costing in the so called recovery ward. [14708/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I understand that the information which the Deputy is actually seeking relates to the average cost of providing respite services for people with intellectual disability and autism.

The average cost of providing a respite place is estimated to be around €70,000. However the actual costs in any given situation vary and are dependent on the needs of those availing of the service.

Suicide Incidence.

167. **Mr. Neville** asked the Minister for Health and Children the new services to be provided by the Mid-Western Health Board in view of the increased spending on suicide prevention and research of €165,000 in the area. [14709/04]

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 Mid-Western Health Board. My Department has therefore asked the chief executive officer to investigate the matter raised by the Deputy and reply to him directly.

Autism Services.

168. **Ms B. Moynihan-Cronin** asked the Minister for Health and Children if his attention has been drawn to concerns that have been raised about the accounts of a number of linked organisations (details supplied) which appear to show considerable discrepancies between sums raised through fund-raising and subsequently spent on the services intended to be provided by the organisations concerned; and if he will make a statement on the matter. [14713/04]

169. **Ms B. Moynihan-Cronin** asked the Minister for Health and Children if his attention has been drawn to concerns that have been raised about alleged unaccountable procedures and practices in an organisation (details supplied); and if he will make a statement on the matter. [14714/04]

170. **Ms B. Moynihan-Cronin** asked the Minister for Health and Children if he has conducted any inquiry into the financial, operational and management structures of an organisation (details supplied). [14715/04]

171. **Ms B. Moynihan-Cronin** asked the Minister for Health and Children if he has conducted any inquiry into the financial, operational and management structures of an organisation (details supplied). [14716/04]

172. **Ms B. Moynihan-Cronin** asked the Minister for Health and Children the amounts of

[Ms B. Moynihan-Cronin.]
public funds allocated to two organisations (details supplied) in each of the years 1990 — 2003. [14717/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I propose to take Questions Nos. 168 to 172, inclusive, together.

I am aware of the concerns mentioned by the Deputy. A number of the health boards have been working together with the Irish Society for Autism to address various concerns, including those mentioned by the Deputy. In relation to the question raised about public funds the information requested by the Deputy is not readily available in my Department as funding is allocated by the boards on a case by case basis. My Department has asked the chief executive officer of the South Western Area Health Board to reply directly to the Deputy on behalf of the various boards in relation to this matter.

Health Board Staff.

173. **Ms McManus** asked the Minister for Health and Children if the health boards or HeBE appointed permanent staff to the management grade of grade 8 or higher without competition in the past six years; if such grades received incremental progression other than the standard start pay on promotion as provided for in circular 10/71; if any health board promoted an employee to any grade with competition who is or was a member of that health board in the past ten years; and if he will make a statement on the matter. [14723/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): Responsibility for the recruitment and appointment of management staff in health boards and the Health Service Executive and the issues raised by the Deputy in relation to the application of the terms of circular 10/71 and staff promotions rests with each health board and the board of HeBE respectively.

My Department has therefore asked the relevant CEOs to investigate the matters raised by the Deputy and a consolidated reply will issue from the Department to the Deputy as soon as possible.

Housing Aid for the Elderly.

174. **Mr. Ring** asked the Minister for Health and Children when an application by a person (details supplied) in County Mayo for grant aid under the special housing aid for the elderly scheme will be dealt with by the Western Health Board. [14773/04]

Minister of State at the Department of Health and Children (Mr. Callely): As the Deputy will be aware, the housing aid scheme for the elderly in the Mayo area is operated by the Western Health Board, on behalf of the Department of

Environment Heritage and Local Government. My Department has, therefore, asked the chief executive of the board to investigate the matter raised by the Deputy and to reply direct to him as a matter of urgency.

Health Board Allowances.

175. **Mr. Ring** asked the Minister for Health and Children the reason funding has never been sanctioned from his Department to pay persons across the country the arrears due to them on the blind welfare allowance. [14776/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): The Department of Health and Children has received, from the health boards, an estimation of the cost of implementing the revised methodology of calculating blind welfare allowance. There are no funds available this year to meet the costs of implementing this matter. It is my intention to examine this matter in the context of the estimates for 2005.

Medical Cards.

176. **Mr. Ring** asked the Minister for Health and Children the number of appeals on applications for medical card refusals processed by the Western Health Board for County Mayo in the years 2002 and 2003; the number of appeals that resulted in a medical card being granted; and the number that resulted in the refusal being upheld. [14778/04]

Minister for Health and Children (Mr. Martin): The information regarding the number of appeals, both successful and unsuccessful, following the refusal of applications for medical cards in County Mayo for the years requested is as follows:

Year	No. of appeals (Co. Mayo)	No. of appeals upheld	No. of appeals refused
2002	45	7 (18.5%)	38
2003	73	31 (42.5%)	42

Hospital Services.

177. **Mr. McGuinness** asked the Minister for Health and Children if an operation will be expedited at Kilcreene Hospital, Kilkenny for a person (details supplied) in County Kilkenny; the reason the operation was deferred for six months in view of the urgency of the case; and if he will make a statement on the matter. [14801/04]

Minister for Health and Children (Mr. Martin): Responsibility for the provision of services at Kilcreene Hospital is, in the first instance, a matter for the South Eastern Health Board. My Department has, therefore, asked the chief executive officer of the South Eastern Health Board to investigate the matter and reply directly to the Deputy.

Health Board Services.

178. **Mr. Carey** asked the Minister for Health and Children if a person (details supplied) in Dublin 11 is likely to receive orthodontic treatment; and if he will make a statement on the matter. [14802/04]

Minister for Health and Children (Mr. Martin): Responsibility for the provision of orthodontic treatment to eligible persons in Dublin 11 rests with the Eastern Regional Health Authority. My Department has asked the regional chief executive to investigate the matter raised by the Deputy and to reply to him directly.

Hospital Waiting Lists.

179. **Mr. Cregan** asked the Minister for Health and Children when he expects a person (details supplied) to be transferred from Limerick Regional Hospital to the National Rehabilitation Hospital in Dún Laoghaire for rehabilitation, following a serious road traffic accident. [14803/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): My Department has made inquiries into this matter and the National Rehabilitation Hospital has recently confirmed that the individual in question is on its waiting list and that it is not possible at this time to indicate when the individual will be admitted. The Deputy will appreciate that the scheduling of admission to the hospital is a matter for the consultant concerned and is determined solely on the basis of medical priority.

National Treatment Purchase Fund.

180. **Ms McManus** asked the Minister for Health and Children the figures for the highest private percentage of the public elective bed capacity by a consultant in each of the health boards in view of the fact that the medical consultants' common contract allows a consultant to use 20% of such capacity for private use; the figures for the ten highest consultant beneficiaries under the national treatment purchase fund and their percentage of private bed use in their public hospital; and if he will make a statement on the matter. [14846/04]

Minister for Health and Children (Mr. Martin): The information requested in relation to private activity in public hospitals is not readily available. However, I will be back in touch with the Deputy as soon as possible.

The national treatment purchase fund sources operations for patients waiting longest on public waiting lists from private hospitals in Ireland and the UK. Where spare capacity exists in the public hospital sector operations are sourced through the public hospital system in Ireland. I understand that the national treatment purchase fund negotiates, in advance, all-inclusive prices per procedure with hospitals and does not have

the information requested by the Deputy in relation to individual consultants.

Health Board Allowances.

181. **Mr. O'Shea** asked the Minister for Health and Children his proposals to extend mobility allowance to persons who are over 66 years and who qualify for mobility allowance on medical grounds; and if he will make a statement on the matter. [14847/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): Mobility allowance is payable by health boards, subject to a means test to a person with a severe disability between the ages of 16 and 66. Such eligible persons can continue to receive payment after they reach their 66th birthday. The allowance provides financial support to eligible persons unable to walk or use public transport and is intended to enable them to benefit from a change in surroundings.

The National Health Board review group on Department of Health and Children disability allowances-grant schemes report of June 2002 recommended that entitlement should be extended to applicants 66 years and over who would otherwise qualify.

My Department accepts in principle the recommendation and is examining it in the context of ongoing work on the introduction of a cost of disability payment, and the capacity of current transport infrastructure to meet the needs of people with disabilities and mainstreaming of service provision for people with disabilities.

Nursing Home Subventions.

182. **Ms M. Wallace** asked the Minister for Health and Children if the guidelines for calculating nursing home subvention regarding the principal private residence not being taken into account when there is a child under the age of 21 can be modified to allow for situations (details supplied). [14848/04]

Minister of State at the Department of Health and Children (Mr. Callely): As the Deputy will be aware the Nursing Home Regulations 1993, Second Schedule, section 12 states: "A health board shall disregard the principal residence in the assessment of a person's means if it is occupied immediately prior to or at the time of the application and continues to be occupied by a spouse, a son or daughter aged less than twenty one years or in full time education or a relative in receipt of the Disabled Persons Maintenance Allowance, Blind Person's Pension, Disability Benefit, Invalidity Pension, or Old Age Non-Contributory Pension". However, it may be of interest to the Deputy to note that my Department is currently undertaking a review of the nursing home regulations. A working group has been set up to look at all aspects of the regulations including the subvention scheme. In examining the subvention scheme, the issue of the

[Mr. Callely.]

creation of an equitable and consistent means assessment is one of the issues to be considered. At this point in the group's work no firm decisions have been made regarding the final details of the means assessment to be employed.

Care of the Elderly.

183. **Mr. G. Mitchell** asked the Minister for Health and Children the services available to assist persons who take care of the elderly at home; and if all necessary information and advice will be made available to a person (details supplied) in Dublin 12 in relation to this issue, including information on subventions and so on. [14868/04]

Minister of State at the Department of Health and Children (Mr. Callely): The provision of health services in the Dublin 12 area is, in the first instance, the responsibility of the South Western Area Health Board acting under the aegis of the Eastern Regional Health Authority. My Department has, therefore, asked the chief executive of the authority to investigate the matter raised by the Deputy and reply direct to him as a matter of urgency.

Elder Abuse.

184. **Mr. G. Mitchell** asked the Minister for Health and Children his views on the concerns regarding abuse of the elderly both at home and in institutions; and if he will make a statement on the matter. [14869/04]

Minister of State at the Department of Health and Children (Mr. Callely): I launched Protecting Our Future, the report of the working group on elder abuse, on 11 November 2002. This report, in starting with a definition of elder abuse and recommending the putting in place of structures to deal with suspected cases will, hopefully, give older people who feel they are the subject of abuse in any shape or form the confidence to report their anxieties, as appropriate, to a social worker, a public health nurse, a member of the Garda Síochána or any professional or care worker.

One of the recommendations in the elder abuse report is the establishment of a national implementation group and this has been achieved. In addition, funding of €0.8 million was provided in 2003 to commence the elder abuse programme, and in 2004 an additional €0.75 million was provided.

Health Board Services.

185. **Ms Cooper-Flynn** asked the Minister for Health and Children the action he intends to take to address the fact that waiting time for orthodontic treatment in the WHB area is still four years. [14878/04]

Minister for Health and Children (Mr. Martin): The provision of orthodontic services is a matter

for the health boards-authority in the first instance. I have taken a number of measures to improve orthodontic services both in the Western Health Board area and on a national basis.

The grade of specialist in orthodontics has been created in the health board orthodontic service. In 2003, my Department and the health boards funded 13 dentists from various health boards, including two from the Western Health Board, for specialist in orthodontics qualifications at training programmes in Ireland and at three separate universities in the United Kingdom. These 13 trainees for the public orthodontic service are additional to the six dentists who commenced their training in 2001. Thus, there is an aggregate of 19 dentists in specialist training for orthodontics. These measures will complement the other structural changes being introduced into the orthodontic service, including the creation of an auxiliary grade of orthodontic therapist to work in the orthodontic area.

The commitment of the Department to training development is manifested in the funding provided to both the training of specialist clinical staff and the recruitment of a professor in orthodontics for the Cork Dental School. This appointment at the school will facilitate the development of an approved training programme leading to specialist qualification in orthodontics. The chief executive officer of the Southern Health Board has reported that the professor commenced duty on the 1 December 2003. In recognition of the importance of this post at Cork Dental School my Department has given approval in principle to a proposal from the school to further substantially improve the training facilities there for orthodontics. This project should see the construction of a large orthodontic unit and support facilities; it will ultimately support an enhanced teaching and treatment service to the wider region under the leadership of the professor of orthodontics.

In June 2002, my Department provided additional funding of €5 million from the treatment purchase fund to health boards specifically for the purchase of orthodontic treatment. This funding is enabling boards to provide both additional sessions for existing staff and purchase treatment from private specialist orthodontic practitioners. The Western Health Board received additional funding of €0.465 million for the treatment of cases in this way.

The chief executive officer of the Western Health Board has informed my Department that at the end of the March quarter 2004, there were no category A patients awaiting orthodontic treatment. In addition, the chief executive officer also informed my Department that at the end of the March quarter 2004, there were 1,597 patients receiving orthodontic treatment.

Services for People with Disabilities.

186. **Ms Cooper-Flynn** asked the Minister for Health and Children if capital funding will be

made available to transfer the 450 persons with a disability who are currently in unsuitable and inappropriate accommodation to suitable accommodation by 2006 in line with the commitment given in the health strategy and the joint programme for Government. [14880/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): Approximately half of the 438 persons with an intellectual disability or autism who were accommodated in psychiatric hospitals in May 2003 are in St. Joseph's Services, St. Ita's Hospital, Portrane. One of the key capital priorities for my Department is to progress as quickly as possible the development of purpose built residential and day facilities for around 60 persons on the St. Ita's campus. This development is now ready to go to tender.

My Department will continue to work with the Eastern Regional Health Authority and the other relevant health boards to progress the programme to provide more appropriate accommodation and to maximise the outcome from the capital resources available to my Department and from other sources.

Genetically Modified Organisms.

187. **Ms Cooper-Flynn** asked the Minister for Health and Children if, in view of the fact that food products with less than 1% of a genetically modified ingredient are not being labelled as containing a genetically modified component, he intends introducing secondary legislation to address this situation. [14882/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): In the production of food, feed and seed, it is almost impossible to achieve products that are 100% pure. Minute traces of genetically modified organisms can arise in conventional food and feed during cultivation, harvest, transport and processing. This is not particular to genetically modified organisms. Accordingly, to ensure legal certainty, thresholds have been established above which conventional food and feed must be labelled as consisting of or containing or being produced from a genetically modified organism. The labelling requirement is a consumer choice measure and not for food safety reasons

The latest EU legislation does not apply to foods containing material which contains, consists of or is produced from genetically modified organisms in a proportion no higher than 0.9% of the food ingredients considered individually or food consisting of a single ingredient, provided that this presence is adventitious or technically unavoidable. Previously, the level had been 1%. The new threshold will apply to all genetically modified organisms authorised under the new regulations and will also apply to those authorised under the novel foods regulation.

As this legislation is binding on each member state it ensures a uniform and consistent

approach to the labelling of products within the EU. Accordingly, it is not intended to introduce secondary legislation.

Traffic Management.

188. **Dr. Cowley** asked the Minister for Transport if he intends to give traffic wardens the power to examine identification cards and to have an examinable photograph on such cards of disabled parkers to ensure that disabled parking spaces are not abused and are only used by those entitled to use them; and if he will make a statement on the matter. [14684/04]

Minister for Transport (Mr. Brennan): The Road Traffic (Traffic and Parking) Regulations 1997, which came into force on 1 October 1997, introduced a number of significant changes in relation to the application of parking laws to disabled persons in Ireland. The regulations provided for new arrangements in respect of disabled persons parking permit, which can be issued by local authorities, the Irish Wheelchair Association and the Disabled Drivers Association. The permits are available to any person who is suffering from a disability that prevents that person from walking or causes undue hardship to the person in walking. The permit is issued in respect of a named person, who can be a driver or a passenger, and must be displayed in any vehicle being used for the transportation and convenience of that person. The regulations also provide for recognition of a disabled persons' parking permit issued by any State provided the permit contains the recognised pictorial symbol of a person sitting in a wheelchair.

The 1997 regulations do not determine the format of the permit. However, in January 1998 local authorities were advised to use a format for a permit that had been prepared by the Irish Wheelchair Association and the Disabled Drivers Association which was modelled on a common form of permit being developed by the European Union. That format which includes the provision of a photograph, positioned on the back of the card, of the card holder was validated in a EU recommendation, C98/376/EC, on 4 June 1998. This recommendation further provides that the card, when in use, be displayed at the front of the vehicle in such a way that the front of the card is clearly visible for checking purposes.

It is a matter for a traffic warden to determine whether in his or her opinion a vehicle has been parked in contravention of the requirements applying to disabled persons permits or in place or manner which contravenes the parameters laid down for the use of such permits.

Public Transport.

189. **Mr. R. Bruton** asked the Minister for Transport the number of applications received by his Department in respect of new bus routes within the greater Dublin area; the details of the

[Mr. R. Bruton.] routes applied for; when each application was first received by his Department; the reason he has to date failed to make a decision in respect of these applications; and if he will make a statement on the matter. [14813/04]

Minister for Transport (Mr. Brennan): The information sought by the Deputy is set out in the reply I gave in the House on Thursday, 13 May 2004, to a similar question, No: 155, tabled by the Deputy.

As I indicated in that reply, private operators must apply to my Department in accordance with the Road Transport Act 1932, for licences to operate road passenger services within the State.

Dublin Bus and Bus Éireann are exempt from the requirement to hold a licence under the Road Transport Act 1932. However, since 10 January 2001, both companies are required by ministerial direction to notify the Department of any proposed new services or proposed changes to existing services at least four weeks prior to their introduction. A total of five notifications and licence applications are currently on hands in respect of the greater Dublin area and the dates of receipt are as follows:

	Date
Licence applications	14 January 2004
	11 March 2004 (two applications)
	1 April 2004
Notification	16 March 2004

In accordance with long-standing practice, details of applications and notifications remain confidential until a decision is made. The outstanding applications and the notification indicated above are currently being processed by my Department.

All licence applications and notifications are dealt with on a first come, first served basis. The processing of applications and notifications involves detailed analysis to ascertain, for example, the extent of any overlap between the proposed service and existing licensed or other public transport services. This can include similar licence applications already received or prior notifications received from either Dublin Bus or Bus Éireann. However, pressing or exceptional circumstances can be taken into account in determining the order in which applications are dealt with. In some circumstances, while the preliminary work may have been completed on a particular application, a final decision cannot be made until other relevant applications or notifications received prior to it have been finalised. Decisions on the applications and notification mentioned above are expected in the near future.

Light Rail Project.

190. **Mr. R. Bruton** asked the Minister for Transport if he has information from the

operators of the Luas system regarding whether they are prepared to introduce a number of free days for the new Luas line to Tallaght when it is operating in its initial stage in August 2004; and if he will make a statement on the matter. [14814/04]

Minister for Transport (Mr. Brennan): The Railway Procurement Agency is considering a range of promotional initiatives including some limited introductory travel but have yet to finalise these issues.

School Transport.

191. **Mr. Crowe** asked the Minister for Transport the discussions he has had with the Department of Education and Science regarding school transport and its safety aspect, particularly in regard to seat belts having to be worn when fitted on all transport by 2006. [14840/04]

Minister of State at the Department of Transport (Dr. McDaid): A consultation paper that set out a wide range of options for enhancing school bus safety was published by my Department in March 2002. Following an extended consultation period a large number of responses were received. These are now being reviewed and preliminary discussions have taken place between my Department and the Department of Education and Science in regard to identifying a cost effective approach to enhancing road safety for school transport in the context of competing priorities for Exchequer funding.

In the past year a number of developments at EU level in relation to the fitment and wearing of seat belts on buses have occurred. Directive 2003/20/EC, which was adopted in April 2003, provides, *inter alia*, for the compulsory wearing of seat belts by all occupants of buses aged three years or over, where seat belts are provided. Member states are required to transpose the directive into their national law by 9 May 2006. It is, however, my intention to make the necessary regulations to transpose the directive as soon as type-approval standards for related safety systems, including standards related to the mandatory fitment of seat belts, have been adopted at European level.

In this regard the European Commission last year published proposals to amend a number of directives relating to the type-approval requirements for safety belts and restraint systems, anchorages for safety belts, and seats, their anchorages and head restraints. The proposals provide, *inter alia*, for the mandatory fitment of seat belts in all buses and coaches, other than those used on staged-stop urban services, at manufacturing stage. Under the proposals it would be a requirement for the sale, registration and entry into service of new buses and coaches, from 1 January 2006, that their safety belts, and restraint systems, anchorages for safety belts, and seats, their anchorages and head

restraints would conform with the technical requirements specified in the proposed directives. Good progress has been made on the proposals and it is expected that they will be considered at Council shortly with a view to the adoption of a common position by member states. It is not proposed nor would it be feasible for technical reasons to fit seat belts to existing buses.

Taxi Hardship Panel.

192. **Mr. Connaughton** asked the Minister for Transport the reason a person (details supplied) in County Galway received such a small compensation after their huge investment in purchasing a taxi licence just before deregulation was introduced; if his attention has been drawn to the fact that the person is having to use social welfare payments to repay the bank; the way in which the small compensation payment was arrived at; and the person who drew up the scheme's guidelines. [14843/04]

Minister for Transport (Mr. Brennan): The scheme is based on the recommendations and parameters set out in the taxi hardship panel report, as approved by Government.

The panel consisted of three independent people and it was established to report in general terms on the nature and extent of extreme personal financial hardship experienced by individual taxi licence holders arising from a loss of income as a direct result of the liberalisation of the taxi licensing regime. It was made clear at the outset that, based on legal precedent, there can be no legal duty on the State to compensate taxi licence holders on open market licence values that may have existed prior to liberalisation.

The report recommended the establishment of a scheme to provide payments to individual taxi licence holders who fall into one of six categories that the panel assessed as having suffered extreme personal financial hardship. The payments range between €3,000 and €15,000 depending on the category of hardship involved. The Government approved the implementation on a phased basis of these recommendations. The payments do not represent compensation but rather compassionate payments in respect of extreme personal financial hardship.

Area Development Management Limited was engaged to administer and manage the implementation of the scheme, independent of my Department. No details of individual applications made to ADM Limited under the scheme are known to my Department.

After inquiries were made the company informed me that a category 5 hardship payment of €10,000 was made to a person with the name in question. The category refers to particular circumstances where large loan repayments are outstanding and were secured against a family home. The report recommended four specific levels of payment under the category to qualifying persons, ranging between €6,000 and

€12,000, depending on the amount of the loan outstanding. The payment made to the person is appropriate to the amount of loan outstanding.

Legal Aid Service.

193. **Ms Burton** asked the Minister for Justice, Equality and Law Reform if he is committed to retaining the services of the Legal Aid Board at Clonsilla Road, Blanchardstown, Dublin 15 in view of the large population of the area and the demands for its services. [14696/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Under the provisions of the Civil Legal Aid Act 1995 and the Civil Legal Aid Regulations 1996 the board has sole responsibility for deciding on the provision of services to clients, including the location of law centres.

The board's aim is to provide a cost effective and professional service, in a timely manner, to the greatest number of persons possible within available resources. Part of its remit is to constantly monitor the operation of its law centre network, including the location of law centres. This is done to ensure that its services are available to the greatest number of people from within its available resources. The board is examining the possible benefits of relocating some or all of its suburban law centres in Dublin to locations in the city centre to bring them closer to the courts. I have not received firm proposals to do so. I expect that proposals by the Courts Service on the location of family law court sittings would be taken into account.

Repatriation of Prisoners.

194. **Mr. Ring** asked the Minister for Justice, Equality and Law Reform if he will consider the repatriation of a person (details supplied) from England to serve the remainder of their prison sentence here. [14697/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): My Department has not received a formal application for a transfer of the person here under the Council of Europe Convention on the Transfer of Sentenced Persons.

The individual should apply through his prison governor and give details of his Irish citizenship or residency. The convention requires extensive documentation to be exchanged between both jurisdictions in order to allow an application to be fully considered. A three way consent is also required to enable any transfer to take place. That means from the authorities of both jurisdictions and from the person concerned. On receipt of consents an application must then be made to the High Court for a warrant authorising the transfer of the person concerned and his continued detention here.

These procedures are required under the Convention and the Transfer of Sentenced Persons Act 1995. They must be adhered to

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during the processing of each application. I will give the matter every consideration when making a decision on an application for repatriation from the individual.

Ground Rents.

195. **Mr. Morgan** asked the Minister for Justice, Equality and Law Reform if, further to Parliamentary Question No. 174 of 12 May, his views on whether ten to 15 times the annual ground rent to be paid by the State to the landlord with regard to the income they will forfeit through the abolition of ground rents represents an adequate system of compensation. [14698/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): A statutory scheme for the acquisition of the fee simple in dwellinghouses is contained in the Landlord and Tenant (Ground Rents) (No. 2) Act 1978. Part III of that Act provides a special procedure, operated at low cost by the Land Registry, whereby a person may acquire readily and relatively inexpensively the fee simple in their dwellinghouse.

Section 7 of the Landlord and Tenant (Amendment) Act 1984 contains provisions for determining the purchase price where the right to acquire the fee simple is exercised and the price must be determined by arbitration. Such arbitration by the Registrar of Titles is provided for in section 21 of the 1978 (No. 2) Act. There is no obstacle to a person negotiating directly with the owner of the ground rent for its purchase without reference to the (No. 2) Act.

Closed Circuit Television Systems.

196. **Mr. Crowe** asked the Minister for Justice, Equality and Law Reform the funding available to install closed circuit television cameras in the Arbour Hill, Mountpellier Park and Drive and Oxmanstown Road areas of Dublin 7 in view of the ongoing problem of prostitution in the area. [14699/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): A CCTV advisory committee was established by the Garda Commissioner. I have been informed by the Garda authorities that the committee received a report from the chief superintendent, Dublin metropolitan region north central. It outlines the division's CCTV requirements. Prostitution was addressed in the report. It recommended that cameras be installed in the Benburb Street-North Quays-Manor Street areas to combat the problem. At present the committee is assessing the report and its recommendations will issue in due course.

Child Care Facilities.

197. **Mr. Hayes** asked the Minister for Justice, Equality and Law Reform if an appeal on a decision not to approve funding for crèche

facilities for a person (details supplied) in County Tipperary was processed; and when a decision will issue. [14700/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): My Department asked ADM Limited to carry out the day-to-day administration of the equal opportunities child care programme on my behalf. Negotiations are continuing with the project promoter and it would not be appropriate for me to comment further.

Refugee Status.

198. **Mr. McGuinness** asked the Minister for Justice, Equality and Law Reform if a decision can be expedited in the case of a person (details supplied) in County Kilkenny; and the time it will take to reach a decision. [14807/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): Under the Refugee Act 1996 two independent statutory offices were established to consider applications and appeals for refugee status and to recommend if status should be granted to me. The Office of the Refugee Applications Commissioner considers applications for a declaration as a refugee and the Refugee Appeals Tribunal considers applications for a declaration at appeal stage.

A final decision will be made in the case upon receipt of the RAT's decision. The average length of time it takes to process and complete a substantive appeal, including an oral hearing, is approximately 16 weeks. It continuously strives to reduce the timeframe in order to reach applicants in need of international protection as quickly as possible. Faster timeframes apply in the case of appeals that do not involve an oral hearing.

Sexual Offences.

199. **Ms O'Donnell** asked the Minister for Justice, Equality and Law Reform the conviction rates for rape in each of the past five years; the number of cases that reached trial for the same period; and his views on a recent report published at the Rape Crisis Network Ireland conference, Sexual Violence Issues and Responses Across Europe, that showed that Ireland has the lowest conviction rate for rape in Europe. [14808/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): As I previously outlined to the House on 15 October 2003, the conviction rate shown in the report Rape: Still a Forgotten Issue is based on the number of cases reported to the Garda that resulted in a conviction in court. We must also look at cases where sufficient evidence is available to allow a prosecution to take place.

There is a high attrition rate in rape cases here and a large number of cases reported to the Garda do not reach prosecution stage for a variety of reasons. Recently my Department provided funding for further comprehensive

research into attrition rates in rape cases. The research is entitled The Understanding of Attrition, Early Withdrawal, the Trial Process and Identifying Possible Changes to Support Complainants in Rape Cases will be carried out by the Department of Law at the National University of Ireland, Galway and the RCNI. It

should give us greater understanding as to why some victims choose not to report cases to the Garda, what can be done about under reporting and why only a relatively small percentage of reported cases result in a court hearing.

The statistics requested are as follows:

Rape of Female and Rape Section 4	Recorded	Detected	Proceedings Commenced	Persons Convicted	Conviction Rates
					%
1999	381	332	105	34	32
2000	290	219	84	45	54
2001	401	253	158	57	36
2002	497	255	112	69	62
*2003	370	163	68	31	46

*Figures for 2003 are provisional and subject to change.

Registration of Title.

200. **Mr. Ring** asked the Minister for Justice, Equality and Law Reform when dealings for a person (details supplied) in County Mayo will be completed at the Land Registry Office. [14844/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I am informed by the Registrar of Titles that an application for transfer of part was lodged on 11 October 2002. Dealing No. D2002SM009009X refers. A second application was lodged on 11 October 2002. Dealing No. D2002SM009010P refers.

On 14 May 2004 queries were issued on Dealing No. D2002SM009010P. These applications cannot proceed until the queries have been satisfactorily resolved. The matter will receive further attention in the Land Registry on receipt of a satisfactory reply.

Garda Investigations.

201. **Mr. Timmins** asked the Minister for Justice, Equality and Law Reform if the Garda investigated a claim by a person (details supplied). [14871/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Garda authorities have informed that no investigation has taken place.

Garda Investigations.

202. **Mr. Timmins** asked the Minister for Justice, Equality and Law Reform what stage an investigation into illegal dumping in County Wicklow has reached. [14872/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Garda authorities have informed me that Wicklow County Council identified five illegal dump sites in February 2002 for investigation by the Garda Síochána. Investigations are operational matters for the Garda authorities and it is not the practice to comment on them.

Decentralisation Programme.

203. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if he will provide a copy of all information packs for each decentralisation location prepared by the Office of Public Works. [14675/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): My Department prepared information packs for each of its four new locations in the south east. They are available on the central application facility's website at www.publicjobscaf.ie

Child Care Facilities.

204. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government if the availability of crèche and child care facilities was taken into consideration in determining decentralisation locations. [14676/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): The Minister for Finance announced the decentralisation programme in Budget 2004. He stated that the following factors were taken into account when selecting locations: the need to fit in with the national spatial strategy in terms of gateways, hubs and their respective catchments; the location of existing decentralised offices; the desirability of clustering a Department's decentralised units within a region; the importance of respecting the scale and character of locations in terms of their capacity to absorb the number of new jobs involved; and the existence of good transport links by road, rail or air and the general infrastructural capacity in the areas selected.

The availability of crèche and child care facilities was not a factor. However, the Government accepted the recommendations of the report by the decentralisation implementation group. It recommended, *inter alia*, that an interdepartmental committee be established to examine the issue and submit a report to the group by the end of May.

Social and Affordable Housing.

205. **Mr. Cuffe** asked the Minister for the Environment, Heritage and Local Government the annual national development plan's targets for the completion of social housing in the voluntary and local authority sector; and the annual breakdown of progress to date in meeting same. [14677/04]

Local Authority and Voluntary Housing Programme Table.

	2000	2001	2002	2003	2004	2005	2006	Total
NDP Target Completions	5,000	6,250	7,700	8,650	9,350	9,150	9,500	55,600
NDP Actual Completions	4,158	6,217	6,114	6,250				
NDP Target Funding €m	505.61	719.64	827.7	893.42	990	996.11	1,079.48	6,011.96
NDP Actual Funding €m	526.04	824.77	972.64	926.7				

Output levels for social housing by the local authority and voluntary sector have been less than anticipated in the NDP targets. However, record levels of completions have been achieved over the period of the plan. Local authority housing output was maintained at a high level and voluntary housing output continues to grow significantly. The shortfall in achieving output targets can generally be attributed to higher than anticipated construction costs.

The needs of in excess of 46,600 households were met by a range of social and affordable housing measures between 2000 and 2003. I anticipate that the needs of a further 13,000 household will be met in 2004. Investment under the NDP's housing aspect is ahead of its forecast with local authority housing running at 111% and voluntary housing running at 108%.

Water and Sewerage Schemes.

206. **Mr. Penrose** asked the Minister for the Environment, Heritage and Local Government the status of an application to provide a sewerage system for the village of Castletown Geoghegan; if it will be provided to areas adjacent to the village such as the Lake and Mullingar roads. [14681/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): The scheme is part of a pilot programme being undertaken by the national rural water monitoring committee in six locations. A range of new, small scale waste water collection and treatment systems will be tested. Construction work is expected to commence later this year.

One of the objectives of the pilot programme is to explore the potential for group sewerage schemes to extend domestic waste water services to households outside the immediate catchment of new collection systems. The systems are initially confined to the core areas of each of the locations involved. My Department does not have details of the collection system for Castletown-Geoghegan. It is more appropriate to ask the Westmeath County Council for details.

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): The targets and progress for local authority housing and voluntary housing completions in each year of the NDP are as follows:

Road Network.

207. **Mr. N. O'Keeffe** asked the Minister for the Environment, Heritage and Local Government if he will introduce lay-bys on roadways for tourists and long-distance truck drivers to rest safely for a temporary period and dispel their confusion after they have availed of such facilities in their home countries. [14683/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): The provision of lay-bys on non-national roads is a matter for consideration by the relevant local authority. Local authorities may use their resources, as supplemented by Departmental grants, to fund such works.

Housing Aid for the Elderly.

208. **Mr. Ring** asked the Minister for the Environment, Heritage and Local Government if he will allocate extra funding for the housing aid for the elderly scheme to enable rewiring and electrical works to be carried out. [14775/04]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): Funding for the scheme was maintained at a high level in recognition of the valuable that had been done. As much as €11.6 million was provided for 2004. It will enable health boards to continue a high level of activity. An initial allocation of €11 million for the scheme was notified to the health boards. Later this year the remaining €0.6 million will be allocated and will be based on activity in the health board areas.

A health board has the discretion to grant assistance in individual cases. Consideration must be given to the funds available and the guidelines issued by the task force.

Funding for the scheme is provided through the national lottery. No supplementary funding can be made beyond the substantial allocation for 2004.

Satellite Dishes.

209. **Mr. R. Bruton** asked the Minister for the

Environment, Heritage and Local Government if he will introduce restrictions on the planning exemption enjoyed by satellite dishes for domestic houses; and his views on whether there should be a requirement for planning permission to erect them on the front of a house or in other situations. [14815/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): Under the Planning and Development Regulations 2001 the erection of satellite dishes on or within the curtilage of a house is exempted from the requirement to receive planning permission and is subject to conditions. The conditions include that no such antenna shall be erected on, or forward of, the front wall of a house.

It is not proposed to amend the regulations at present.

Water and Sewerage Schemes.

210. **Mr. McGinley** asked the Minister for the Environment, Heritage and Local Government about a sewerage scheme for Ballyshannon, County Donegal. [14849/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): This year my Department's water services investment programme 2004-2006 granted approval for the Ballyshannon sewerage scheme to commence construction. The treatment plants for Ballyshannon and a number of other locations are being advanced as a grouped design-build-operate project for which I approved tender documents on 15 September 2003. I approved tender documents for the Ballyshannon sewage collection system on 18 July 2003.

My Department awaits the submission of tender recommendations from the Donegal County Council.

Offshore Islands.

211. **Mr. Ring** asked the Minister for Community, Rural and Gaeltacht Affairs when funding will be sanctioned for the provision of a cable car for Inishbiggle, Achill, County Mayo; and when works will commence on the project. [14856/04]

212. **Mr. Ring** asked the Minister for Community, Rural and Gaeltacht Affairs if his Department has contacted Mayo County Council concerning the provision of a cable car for Inishbiggle. [14857/04]

213. **Mr. Ring** asked the Minister for Community, Rural and Gaeltacht Affairs the details of his recent announcement on a cable car for Inishbiggle. [14858/04]

214. **Mr. Ring** asked the Minister for Community, Rural and Gaeltacht Affairs about a cable car for Inishbiggle. [14859/04]

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): I propose to take Questions Nos. 212 to 214, inclusive, together.

Recently I announced that my officials would write to Mayo County Council requesting it to proceed with the preparation of contract documents for the development of a cable car between Inishbiggle and Achill Island at Bullsmouth. On 17 May the council clarified how much it would cost to reach the next phase of the project and it is being considered by my Department.

Social Welfare Benefits.

215. **Mr. Penrose** asked the Minister for Social and Family Affairs if she will review the refusal of applications by the self-employed for disability benefit based on PRSI contributions. [14687/04]

Minister for Social and Family Affairs (Mary Coughlan): Workers are generally insurable under the Social Welfare Act either as employed or self-employed contributors. The nature of an employment determines the PRSI contribution due and the range of benefits and pensions to which contributors build up an entitlement.

The majority of insured workers are employees and thus pay PRSI class A contributions. Over a period they can build up an entitlement to a range of benefits and pensions, including disability benefit.

PRSI for the self-employed was introduced in 1988. They are compulsorily insured since through the payment of PRSI contributions and the award of class S contributions. Their contributions are reckonable for the following benefits and pensions: widow or widower's contributory pension, orphans contributory pension, old age contributory pension, maternity benefit, adoptive benefit and the bereavement grant.

In 1988 social insurance for the self-employed was introduced. At the time short-term benefits, such as disability benefit and unemployment benefit, were excluded given the difficulties of extending them to self-employed workers. At present there are no to extend any of the short-term benefits to the group.

Some self-employed workers that were previously employees and paid PRSI contributions at the class A rate may continue to be entitled to a range of short-term benefits for a period of approximately two years after commencing self-employment.

216. **Mr. Ring** asked the Minister for Social and Family Affairs the reason an application for fuel allowance by a person (details supplied) in County Mayo was returned to her; and when she will be approved for the allowance. [14772/04]

Minister for Social and Family Affairs (Mary Coughlan): A fuel allowance application was submitted by the person together with a cover letter from the health board giving details of a

[Mary Coughlan.]

UK pension and a copy of her late husband's death certificate. On 4 May the pensions services office received her form and documents. They were not returned to her. On 7 March her husband died. Prior to his death he had been in receipt of the fuel allowance. He last received it on 27 February. Consequently the person concerned now qualifies for fuel allowance in her own right at the weekly rate of €9 from 5 March to 16 April, the end of the 2003-2004 fuel season.

Arrangements are being made to issue the arrears due as soon as possible.

The pensions services office received her late husband's fuel allowance book without a covering note stating why it was returned. It is standard practice to write to the pensioner to establish why it happened. As a result a letter issued to clarify the reason the fuel allowance book was returned. This was done before the widow had been cross-referenced with her husband's details.