



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Thursday, 1 July 2004.

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## DÁIL ÉIREANN

*Déardaoin, 1 Iúil 2004.  
Thursday, 1 July 2004.*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10.30 a.m.

*Paidir.  
Prayer.*

### Request to move Adjournment of Dáil under Standing Order 31.

**An Leas-Cheann Comhairle:** Before coming to the Order of Business, I propose to deal with a number of notices under Standing Order 31. I propose to call on the Deputies in the order in which they submitted their notices to my office.

**Mr. F. McGrath:** I seek the Adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the decision by the Department of Education and Science not to grant the €5,000 necessary to fund a July programme for 15 severely disabled pupils at Enable Ireland, Sandymount and the urgent need to provide services for children with disabilities.

**Dr. Cowley:** I seek the Adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the lack of support for people and families suffering from autism, the lack of rights based legislation, the lack of non-means tested medical cards for specific family members suffering from autism, the passing off of responsibility between the Department of Health and Children and the Department of Education and Science in supplying services for autistic children and the lack of occupational therapists, speech therapists and respite care for sufferers of autism and their families.

**Mr. Connolly:** I seek the Adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, the unjustified application by the ESB for an electricity price rise of up to 13% coming in the wake of ESB price rises totalling 24% since 2000 resulting in a cumulative increase of almost 40% in the past three years, the company's facile pretext of growing international oil prices which are actually falling after reaching record levels recently, the energy regulator's meek acceptance of such excuses prior to approving the ESB application, the disastrous effect of such electricity increases on the competitiveness of small businesses and to call on the Minister for Communications, Marine and Natu-

ral Resources, Deputy Dermot Ahern, to intervene to prevent such an exorbitant increase in energy costs.

**Mr. Sargent:** Iarraim faoi Bhuan Ordú 31 go gcuirfead Dáil Éireann ar Athló chun ceist phráinnneach don tír ar fad a fhreagairt agus a shoiléiriú, sé sin cathain a bhainfead amach stádas oifigiúil don Ghaeilge mar theanga oifigiúil san Aontas Eorpach agus uachtaránacht na hÉireann ar son an Aontas Eorpach díreach thart, agus cén fath nár iarr an Rialtas riamh ar an gCoimisiún Eorpach stádas oifigiúil a thabhairt don teanga náisiúnta, agus an phlean atá ag an Rialtas anois stádas oifigiúil a bhaint amach.

**Mr. Eamon Ryan:** I seek the Adjournment of the Dáil under Standing Order 31 to raise a matter of national importance, namely, to clear up the confusion that now exists on the future of the proposed metro for Dublin given the conflicting statements we have from the Taoiseach who seems to believe we cannot afford the project and the Minister of Transport who seems to believe it is still on track.

**An Leas-Cheann Comhairle:** Having considered the matters raised, they are not in order under Standing Order 31.

### Order of Business.

**The Tánaiste:** The Order of Business today shall be as follows: No 17a, motion re Referral to Select committee of proposed approval by Dáil Éireann of Taxes Consolidation Act 1997 (Prescribed Research and Development Activities) Regulations 2004; No. 19, motion re proposed approval by Dáil Éireann for a Council Directive on a specific procedure for admitting third country nationals for purposes of scientific research, back from committee; No. 28, Equality Bill 2004 [*Seanad*] — Order for Report, Report and Final Stages; No. 27, Residential Tenancies Bill 2003 — Report Stage (Resumed) and Final Stage; No. 29, statements on the Report of the Committee for Justice, Equality and Law Reform on the Barron Report.

It is proposed, notwithstanding anything in Standing Orders, that (1) the Dáil shall sit later than 4.45 p.m. tonight and business shall be interrupted not later than 7 p.m.; (2) Nos. 17a and 19 shall be decided without debate; (3) Report and Final Stages of No. 28 shall be taken today and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 1 p.m. by one question which shall be put from the Chair, and which shall with regard to amendments include only those set down or accepted by the Minister for Justice, Equality and Law Reform; (4) the proceedings on Report Stage (Resumed) and Final Stage of No. 27 shall, if not previously concluded, be brought to a conclusion at 3.30 p.m. today by one question which shall be put from the Chair, and which shall with regard

[The Tánaiste.]

to amendments include only those set down or accepted by the Minister for the Environment, Heritage and Local Government; (5) the proceedings on No. 29 shall, if not previously concluded, be brought to a conclusion at 7 p.m. and the following arrangements shall apply: (i) the statements of the Minister for Justice, Equality and Law Reform and of the main spokespersons for the Fine Gael Party, the Labour Party and the Technical Group, who shall be called upon in that order, shall not exceed 15 minutes in each case; (ii) the statement of each other Member called upon shall not exceed ten minutes in each case; (iii) Members may share time; and (iv) the Minister for Justice, Equality and Law Reform shall be called upon to make a statement in reply which shall not exceed five minutes.

**An Leas-Cheann Comhairle:** There are five proposals to be put to the House. Is the proposal for the late sitting agreed to?

**Mr. Rabbitte:** I regret that I must oppose this proposal. I will also oppose each of the other four proposals unless the Tánaiste can give an undertaking to the House, following the outrageous misrepresentation on radio this morning by the Minister of State at the Department of Finance, Deputy Parlon, that the Select Committee on Finance and the Public Service will have the support of the Government parties to scrutinise and examine the proposals on decentralisation.

Deputy Parlon told the nation this morning that the proposal put to the committee would have involved politics before the local and European elections. However, the motion put to the committee was to allow for a two-day examination after the elections, sometime in June or July. The Minister of State's comment is a gross misrepresentation of what happened.

This is a major decision. Given that the Government took up a position and put its Deputies through the division lobbies to oppose the committee scrutinising, monitoring and examining the proposals for decentralisation, given the extent of disquiet throughout the public service about the damage being done to governance, the implications for civil servants and their families and the need for a rational, voluntary application of a sensible proposal on decentralisation in line with balanced regional development, and given the seriousness of this, I greatly regret that the Labour Party will call a division on each proposal before the House this morning, unless the Tánaiste makes clear that such scrutiny by the committee will be facilitated by the majority of Government members of that committee.

**Caoimhghín Ó Caoláin:** I fully concur with Deputy Rabbitte's point of contention. As a member of the Committee on Finance and the Public Service, I raise my objection on a separate matter.

Yesterday a report commissioned by the Irish Congress of Trade Unions and SIPTU was received by every Deputy and Senator. That report exposes the utter folly of the Government's determination to break up Aer Rianta. The Government's plan set out in the State Airports Bill is not a plan but a wreckers charter. That is what it amounts to. The public and the workforce will be the real losers. Committee Stage of this Bill is to be taken at noon today and the taking of Report and Final Stages is scheduled for next week. In light of the report from SIPTU and the Irish Congress of Trade Unions, will the Tánaiste withdraw this Bill and indicate clearly that the proposition within it will be abandoned by Government? Unless that is done very clearly and absolutely, we will oppose the Order of Business.

**Mr. R. Bruton:** It was enough to make a cat laugh to hear the Minister of State describe the committee's attempt to have hearings as an attempt to politicise the issue of decentralisation. This is the man who brought decentralisation into the political arena in a way that is almost unprecedented.

**A Deputy:** Talk of Parlon country.

**Mr. R. Bruton:** It was cowboy politics to which we were treated. Decentralisation was introduced in this House under cover of the budget. There has been no strategic plan, human resource plan, regional context or spatial plan context within which this is being developed. When senior civil servants, rightly, through their union, brought the matter to our attention, the Minister for Finance accused them of manipulating the media to try to block the measure. This is a political project, which has been driven through the Dáil without scrutiny. The Tánaiste and those who back her on the Government benches have contrived to obstruct a sensible assessment by the Oireachtas of these proposals. This approach of "act now and think later" will damage the State. We will damage our public service through the decentralisation model.

In respect of Aer Rianta, we are being asked to trust that the Minister responsible will break up the company and then decide whether there was a reason to do so. That approach to politics and to Government is out of the Mad Hatter's Tea Party.

The same type of approach was taken by the Minister responsible when he said there was no overrun on the port tunnel works. It was to cost €220 million and when the cost came in at €715 million the Minister says there is no overrun. This is not an acceptable way to do business. It is time we respected the House, the citizens of this State and the public service, and that we do business under the scrutiny we should have in this House.

**Mr. Sargent:** We are dealing with the proposal on the late sitting of the Dáil. It appears the Government has heard the points made at the doors during the elections. If the Government is serious about allowing this issue to be debated and, as Deputy Richard Bruton said, it is one the Government brought into the public arena, it should allow it to be debated in this House. It is appropriate to oppose the late sitting in the hope that the Tánaiste will come back, as she did on a previous occasion, and inform us that she will allow a debate in this House on decentralisation and extend the time allocated with that in mind.

This is a matter that is being debated outside this House at length. It has an impact on people, who are not getting an answer in the public service to what will happen when they volunteer to remain where they are, as it is claimed they will be able to do? The answer has not been forthcoming as to what will happen to them. It is appropriate that this issue is debated in the House, as is it is being debated widely throughout the country.

**The Tánaiste:** Are we dealing with all the Order of Business items or with item No. 1, which is 17a, given that many issues have been raised?

**Mr. Rabbitte:** We are dealing with item No. 1.

**The Tánaiste:** In regard to decentralisation, I said in this House — I think it was last week or perhaps the week before — that I favour the com-

mittee examining this matter. There was no instruction from the Government to the committee, to the best of my knowledge——

**Mr. Connaughton:** Tom did not hear that.

**Caoimhghín Ó Caoláin:** The Whip applied it.

*(Interruptions).*

**The Tánaiste:** That instruction certainly did not come from the Government, I assure Deputy Rabbitte of that. It is a matter for the committee, and the committee should look at it.

In regard to the other items, the Equality Bill, the Residential Tenancies Bill and the Barron report, on which the House was anxious to have a discussion, they are important Bills which we want to get through before the summer recess. That is why it is necessary for the House to sit until 7 p.m. this evening.

**Caoimhghín Ó Caoláin:** What about the State Airports Bill, the wreckers charter?

**Mr. Rabbitte:** Is that a commitment from the Government as distinct from the Tom Parlon country party?

**The Tánaiste:** I have just told the Deputy.

Question put: “That the proposal for the late sitting of the Dáil be agreed to.”

The Dáil divided: Tá, 60; Níl, 44.

Tá

Ahern, Michael.  
 Ahern, Noel.  
 Brady, Johnny.  
 Brady, Martin.  
 Browne, John.  
 Callanan, Joe.  
 Carty, John.  
 Collins, Michael.  
 Cooper-Flynn, Beverley.  
 Cregan, John.  
 Curran, John.  
 de Valera, Síle.  
 Dempsey, Noel.  
 Dempsey, Tony.  
 Dennehy, John.  
 Devins, Jimmy.  
 Ellis, John.  
 Fitzpatrick, Dermot.  
 Fleming, Seán.  
 Gallagher, Pat The Cope.  
 Glennon, Jim.  
 Grealish, Noel.  
 Hanafin, Mary.  
 Harney, Mary.  
 Haughey, Seán.  
 Jacob, Joe.  
 Keaveney, Cecilia.  
 Kelleher, Billy.  
 Kelly, Peter.  
 Kirk, Seamus.

Kitt, Tom.  
 McCreevy, Charlie.  
 McDaid, James.  
 McDowell, Michael.  
 McEllistrim, Thomas.  
 McGuinness, John.  
 Martin, Micheál.  
 Moynihan, Donal.  
 Moynihan, Michael.  
 Nolan, M. J.  
 Ó Cuív, Éamon.  
 Ó Fearghaíl, Seán.  
 O'Connor, Charlie.  
 O'Dea, Willie.  
 O'Donnell, Liz.  
 O'Donoghue, John.  
 O'Donovan, Denis.  
 O'Keeffe, Batt.  
 O'Keeffe, Ned.  
 O'Malley, Fiona.  
 O'Malley, Tim.  
 Parlon, Tom.  
 Power, Peter.  
 Power, Seán.  
 Sexton, Mae.  
 Smith, Brendan.  
 Treacy, Noel.  
 Wallace, Dan.  
 Walsh, Joe.  
 Woods, Michael.

Níl

Boyle, Dan.  
Breen, Pat.  
Broughan, Thomas P.  
Bruton, Richard.  
Burton, Joan.  
Connaughton, Paul.  
Connolly, Paudge.  
Costello, Joe.  
Crawford, Seymour.  
Cuffe, Ciarán.  
Deenihan, Jimmy.  
Durkan, Bernard J.  
English, Damien.  
Ferris, Martin.  
Gilmore, Eamon.  
Healy, Seamus.  
Higgins, Joe.  
Howlin, Brendan.  
Lynch, Kathleen.  
McCormack, Pdraic.  
McGinley, Dinny.  
McGrath, Finian.

McGrath, Paul.  
McHugh, Paddy.  
Mitchell, Gay.  
Mitchell, Olivia.  
Morgan, Arthur.  
Moynihan-Cronin, Breeda.  
Murphy, Gerard.  
Naughten, Denis.  
Neville, Dan.  
Ó Caoláin, Caoimhghín.  
O'Shea, Brian.  
Penrose, Willie.  
Perry, John.  
Rabbitte, Pat.  
Ring, Michael.  
Ryan, Eamon.  
Ryan, Seán.  
Sargent, Trevor.  
Shortall, Róisín.  
Stagg, Emmet.  
Timmins, Billy.  
Upton, Mary.

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

Question declared carried.

**An Leas-Cheann Comhairle:** Are the proposals for dealing with Nos. 17a and 19 without debate agreed?

**Mr. R. Bruton:** I do not know if the regulations relating to the Taxes Consolidation Act have been circulated. I have not seen them. It is strange that we are being asked to approve the referral of the regulations to the select committee without having seen them. I am not profoundly objecting but this is bad procedure.

**Mr. Rabbitte:** Is the Tánaiste now telling the House that the Government parties will facilitate the examination of the decentralisation programme by the Joint Committee on Finance and the Public Service, about which we spoke earlier?

**The Tánaiste:** With regard to Deputy Bruton's query, this matter was discussed in the context of the Finance Bill. We do have a copy of the regulations for him. It is to provide for a tax credit for research and development.

In reply to Deputy Rabbitte's question, I have spoken to the chairman of the joint committee and he tells me he will be delighted to facilitate an early discussion of the said matter.

**Caoimhghín Ó Caoláin:** I object to the taking of Nos. 17a and 19 without debate. While supportive of research and development, we have not been circularised with the details. It is claimed on the Order Paper that these were laid before the House yesterday but I have not received a copy. There are no costings or indications of cost. We know already from the Minister for Finance that neither the Department of Finance nor the Rev-

enue Commissioners were able to cost a number of other tax breaks for those investing in a number of other areas, such as multi-storey car parks and holiday homes. Costings are critically important. It is important to spell out what constitutes real research and development. I would like to have seen such detail.

Have the recommendations of the Joint Committee on Justice, Equality, Defence and Women's Rights on the proposal regarding third country nationals and the issue of scientific research been circularised? I do not have a copy of the report from the committee on its deliberations. We are now being asked to adopt this proposition without debate and without sight of the committee's deliberations. This is unacceptable.

**The Tánaiste:** In 1997 the standard rate of corporation tax was 40% and we collected €1.8 billion. We are now collecting more than €5 billion, having reduced the rate to 12.5%. Capital gains tax was 40% in 1997 and—

**Mr. J. Higgins:** That is completely misleading. There has been an increase in economic activity. This is a myth.

**The Tánaiste:** Deputy Higgins should listen to the facts. Capital gains tax was 40% and we collected €100 million in 1997. By 2001 the take had gone up to €800 million. There are the figures.

**Caoimhghín Ó Caoláin:** The Tánaiste should answer the question.

**The Tánaiste:** This is sensible innovative policy that delivers economic success.



**Mr. J. Higgins:** This is voodoo economics. It is PD nonsense.

**Caoimhghín Ó Caoláin:** I know the Tánaiste is in the Taoiseach's chair this morning. Does that oblige her never to answer a question?

**The Tánaiste:** The Deputy should look at the facts.

Question, "That the proposal for dealing with Nos. 17a and 19 be agreed to", put and declared carried.

**An Leas-Cheann Comhairle:** Is the proposal for dealing with No. 28 agreed?

**Caoimhghín Ó Caoláin:** We are being asked to accept a guillotine on this Bill. The lead-in to the summer recess is dotted with guillotine after guillotine on Second, Report and Final Stages of several Bills. This is unacceptable. On principle, I object to the passage of the Equality Bill 2004 by means of guillotining the debate on Report and Final Stages. I ask the Tánaiste to revisit that proposition.

**The Tánaiste:** No, it is important that we get the equality legislation through.

**Caoimhghín Ó Caoláin:** Absolutely. It is also very important that it is debated properly.

**Mr. J. Higgins:** If we reduce equality we may get more equality.

Question, "That the proposal for dealing with No. 28 be agreed to", put and declared carried.

**An Leas-Cheann Comhairle:** Is the proposal for dealing with No. 27 agreed?

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

**Mr. Gilmore:** I am among those Members who are most anxious to see this Bill enacted. I had been asking for it for four years before the Government published it, I asked for it to be brought to Second Stage and I have been asking for the Report Stage debate since last February when Committee Stage was concluded. The guillotine is being applied because the Government delayed in bringing the Bill to the House for Report Stage. The Labour Party opposes the use of the guillotine on this Bill on principle. It is being used because of the Government's delay in bringing the Bill to Report Stage.

**Mr. Sargent:** This Bill is becoming more important as the years go by and more and more people depend on rented accommodation. I ask the Government to think long and hard about the guillotine. It does not allow enough debate to get to the bottom of the question of when a fair rent is being charged. The Government seems to equate market rent with fair rent and that can be

wide of the mark. It is important that we not pass a Bill by using a guillotine, which will result in significant hardship for many people.

**An Leas-Cheann Comhairle:** The question is—

**Caoimhghín Ó Caoláin:** A Leas-Cheann Comhairle—

**An Leas-Cheann Comhairle:** I thought the Deputy had already spoken.

**Caoimhghín Ó Caoláin:** No, I have not. This is No. 27.

**An Leas-Cheann Comhairle:** The Deputy said he was objecting to it.

**Caoimhghín Ó Caoláin:** I wish to object to it. I am doing so now. That was the Equality Bill. We are now dealing with the Residential Tenancies Bill. I object to the guillotine being applied. I participated briefly in the course of the debate on Report and Final Stages last evening. The remaining amendments may be addressed within the timeframe provided but the issue is the principle of the application of the guillotine. The debate should be left open to accommodate full participation. That is the issue. It may be that, with the co-operation of the House, the Bill will be proceeded with expeditiously but the imposition of the guillotine is objectionable in principle.

**The Tánaiste:** Deputy Ó Caoláin is being very difficult this morning. I suspect he did not take his Weetabix before he came in.

**Caoimhghín Ó Caoláin:** I had an extra bowl.

**The Tánaiste:** In an ideal world we would prefer not to have to use guillotines but it is the only effective way for the Government to get its legislative programme through.

**Mr. Neville:** Why?

**Mr. J. Higgins:** Some of the Ministers should take more Weetabix.

**The Tánaiste:** Deputy Higgins should take more porridge.

Question, "That the proposal for dealing with No. 27 be agreed to", put and declared carried.

**An Leas-Cheann Comhairle:** Is the proposal for dealing with No. 29 agreed?

**Mr. Boyle:** I wish to make a small point.

**An Leas-Cheann Comhairle:** Is the Deputy objecting to the proposal?

**Mr. Boyle:** I would like to point out a reservation.

**An Leas-Cheann Comhairle:** The Deputy may only speak if he is objecting to the proposal.

**Mr. Boyle:** I am objecting to it in principle. The two and a quarter hours which have been put aside allows only one speaking slot for the Technical Group. The time slots will finish before a second Technical Group speaker will be reached. I ask that a second slot be accommodated.

**The Tánaiste:** Is the Deputy talking about the debate on the Barron report?

**Mr. Boyle:** Yes.

**The Tánaiste:** The House would have to sit beyond 7 p.m. if that were to be case, but if contributions are short there may be time for an additional speaker. The opening slot is 15 minutes in length. That is a fair amount of time.

**An Leas-Cheann Comhairle:** Is the proposal for dealing with No. 29 agreed? Agreed.

**Mr. R. Bruton:** Would the Tánaiste confirm the position on the requests by the Public Offices Commission to have additional powers to investigate the tax affairs of Deputies? It was reported in today's newspapers that the Government has decided not to accede to a request for additional powers.

It is clear that Fianna Fáil backbenchers would like to see the rationale of the State Airports Bill published before we finalise it. Will the Government agree to that sensible approach on behalf of these Fianna Fáil backbenchers to ensure this Bill is based on a sensible foundation?

On the Government's recent commitment to introduce another round of benchmarking, will this be the subject of discussion in the House or will the Government again proceed without any scrutiny or assessment of the measure?

**The Tánaiste:** On the request from the Public Offices Commission, the first time I became aware of this was when I read about it in my newspaper this morning so I am not aware of the nature of the request. There was certainly no discussion of it at Government level.

The rationale behind the State Airports Bill is to introduce competition. We should look at some of the remarkable things that have been done in the new EU member states in the last 12 years. They are an example of the vigorous introduction of competition to ensure growth in their economies. We seem to face significant resistance here every time—

**Mr. R. Bruton:** Did they have a strategic plan before they introduced competition or did they just proceed blindly?

**The Tánaiste:** The plan is to attract more people to travel through our airports, particularly Shannon. We can have all the plans in the world but if we do not have more passengers and ser-

vices from Shannon Airport to Europe in particular, no plan will save it because it faces serious difficulties. Will the Deputy remind me of his last question?

**Mr. R. Bruton:** The Government recently indicated it would introduce another round of benchmarking between 2005 and 2007. The ESRI has indicated there are serious question marks about the way in which this was conducted on the last occasion. It is appropriate that the House would scrutinise this before the Government takes this course again.

**The Tánaiste:** That would be a good idea before the benchmarking group is put together. The Joint Committee on Finance and the Public Service, of which the Deputy is a member, might have an input into that.

**Mr. Howlin:** The Tánaiste is aware of the publication this morning of the non-life profits of insurance companies of €747 million, with profits of €385 million in the area of motor insurance. These profits come before the operation of the PIAB legislation and the legislation from the Department of Justice, Equality and Law Reform that is going through the Houses. We can expect the profit margins, therefore, to be considerably higher this year. What legislative proposals will the Tánaiste bring before the House as a matter of urgency to ensure such enormous profits are distributed properly to premium holders so that young motorists in particular can have affordable motor insurance to allow them to get to work and to allow rural areas to continue to function?

**The Tánaiste:** As the Deputy is aware, motor insurance premiums have fallen by an average of 22%. The most effective way of driving them down further, given that the Civil Liability and Courts Bill will be enacted before the recess and will have a major impact, is through greater competition in the market. A number of players have applied to IFSRA for a licence. Even if I wanted to, I am prohibited under EU Single Market legislation from introducing any price control in insurance.

**Mr. Howlin:** What about competition?

**The Tánaiste:** More players have applied to come into the market. Next month I will meet with some interested parties in London.

**Mr. Stagg:** Competition must not be working very well. The penalty points have not helped to lower premiums either.

**The Tánaiste:** It is working, prices are coming down. There has been a fall of 22% in one year and we have not yet completed legislative reform. There will be further substantial decreases in the next 12 months.

**Mr. Sargent:** I do not know if the Tánaiste heard the report on “Tonight with Vincent Browne” last night on people entering the prison system as alcoholics and leaving it as drug addicts. Obviously, greater attention should be paid to the reform of the service but no publication date has been given for the Prison Service Bill. Is there any suggestion of a publication date?

On the State Airports Bill, what hold does the Tánaiste have over Fianna Fáil backbenchers that allows them to oppose it when they are speaking in the House and then to vote for it? Does she have a particular trick?

**Mr. Durkan:** Ventriloquism.

**The Tánaiste:** I did not listen to “Tonight with Vincent Browne” last night and I do not think we should take our policies from any journalist, no matter how good he might be. I presume the programme was about conditions in prisons which I am not sure will be affected by the legislation which is designed to put the Prison Service on an independent, statutory footing.

On the State Airports Bill, we have a programme for Government. On three occasions the Government has endorsed the commitment in the programme and we are implementing it.

**Mr. Rabbitte:** Will the Tánaiste clarify the remarks made by the Taoiseach yesterday that the Government has decided against the metro and the remarks made by the Minister for Transport that he intends to go ahead with it? We are now deporting 300 or 400 workers who have acquired valuable skills and, despite the fact that we need further rail track and infrastructure, we are sending them back from whence they came. Routes like the Kildare service desperately need additional railway track. What is the Government’s policy and is legislation being introduced?

**The Tánaiste:** The Minister for Transport intends to bring proposals on a metro to Cabinet soon, probably after August. The views of the Taoiseach and the Minister are compatible. The Taoiseach was talking about the grand plan for the metro which cannot happen quickly for logistical and financial reasons. The Minister for Transport’s proposal is to start on a metro for the greater Dublin area but that has not yet been agreed by the Government and no funding has been identified for it.

**Mr. Crawford:** It was announced this morning that assets will be counted as income for the self-employed applying for education grants. When will the Higher Education Authority (amendment) Bill be introduced so we can discuss this issue?

I appreciate the Tánaiste has made it clear she would like to get away from the employment investment area of her portfolio. When one looks at the figures for job creation in Monaghan in the last seven years, there is not much joy to be

derived from them. Are there any plans for legislation dealing with investment funds or any other area regarding employment so we can discuss how the county with the longest border with Northern Ireland has not had a single job created as a result of the peace initiative?

**The Tánaiste:** It is not possible to say when the education legislation will be before the House. On employment, every county in Ireland has substantially more people working according to the 2002 census as opposed to the 1996 census. There are more than 1,000 foreign workers on work permits working in County Monaghan. The Deputy must be talking about agency-led activity because there are many people at work in Monaghan.

**Mr. Stagg:** At the start of this session, the Government promised to publish 19 Bills. To date, it has published six of them. What are the expected publication dates of the following Bills: the land Bill; the Abbotstown sports centre authority Bill, an interesting one; the maritime safety Bill; the education and science Bill; the employment permits Bill; the building societies Bill; the Civil Service regulation (amendment) Bill; the health and social care professionals Bill; the criminal justice Bill; the disability Bill;—

**Mr. G. Mitchell:** The restaurant bill.

**Mr. Stagg:** —the prisons Bill; the Comhairle (amendment) Bill; and the driver testing and standards authority Bill? We were promised that all of these Bills would be published during this session. However, the only Bills published are six other Bills which were not on the list I have read out. When will the Bills on that list be published?

**Mr. Rabbitte:** I suggest that “soon” is the best answer.

**The Tánaiste:** The Deputy will be happy to hear that this morning I finalised some amendments to the employment permits Bill. It will be published in September. More drafting is awaited from the office of the Attorney General. I assure the Deputies opposite that they will all like the Bill, particularly Deputy Howlin. I have taken on board many of his suggestions. Eleven Bills were published and advised by our very efficient Whip. There are five other Bills.

**Mr. Stagg:** Which September? There are only six on the list.

**The Tánaiste:** The comhairle and disability Bills will both be published together very shortly. The building societies Bill has been cleared by the Government and I believe it will be published shortly. I am sure the Deputies opposite have all the answers. I dealt with the prison services Bill and the House knows the position on the Abbotstown Bill.

**Mr. Rabbitte:** Do we?



**The Tánaiste:** Yes. Obviously the existing infrastructure needs to be put on a proper footing. That Bill is due this session, but post the summer.

**Mr. Rabbitte:** We can all go for a swim.

**Mr. McCormack:** When will the Road Traffic Bill, as published, come before the Dáil? When will the Minister for Education and Science bring before the Dáil the additional lists of schools to be included in the Residential Institutions Redress Act 2002? This has been promised a long time. I put down parliamentary questions on this subject early this year and I was assured the list of additional schools would be brought before the House before the summer recess. Many people who were abused are waiting to have their cases heard because the schools in question are not on the list.

**The Tánaiste:** The Road Traffic Bill will be dealt with in the autumn session. The other matter is on the Cabinet agenda and was discussed last week. One slight change is required to be made. It will probably be finalised next week. Subject to correction, I did not realise it was the subject of legislation; I thought it could be done by regulation. If I am mistaken, I apologise.

**Mr. McCormack:** It is by regulation.

**The Tánaiste:** I understand it will be finalised next week, certainly within the next fortnight.

**Mr. McCormack:** There is only one week left.

**The Tánaiste:** I do not think it requires Dáil approval.

**Ms Lynch:** In light of the Tánaiste's answers to earlier questions about the fact that her stated policy is that people would pay less tax and the Progressive Democrats taxation policy is the cause of all our joy and the reason the economy is in such a boom will she say how she can stand over a further price increase being applied for by the ESB?

**An Leas-Cheann Comhairle:** The Deputy should ask a question on promised legislation.

**Ms Lynch:** It is the energy Bill.

**Mr. McCormack:** The lack of energy Bill.

**Mr. Howlin:** The lethargy Bill.

**Ms Lynch:** If the ESB had not had to pay €100 million to the Exchequer in the past two years and had been allowed keep this money, then it would not now be looking for a further increase. How can the Tánaiste stand over that?

**An Leas-Cheann Comhairle:** The Deputy should ask a question on proposed legislation.

**Ms Lynch:** On the one hand she says we should pay less tax and on the other she says we will have to pay by stealth tax——

**An Leas-Cheann Comhairle:** The Deputy should use other ways of raising that matter.

**Ms Lynch:**——and the stealth tax is going back into the coffers of the Government.

**An Leas-Cheann Comhairle:** On the energy Bill, which is promised legislation.

**The Tánaiste:** The promised legislation will be published later this year. As the Deputy is well aware, it does not affect that about which she is talking. On the question of tax, the average industrial worker is taking home 80% more than was the case seven years ago. Even discounting what the Deputy calls stealth taxes, workers are still 60% better off. Lower taxes is but one of the factors that helped our economic success. Education is another factor and there are many other factors. It is a good Government of which the Deputy's party was once a member.

**Ms Lynch:** Regardless of what are they taking home, what they have to pay out afterwards is the difficulty.

**Mr. Durkan:** Since the legislative programme was published at the end of April, beginning of May, a list of approximately ten Bills awaiting Committee Stage have been joined by a number of others in the meantime. What plans does the Government have to progress them? Top of the list is the Bill with musical connotations and one which might resonate with the Government parties after the people have made the decision in the local elections, the whistleblowers' Bill. I will not list all the other Bills on the list but I can if required.

**The Tánaiste:** The sooner we can all move on in the House today, the sooner some of the legislation will go through. They are all matters for the different committees, as the Deputy is aware.

**Mr. Durkan:** The Tánaiste should make provision for them.

**Mr. Costello:** I refer to the defamation Bill which was promised last year and the year before. It is listed in the joint manifesto. The Minister for Justice, Equality and Law Reform seems to change his mind about the press council and whether it should be on a statutory basis or otherwise at every conference he attends. When is the defamation Bill due? There have been reports from the Law Reform Commission and from the newspaper industry on the matter. There are conferences every second week on the subject. Is it proposed to establish a statutory press council?

**The Tánaiste:** The legislation is due early next year. It is important legislation to which we should all give serious consideration.

**Ms Lynch:** We would love to consider it.

**The Tánaiste:** It will even apply in Cork.

**Aengus Ó Snodaigh:** The railway safety Bill seems to be stalled in the House for quite a number of years and does not seem to be making any progress. What is the reason for the delay in progressing this Bill? It is an important Bill.

**The Tánaiste:** I am delighted to know the Deputy is interested in railway safety. I am informed the Bill has been ordered for Report Stage.

#### **Sustainable Communities Bill 2004: First Stage.**

**Mr. Sargent:** I move:

That leave be granted to introduce a Bill entitled an Act to require the drawing up and implementation of a strategy to promote sustainability among local communities; to make provision for the inclusion of targets and indicators in the strategy; to make provision for councils to implement the strategy in their area; to make provision in respect of the powers of electors in relation to the implementation of the strategy; and for connected purposes.

**An Leas-Cheann Comhairle:** Is the Bill opposed?

**Minister of State at the Department of the Taoiseach (Ms Hanafin):** No.

Question put and agreed to.

**An Leas-Cheann Comhairle:** Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

**Mr. Sargent:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

#### **Taxes Consolidation Act 1997 (Prescribed Research and Development Activities) Regulations 2004: Referral to Select Committee.**

**Minister of State at the Department of the Taoiseach (Ms Hanafin):** I move:

That the proposal that Dáil Éireann approve the following Regulations in draft:—

Taxes Consolidation Act 1997 (Prescribed Research and Development Activities) Regulations 2004, copies of which were laid in draft before Dáil Éireann on 30 June, 2004, be referred to the Select Committee on

Enterprise and Small Business, in accordance with paragraph (1) of the Orders of Reference of that committee, which, not later than 7 July, 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: Motion.**

**Minister of State at the Department of the Taoiseach (Ms Hanafin):** I move:

That Dáil Éireann approves 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 that it wishes to take part in the adoption and application of the following proposed measure:

a proposal for a Council Directive on a specific procedure for admitting third-country nationals for purposes of scientific research

a copy of which proposed measure was laid before Dáil Éireann on 6 May, 2004."

Question put and agreed to.

#### **Equality Bill 2004 [Seanad]: Order for Report Stage.**

**Minister of State at the Department of Justice, Equality and Law Reform (Mr. O'Dea):** I move: "That Report Stage be taken now."

Question put and agreed to.

#### **Equality Bill 2004 [Seanad]: Report and Final Stages.**

**An Leas-Cheann Comhairle:** Amendment No. 1 has been ruled out of order.

Amendment No. 1 not moved.

**Mr. P. McGrath:** I move amendment No. 2:

In page 6, lines 43 and 44, to delete all words from and including ", but" in line 43 down to and including "employed" in line 44 and in page 7, lines 1 to 4, to delete all words from and including "in" in line 1 down to and including "persons" in line 4.

This amendment was moved on Committee Stage. It refers to those whom persons can employ. It revolves around the tricky question of who one can employ in one's home. The Minister of State will disagree but the legislation places restrictions on those who can be employed in the home. As we all know, the greatest abuse of employees probably involves domestic servants and those working in family homes, such as au pairs and foreign nationals. We need to ensure,

[Mr. P. McGrath.]

in as far as possible, that no restrictions apply to such employees and they are not excluded from terms of employment. I hope the Minister of State will accept the amendment, even at this late stage.

**Aengus Ó Snodaigh:** As Deputy Paul McGrath stated, this is a simple but important amendment to section 3 which amends section 2 of the Employment Equality Act. It is intended to ensure that employers cannot discriminate against domestic workers. Despite the changes made in the Seanad, the Government provision amending section 2 of the Employment Equality Act still includes a blanket provision enabling employers to discriminate against prospective employees applying for work in a person's home for the provision of personal services.

In practice, this change will enable employers to reject job applicants because of their personal prejudices, which is not acceptable. Exemptions must be justified as rationally connected to the work or the service and be reasonably necessary. Respect for private and family life is not a justification for a blanket ban measure to enable this category of employers to engage in discriminatory practices. The Minister has pointed out in other contexts that he needs to plug legislative loopholes. In the case of our equality laws, an increasing number of loopholes are emerging. This legislation, if passed, will allow people to discriminate legally.

No exemptions similar to those the Minister proposes in the text of the Bill appear in the directives to which we are trying to give effect in law, and no precedent in this area of jurisprudence has been set by the European Court of Justice or the European Court of Human Rights. The Human Rights Commission made a point on this aspect of the legislation stating:

Clause 3 of the Bill proposes to amend the existing exemption of domestic employment from the application of the Employment Equality Act 1998 by excluding from the protections under the recruitment of "persons employed in another person's home for the provision of personal services for persons residing in that home where the services affect the private or personal life of those persons". However the Bill does now provide for protection for domestic workers against discrimination within employment.

Neither the Race Directive nor the Framework Employment Directive permits exemptions to the application of the binding elements of the Directives in relation to employment in a private household. [The proposal is, therefore, in breach of the directives] The references in the non-binding recitals to the Directives to respect for private and family life relate only to the provision of goods and services and not to the area of employment. In other words, while limited exemptions may be justified in the provision of goods and services, it is explicit that

no exemptions are countenanced with regard to employment.

I urge the Minister of State to adopt the amendment to bring the legislation into line with the directives we are trying to transpose.

**Minister of State at the Department of Justice, Equality and Law Reform (Mr. O'Dea):** I reject the notion that the Bill in any way breaches the directives. All three directives recognise that there may be difference in treatment based on a genuine occupational requirement, which is precisely what we are dealing with here. The 1998 legislation provided for difference in treatment with regard to employment in the home. There are a number of significant differences in the proposed legislation. This Bill considerably narrows the exclusion and, as a result of an amendment I accepted in the Seanad, the provision covers access to employment only.

Representations have been made that people employed as domestics, particularly people from abroad, are treated appallingly in some private households. That is not permissible under the legislation as the exclusion relates only to access to employment.

Nobody could logically argue that in terms of providing services of a personal nature, as are clearly and widely defined in the legislation, we should introduce legislation effectively to compel people to act against what everybody knows to be their best interests. Let us take the example of an elderly woman seeking to employ somebody for personal services, including health care. If, for obvious reasons, she wanted to employ a female but was compelled by law to give equal consideration to a male to do the job or allow any male who wanted to apply for the job to take a case for discrimination against the potential employer, I would become the most ridiculous figure in politics.

Following the results of the recent local and European elections, many independent commentators opined that one of the problems was a view that individual Ministers were interfering too much in personal lives, for example, by introducing a smoking ban, a penalty points system and an obligation to carry a driver's licence. If I were to introduce legislation which impinges on the family home and forces an elderly woman in the circumstances described to give equal consideration to a male, thus allowing any male to bring a successful action against her on the basis that she discriminated against him, I can imagine what view the media would take when the matter came to a head. We would be laughed off the stage.

The amendment proposes the deletion from the definition of "employee" for the purposes of the Act of 1998 of the exclusion in respect of persons employed in another person's home to provide personal services to persons living in that home where they affect private or family life. The term "personal services" is defined in the Bill in the following terms:

'personal services', in relation to such services provided in a person's home, includes but is not limited to services that are in the nature of services *in loco parentis* or involve caring for those residing in the home.

This exclusion replaces much more broadly-based exclusions in the Employment Equality Act and strikes a balance between the equal rights of persons to private and family life and the equal treatment of employees. On Committee Stage in the Seanad, I introduced an amendment to the provision, which further qualified the exclusion to clarify, in case anybody was in doubt, that it applies only in so far as access to employment is concerned. This exclusion, as amended, is very narrow and clearly meets the rigorous standards set down in all three of the directives, which allow for difference of treatment based on a genuine occupational requirement.

The clearest example I can give, as already mentioned, of access to a job which could be restricted on the basis of this exclusion is the case of employment of a carer to look after an elderly woman in her home. It would be inconceivable that a job of this nature would be open to all comers regardless of their gender and the wishes of the potential employer. Having reconsidered the matter, as I promised I would on Committee Stage, I cannot accept the amendment.

**Mr. P. McGrath:** While none of us would have difficulty accepting the case the Minister of State set forth regarding an elderly person who may require a personal carer, it is my contention that the definition in the legislation does not restrict it to the terms of that specific example. The definition of personal services the Minister of State cited states they "include" but are "not limited to" services that are in the nature of services *in loco parentis*. In other words, personal services can cover basic services provided by domestics and *au pairs*. An *au pair* provides a service *in loco parentis* and his or her main function is to look after children. Under the legislation there will be restrictions on who can apply for such positions and, therefore, the legislation is incomplete, which I why I tabled the amendment.

None of us have difficulty with the cases outlined by the Minister of State but the legislation is not restricted to such cases. That is where lies the difficulty. The definition is wider than the Minister of State acknowledges, and if it were restricted to the examples outlined by him none of us would have a difficulty.

**Aengus Ó Snodaigh:** I support Deputy Paul McGrath and disagree with the Minister of State. On the Order of Business, the Tánaiste said the Government does not make legislation at the behest of the media and we should not depend on the media. The Minister of State thinks Opposition Members or himself will be figures of fun in the media if we pass this legislation and it is a sad day if he is not willing to proceed with what

is correct because he fears being made a figure of fun.

I will stand up for what is right. The amendment relates to employment rights. When legislation is amended it should be ensured the best course is taken, which is to make sure the two directives that are being transposed fully into Irish law and all their provisions are fully adhered to. Respect for private and family life is not a justification for a blanket ban. The Minister of State outlined one example but there are many other examples of potential discrimination based on the various grounds. We are trying to ensure there will be no discrimination in future and that is why the amendment has been tabled.

**Mr. O'Dea:** I do not want to be misrepresented. I did not say I was refusing the amendment because I was afraid of what the media would say. Having made the case against the amendment, I mentioned incidentally that the media would make fun of us if it was accepted because it is so bloody ridiculous. On Committee Stage Deputy Moynihan-Cronin referred to another amendment as political correctness gone mad. For instance, an elderly woman who wants somebody to care for her will advertise the job. An 18 year old body builder could take a successful action against her for discrimination because he was not considered for the position. That is political correctness gone mad.

It is wrong to state there is blanket ban. The exclusion has been considerably narrowed since the 1998 legislation and it was further narrowed as a result of the debate in the Seanad. It is confined to cases involving personal services. I take Deputy Paul McGrath's point but the difficulty is that if I accept the amendment I will open the door for cases such as that I outlined. There may be a case for distinguishing between caring services and a broader category of services but the definition as drafted is better.

We cannot provide in legislation for every scenario imaginable, otherwise we would write legislation forever and no Bill would be passed. We have struck the correct balance. The exclusion has been considerably narrowed by amending the 1998 Act. It has been further narrowed to cover only access to employment. "Personal services" is defined clearly and, at the end of the day, legislation cannot cover potential scenario and equality officers will be called on to adjudicate on personal services cases. I have every confidence in the equality officers to make the right decisions. Their record to date suggests they have been responsible in their interpretation of the 1998 and 2000 Acts.

Amendment put and declared lost.

Amendment Nos. 3 and 4 not moved.

**Ms B. Moynihan-Cronin:** I move amendment No. 5:



[Ms B. Moynihan-Cronin.]

In page 9, to delete lines 12 to 17 and substitute the following:

“(c) Subject to such exceptions and conditions as may be prescribed, it shall not be lawful for an employer to require an employee compulsorily to retire from his or her employment on reaching a particular age if on reaching that age the employee is able and willing to continue in employment.”.

We had a lengthy discussion on Committee Stage but, for the sake of the elderly, I tabled the amendment again. While I am not in favour of the Government going down the American route in general, it should do so on this issue. The US has an anti-ageism law and a similar law should be introduced in Ireland. If one is aged over 66, one is not necessarily finished. Many people work into their 80s and make a positive contribution. It should not be prescribed in law that people must leave employment upon reaching retirement age.

I went through the case for the amendment on Committee Stage and I told the Minister of State I would reconsider it. However, the provision is unfair and we will regret it because the elderly have a great deal to contribute to society. The Government will seek to amend this legislation again in the near future.

**Mr. P. McGrath:** I support the amendment. The State went through a phase when retirement ages were prescribed for various professions but that was amended in legislation relating to the public service, which was passed by the Oireachtas recently. The retirement age for gardaí, psychiatric nurses, teachers and so on has been raised. Deputy Moynihan-Cronin is seeking to abolish the retirement age provisions.

There is a great deal of merit in the amendment. For example, gardaí must compulsorily retire at 57 years. Gardaí can retire on full pensions after serving 30 years and this means many can retire at between 50 and 52 years. A number of gardaí remain in the force despite meeting the 30 year requirement and they do an excellent job. However, when they reach 57 years, they are forced to retire. They still have a great deal to offer and they have tremendous experience.

We should consider this issue carefully. One can send a group of young gardaí to do a job which requires physical fitness but a mature garda accompanying them could be much more beneficial in completing a job satisfactorily than all the young gardaí put together. There is a role for people who are senior in their positions and, if they are able to work, they should be given that opportunity. Retirement should not be forced upon them.

Teachers are also forced to retire at a given age. I know someone who retired yesterday who is full of life and would love to continue teaching, but he was forced to give up his job because he had reached a certain age. He is an excellent

teacher and it is a shame for the profession to lose that kind of experience. I know other legislative measures are changing those ages, but that does not change the compulsory nature of retirement. It is just shifting the goalposts in terms of age.

On Committee Stage Deputy Moynihan-Cronin asked the Minister of State to look at this again, but have we gone past the point of no return? Is he now unable to re-examine this or will he be magnanimous and accept the amendment, making it easier to change this in the future? There is a fair case for this amendment because experience carries much weight. The Minister of State tabled an amendment on Committee Stage which placed a great deal of emphasis on experience and this amendment is in keeping with the concept of experienced people being competent to do a job.

**Mr. O’Dea:** We discussed this at some length on Committee Stage. There are two types of employee in the country — those employed in the public sector and those employed in the private sector. The legislation which has just been passed deals with the situation in the public sector and effectively removes the compulsory retirement age for those entering the public sector after a certain date.

As for the private sector, I do not disagree with the logic of anything Deputies Moynihan-Cronin and Paul McGrath have said about the value of experience. Just because someone has passed a certain age, he or she is no less able to do his or her job than he or she was the day before reaching that age. I accept that logic. However, a change of this magnitude would have widespread socio-economic implications and I could not take the responsibility for introducing that change in this Bill. I do not have the authority of the Government to do that.

It should be borne in mind in the context of the general debate that if one removes the compulsory retirement age and it then becomes the practice for people to work beyond what was the compulsory retirement age, there will still be many people who will want to avail of their right to retire at 65. People think it is just a matter of a person either retiring or not retiring at 65, but if we have a situation where people generally work past 65 and are expected to do so by their employers, then life would not be quite the same for those who want to retire at 65.

Section 34(4) of the Employment Equality Act 1998 provided that: “Without prejudice to *subsection (3)*, it shall not constitute discrimination on the age ground to fix different ages for the retirement (whether voluntarily or compulsorily) of employees or any class or description of employees.” Accepting this amendment would require the deletion of section 34(4) and, while the framework employment directive does not require it, the question of removing section 34(4) was raised with the social partners and relevant Departments. While recognising that the labour force is getting older and that the participation of

older workers should be facilitated, a consensus emerged in consultations that this issue goes beyond employment equality policy and has broad socio-economic and industrial relations implications.

I remind Deputies that in 2000 and 2001, the Equality Authority convened and chaired an advisory committee charged with examining the issue of ageism and putting forward an equality agenda aimed at implementing equality for older people. This committee was composed of older people's organisations and the social partners. It examined in some detail a range of issues involving older people in work, including retirement, and it recommended the removal of the upper age limit of 65 from the Employment Equality Act 1998, which this Bill does. The committee made no recommendation on compulsory retirement ages other than to acknowledge that the right to retire at the age of 65 or earlier is a hard-won entitlement in some categories of employment and ought to be preserved.

In both the public and private sectors compulsory retirement age is a feature of many types of employment, which has been set over time, and in many cases after negotiation and collective bargaining. In the case of private sector employment, the removal of existing arrangements and agreements on compulsory retirement ages is a matter first for discussion between the social partners. As for public service employees, excluding those in commercial state bodies, the recently enacted Public Service Superannuation (Miscellaneous Provisions) Act 2004 removes the compulsory retirement ages for new entrants. I cannot accept this amendment.

**Ms B. Moynihan-Cronin:** I now know the reason the Minister of State will not accept this amendment, namely, the widespread implications of it presumably mean that, if this provision were accepted, it would cost companies money. I know advisory committees and social partners advocate this and that but we are here to make legislation. Those bodies are here to advise us and not to make legislation. We are making a mistake in this regard.

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

Amendment declared lost.

**Acting Chairman (Mr. McGinley):** Amendments Nos. 6, 8 and 9 are related and will be taken together.

**Mr. P. McGrath:** I move amendment No. 6:

In page 12, lines 35 and 36, to delete "impose a disproportionate burden" and substitute "be grossly unreasonable".

We had a long debate on this provision on Committee Stage and I do not propose to delay the House. We must be careful with the employment of people disabilities. We should go out of our

way to ensure that those with disabilities are employed and we must make it difficult for someone not to employ such people if they are able to do the job. In the legislation the Minister of State uses the phrase "impose a disproportionate burden on the employer". What is a disproportionate burden on an employer? If someone employs two people, then a relatively small expenditure can be a major burden, while a proportionately higher figure would be a burden on the employer of ten people. Obviously the figure is higher again for a multinational company or a State employer.

The emphasis should be on making it possible for those with disabilities to be employed if that is at all possible. Instead of the term "impose a disproportionate burden" we should use "grossly unreasonable". That is playing with words but it conveys a much stronger message to the employer, who must make a case for not employing a person with a disability rather than someone else. The phrase "grossly unreasonable" is much stronger than the wording in the legislation and conveys a different message to those with disabilities.

**Aengus Ó Snodaigh:** I propose amendment No. 9 since amendment No. 7, which was related, has been ruled out of order. I strongly welcome the change the Minister of State has made to the original formulation of this section in regard to determining what constitutes a disproportionate burden in respect of the duties of employers to take measures to ensure access to employment for people with disabilities. The purpose of amendment No. 9 is to ensure the public sector and large employers play a leadership role in regard to access for disabled workers in accordance with their greater means. Large employers and the public service have greater means than small employers. No employer should be able to get away with inflating his or her cost calculations because they do not want the bother of adapting their employment environment to ensure accessibility for disabled workers.

In pushing these amendments, I could quote from the Human Rights Commission, the Equality Coalition or even the Equality Authority. Each has made reasonable representations in this regard which take into account article 19 of EU directive 76/207 that provides that member states shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to, that is, statutory duties. We should go much further and that is why I recommend this amendment.

**Ms B. Moynihan-Cronin:** I support Deputy Paul McGrath's amendment, which would send a stronger message to employers in regard to the employment of those with disabilities. The excuse many employers use for not employing those with disabilities is that there are cost implications. If

[Ms B. Moynihan-Cronin.]

small employers, in particular, have a difficulty with this, they should get some assistance. Private Members' Business this week concerned the disabled person's grant from local authorities, the difficulties and the value that money provides for people with disabilities.

The Government should look at the situation of small companies. I have no sympathy for large companies, which only use cost implications as an excuse. Many small companies find that the cost implications of perhaps redesigning an office or otherwise prevents them from employing those with disabilities even though they might want to do so. Some assistance should be made available for those small companies so that they are in a position to employ people with disabilities.

**Mr. O'Dea:** In regard to what Deputy Paul McGrath said, a disproportionate burden will vary depending on the circumstance of each case. We cannot write legislation to cover every eventuality. We are dealing with the obligation we are putting on employers to provide facilities to enable them to employ people with disabilities or to enable people with disabilities to work in that environment.

Any law we pass must be subject to the Constitution. There is a written Constitution in this country which governs the laws we make. The Supreme Court decides what aspects of that Constitution mean. The Supreme Court decided in the past that the biggest obligation one can put on an employer to spend money or to incur cost to provide such facilities for people with disabilities was nominal cost. It was a minimalist decision and one which was much criticised, but it was the decision of the Supreme Court which said that was what the Constitution meant.

**Mr. P. McGrath:** How recent was that?

**Mr. O'Dea:** That was in regard to the Equal Status Act 2000. The position, in respect of the employment equality legislation is that we have now been enabled to go beyond the Supreme Court decision because of an EU directive which overrules its decision. The question we must ask is how far does it allow us to go. If one says that the incurring of extra cost is not to create a disproportionate burden on an employer, that is a more generous provision than the Supreme Court allowed, namely, nominal cost. Nominal cost is a nod in the direction of costs and if one cannot make the necessary changes for literally nothing, one does not have to make them at all. Now there is an obligation. One must go to the point where one is putting a disproportionate burden on one's self. That is a much more generous test. However, the question is how far do we go.

The interpretation in Deputy Paul McGrath's amendment would take the matter further. The advice I got from the Attorney General's office because of the difficult legal system here is that it is best to stick to the wording of the directive.

The directive gives some guidelines as to how the term "disproportionate burden" will be defined in particular cases, and I have carried that into the legislation. There were a few other items in the legislation, to which Deputy Ó Snodaigh referred, which could enable the employer to mount a defence and I have taken them out. I have refined it in so far as I possibly can. In addition, there are positive obligations on the employer in section 16 of the 1998 Act to take reasonable measures.

In regard to the question of clarity, on Committee Stage Deputy Paul McGrath suggested that some independent standard setting, such as would be provided by a code of practice, should be considered to guide that which would constitute appropriate measures required of employers. Under the Equality Authority strategic plan for 2003 to 2005, a key activity to be undertaken is the development of a statutory code of practice on reasonable accommodation. This work is part of a broad programme by the authority in regard to reasonable accommodation for people with disabilities, all designed to promote understanding and awareness of the issues and how they apply in practice.

In addition, the National Disability Authority has statutory powers to draft codes of practice on standards in services for people with disabilities. I expect this area to be further developed in the context of the new measures proposed in the forthcoming disability Bill. In that context, I have arranged for the National Disability Authority to see me next week for a broad ranging discussion on the forthcoming disability Bill and this is one issue I have put on the agenda for detailed discussion. I thank Deputy Paul McGrath for his suggestion in that regard.

**Mr. P. McGrath:** On the basis of the commitment given by the Minister of State that these guidelines will be brought forward, I am prepared to withdraw my two amendments.

Amendment, by leave, withdrawn.

Amendments Nos. 7 and 8 not moved.

**Aengus Ó Snodaigh:** I move amendment No. 9:

In page 12, between lines 44 and 45, to insert the following:

“(d) With respect to a determination made under subsections (b) and (c) that the burden imposed would be disproportionate, such a conclusion may only be drawn on the basis of a calculation of the net cost to employers after public funding and other available assistance has been deducted.”.

Amendment put and declared lost.

**Mr. O'Dea:** I move amendment No. 10:



In page 13, line 16, to delete “Nothing” and substitute “In relation to discrimination on the basis of nationality, nothing”.

Further to the amendment to this provision, which I proposed and which was accepted on Committee Stage, I have now moved the preceding additional amendment to this provision. As I indicated on Committee Stage, the purpose of the exclusion under paragraph (a) of section 10 is to permit the lawful operation of the work permits regime, as provided for under the Employment Permits Act 2003. The original provision included in the Bill appears to be open to some misunderstanding in this regard and, in consequence, a simplified and more explicit provision was substituted on Committee Stage.

To clarify fully that the scope of the provision is limited to discrimination on the basis of nationality only, and for consistency with wording used in the Bill concerning amendment of the Equal Status Act 2000, I propose the insertion to this additional text. It is simply a technical amendment to improve what I proposed and what was accepted on Committee Stage.

Amendment agreed to.

**Mr. O’Dea:** I move amendment No. 11:

In page 14, line 49, to delete “deleted” and substitute “repealed”.

This amendment is consequential to section 21, proposed by Deputy Paul McGrath on Committee Stage, which I accepted. Sections 14 and 21 are connected in that both are being replaced by section 8, inserting new section 14A into the Act of 1998. Therefore, I move that section 14 be amended as proposed. I am tidying up the wording and effectively accepting an amendment that was proposed by Deputy Paul McGrath on Committee Stage.

Amendment agreed to.

**Aengus Ó Snodaigh:** I move amendment No. 12:

In page 16, to delete lines 18 to 20 and substitute the following:

“Nothing in this Part or Part II shall render unlawful measures maintained or adopted with a view to ensuring full equality in practice between employees, being positive measures which employers must take—”.

The purpose of this amendment to section 22, which amends section 33 of the Employment Equality Act, is to make positive measures a duty rather than a protected option. We now have an opportunity to introduce positive duties on public sector bodies to promote equality. Although the new directives do not create any specific obligations on member states in this regard, general obligations to promote equality already exist in the 1976 equality directive and under inter-

national human rights law. As such, we should accept the amendment.

The Equality Coalition had the following to say regarding the statutory positive duties which we are trying to promote. It pointed out that the Equality Bill does not include any sections amending the EEA or the ESA to incorporate a positive duty to promote equality directed at public sector employers and service providers. This omission runs contrary to Ireland’s obligations under the Good Friday Agreement which require equivalent human rights and anti-discrimination protection, North and South.

Section 75 of the Northern Ireland Act 1998 imposes equality duties on public authorities and implementation is overseen by the Equality Commission of Northern Ireland, a statutory body. Compliance with these duties is secured through the publication of equality schemes, which demonstrate to the commission’s satisfaction how the public authority will promote equality of opportunity between certain different individuals and groups. The Equality Authority has called for the introduction of a parallel system here. In addition, it has called for the authority to be in a position to monitor implementation of the statutory duty through the evaluation of action plans.

Making these positive duties mandatory and statutory is in line with best practice. It is also in line with our duties and responsibilities under the Good Friday Agreement to bring equality laws in line with those in the Six Counties, so there will be equal laws in both states in this country.

**Mr. O’Dea:** This matter was discussed at some length, particularly on Second Stage. When I listened to the speeches on Second Stage, I was amazed and had to consult my advisors to see if all other countries in Europe had such a positive duty in their legislation. I was surprised to discover that not one of them had, with the possible exception of Northern Ireland. The directives themselves do not oblige any state to bring in positive duties in this regard. The directives are in permissive form — they state that nothing shall prevent individual states from introducing these positive obligations. We have a provision in the 1998 Act whereby positive discrimination is permitted for certain limited categories of people, namely, those over the age of 50, members of the Traveller community and some others. The proposed amendment would make it much more extensive because it permits positive discrimination across all eight or nine grounds.

As regards section 75 of the Northern Ireland Equality Act, my interpretation is that the Good Friday Agreement requires the Government to take steps to further strengthen the protection of human rights in its jurisdiction. The measures brought forward would ensure at least an equivalent level of protection of human rights as will pertain in Northern Ireland. It is not true, however, to state that the Good Friday Agreement requires an equivalence of equality provisions North and South. In particular, the com-



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mitment to create a statutory obligation on public authorities to carry out their functions with due regard to the need to promote equality of opportunity was made only by the British Government under the Good Friday Agreement.

In any case, my understanding is that the Northern Ireland equality legislation is currently being reviewed. A detailed review is being carried out to see whether those positive obligations created in section 75 of the Northern Ireland legislation are working in practice. I understand the review will be completed shortly, so the Government's preferred option is to await the outcome of that review. As far as I know, that is the only legislation in the EU, which imposes such positive obligations. We will await the outcome of the review to see how it is judged to be operating in practice, whether in effect it is making a real difference, what should be done and how it could be better implemented. We are awaiting the outcome of that wide-ranging review before taking any further steps in this regard.

**Aengus Ó Snodaigh:** The Government is awaiting a review but its attitude is regrettable because the review might be completed by the end of the year, thus enhancing the protections and statutory duties involved in section 75 of the Northern Ireland Act. That means we will still be lagging behind because the equality and human rights provisions of the Belfast Agreement state that what is required is to ensure at least an equivalent level of protection of human rights as will pertain in Northern Ireland.

Whether Germany or Poland have such statutory duties is not necessarily relevant in this case. This is a duty and responsibility, which we, as citizens of this State, have taken on board. The Government has a duty to implement it to ensure that an equivalent level of protection is afforded. In this respect, I am seeking the statutory duties that have worked well so far. I realise that the Northern Ireland equality legislation is currently being reviewed but, while there is always room for improvement, it has been working well so far.

The reason for the review is to see whether it can be enhanced, in addition to the fact that a review process was built into the legislation. All legislation is reviewed on an ongoing basis, so there is no reason another review cannot begin once one has been concluded. It is a pity we are delaying the introduction of such statutory duties. Does the Minister of State agree that statutory duties can be positive? If there is a review in the North, and whether or not any other country has such statutory duties, it should make no difference if such duties can enhance human rights and the equality agenda. We should be taking the lead in this respect. It will be interesting to hear whether or not the Minister of State agrees that statutory duties are positive.

**Mr. O'Dea:** Of course I agree that positive statutory obligations are good, provided they

work properly and achieve something in practice. The Good Friday Agreement obliged this State to provide at least an equivalent level of protection of human rights as pertains in Northern Ireland. That does not mean we have exactly the same equality provisions and deal with equality legislation in exactly the same manner as it is dealt with in Northern Ireland. All legislation comes up for review occasionally.

Deputy Ó Snodaigh stated that section 75 of the legislation in Northern Ireland is working very well, but I understand there are differing opinions as to whether it is making a real difference. This is precisely why a detailed review has been ordered. My understanding is that the results of that detailed review will be to hand very shortly. In the circumstances, it is more advisable to await the outcome before we take new steps in this jurisdiction.

**Aengus Ó Snodaigh:** I take it from the Minister of State's last point that if the review finds the legislation is working well and is a positive aspect of equality law, he will return to the House with new legislation to give effect to that in this jurisdiction.

**Mr. O'Dea:** If, as the Deputy states, the review is positive, the Government will give serious consideration to it.

Amendment, by leave, withdrawn.

**Mr. P. McGrath:** I beg the Acting Chairman's indulgence briefly. On Committee Stage, the Minister of State tabled an amendment, which related to taking into account a person's experience when considering him or her for seniority purposes.

**Mr. O'Dea:** We will deal with that presently.

**Mr. P. McGrath:** Does the Minister of State have a further amendment on the issue?

**Mr. O'Dea:** No.

**Mr. P. McGrath:** It relates to section 23.

**Mr. O'Dea:** We are coming to it now. It is the next amendment we will deal with. It is an issue I agreed to re-examine.

**Mr. P. McGrath:** That is correct. I want to discuss it now because it relates to this section. There is a huge anomaly in section 23 about which I am glad the Government Chief Whip is in the House to hear.

**Mr. O'Dea:** It is the subject of discussion under the amendment we are coming to, if the Acting Chairman wishes to formally go through the process.

**Acting Chairman:** Is it acceptable to the Deputy that the issue be discussed on the amendment?

**Mr. P. McGrath:** Arising from the deliberations of the Equality Authority almost two years ago—

**Ms B. Moynihan-Cronin:** Which amendment are we dealing with now?

**Acting Chairman:** We are proceeding to amendment No. 13 in the name of Deputy Ó Snodaigh but Deputy McGrath has raised a point on the section.

**Mr. P. McGrath:** This issue has serious repercussions, particularly for Members of the House and the staff they recruit. Until almost two years ago, when a person was recruited as a clerical assistant in Leinster House or across the Civil Service, his or her age was taken into account. For example, at 18 years of age a person started on the base salary of €18,700. Prior to the change, if a person came into the House aged 21 or 24 years or older, he or she received progressively higher salaries. This was based on the fact that older people would have previous experience which was taken into account to put people at a higher incremental point on the clerical assistant scale.

It is my understanding that, based on the intervention of the Equality Authority, if the Acting Chairman or I now employ a person aged 30, 35 or 40 years old as a clerical assistant in the House and that person has a great deal of experience working in another office, is highly trained or possibly has a degree, he or she must still be recruited at the bottom level of €18,700. That is unacceptable and I am sure the Minister of State is aware of the difficulty it is causing Members in their efforts to recruit staff with experience who can competently do the job we require them to do. If one gets a person who is more mature and able to deal with the kinds of queries we have, it is not possible to recruit them at that starting salary.

We discussed this issue on Committee Stage and the Minister of State said he would examine it to see what could be done. The greater anomaly is that in the case of two people recruited to our group within three weeks of each other — one before the change occurred and one after — the person who was recruited before the change got on to a higher point on the scale than her colleague who was recruited three weeks later. The net effect is that two women are doing the same job very competently but one is receiving €100 less per week than the other. This goes against the spirit of what is contained in the legislation when we refer to equality, equal work, access to work, being competent to do the job and so on. That provision must be re-examined and changed.

Will the amendment proposed by the Minister of State rectify the anomaly to which I referred in order that Members of this House, who recruit people with obvious experience, can place them on the appropriate level of the pay scale commensurate with their experience? What is happening at present is grossly wrong, is militating against the quality of employees we employ and will cause further difficulties in recruiting the clerical assistance staff we so badly need and who need to be able to act competently on our behalf. I hope the Minister of State will clarify the position. He promised he would examine the matter and revert to us on Report Stage. Therefore, I hope he has all the answers for us and that the good news will emanate from him to everyone in the House.

**Aengus Ó Snodaigh:** I move amendment No. 13:

In page 17, line 29, to delete “unlawful” and substitute “lawful”.

The purpose of this amendment is to prevent the unfair remuneration of workers with a disability at a lower rate of pay. Section 35(a)(i) would allow for discrimination on pay towards persons with a disability in that it would allow an employer to offer a lower rate of remuneration for a disabled person if, by reason of disability, the amount of work done by the employee during a particular period was less than the amount of work done, or which could reasonably be expected to be done, during that period by an employee without the disability. It states that the rate must be at least or above the national minimum wage, but we should not legislate for discrimination, as could happen in this regard. We should ensure that we delete such a reference so that nothing in this part of the Bill would make it lawful for employers to discriminate against disabled people.

**Mr. O’Dea:** I undertook to explain and deal more specifically with the point raised by Deputy Paul McGrath. The purpose of amending section 34 of the 1998 Act may be explained as follows. On Committee Stage, I moved an amendment to section 23, with a consequential amendment to section 3, to clarify that, for the purposes of section 34(7) of the Act, relative seniority of employees recruited at the same time may be determined having regard to their respective ages at the time of their recruitment because their length of service is equal and provided this is accepted in a collective agreement in place. The provision is in compliance with article 6 of the framework employment directive and the amendment was agreed. However, I promised to come back to this and to explain more fully what will be the effect of the proposal. The effect of this amendment is to provide for the continued validity of age provisions relating to the determination of relative seniority where they have been agreed collectively by employers and employees.

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We are talking about their relevance from the point of view of relative seniority and only when they have been the subject of a collective agreement. It is recognised that issues arise in the employment of staff and it may be impossible to determine relative seniority based on length of service. This can arise where a number of staff are recruited at the same time to the same category of post or employment. In such cases a tie-breaker may be required as seniority is often used to agree rosters, allocate overtime and decide which employees can take leave first and so on.

Where the tie-breaker agreed between staff and employers in the context of a collective agreement is based on the relative ages of the employees at the time of recruitment, it is appropriate to exclude such agreed arrangements from unlawful discrimination under the Act. By allowing such tie-breakers, where they exist, to continue to be lawful is irrelevant to the question of what recruitment or promotion criteria can be taken into account by an employer. Such criteria can include experience, training and so on. Employees' pay and pension rights are set by their terms and conditions of employment and their length of service and will be unaffected by relative seniority and how it is determined.

On Committee Stage, Deputy Paul McGrath asked if the amendment proposed was relevant to section 4 of the Houses of the Oireachtas Commission Act 2003. The answer is no. Section 4 of that Act makes provision, *inter alia*, for the rates of pay, conditions of employment and superannuation rights of persons providing secretarial services to the Houses of the Oireachtas. These issues are completely separate from and unaffected by questions relating to how relative seniority, based on the length of service, is determined.

In the context of the amendment to section 23 of the Bill and for the sake of added certainty as to its intention, a consequential amendment was made on Committee Stage to section (3A)(3) of the Bill, amending section 2 of the Act of 1998 to define collective agreement. The advice I got is that the problem adverted to by Deputy Paul McGrath is caused by section 34(6) of the 1998 Act, which prohibited rates of remuneration to be based on age. It gave a three-year lead-in period. If rates of remuneration were based on age, differing according to a person's age, one had three years in which to phase in equality. After three years one had an absolute obligation under section 34(6) of the 1998 Act to outlaw discrimination in terms of remuneration based simply on age. Section 34(6) reads:

Where immediately before the relevant day [that is the implementation day] arrangements are in force in any employment for age-related remuneration, it shall be a sufficient compliance with this Part and *Part II* if those arrangements are brought to an end within the period of 3 years beginning on the relevant day.

In other words, what the section says in the example advocated by Deputy McGrath is that if a person comes into this House at the age of 18 seeking a job as a secretary and is employed as a secretary, one is prevented by law, under the specific terms of section 34(6) from paying her less than another person who comes in on the same day and is twice her age, and probably has much more experience.

**Mr. P. McGrath:** Is that not the nub of the problem?

**Mr. O'Dea:** Yes.

**Mr. F. McGrath:** We are faced with a situation where because the issue is outlawed by law one cannot reward a person for his or her experience. Hence we are again stuck with the problem where it will be extremely difficult to recruit staff. The Minister of State knows the kind of person we need as secretary. Such a person has to be a Jack-of-all-trades. He or she has to be competent as a secretary, has to be able to do research, deal with customers, clients and Departments, schedule timetables and so on. These are not just clerical assistants.

This is a major problem. If, for example, the person we are looking for is put into a legal office, that office will be able to pay them a great deal more than they would get on the starting salary here of €18,700. This leads to difficulties in recruiting staff in Leinster House. The position is not as bad in the provinces yet, but it will catch up in a short time.

Can section 34(6) of the 1998 Act be amended or is there something we can do to alleviate the difficulty? Let us be honest, it is about helping ourselves, helping the House to do its work better and helping us to employ the clerical assistants who will be competent to do the job for us. As we lose some of our senior people and wish to replace them we will not get people with the experience necessary. Because section 34 of the 1998 Act is so perfect that one cannot discriminate on age grounds, surely it can be amended to allow experience to count for incremental purposes. We have to be able to say that if a person comes in here with the relevant experience it enables that person to climb the ladder in terms of remuneration. We will not solve this problem today. I suggest the Minister of State and his staff look at the matter with a view to bringing forward a solution to get over this obvious difficulty.

**Mr. O'Dea:** I am glad to inform Deputy McGrath I have the same secretary as I had 22 years ago and she has learned a great deal on the job. She is much wiser now than when she started.

**Ms B. Moynihan-Cronin:** Could the Minister of State replace her?

**Mr. F. McGrath:** If she left, the Minister of State would have to take on a person on a salary of €18,700.



**Mr. O'Dea:** I understand there is a difficulty. Deputy McGrath mentioned an amendment to provide for different rates of remuneration based on experience as evidenced by age. On the seniority issue we have permitted a very limited amount of discrimination in the case of an unusual tie-breaker where persons are recruited to the same post on the same day but happen to be different ages, and the whole arrangement has to be subject to a collective agreement. If we go further and allow exceptions for people to be remunerated, seniority only determines when one can take leave and so on. If it is to be extended to the area of pay — I understand the problem which Deputy McGrath has identified and it is a real problem — the difficulty is that we would be in breach of the terms of the directives.

If Deputy McGrath and I simultaneously acquire a vacancy in our offices for a secretarial assistant and I take on a person of 20 years of age while Deputy McGrath takes on a person with more experience at the age of 40, the system permits him to pay that person more. The converse is that the system permits my secretarial assistant to be paid less, and that is in breach of section 34(6) of the 1998 Act. That section could be amended as there is no legislation that cannot be amended. However, it has to be amended within the terms of the EU directives. This is a real problem and I am pleased Deputy McGrath has brought it to our attention. I may not have concentrated on it sufficiently on Committee Stage in the Seanad but now I understand it perfectly. I will discuss the problem with the Chief Whip and my officials to see whether there is any way around it. Whatever about the legislation, we must be conscious of the terms of the equality directives.

**Mr. P. McGrath:** While I do not wish to labour the point further, it is crucial. If the EU directive has not taken into account the relevant experience of two people of different ages, there is something radically wrong. How do we cope in our own circumstances given that we have long-service increments? Does it mean we are discriminating against the rookie in his first year if the older codgers like the Minister of State and me who have been Members of this House for a long time are paid more because of our experience? Many would say we are doing the same job.

**Mr. O'Dea:** The increment is based on length of service, not age.

**Mr. P. McGrath:** Is it not experience really?

**Mr. O'Dea:** No, length of service.

**Mr. P. McGrath:** Can somebody who was doing the same job in a different sector have the experience from a previous job taken into account? A further remarkable point comes to my mind that some of the secretaries who left us here went to work in State agencies, hospitals and health

boards. They did not have to start at clerical officer grade again on €18,700. The fact that they had gained experience here was taken into account when their salaries were allocated. Is it not ironic that while the purest example, which is here, involves a straightforward salary scale which starts at €18,700, State agencies being paid for from the public purse have a different system? I acknowledge the Minister of State says he will consider the matter and will be able to come up with something with his officials. Will he examine the issue as a matter of urgency as it is causing several problems? It is an issue which must be addressed quickly.

**Aengus Ó Snodaigh:** Will the Minister of State address the concerns I raised through amendment No. 13? On the issue to which Deputy Paul McGrath referred, a simple solution would be to bring people in at a higher grade with a greater level of remuneration.

**Mr. O'Dea:** I have asked my officials to send me a report on the matter, which I will discuss with the Chief Whip and the people who run the Houses of the Oireachtas. If Deputy Paul McGrath wishes to raise the matter with me again in due course, I will tell him what has happened.

**Mr. P. McGrath:** If the officials want clarification, I can give them names.

**Mr. O'Dea:** On Committee Stage, I rejected the Fine Gael amendment which Deputy Ó Snodaigh has moved as amendment No. 13. As I said previously, the amendment would remove an intentionally enabling provision from the 1998 Act and replace it with an inflexible and dogmatic approach. Section 24 involves a strengthening of the provisions in section 35 and provides added safeguards to ensure that different rates of remuneration may be paid only by reference to a lesser output of work in a particular period.

We have discussed the provision in the 1998 Act on disability as a discriminatory ground. We have discussed how section 16, which is also being strengthened by the Bill, requires employers to accommodate the needs of people with disabilities in the workplace and places a more onerous requirement to introduce appropriate measures to achieve this. Where an employee continues to be unable to participate in employment without further accommodation above and beyond the scope of section 16, section 24 allows an alternative arrangement to be entered into subject to important safeguards. These safeguards limit the basis on which a different rate of pay may be provided relative to the output in a given time. In no case can a rate less than the minimum wage be paid.

As I said on Committee Stage, this provision is not intended to punish people with disabilities, it is made with the specific purpose of encouraging employers to employ more disabled people. In the real world, if an employer is faced with an



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able-bodied and disabled candidate for a job, which requires a certain degree of physical ability, his or her natural inclination will be to consider that the able-bodied person will be more productive. If the employer must pay the same salary to either candidate, why would he or she not choose the able-bodied person? I am sure an employer would be able to invent all manner of excuses because no one will admit that he or she did not employ a person on the ground of disability. The provision in question is intended to encourage employers and give them an incentive to employ people with disability.

Discrimination on these grounds is recognised as necessary in the EU directive itself. I admit that section 35 of the 1998 Act dealt with this area but its provisions were a little loose, ambiguous and broad. Certain unscrupulous employers might have been enabled to abuse legislation drafted in such vague and general terms. We have tightened up the provisions immeasurably and provided that discrimination of this nature can only occur in employment where output can be measured over a particular period. This is far from being the case in every employment. The criterion is very specific. I have asked for the legislation to be drafted to ensure that an employer cannot discriminate in jobs in which specific outputs cannot be measured over a particular period. Such jobs constitute probably the majority of positions now, although that is another day's work. Senator Terry of Fine Gael pointed out on Committee Stage in the Seanad that provision had not been made for a minimum wage, which we should have noted ourselves. I accepted her amendment and thanked her as it was important to include that safeguard.

I reassure the House that this is an enabling provision, which is made not to punish disabled persons but to give employers the proper incentive to employ them. If we provide that an employer must pay a disabled or able-bodied employee at the same rate even in occupations where output is measurable over a particular period and it is manifest that a disabled person will produce less through no fault of his or her own, it is logical that the employer will hire the able-bodied person. Employers would be able to make a range of excuses on grounds of experience, etc. The provision is an enabling one. We have reduced exclusion to the maximum possible extent to make it very narrow. It relates only to occupations in which output can be measured over a period and in which it is demonstrable that the output of the disabled person will be less than that of the able-bodied person. In those circumstances, an employer might be encouraged to take on two people with disabilities where a disabled person's output is half, although they will not be paid at a rate less than the minimum wage.

I ask the House to accept the section as it stands. It is being introduced to aid people with disabilities not to punish them.

Amendment, by leave, withdrawn.

**Aengus Ó Snodaigh:** I move amendment No. 14:

In page 17, line 45, after "by" to insert "the deletion of section 37(1) and".

The purpose of the proposed deletion of section 37(1) is to protect workers from unnecessary discrimination by religious institutions on the ground of religion or any other ground. Section 37(1) of the Employment Equality Act 1998 provides that a religious institution may give favourable treatment to prospective employees of a particular faith:

. . . where it is reasonable to do so in order to maintain the religious ethos of the institution, or

(b) it takes action which is reasonably necessary to prevent an employee or a prospective employee from undermining the religious ethos of the institution.

However, what exactly constitutes a reasonable justification for such discrimination remains unspecified. A religious institution seeking an excuse to terminate or refuse to hire or promote an employee because, for example, the person is gay, divorced or West African, could too easily point to vague provisions as justification.

I have written to the Minister on this matter on foot of concerns raised with me by the Irish National Teachers' Organisation, whose material I included with my letter. The Minister will also be aware that the Equality Authority's recommendation No. 30 recommends that the provision of section 37(1) on religious ethos should be amended to ensure it is not a source of discrimination on the grounds of sexual orientation or family status in particular.

The religious institutions already have sufficient protection. Therefore, this section is unnecessary, besides being potentially harmful. For example, section 16 of the Bill provides that nothing in the Act shall be construed as requiring any person to recruit or promote an individual to a position, to retain an individual in a position or to provide training or experience to an individual in relation to a position, if the individual will not undertake or, as the case may be, continue to accept the conditions under which those duties are, or may be required to be, performed. For these reasons, I believe the deletion of section 37(1) is necessary to strengthen the Act to provide a genuine guarantee of equality and freedom from discrimination in employment by religious institutions.

**Mr. O'Dea:** I received a copy of Deputy Ó Snodaigh's correspondence to the Minister for Justice, Equality and Law Reform and he kindly enclosed a copy of the correspondence he received from the INTO. Having examined the correspondence and noted the difficulties the

INTO has with the section, I think its fears are misplaced.

On Committee Stage Deputy Ó Snodaigh referred to concerns the INTO had about section 37(1) of the 1998 Act, a provision not subject to amendment in the Equality Bill 2004. I understand these concerns relate to the application of the provision beyond the general provision with regard to occupational requirement and that it is not confined in scope to the religious ground. I responded to these issues when the Bill was debated in the Seanad. However, in line with undertakings I gave to the Seanad and the committee, in the meantime further consideration has been given to the provision. I am satisfied that the present wording of the provision, which provides for two distinct forms of conduct for specific reasons, is integral to the overall balance and cohesion of the provision and the circumstances in which the religious ethos of an institution may be maintained and protected.

The distinction made in section 37(1) is between permitting more favourable treatment of one person compared to another under paragraph 37(1)(a) on the one hand, and on the other, taking action to prevent a person from undermining such an ethos under paragraph 37(1)(b). In the former case, discrimination is permitted by reference to the religion ground and must be defended by reference to the religion or non-religion of the person discriminated against. In the latter case, the religious ethos of the employer may give rise to a need to take action to prevent another person, regardless of that person's religion or non-religion, from undermining this ethos.

Strict tests apply to the application of the exemption in section 37(1)(b). First, the discrimination must be essential for the maintenance of the religious ethos of the institution and, second, it must be reasonable in order to avoid undermining that ethos. These are not subjective tests, which would apply on the simple say-so or opinion of the institution concerned. They are balanced, objective tests, which can be adjudicated upon by independent third parties such as equality officers, the Labour Court or, in some circumstances, other courts.

Section 31 of the 1998 Act was inserted to permit discrimination by religious bodies in certain circumstances. These provisions are not affected by, the provisions of the equality directives, the transposition of which is the purpose of this legislation. Article 4.1 of the framework employment directive mirrors the provisions in section 37(1) and it is not proposed to amend this provision in the Bill before the House.

Amendment, by leave, withdrawn.

**Ms B. Moynihan-Cronin:** I move amendment No. 15:

In page 19, between lines 22 and 23, to insert the following:

Section 69 of the Act of 1998 is amended by the addition of the following subsection after subsection (6):

‘(6A) Where an employer fails to have an equality action plan (irrespective of whether he or she had been required pursuant to this section to have such a plan) it shall be presumed until the contrary is shown in any proceedings under this Act that the employer has failed to take such steps as are reasonable to protect the employees of such an employer from discrimination.’”.

The purpose of this amendment is to require employers to take positive action on racism. We discussed this on Committee Stage. I asked for the Minister's reply on this matter to be forwarded to me but I did not get it, although I did get replies on two other issues. I would now like to hear what the Minister has to say on the issue. I intend to withdraw one amendment as a result of one of the replies I received. I understand the non-sending of the reply was an oversight and do not wish to be critical.

However, as I said on Committee Stage, now that we have more foreign and permit workers than ever, if employers are more proactive on racism, we will have a better working environment for employees. If employees were aware that their employers were active on the issue, this would reduce the incidence of racism in the workplace. Employers should not sit back and wait to be forced by the Equality Authority to take action on racism. It is an issue we must face up to. Although we did not believe it would happen, unfortunately, it takes place every day.

Many of our foreign workers work hard, like our former emigrants, to send money home to their families and should be allowed to work without suffering the type of racist insults they receive in the workplace. I urge the Minister to require that employers be more proactive on racism in the workplace particularly now that there are so many foreign workers in the country who need to be protected from the racist minority.

I have had complaints from foreigners working here. It is difficult enough to work in a foreign country, with language barriers, etc., without having to tolerate racist remarks in the workplace. This does not help their situation. The Minister of State may not accept this amendment but will he and his officials examine the issue of racism, particularly as it occurs in large workplaces? It does not seem to occur so much in the smaller workplaces because they are more intimate places in which to work. I urge the Minister of State to research the issue and do something about it.

**Mr. O'Dea:** I am in broad agreement with Deputy Moynihan-Cronin. We must deplore what is a minority situation. Racism does not occur everywhere but I too have come across inci-

[Mr. O'Dea.]  
dents of it. It must be condemned in the strongest terms.

The difficulty with this amendment is that nowhere in the directives is it envisaged that there should be a compulsion on employers to establish equality plans. In the 1998 Act the Equality Authority is given the right to ask employers to establish such plans on certain occasions and is also given the right to establish them itself. The difficulty with this amendment is that compulsion is not envisaged. If we accepted the amendment in its present form, effectively, it would mean that indirectly there would be compulsion because irrespective of what anybody said then, the employer literally would have no defence. The presumption goes against the employer.

I take on board what the Deputy said. I have a fairly detailed reply on this and I will arrange for a copy of it to be sent immediately to the Deputy. This is a matter that must be examined in some detail.

**An Leas-Cheann Comhairle:** At it is now 1 p.m. I will have to put the question, but prior to doing so I understand the Minister of State indicated his intention to accept Opposition amendment No. 25. Can I get confirmation from him on that?

**Mr. O'Dea:** Yes, amendment No. 25 is an Opposition amendment in the name of Deputy Moynihan-Cronin on behalf of the Labour Party.

It is a useful amendment and it will enhance the legislation considerably.

*1 o'clock*  
I sincerely thank Deputy Moynihan-Cronin and her advisers, some of whom I know, for their ingenuity in putting forward this amendment. I am delighted to accept it.

**Ms B. Moynihan-Cronin:** I thank the Minister of State for that.

**Mr. O'Dea:** I thank all Deputies and Senators for their constructive and informed contributions to this debate. The Bill is now a far better one than the one we started with. That is due in great measure to the positive contributions of Opposition Deputies. I take this opportunity to thank my officials for the sterling work they have done, often late at night when amendments came in late, in preparing the legislation. They have done a tremendous job. Equality law here has been enhanced immeasurably by what has been done by the Government side, my officials and by the contributions of the Opposition.

**An Leas-Cheann Comhairle:** In accordance with the order of the Dáil I must put the following question: "That amendment No. 25 and the amendments set down by the Minister for Justice, Equality and Law Reform and not disposed of

are hereby made to the Bill; that Fourth Stage is hereby completed; and the Bill is hereby passed."

Question put and agreed to.

### **Residential Tenancies Bill 2003: Report Stage (Resumed) and Final Stage.**

Debate resumed on amendment No. 51:

In page 27, line 41, to delete "market" and substitute "fair".

—(Deputy Morgan).

**An Leas-Cheann Comhairle:** We are resuming on amendments Nos. 51 to 56, inclusive, 60a and 159. Deputy Morgan moved amendment No. 51 and Deputies Cuffe and Gilmore spoke on it. I call the Minister of State to give his comments on it.

### **Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):**

I have spoken already on the group of amendments before us. In regard to amendment No. 53, I undertook to reconsider this amendment relating to the notice of change of rent, as I appreciated Deputy Gilmore's objective in tabling the amendment. A view that there should be no need for any notice to be given before a rent reduction comes into effect is understandable, and that might be so in many cases. However, it is also possible that the tenant might not be agreeable to the amount of the reduction and would wish to take a case to the tenancies board in this matter and given that possibility I do want to accept that amendment. I understand the motivation behind it, which is to ensure that rent reductions come into effect as quickly as possible. It is conceivable that in the case of a downwards rent review a landlord may be in no hurry to issue the written notification and, thus, activate the decrease.

I oppose amendments Nos. 54 and 55. A rent review may mean a decrease or an increase, particularly in the current market conditions, and it is not therefore in the interests of tenants to wait 56 days for it to become effective.

I do not intend to accept amendment No. 60a in the name of Deputy Cuffe. It allows for annual rent increases at the rate of inflation plus up to 5%. It is in conflict with section 19 in Part 3, which prohibits rents greater than the market rate. The rent provisions in the Bill are based on ensuring that the rent charged to any tenant does not exceed the going market rate for the type, standard and location of property involved. The measure proposed by Deputy Cuffe would not be compatible with this approach. Moreover, as it allows the charging of rents above the market rate, it is unfair to tenants at a time when market rents are declining. In some cases it might seem like a logical move, but in the current climate when rents are decreasing, it would not be fair to tenants when they would expect a greater supply



of rental accommodation to translate into lower rents. That is happening in many, if not all, areas of Dublin.

One of the functions of the board is to advise on any legislative amendments that to it seem to be necessary, particularly in regard to the operations of Part 3 dealing with rent setting and rent reviewing. If the board at any stage into the future is of the view that market rent is being manipulated, it will advise me or the Minister of the day that this aspect of the legislation is not working as intended and action can be taken at that stage.

**Mr. Morgan:** I will respond briefly to a number of valid points raised by the Minister of State and Deputy Gilmore in regard to amendments Nos. 54 and 55 in respect of the term of notice. I believe landlords think about this before they do it. Giving notice of 28 days, particularly in cases where rent is increasing, has the potential to break the back of a tenant. This difficulty could be addressed by, the landlord giving additional notice. I accept that in the current market we may shortly begin to move towards a decrease in rents, but there is not overwhelming evidence of that at present. Given the points I made earlier, which I will not repeat, in terms of tenants' significant monthly rent payments, on balance, an additional period notice would be valuable.

Regarding the issue of what we call a book of quantum, the Minister of State spoke about the market rent possibly decreasing and, therefore, if the book of quantum was in position, it would fall behind and would be an imposition on the tenant as opposed to a benefit. I do not really accept that because the board could cause the book of quantum to be reviewed fairly regularly, perhaps initially on an annual basis and eventually every few years would probably suffice, as the private rented market settles down. That is the thrust of what we should be trying to do here, namely, to have the European model where people would not necessarily aspire to own their own homes and they could live in rented accommodation when that market has settled down. People would have a good relationship, at least in legal terms, with their landlords and could expect to spend all of their days in their rented accommodation. I am disappointed that the book of quantum in particular is not being accepted.

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

Amendment declared lost.

**Mr. Gilmore:** I move amendment No. 52:

In page 27, after line 47, to insert the following:

"(3) In any proceedings under this Act, the burden shall lie on the landlord to show that any increased rent is not greater than the market rent for that tenancy at that time."

Amendment put and declared lost.

**Mr. Gilmore:** I move amendment No. 53:

In page 28, line 25, before "pursuant" to insert "which is greater than the existing rent".

Amendment put and declared lost.

**Mr. Morgan:** I move amendment No. 54:

In page 28, line 29, to delete "28" and substitute "56".

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

Amendment declared lost.

**Mr. Morgan:** I move amendment No. 55:

In page 28, line 38, to delete "28" and substitute "56".

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

Amendment declared lost.

**Mr. Morgan:** I move amendment No. 56:

In page 29, to delete lines 4 to 8 and substitute the following:

"24.—(1) In this Part 'fair rent', in relation to the tenancy of a dwelling, means the rent which is in accordance with the book of quantum which has been drawn up by the Residential Tenancies Board, having regard to—".

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

Amendment declared lost.

**An Leas-Cheann Comhairle:** Amendments Nos. 57, 57a, 58, 58a, 59 to 60, inclusive, 60b, 61 to 63, inclusive, 63a, 64, 78 and 79 are related. Amendment No. 58 is an alternative to amendment No. 57a, amendments Nos. 58, 59, 61 and 64 are cognate, amendment No. 58a is an alternative to amendment No. 59, amendment No. 61 is an alternative to amendment No. 60b, amendments Nos. 63 and 63a are alternatives to amendment No. 62. Amendments Nos. 57, 57a, 58, 58a, 59 to 60, inclusive, 60b, 61 to 63, inclusive, 63a, 64, 78 and 79 will be taken together by agreement.

**Mr. McCormack:** I move amendment No. 57:

In page 30, between lines 25 and 26, to insert the following:

"27.—Where a landlord terminates a tenancy prior to the expiry of the non-protection period, he or she shall provide the ten-



[Mr. McCormack.]

ant with a written explanation of the reasons for the termination.”.

**Mr. Gilmore:** These amendments relate to the conditions of tenancy laid down in Part 4, which deals with the issue of tenure. The formula being proposed by the Minister of State is that after a period of six months' tenancy, a tenant will qualify for a four-year right of tenancy provided that the landlord does not need to recover that property within the period for any of the reasons stated in the Bill. At the end of the four years, however, the tenant has no further rights and must, under the legislation, go back on a six month probation before becoming entitled to a further four year right of tenancy.

The Labour Party does not agree with that approach to security of tenure. Our view, as expressed on Committee Stage, is that the formal security of tenure should be such that after a probationary period, about whose length we can argue, a tenant becomes the tenant and remains such as long as the property remains rented property and for so long as the tenant complies with the tenancy agreement. The landlord has rights to seek to terminate the tenancy if, for example, he needs the property for his own use or if he is disposing of it for some other type of use, as provided for in the Bill. The arrangements are in place through the Residential Tenancies Board for the adjustment of rents, etc. The arrangement should be analogous to an employment contract whereby one has a probationary period and remains in continuous employment for as long as there is employment for one and under which there is a mechanism by which disputes can be resolved. Similarly, a tenancy agreement should hold for as long as the property is being let for residential purposes and the terms of the tenancy agreement are complied with.

Some of these amendments, which are proposing to delete certain subsections, comprise an attempt to establish a continuous tenancy arrangement. Others, however, address the specifics of the four year arrangement. Let me draw attention to some flaws in what is proposed. Amendment No. 58, which is in my name, seeks to replace the six month probationary period with a three month probationary period. There is no reason a landlord would not be able to determine within three months or sooner whether the tenant is paying the rent regularly, honouring the tenancy agreement, respecting the property and not causing a nuisance to neighbours. I do not know what the landlord will find out about a tenant in months four, five and six that he or she will not have found in months one, two and three. Therefore, the probationary period should be reduced to three months.

Amendment No. 60 seeks to delete “the relevant date” and substitute “28 May 2003”. This was the date of publication of this Bill. The Minister is proposing that, once this Bill is enacted, the four year tenancy will begin not when the Act

is passed but when the Minister commences Part 4 of the Act. In other words, existing tenants, of whom there are approximately 150,000 in the private rented sector, will effectively be placed on a six-month probation when Part 4 comes into effect. Section 27 states: “In this Part “continuous period of 6 months“ means a continuous period of 6 months that commences on or after the relevant date.” The relevant date is defined in section 5 as the “date on which *Part 4* is commenced”. On the day this Act, under its present terms, comes into effect, every tenant in the country will go back on probation for a period of six months. The clock will start ticking for the six months and if the landlord is satisfied at the end of the six months the tenant may get a four year tenancy.

I propose that the term “the relevant date” should be replaced by “28 May 2003”, which was the date the Bill was published. That is the normal practice. In a Bill introducing new rights, for example, the rights usually apply from the date from which the Bill is published. In any Bill, such as company or planning legislation, which changes the nature of a contract between two people the operative date is the date of publication and not the date on which the relevant Part commences. The effect of amendment No. 60 would be that existing tenants would know that their position is secure and they would not find themselves, six months after commencement of the Act, being given a notice to leave by their landlord.

**Mr. McCormack:** Assuming the amendments are not accepted by the Minister, what will happen if a landlord terminates a tenancy after five months? Will all the rights a tenant has built up be eliminated? If that is the case I will support the amendment, which would reduce the trial period to three months. Any landlord will be watchful of new tenants and the first three months will tell the story of a tenant's legitimacy or conduct. Anything that cannot be found out in the first three months will not be found out in six. If the amendments are not accepted will the landlord retain the right to terminate a tenancy after five or five and a half months, and for what reasons?

**Mr. Cuffe:** I find myself in disagreement with both the Minister of State and the Labour Party on the fundamental issue of rights of tenure. The Government is proposing that there be a cut-off date every four years and that no tenant should have rights to a period longer than four years. Under the Labour Party proposal, once a tenant is in residence for three months he or she may remain for life. The fairer solution is a happy medium between the two.

I propose that tenancy rights increase incrementally. A landlord will know much more about a tenant after three years than after three months. There are many circumstances in which a landlord may wish to plan in advance for a per-

iod of weeks, months or years as to when he or she might like to have a vacant property. For instance, a landlord might have a child who in a couple of years time will go to a college close to where the dwelling is situated. A reasonable way to proceed would be to tell the tenant that the use of the dwelling would be required in two years time, rather than invoke the family member clause. This would give people on both sides an element of certainty.

Allowing rights to accrue incrementally would help all those involved. An elderly person could be told at the age of 60, 70 or 80 that he or she must leave in 16 weeks' time. That is not fair. It is fair to allow rights to increase incrementally so that after renting for five weeks a tenant must be given one week's notice to leave, after five months he or she must be given a month's notice and after five years a year's notice. That gives more of an element of certainty to both sides and is a fairer way of proceeding.

The Government's proposals do not go far enough and the Labour Party's proposals go too far. The Green Party's solution is contained in amendment No. 63a.

**Mr. Morgan:** I am glad I did not speak before Deputy Cuffe because he would have disagreed with me also. I now have the privilege of disagreeing with him and supporting the Labour Party position. The Sinn Féin position is contained in amendments Nos. 58, 59, 61, 62 and 64. The six month period is too long. A number of the Sinn Féin amendments refer to reducing the run-in period to three months. A key element is the settling down of the tenant and landlord as quickly as possible, and three months should be more than enough time to do that.

Amendment No. 62 deals with the review after four years. This is a disconcerting element to put into the Bill. We all agree with the general thrust of the Bill but some of the sections jar significantly. There is no need for a review after four years. When people have established their tenancy they should be allowed to get on with their lives in the knowledge that they may remain in their dwellings so long as they behave themselves. What more could be asked of anyone? Even settled loyal tenants will look forward to their four year review with concern and trepidation. Such a review is unnecessary and I hope the Minister of State will not require it to be made.

**Mr. N. Ahern:** We discussed this matter at great length on Committee Stage. This was one of the core recommendations of the commission and I am reluctant to move away from it. The issue could be debated either way. We know the situation in Ireland and there is little point in talking about what happens in other countries. We are trying to change the situation in Ireland and the question is how that is to be done. It would be easy to take either side of the argument and to say that six months is too long or too short, depending on who one represented. The com-

mission was obliged to make a judgment call, having examined the question at great length, to come up with a reasonable balance between the different interests of landlords and tenants.

I hear the argument about the need for a probationary period, whether it should be six months and whether there should be a probationary period the second time around. This was the commission's recommendation as the best way to introduce a measure of security of tenure so that a landlord would, in practice, be happy to allow a tenant to occupy a dwelling on an ongoing basis. We are trying to ensure that both sides have trust and faith in the system so that they can enter a new era. We have seen how counter-productive the current long occupation lease system is under the Landlord and Tenant Acts. We have all come across cases where, theoretically, people have rights after 20 years but, in practice, landlords have found some reason to oblige them to move to another apartment or house as the 20 year limit approaches. An absolute theoretical right can act as a block and work against a tenant.

The four year upper limit in the Bill prevents legal significance attaching to the fact that a particular tenant has occupied a property for a long period of time. A tenant may be in occupation but have no legal right. The landlord can, comfortably, go on renting the property to the tenant as long as it suits both sides.

Theoretical rights are of no use if they do not help in the real situation. We are trying to achieve a balance in the Bill that will lead to real improvements for tenants who wish to achieve greater security of tenure. Landlords are in the business of letting property and making money, not in the business of evicting people for no reason. If the new regime ensures they get market rent, be it from a new or old tenant, and if the tenant has proved himself, why would the landlord be in a mad rush to get rid of a good tenant who has respected the property? Why would he jump into the unknown and get rid of a tenant with a proven track record and introduce someone who might turn out to be a messer? It does not make sense. Landlords want business and money and we are introducing a system that is balanced. I do not want to accept any amendments that move away from that.

A tenant has no rights unless he or she has been resident in a dwelling for more than six months. If he or she is there for five and a half months, the landlord can give due notice to him or her to leave without a reason. A person only secures his rights after six months. Amendment No. 57 states that a landlord terminating a tenancy within that six month period must provide the tenant with a written explanation of the reasons for termination. That conflicts with the core recommendation of the commission that there should be a six month qualifying period at the start of each tenancy during which the landlord would be free to terminate without having to give a specific reason.

[Mr. N. Ahern.]

Amendment No. 79 seeks to delete section 42, which provides for the right of termination without providing a reason in the first six months. The same point applies; it is in conflict with the recommendation of the commission. It recommended this format to introduce a security of tenure measure in such a way that landlords would be happy to allow a tenant to occupy the dwelling on an ongoing basis. The operation of the initial probationary period provides the acceptable basis for allowing the subsequent three and a half years security of tenure.

The Bill may not be perfect but it is a huge improvement on the situation as it was. We must, however, be reasonable to both sides. For years landlords were able to terminate at any time without specifying any grounds. The new system will be a huge step forward for tenants. Under the new set-up, tenants, unlike landlords, will be able to terminate at any time without giving any reason, provided they give due notice. The landlord, once the six-month period has passed, can get the property back, but only under specified reasons. It may well be that in ten or 15 years, we will have moved into a new, more European situation, but we must recognise from where we came and how we will move forward in partnership.

I will not be accepting amendments Nos. 57a, 58, 58a, 59, 60b, 61 and 64 because they all make the same point. This was one of the core recommendations of the commission and I do not want to move away from that. That applies to the other questions.

Deputy Cuffe's amendment No. 63a would reduce the tenant's security of tenure. It depends on the situation on completion of the qualifying period but could reduce the secure tenure from three and half years to 36 days, or six days if the qualifying period was reduced to a month, as the Deputy sought in another amendment. I understand what the Deputy wants to achieve, but the way Part 4 has been structured makes it impossible. The more we reduce the qualifying period, the fewer rights the tenant will have.

**Mr. Gilmore:** On Deputy Cuffe's concern with the approach being taken by the Labour Party to security of tenure, why should a tenant not have tenancy for life if the landlord continues to rent the property? Why would the landlord want to change after four, eight or 12 years? If he is a good tenant and the rent is sorted out by way of the residential tenancies board and is the market rent, and the landlord is happy to continue to let the property, why should the sitting tenant not have the first call on it?

The difficulty with a fixed-term arrangement is that it would encourage landlords to discontinue tenancies. The four years will come to an end and the landlord will think he must serve notice on the tenant because otherwise he would acquire additional rights. It will create insecurity. This is a compromise that came out of the deliberations

of the commission, which did a superb job, particularly the chairman, but a compromise coming out of discussions that involve parties with differing interests does not always make the best legislation. Our job is to legislate for what works and I do not think this four-year provision will be workable.

Of all of the amendments we are taking together, however, the one I ask the Minister of State to reconsider, even at this late stage, is amendment No. 60 which provides that, for existing tenants, the clock should have started on their six months on the day the Bill was published. It was never the intention of the commission or the Minister of State that, as soon as this Bill was passed, every one of the 150,000 tenants in this State would go on six months' probation and, within that six months, the landlord could evict him without giving a reason.

**Mr. N. Ahern:** They can do that now.

**Mr. Gilmore:** Ironically, we are passing legislation purportedly to give tenants additional rights but the unwitting effect in the immediate term will be that, when enacted, the State's tenants will have fewer rights for six months than they had beforehand.

**Mr. N. Ahern:** That is not the case.

**Mr. Morgan:** I have acknowledged the good elements of this Bill and welcomed the thrust of it. The Minister of State, however, has made it clear that he will not accept these amendments, even though this six month review every four years will only cause disruption and unease.

Amendment put and declared lost.

**Mr. Cuffe:** I move amendment No. 57a:

In page 30, line 26, to delete "6 months" and substitute "1 month".

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

Amendment declared lost.

**Mr. Gilmore:** I move amendment No. 58:

In page 30, line 26, to delete "6" and substitute "3".

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

Amendment declared lost.

Amendment Nos. 58a and 59 not moved.

**Mr. Gilmore:** I move amendment No. 60:

In page 30, lines 27 and 28, to delete "the relevant date" and substitute "28 May 2003".

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

Amendment declared lost.

**Mr. Cuffe:** I move amendment No. 60a:

In page 30, between lines 28 and 29, to insert the following:

"28.—Any annual rent increase shall be capped to a 5 per cent increase over the rate of inflation in that year."

Amendment put.

The Dáil divided: Tá, 44; Níl, 52.

Tá

Breen, Pat.  
Broughan, Thomas P.  
Bruton, Richard.  
Burton, Joan.  
Connaughton, Paul.  
Connolly, Paudge.  
Cowley, Jerry.  
Crawford, Seymour.  
Cuffe, Ciarán.  
Deenihan, Jimmy.  
Durkan, Bernard J.  
English, Damien.  
Ferris, Martin.  
Gilmore, Eamon.  
Gormley, John.  
Gregory, Tony.  
Harkin, Marian.  
Healy, Seamus.  
Higgins, Joe.  
Howlin, Brendan.  
Lynch, Kathleen.  
McCormack, Padraic.

McGinley, Dinny.  
McGrath, Finian.  
McHugh, Paddy.  
Mitchell, Gay.  
Mitchell, Olivia.  
Morgan, Arthur.  
Moynihan-Cronin, Breeda.  
Murphy, Gerard.  
Naughten, Denis.  
Neville, Dan.  
Ó Caoláin, Caoimhghín.  
Ó Snodaigh, Aengus.  
O'Shea, Brian.  
Penrose, Willie.  
Ryan, Eamon.  
Ryan, Seán.  
Sargent, Trevor.  
Shortall, Róisín.  
Stagg, Emmet.  
Timmins, Billy.  
Upton, Mary.  
Wall, Jack.

Níl

Ahern, Michael.  
Ahern, Noel.  
Brady, Johnny.  
Brady, Martin.  
Callanan, Joe.  
Carey, Pat.  
Carty, John.  
Cregan, John.  
Curran, John.  
Davern, Noel.  
Dempsey, Noel.  
Dempsey, Tony.  
Dennehy, John.  
Devins, Jimmy.  
Ellis, John.  
Finneran, Michael.  
Gallagher, Pat The Cope.  
Glennon, Jim.  
Grealish, Noel.  
Hanafin, Mary.  
Haughey, Seán.  
Jacob, Joe.  
Keaveney, Cecilia.  
Kelleher, Billy.  
Kelly, Peter.  
Kirk, Seamus.

Kitt, Tom.  
McDaid, James.  
McEllistrim, Thomas.  
Martin, Micheál.  
Moloney, John.  
Moynihan, Donal.  
Moynihan, Michael.  
Nolan, M. J.  
Ó Feargháil, Seán.  
O'Connor, Charlie.  
O'Donnell, Liz.  
O'Donoghue, John.  
O'Keefe, Batt.  
O'Keefe, Ned.  
O'Malley, Fiona.  
O'Malley, Tim.  
Parlon, Tom.  
Power, Peter.  
Power, Seán.  
Sexton, Mae.  
Smith, Brendan.  
Treacy, Noel.  
Wallace, Dan.  
Walsh, Joe.  
Woods, Michael.  
Wright, G. V.

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

Amendment declared lost.

**Mr. Cuffe:** I move amendment No. 60b:

In page 30, line 30, to delete "6 months" and substitute "1 month".

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

Amendment declared lost.

**Acting Chairman (Mr. Kirk):** Amendment No. 61 cannot be moved.



Amendment No. 61 not moved.

**Mr. Morgan:** I move amendment No. 62:

In page 30, lines 35 to 41, to delete all words from and including “being---” in line 35 down to and including “or” in line 41 and in page 31, to delete lines 1 to 4 and substitute the following:

“being from—

(i) the commencement of the tenancy,  
or

(ii) the relevant date,  
whichever is later.”.

Question put: “That the words and figures proposed to be deleted stand.”

The Dáil divided: Tá, 55; Níl, 37.

Tá

Ahern, Michael.  
Ahern, Noel.  
Brady, Johnny.  
Brady, Martin.  
Callanan, Joe.  
Carey, Pat.  
Carty, John.  
Cregan, John.  
Cuffe, Ciarán.  
Curran, John.  
Davern, Noel.  
Dempsey, Noel.  
Dempsey, Tony.  
Dennehy, John.  
Devins, Jimmy.  
Ellis, John.  
Finneran, Michael.  
Glennon, Jim.  
Grealish, Noel.  
Hanafin, Mary.  
Haughey, Seán.  
Jacob, Joe.  
Keaveney, Cecilia.  
Kelleher, Billy.  
Kelly, Peter.  
Kirk, Seamus.  
Kitt, Tom.  
McDaid, James.

McEllistram, Thomas.  
Martin, Micheál.  
Moloney, John.  
Moynihan, Donal.  
Moynihan, Michael.  
Mulcahy, Michael.  
Nolan, M. J.  
Ó Feargháil, Seán.  
O'Connor, Charlie.  
O'Donnell, Liz.  
O'Donoghue, John.  
O'Keeffe, Batt.  
O'Keeffe, Ned.  
O'Malley, Fiona.  
O'Malley, Tim.  
Parlon, Tom.  
Power, Peter.  
Power, Seán.  
Ryan, Eamon.  
Sargent, Trevor.  
Sexton, Mae.  
Smith, Brendan.  
Treacy, Noel.  
Wallace, Dan.  
Walsh, Joe.  
Woods, Michael.  
Wright, G. V.

Níl

Breen, Pat.  
Broughan, Thomas P.  
Bruton, Richard.  
Burton, Joan.  
Connaughton, Paul.  
Connolly, Paudge.  
Cowley, Jerry.  
Crawford, Seymour.  
Deenihan, Jimmy.  
Durkan, Bernard J.  
English, Damien.  
Ferris, Martin.  
Gilmore, Eamon.  
Gregory, Tony.  
Healy, Seamus.  
Higgins, Joe.  
Howlin, Brendan.  
Lynch, Kathleen.  
McCormack, Padraic.

McGinley, Dinny.  
McGrath, Finian.  
Mitchell, Gay.  
Mitchell, Olivia.  
Morgan, Arthur.  
Moynihan-Cronin, Breeda.  
Murphy, Gerard.  
Naughten, Denis.  
Neville, Dan.  
Ó Caoláin, Caoimhghín.  
Ó Snodaigh, Aengus.  
O'Shea, Brian.  
Penrose, Willie.  
Ryan, Seán.  
Shortall, Róisín.  
Stagg, Emmet.  
Upton, Mary.  
Wall, Jack.

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

Question declared carried.

In page 31, line 7, to delete “6” and substitute “3”.

Amendment declared lost.

Amendments Nos. 63 and 63a not moved.

Question, “That the figure proposed to be deleted stand”, put and declared carried.

**Mr. Morgan:** I move amendment No. 64:

Amendment declared lost.

**Mr. Gilmore:** I move amendment No. 65:

In page 31, between lines 11 and 12, to insert the following:

“(5) It shall not be lawful to take action for the primary purpose of avoiding the application of this Part.”.

This amendment, which was recommended by Threshold, was debated on Committee Stage. Its purpose is to ensure there would be a general anti-avoidance provision in the Bill.

**Mr. N. Ahern:** I appreciate the general objective behind the amendment but it is not necessary. I would not consider general avoidance provisions to be the way to go. It is preferable to close off specific loopholes. While the Deputy’s proposal is a prohibition, it is worded in very broad terms as it states, “on any action for the primary purpose of avoiding the application of this Part [4]”. It is felt that the wording is too general and is in conflict with section 25. It is not necessarily the way to go.

I intend to propose a specific anti-avoidance measure, which involves an amendment to section 34, to address potential scope for abuse of some of the grounds for a valid termination of a Part 4 tenancy. The explicit outlawing of the various avoidance devices as they come to light is the most effective way of ensuring the security of tenant provisions operate as intended.

I recognise what the Deputy is trying to do. In future, it may be the case that both landlords and tenants try to avoid or work around some of the measures being put in place simply because they do not like them. Every appropriate effort has been made to close off such opportunities as we find them. We all know in the real world that until legislation is in place to prevent it, people may be innovative and try to find other ways of doing it. All we can do is undertake to monitor the situation. It is one of the specific functions of the board, under section 152, to monitor and report back on any requirement for amending legislation if there is any effort made by either side to circumvent the rules. While I understand what the Deputy is trying to do, a vague catch-all anti-avoidance measure is not necessarily the way to go. It is better to try and identify problems and take specific measures to address them, which is what we are doing.

**Mr. Morgan:** Are amendments being discussed together?

**Acting Chairman:** No. We are only discussing amendment No. 65 but the Deputy can speak on it if he wishes.

**Mr. Morgan:** No. Tá brón orm.

Amendment put and declared lost.

**Acting Chairman:** Amendment No. 66, in the name of the Minister, arises from Committee proceedings. Amendments Nos. 67 to 71, inclusive, 73, 88 to 90, inclusive, 105 and 132 are related, amendments Nos. 70 and 71 are alternatives to amendment No. 69. Amendments Nos. 66 to 71, inclusive, 73, 88 to 90, inclusive, 105 and 132 will be discussed together by agreement.

**Mr. N. Ahern:** I move amendment No. 66:

In page 32, line 16, after “concerned” to insert the following:

“and, in the case of *paragraph 4, 5 or 6* of that Table, contains or is accompanied by the statement referred to in that paragraph”.

**Mr. Morgan:** I wish to speak in particular to amendment No. 69. Some of the other amendments in this group are relevant because parts of this section contain excuses a landlord could use to evict a tenant. The Minister of State’s amendment greatly improves the existing section 34. I am concerned about the table to which my amendment refers in section 34 which states:

The dwelling is no longer suitable to the accommodation needs of the tenant and of any persons residing with him or her having regard to the number of bed spaces contained in the dwelling and the size and composition of the occupying household.

If a family or couple living in a first or second floor apartment have a baby, could that be regarded as reason enough to evict them under the terms of that table? I fear that it could and therefore seek to delete this sentence. If the Minister of State thinks otherwise I would appreciate his elaboration of the point.

**Mr. N. Ahern:** I oppose amendment No. 69. The grounds listed in the table to which the Deputy refers are as recommended by the commission and accepted by the Government. Their deletion would have a negative impact on the supply of accommodation available. If the Deputy is concerned about the potential for abuse, my amendment to section 34 could help allay his concerns. Overcrowding is contrary to housing policy but that does not encompass the situation the Deputy describes. Overcrowding refers to a change in the composition of the household subsequent to the commencement of the tenancy that renders the dwelling unsuited to that household’s accommodation needs. A child or two of that age will not seriously affect the accommodation needs. We could not be seen to condone serious overcrowding, which is determined by rules and regulations, but one extra baby would not be a legitimate ground for eviction.

The grounds specify “bed spaces” as opposed to bedrooms so there is no question of requiring a bedroom per occupant. The number of bed spaces in a dwelling is easily established. If a land-

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lord terminates a tenancy by citing this ground, a tenant who considers the dwelling to be suitable is free to dispute the validity of the termination. The landlord would then have to prove that the dwelling is not designed to accommodate the number of people residing there. A landlord who tried to do that would not necessarily succeed because the dispute would go to the board and a case such as the Deputy describes would not be pursued very far. If, however, several adults came into the dwelling and created serious overcrowding, that would not be condoned.

Amendment agreed to.

Amendment No. 67 not moved.

**Mr. Morgan:** I move amendment No. 68:

In page 32, to delete lines 22 to 24.

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

Amendment declared lost.

Amendment No. 69 not moved.

**Acting Chairman:** Amendment No. 70 cannot be moved.

Amendment No. 70 not moved.

**Mr. N. Ahern:** I move amendment No. 71:

In page 33, to delete lines 10 to 22 and substitute the following:

"family and the notice of termination (the 'notice') contains or is accompanied, in writing, by a statement—

(a) specifying—

(i) the intended occupant's identity and (if not the landlord) his or her relationship to the landlord, and

(ii) the expected duration of that occupation,

and

(b) that the landlord, by virtue of the notice, is required to offer to the tenant a tenancy of the dwelling if the contact details requirement is complied with and the following conditions are satisfied—

(i) the dwelling is vacated by the person referred to in *subparagraph (a)* within the period of 6 months from expiry of the period of notice required to be given by the notice or, if a dispute in relation to the validity of the notice was referred to the Board under *Part 6* for resolution, the final determination of the dispute, and

(ii) the tenancy to which the notice related had not otherwise been validly terminated by virtue of the citation in the notice of the ground specified in *paragraph 1, 2, 3 or 6* of this Table.

5. The landlord intends to substantially refurbish or renovate the dwelling or the property containing the dwelling in a way which requires the dwelling to be vacated for that purpose (and, where planning permission is required for the carrying out of that refurbishment or renovation, that permission has been obtained) and the notice of termination (the 'notice') contains or is accompanied, in writing, by a statement—

(a) specifying the nature of the intended works, and

(b) that the landlord, by virtue of the notice, is required to offer to the tenant a tenancy of the dwelling if the contact details requirement is complied with and the following conditions are satisfied—

(i) the dwelling becomes available for re-letting, and

(ii) the tenancy to which the notice related had not otherwise been validly terminated by virtue of the citation in the notice of the ground specified in *paragraph 1, 2, 3 or 6* of this Table.

6. The landlord intends to change the use of the dwelling or the property containing the dwelling to some other use (and, where planning permission is required for that change of use, that permission has been obtained) and the notice of termination (the 'notice') contains or is accompanied, in writing, by a statement—

(a) specifying the nature of the intended use, and

(b) that the landlord, by virtue of the notice, is required to offer to the tenant a tenancy of the dwelling if the contact details requirement is complied with and the following conditions are satisfied—

(i) the dwelling becomes available for re-letting within the period of 6 months from expiry of the period of notice required to be given by the notice or, if a dispute in relation to the validity of the notice was referred to the Board under *Part 6* for resolution, the final determination of the dispute, and

(ii) the tenancy to which the notice related had not otherwise been validly terminated by virtue of the citation in the notice of the ground specified in *paragraph 1, 2 or 3 of this Table*.”.

Amendment agreed to.

**Mr. McCormack:** I move amendment No. 72:

In page 33, between lines 22 and 23, to insert the following:

“35.—The purported termination of a tenancy by a landlord under *section 34* shall be deemed to be null and void *ab initio* where evidence is adduced to show that the termination arises from a complaint by the tenant, or other action by the tenant made to secure his or her rights as a tenant.”.

Amendment put and declared lost.

**Mr. N. Ahern:** I move amendment No. 73:

In page 33, after line 48, to insert the following:

“(5) In *paragraphs 4(b), 5(b) and 6(b)* of the Table the reference to the contact details requirement being complied with is a reference to the following requirement being complied with, namely, a requirement (which shall be specified in the statement concerned) that the former tenant notify in writing the landlord—

(a) within 28 days from the service of the notice of termination concerned, or, if a dispute as to the validity of the notice was referred to the Board under *Part 6* for resolution, the final determination of the dispute, of the means by which he or she can be contacted by the landlord so that the offer concerned can be made to him or her, and

(b) as soon as practicable after any such change occurs, of any change in the means (as so notified) by which the former tenant can be contacted for that purpose.

(6) If an offer such as is referred to in *paragraph 4(b), 5(b) or 6(b)* of the Table is accepted (within such reasonable period as shall be specified for that purpose in the offer) by the former tenant concerned (the ‘accepter’)—

(a) the resulting agreement is enforceable by the accepter (as well as by the offeror), and

(b) occupation by the accepter under the tenancy created in favour of him or her on foot of that agreement shall, together with his or her occupation under the former tenancy, be regarded, for the purposes

of this Act, as continuous occupation by the accepter under the one tenancy.”.

**Mr. McCormack:** Will the Minister of State explain the purpose of this amendment and what it seeks to achieve?

**Mr. N. Ahern:** It is a technical amendment to section 35 and is consequential on amendment No. 71 which uses the term “contact details requirement”. An explanation of “contact details” must therefore be included in section 35 on foot of the change to section 34. The term “contact details requirement” relates to the tenant providing within 28 days of receipt of the notice of termination and thereafter keeping up to date a means by which the landlord can make contact to offer him or her continuance of the previous tenancy. This applies where a landlord has asked a tenant to leave because his or her family is moving into the house or something similar and the situation changes. In a change of the landlord’s circumstances the tenants would have first refusal if the tenancy became available again. There is an obligation on the tenant to keep in touch to enable him or her to avail of the first refusal option.

Amendment agreed to.

**Acting Chairman:** Amendments Nos. 74 to 76, inclusive are related and will be taken together by agreement.

**Mr. N. Ahern:** I move amendment No. 74:

In page 35, line 13, to delete “A” and substitute “Subject to *subsections (2) and (4), a*”.

There was considerable debate on Committee Stage about the position of family members where the death of the sole person who is the tenant occurs during the existence of a Part 4 tenancy. I agreed to try to amend the provision to give family members who are not joint tenants the right to continue in a Part 4 tenancy in the case of established relationships. I am pleased to propose amendment No. 76 which enables spouses, partners and adult offspring or parents who were residing with the tenant to elect to become tenants and to continue a Part 4 tenancy where the death of the tenant occurs. There was much discussion on Committee Stage about this and this amendment should not pose any constitutional difficulties.

Amendment No. 74 is a technical, consequential amendment. Amendment No. 76 has been framed so as not to impact on the position regarding leases under the Succession Acts. The position will continue to be that a deceased tenant’s successors will inherit the rights and obligations of any lease governing the tenancy. As a general principle, where a dwelling is being let to more than one occupant it is advisable that some or all of the occupants enter into the tenancy as joint tenants in order that their position will be unaf-



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 fected by the death of a member of the household.

When we discussed this issue on Committee Stage, Deputies called for security for established relationships. The amendments provide for security in the case of established, family-type relationships, rather than homosexual or other relationships. I have, therefore, taken on board specific requests made on Committee Stage that the spouses and families of tenants in established, family-type relationships be offered protection. While further changes may be made in future as regards other relationships, I am not taking other matters on board now but doing specifically what was asked on Committee Stage.

**Mr. Morgan:** I welcome amendment No. 76 and the security it provides for other occupants who are also family members in the event of the death of the person whose name is on the tenancy. I am curious, however, about the Minister of State's final remarks and the condition set out in the second last paragraph of amendment No. 76, paragraph (3)(ii), which extends the Part 4 tenancy to "a person who was not a spouse of the tenant but who cohabited with the tenant as husband and wife in the dwelling for a period of at least 6 months ending on the date of the tenant's death". I am curious as to the reason the term "cohabited with the tenant as a partner" was not used, as it would have been much more in tune with society in this age of equality, or at least of attempts to achieve it.

What caused the Minister or the commission to fail to recognise those who are in gay relationships? Why were they excluded? The Minister of State specifically stated that he omitted this group. Why? Will he revisit the matter? In this day of enlightenment, I am amazed such a provision was not included. As matters stand, if one partner in a gay relationship of either sex resides in rented accommodation dies, the other will be forced to move out. Amid the trauma of a bereavement, the person will be discriminated against because of his or her sexual orientation. That type of thinking belongs to the 18th, not the 21st, century.

**Mr. McCormack:** I welcome the Minister of State's movement, if that is the correct word, on this matter since Committee Stage. The amendment brings practice into line with that which applies to local authority rented housing, where the sons or daughters of a tenant who dies will not be evicted and may assume the tenancy, provided they live in the house. The amendment moves in this direction by giving the children of deceased tenants Part 4 tenancy rights.

Will the Minister of State clarify the practicalities of establishing that persons have been cohabiting for six months? Who will adjudicate on this matter? Will it, too, go before the board? Would a person who stays in the dwelling irregularly, comes and goes, or is also resident in

another property be regarded as a person who has been cohabiting for six months? The status of persons to which Deputy Morgan referred notwithstanding, how will cohabitation be defined?

**Mr. Gilmore:** Amendment No. 75 in my name reflects what I proposed on Committee Stage, when I highlighted that while joint tenants were protected, the families of tenants were not. I welcome that the Minister of State has moved somewhat in the direction of my proposal. There are, however, a couple of exemptions. The definition does not include a sibling of a tenant. It is not uncommon for a number of members of a family, brothers or sisters, to live together, particularly in circumstances where they work in the same area. Older siblings also frequently share accommodation.

In addition, the amendment does not provide for gay relationships, as the Minister of State highlighted. I am curious that he appears to have gone out of his way to exclude gay people from the protection of the legislation and even highlighted their exclusion.

The formula used in amendment No. 76 is that Part 4 protection will be extended to "a person who was not a spouse of the tenant but who cohabited with the tenant as husband and wife for a period of at least 6 months ending on the date of the tenant's death". I presume it should read, "husband or wife", as to be both would be an achievement.

**Mr. McCormack:** Anything can happen.

**Mr. Gilmore:** If this were redrafted to read, "a person who was not a spouse of the tenant but who cohabited with the tenant as a partner for a period of at least 6 months ending on the date of the tenant's death", it would cover all circumstances.

**Mr. Morgan:** Only one word is required.

**Mr. Gilmore:** The Minister of State mentioned in passing that he was not extending this protection to gay relationships. Perhaps he will inform the House of the reason. It is strange he went out of his way not to so provide.

**Mr. N. Ahern:** Perhaps I spoke for too long. As the Deputy was returning to the House, I assume I continued to speak to allow him time to resume his seat.

**Mr. Morgan:** It is Deputy Gilmore's fault.

**Mr. N. Ahern:** If I could turn back the clock, perhaps I would have stopped my contribution sooner.

**Mr. Gilmore:** Was the Minister of State afraid the other Deputies present did not share my liberal instincts?

**Mr. N. Ahern:** Deputies were very forceful on this issue during the long debate on it on Committee Stage. We have moved a long way to address their concerns. The reason I may have gone beyond what was necessary in my previous contribution was to give the Deputy an opportunity to contribute on the issue. I was not trying to make a particular point.

The fundamental issue is that we should encourage everybody to register as joint tenants because it would give them protection. The debate on this matter on Committee Stage arose because a person who had not registered as a joint tenant encountered problems when the registered tenant died. If people register spouses, partners, friends and others as joint tenants, they would not be affected by a subsequent death. This is how the matter should be approached. People in such scenarios should register their partners, friends and siblings as joint tenants as they would then have protection. The debate on Committee Stage centred on families, and members of my party as well as Opposition Members stated that the section, as drafted, was not acceptable. We have tried to address that.

With regard to the other scenario, the law may well change in next few years and if it does, the section will be amended, but my amendments address the issues raised.

**Mr. Morgan:** I am at a loss to understand why three words “husband and wife” cannot be deleted. As Deputy Gilmore stated, it should read “husband or wife” in any event but I do not wish to nail anybody to the cross for a simple typo. If the phrase “husband and wife” was substituted by the word “partner”, everybody could live happily ever after, irrespective of their sexual orientation or the type of relationship in which they are involved. Is that feasible even at this late stage? I do not intend to trip up the Minister of State on this but inserting the word “partner” would reflect modern society. I commend him on amendment No. 76 because it improves the Bill considerably. However, the phrase “husband and wife” is unnecessary and unfortunate.

**Mr. Gilmore:** I would be happy to take an oral amendment if the Minister of State is agreeable.

**Mr. N. Ahern:** A provision was sought to cater for married and unmarried couples and the amendment addresses that. The position on other relationships may change in the future but that is different. Other relationships can be looked after if the individuals involved get people in as joint tenants. I do not wish to make further amendments.

**Mr. Gilmore:** How will the Minister of State square this provision with the equality legislation, given that, under that legislation, it is illegal to discriminate against a person on the ground of sexual orientation? He proposes to provide for such discrimination in the amendment. Which

legislation will have precedence if somebody decides to pursue a case? If the Minister of State is not prepared to make the amendment we seek now, will he consider examining this issue before the Bill is taken in the Seanad?

**Mr. Morgan:** He will be slaughtered there.

**Mr. N. Ahern:** No.

**Mr. Gilmore:** It is a bridge too far for the Minister of State.

Amendment agreed to.

Amendment No. 75 not moved.

**Mr. N. Ahern:** I move amendment No. 76:

In page 35, to delete line 15 and substitute the following:

“(2) Where the 2 conditions specified in subsection (3) are satisfied—

(a) subsection (1) does not apply, and

(b) the Part 4 tenancy concerned, accordingly, continues in being, subject to the other provisions of this Chapter, for the period for which it would otherwise have continued in being had the tenant concerned not died.

(3) Those conditions are—

(a) the dwelling, at the time of the death of the tenant concerned, was occupied by—

(i) a spouse of the tenant,

(ii) a person who was not a spouse of the tenant but who cohabited with the tenant as husband and wife in the dwelling for a period of at least 6 months ending on the date of the tenant’s death,

(iii) a child, stepchild or foster child of the tenant, or a person adopted by the tenant under the Adoption Acts 1952 to 1998, being in each case aged 18 years or more, or

(iv) a parent of the tenant,

and

(b) one or more than one of the foregoing persons elects in writing to become a tenant or tenants of the dwelling.

(4) This section is subject to Chapter 6; without limiting the generality of this subsection, subsections (2) and (3) are not to be read as derogating from the operation of Chapter 6 in circumstances where a person referred to in subsection (3) is a multiple tenant (within the meaning of that Chapter) of the dwelling concerned.

(5) Irrespective of the number of instances of the application to the same dwelling of

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*subsection (2)* (by reason of a series of deaths of tenants), the *Part 4* tenancy concerned shall not continue in being any longer than it would otherwise have continued in being had the first of those deaths not occurred.”.

Amendment put and declared carried.

Amendment No. 77 not moved.

**Mr. Gilmore:** I move amendment No. 78:

In page 35, lines 32 to 41, to delete all words from and including “being---” in line 32 down to and including “notice” in line 41 and substitute the following:

“being for the period of 4 years from its commencement”.

Question, “That the words and figures proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

**Mr. Gilmore:** I move amendment No. 79:

In page 36, to delete lines 1 to 9.

Question, “That the words and figures proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

**Acting Chairman:** Amendments Nos. 80 and 81 are related and may be discussed together.

**Mr. N. Ahern:** I move amendment No. 80:

In page 36, line 32, to delete “previous such tenancy” and substitute “further *Part 4* tenancy that preceded it”.

These are two technical amendments, which have been tabled on the advice of the parliamentary counsel, who is concerned there may be potential for ambiguity in these two sections.

Amendment agreed to.

**Mr. N. Ahern:** I move amendment No. 81:

In page 37, lines 13 to 23, to delete all words from and including “The” in line 13 down to and including “irrespective” in line 23 and substitute the following:

“For that purpose the following modifications of *sections 33* and *34* (in *Chapter 3*) also apply.

(4) In *section 33* ‘*section 34* or *42*’ shall be substituted for ‘*section 34*’, and *section 33*, as it is to be read and have effect for the purposes of this section, is set out in *paragraph 1* of the Table to this section.

(5) In *paragraph (b)* of *section 34* ‘4 years from the commencement of the tenancy’ shall be substituted, in *subparagraph (ii)*, for ‘4 years mentioned in *section 28(2)(a)* in relation to the tenancy’, and that *paragraph (b)*, as it is to be read and have effect for the purposes of this section, is set out in *paragraph 2* of the Table to this section.

(6) *Section 42* applies to a further *Part 4* tenancy under *section 45* as it applies to a further *Part 4* tenancy under *section 41*.

#### TABLE

1. A further *Part 4* tenancy may not be terminated by the landlord save in accordance with *section 34* or *42*

2. (b) irrespective”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 82 to 87, inclusive, are cognate and will be taken together.

**Mr. Morgan:** I move amendment No. 82:

In page 38, line 10, to delete “6” and substitute “3”.

We debated several similar amendments and the House will be aware of the intent of these amendments.

**Mr. N. Ahern:** I oppose these amendments to reduce from six months to three months the qualification period. We discussed similar amendments previously. I regard this as one of the core principles of the legislation.

Question, “That the figure proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Amendment Nos. 83 to 87, inclusive, not moved.

**Mr. N. Ahern:** I move amendment No. 88:

In page 41, to delete lines 36 to 41 and substitute the following:

“(c)(i) in case the ground cited is that specified in *paragraph 3* of that Table, the thing mentioned in that paragraph is not done within the period specified in that paragraph,

(ii) in case the ground cited is that specified in *paragraph 4* of that Table, the occupation by the person concerned does not take place within a reasonable time after the service of the notice of termination or, in circumstances where such a requirement arises, the landlord does not comply with

the requirement to make the offer referred to in that paragraph,

(iii) in case the ground cited is that specified in *paragraph 5* of that Table, the thing mentioned in that paragraph is not done within a reasonable time after the service of the notice of termination or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph,

(iv) in case the ground cited is that specified in *paragraph 6* of that Table, the thing mentioned in that paragraph is not done within a reasonable time after the service of the notice of termination or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph.”.

Amendment agreed to.

**Mr. N. Ahern:** I move amendment No. 89:

In page 42, line 32, after “do” to insert “or, as appropriate, permit to be done”.

Amendment agreed to.

**Mr. N. Ahern:** I move amendment No. 90:

In page 42, to delete lines 35 to 41 and substitute the following:

“(c)(i) in case the ground cited is that specified in *paragraph 3* of that Table, the thing mentioned in that paragraph is not done within the period of 3 months after the dispute in relation to the validity of the notice of termination is finally determined,

(ii) in case the ground cited is that specified in *paragraph 4* of that Table, the occupation by the person concerned does not take place within a reasonable time after the dispute is so determined or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph,

(iii) in case the ground cited is that specified in *paragraph 5* of that Table, the thing mentioned in that paragraph is not done within a reasonable time after the dispute is so determined or, in circumstances where such a requirement arises, the landlord does not comply with the requirement to make the offer referred to in that paragraph,

(iv) in case the ground cited is that specified in *paragraph 6* of that Table, the thing mentioned in that paragraph is not done within a reasonable time after the dispute is so determined or, in circumstances where such a requirement arises, the landlord does

not comply with the requirement to make the offer referred to in that paragraph.”.

Amendment agreed to.

**Mr. McCormack:** I move amendment No. 90a:

In page 45, line 28, to delete “70” and substitute “100”.

**Mr. N. Ahern:** I do not propose to accept the amendment. I inserted the 70-day maximum notice period on Committee Stage because I did not want a long notice period to be used to prevent tenants from qualifying for the protection of Part 4. Landlords have consistently argued that the qualifying period of six months was too short and should be increased to a year or, at a minimum, nine months. The longer the qualifying period, the more conducive it is to terminating tenancies before any rights can accrue. Giving a tenant a long period of notice of termination is a way around a qualifying period which is perceived by landlords as too short, and in many respects this amendment is in conflict with amendments tabled earlier.

The careful choice of a 70-day limit allows a tenancy which is terminated in the first six months to last a maximum period of approximately eight months because, as originally drafted, a landlord could give notice a week or two before the end of the six months. We included the 70 days as a maximum period, so the maximum now is six months and 70 days. I oppose the amendment because it would be reverting to nine-month tenancies. This is not a coincidence. We chose 70 days carefully because there was a loophole in the Bill as drafted. I ask the Deputy to reconsider and withdraw his amendment.

Amendment, by leave, withdrawn.

**An Leas-Cheann Comhairle:** Amendments Nos. 92 to 98, inclusive, are related to amendment No. 91 and amendments Nos. 93 to 98, inclusive, are alternatives to amendment No. 91. Amendments Nos. 91 to 98, inclusive, are to be taken together.

**Mr. N. Ahern:** I move amendment No. 91:

In page 45, lines 39 to 41, to delete all words from and including “is” in line 39 down to and including “Table” in line 41 and substitute the following:

“is—

(a) in the case of a termination by the landlord, the period mentioned in *column (2)* of *Table 1* to this section opposite the mention of the duration of the tenancy concerned in *column (1)* of that Table, and

(b) in the case of a termination by the tenant, the period mentioned in *column*



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(2) of Table 2 to this section opposite the mention of the duration of the tenancy concerned in column (1) of that Table”.

I direct Deputies’ attention to the fact that the word “year” after “3” in the second-last line of the first column of table one in amendment No. 92 should be in the plural. It is just a typographical error.

**Mr. Morgan:** I am glad the Minister can amend the Bill on the floor of the House when he likes. That is good news for me.

**Mr. N. Ahern:** Deputies will recall a lengthy debate on Committee Stage about the application of the longer notice periods to tenants who are terminating as well as to landlords. I agreed to look again at the notice periods applying to tenants and am now proposing amendments Nos. 91 and 92, the effect of which is to reduce, where the tenancy has lasted three or more years, the notice period applying to terminations to 56 days. In the original Bill it was the same for both.

This means the maximum notice a tenant will be required to give will be 56 days and notice periods will now apply once a tenancy has lasted two or more years. The first amendment replaces section 66(2). We are also reversing the order of the two columns so that the tenancy duration is read first, followed by the period of notice required. As this change departs from a recommendation of the commission that was based on fairly detailed consideration and discussion of the appropriate notice periods that should apply to both parties, it is as far as I can go in response to other proposed amendments. The 56 day maximum notice period is a substantial reduction from the original provision of 84 days after three years and 112 after four.

**Mr. Gilmore:** I raised this issue on Committee Stage and the Minister of State will recall that, in the original text of the Bill, tenants would have been required to have given the same period of notice to a landlord when they proposed to leave a house or flat and terminate the tenancy as a landlord would have been required to give to them. I pointed out that the relationship between landlords and tenants is not an equal one and that seeking equal notice periods was not appropriate.

On a practical level, it was also inappropriate in the original text of the Bill that a tenant would have been required to give a landlord three months’ notice of his or her intention to leave if he or she had had a tenancy for four or more years. That would have been excessive if someone was moving jobs, as he or she might only have to have given an employer a month’s notice while having to have given a landlord three months’ notice. Such tenants might have been caught for two additional months’ rent after moving somewhere else had they been transferred by their employer, for example.

I acknowledge the Minister of State has moved significantly in the direction I was seeking but 56 days is still a bit long for someone who is a tenant for only two years. However, I acknowledge the Minister of State listened to the Committee Stage debate and that he has responded on Report Stage. I accept his amendment.

Amendment agreed to.

**Mr. N. Ahern:** I move amendment No. 92:

In page 46, to delete lines 1 to 9 and substitute the following:

“TABLE 1  
Termination by Landlord

Duration of Tenancy (1)	Notice Period (2)
Less than 6 months	28 days
6 or more months but less than 1 year	35 days
1 year or more but less than 2 years	42 days
2 years or more but less than 3 years	56 days
3 years or more but less than 4 years	84 days
4 or more years	112 days

TABLE 2  
Termination by Tenant

Duration of Tenancy (1)	Notice Period (2)
Less than 6 months	28 days
6 or more months but less than 1 year	35 days
1 year or more but less than 2 years	42 days
2 or more years	56 days

Amendment agreed to.

Amendments Nos. 93 to 98, inclusive, not moved.

**Mr. Morgan:** I move amendment No. 99:

In page 47, line 3, to delete “7 days” and substitute “24 hours”.

I bring the attention of the House to section 68(2) which states:

Where this section applies the period of notice to be given by the notice of termination is—

- (a) 7 days, if the tenancy is being terminated by reason of behaviour of the landlord that poses an imminent danger of death or serious injury or imminent danger to the fabric of the dwelling or the property containing the dwelling.

How on earth could anyone be expected to hang about for a week when there is, by reason of the behaviour of the landlord, an imminent danger of

death? One is supposed to hang about the place for another week although there is imminent danger of death. I am trying to amend this to 24 hours because if my family or that of the Minister of State or any other Deputy were in a situation where the landlord posed an imminent danger of death or serious injury, we would want to get our skates on. The legislation refers to a full week. I hope the Minister of State considers this again. I will hear what he has to say. If it is not of concern to him, it is to me.

**Mr. N. Ahern:** I do not accept the amendment. Seven days is the minimum notice period which must be given to tenants who have engaged in serious anti-social behaviour and I consider it appropriate to maintain equality of treatment. Accepting what the Deputy said, it may not be an equal situation but it is better in legal terms to maintain an equality. I do not know if the type of situations referred to by the Deputy would arise, but if they did, the person would not be compelled to stay there. I recognise it might be his or her main place of residence but, in legal terms, it is best to retain the equality provision.

**Mr. McCormack:** I am puzzled as well. If the tenancy is being terminated by reason of the behaviour of the landlord that poses an imminent danger of death or serious injury or imminent danger to the fabric of the building, what would the landlord have done? Will the Minister of State give an example? If the landlord was off his or her rocker, for example, and threatened to assassinate the tenant, what does the Minister of State have in mind when he wants to give seven days' notice in that case?

**Mr. Morgan:** The Minister of State talked about anti-social behaviour but that is not to what my amendment refers. My amendment refers to imminent danger of death or serious injury. We need to be clear about that. We are not talking about anti-social behaviour or some such nonsense; we are talking about imminent danger of death. Is the tenant supposed to hang about this dangerous premises for a full week?

The Minister of State said he does not know if such a situation would arise. If there is no question of such a situation arising, why is this provision in the Bill? It is in the Bill because we all know such a situation could arise. It is a laudable part of the Bill and I do not have a problem with it other than expecting a tenant, who is in imminent danger of death or serious injury, to hang about for a week to see if it might happen. I do not believe this is being realistic. This is quite disgraceful and mad.

**Mr. N. Ahern:** I hear what the Deputy is saying. While it is provided for in the Bill, I do not believe it will apply too often. We are talking about legal terms. I believe the provision was inserted at the request of Threshold to ensure

equality of treatment between landlords and tenants. It is a notice period of terminating a tenancy. It does not mean the tenant must stay. It is a legal term.

Deputy McCormack asked what the section was all about. It specifies the shorter notice periods applicable where the termination of the tenancy by the tenant is due to the landlord's failure to comply with the tenancy obligations. Where the landlord has been notified of the breach and has failed to remedy it within a reasonable time, the notice to be given by the tenant is 28 days.

Where a breach by a landlord of a tenant's right to peaceful occupation involves behaviour that poses an imminent danger of death or serious injury or danger to the fabric of the dwelling, the notice period is seven days. I hope the situation about which Deputy Morgan talked will not arise but in legal terms, it is best to include the provision. If it arose, I am sure the tenant would not be legally forced to stay. It is, however, a situation which could technically arise and that is why it is provided for in the Bill. For technical, legal reasons, it is recommended that it is left as it is from an equality point of view.

**Mr. Gilmore:** I understand what the Minister of State is doing here. A tenant with two years' tenancy would have to give 56 days' notice to the landlord if he or she was leaving. However, if the tenant believes the landlord is about to kill him or her, the tenant will only be required to give seven days' notice which seems fair on the face of it. Much of this Bill has come from consideration by the commission. Obviously, the commission has done much work on the standards of dwellings, rents and so on. I confess I have not come across a case of a tenant having been killed by his or her landlord nor has anybody come to my clinics to tell me he or she thought his or her landlord was going to kill him or her. People have told me a few other things their landlord threatened to do or that they suspected their landlord might do, but killing them is one I have not come across.

Did the commission report to the Minister of State that there is a high incidence of this of which we have not been aware? Why is this provision included at all? If it is for legal reasons and if the Attorney General's office has said to the Minister of State that there must be a provision in the Bill to provide for the eventually that a landlord might threaten to kill a tenant, will he share with us the logic of the learned gentlemen who provided that advice? What type of protection would the tenant get by giving seven days' notice as opposed to 56 days' notice? Are landlords who intend to kill their tenants prone to reflecting on it for more than one week? Why is it seven days' notice?

Deputy Morgan's amendment is good because he has highlighted one of the more daft provisions in the Bill. This is a long Bill and sometimes provisions appear in the drafting which have not been fully thought out. This is one which

[Mr. Gilmore.]  
needs to be pruned out of the Bill because it is a bit laughable.

**Mr. McCormack:** It needs to be explained. We are getting to the nub of the issue, namely, the reason for the inclusion of this provision in the Bill because it seems a bit foolish. Perhaps there is a logical reason which is escaping Members on this side of the House. Will the Minister of State explain whether the commission or the Attorney General asked for this provision to be included in the Bill? How did it arise? I must take it there is some logical explanation for a provision such as this being included, namely, that somebody could be threatened with death. Perhaps it may only be a figure of speech but sometimes landlords say, "I will kill that frigger if he is not out of this place in two days." Would that be considered a threat of death?

**Mr. N. Ahern:** It came about because of the provisions in section 67 which states that seven days' is the minimum notice period which must be given to tenants who have engaged in serious anti-social behaviour. Threshold was one of the groups which suggested that we should have an equivalent, balancing provision for landlords. We may have made changes to the last section but one of the overriding principles is to try to have equality of treatment, although accepting the point that it might not always be a fair or an equal world. This provision was included as a balance to section 67.

**Mr. Gilmore:** What is the tenant supposed to do? Is he or she supposed to hide in the wardrobe?

**Mr. McCormack:** Ronnie Drew and the "Seven Drunken Nights".

**Mr. N. Ahern:** We are talking about legal terms. If such a situation arose and if it was as bad as the examples given, nobody would force the tenant to stay.

**Mr. Gilmore:** The tenant would have to go on the run.

**Mr. N. Ahern:** We are talking about a legal provision. Nobody will force the tenant to stay there. We are talking about a legal provision but it has come about as a provision to balance section 67.

**Mr. Morgan:** The Minister of State said the tenant would not legally be forced to remain there. I am sure that is a mighty relief to the tenant. It is certainly a mighty relief to me, and I am very glad to hear that the poor, unfortunate tenant who is in imminent danger of death or serious injury would not have to remain there. I would

bail out and head over to a relative or neighbour and I am sure any tenant in that situation would do the same.

However, the provisions of the Bill mean that the tenant still is legally obliged to pay rent for the seven days during which he is not there. If the landlord is a lunatic or if the fabric of the dwelling or property containing the dwelling is in imminent danger, the poor old tenant still has to pay for it. Last week, in the course of a minor spat between us, Deputy Gilmore mentioned occasions when one has to roll up one's sleeves and get stuck in. This is mundane stuff but occasionally we come across a priceless piece like this.

**Mr. Gilmore:** The Deputy has risen to the occasion.

**Mr. Morgan:** The odd time we come across a wee gem like this, which one could not make up. Children in a school playground could not come up with stuff like this, yet it is in the Bill before us. The seven-day period makes no sense. It makes absolute sense, however, that the maximum period should be 24 hours. The Minister of State has told us that it is the law, there probably is no such case but it is being left in the legislation anyhow. Thank God for a bit of humour and craic now and again, but if this situation ever arose it would provide neither craic nor humour. It would be deadly serious. It is unfortunate that the Minister of State is not prepared to accept a practical amendment.

**Mr. N. Ahern:** One can take these provisions and try to twist them around.

**Mr. Morgan:** I am not twisting them.

**Mr. N. Ahern:** Should anything like that occur, the gardaí are there. They have a job to do and anything of a criminal nature will be dealt with by them.

**Mr. Morgan:** They cannot be found when they are needed.

**Mr. N. Ahern:** The provision basically gives seven days to either party to dispute the allegations. The board is there to adjudicate so is it reasonable to expect people to do all this in one day? The provision gives the board seven days during which to adjudicate. Some people can be very inventive in thinking up situations. This provision will give people the opportunity to state that someone is making a false allegation against them, and the board will adjudicate quickly on such claims. If such a situation arose, the truth would quickly become obvious. Some of these matters, depending on how one twists them or looks at them, may not make sense. Equally, however, if there was a false allegation, the pro-

vision gives people seven days in which to make a complaint to the board. In that way the board can decide whether the complaint is valid or should be set aside.

**Mr. Gilmore:** If the tenant was still alive after seven days, would that be proof that it was a false allegation?

**An Leas-Cheann Comhairle:** This is getting into a Committee Stage type of discussion.

**Mr. Morgan:** For the safety of tenants I am sorely tempted to put the amendment to a vote, but I will not. I will let it go.

**Mr. McCormack:** Shoot the messenger.

Amendment, by leave, withdrawn.

**An Leas-Cheann Comhairle:** Amendment No. 101 is an alternative to amendment No. 100, so both may be discussed together by agreement.

**Mr. Gilmore:** I move amendment No. 100:

In page 51, line 13, to delete "28" and substitute "60".

This amendment is in respect of a dispute over the amount of rent that has been paid. The tenant will be required to go to the board within 28 days of the termination of the tenancy. I propose that that period should be extended to 60 days because 28 days is a bit tight. Sometimes, a tenant may consult members of his or her family, get advice, and may require time to make up his or her mind. I consider that 60 days is a more reasonable period.

**Mr. Morgan:** Amendment No. 101 seeks to extend the period within which a tenant may appeal to the board, from 28 to 56 days in cases where there is a dispute over the amount of any rent that had been agreed to, or paid, by the former tenant. In such cases, the unfortunate tenant may well be so occupied trying to secure accommodation for his or her family that he or she may not have an opportunity within the 28-day period to make a submission to the board. My amendment, therefore, seeks to increase the period to 56 days. I chose to double the 28-day period provided for in the Bill, although I do not disagree with Deputy Gilmore about the four additional days, which are neither here nor there once it gets up to that sort of period. The 28-day period is a big deal, however, because it might not be long enough. One can imagine someone being in dispute and having to get the matter sorted out. During a row with the landlord he or she may be trying to find alternative accommodation under all sorts of pressure, including moving furniture. Appealing to the board under such circumstances could be well down the list of priorities in that

first four weeks. A longer period would, therefore, be fair and reasonable. I do not think landlords could complain overly about it.

**Mr. N. Ahern:** I do not consider that the amendment is appropriate. The Deputy is speaking about a tenancy that has just been completed or may have just started. Section 76 provides that a dispute about the rent applying to a terminated tenancy may not be referred to the board more than four weeks after the tenancy has ended. I understand the situation where somebody has just moved in and perhaps was not too wise.

**Mr. Morgan:** It could end over the dispute.

**Mr. N. Ahern:** Yes, but the time to have an argument about the rent is when one is in the tenancy. Perhaps the Deputy has chosen the wrong section for his amendment. He is talking about extending the period in which to dispute the rent after the tenancy has ended, but that does not make sense. It would be foolish to end up with a Bill that stated the period for referring a dispute over rent was only 28 days in the case of an existing, ongoing tenancy, but was 56 or 60 days for a tenancy that had ended. That sounds almost as strange as the previous amendment we discussed. Section 76 concerns tenancies that have ended. I know that disputes may arise about rent, but the time to sort them out is during the tenancy or within 28 days of it ending. I do not see any need to extend that period for a tenancy that has ended. The section does not refer to ongoing tenancies.

**Mr. Morgan:** In page 51, line 10, section 2 refers to cases in which a tenancy has been terminated and there is a dispute as to the amount of rent. That is exactly what my amendment addresses. Is the Minister of State confused about that because I did not understand his comments? He did not appear to understand the intent of my amendment because it is in the cases to which I referred — when a tenancy has terminated and the tenant is trying to find other accommodation or is in temporary accommodation pending another long-term tenancy — that this issue arises. The former tenant may be under extreme pressure and may not have time to make a submission to the board in such circumstances. That is why I am seeking a longer term because it is very reasonable and straightforward.

**Mr. N. Ahern:** Why would such people not have done this months earlier, when they were tenants?

**Mr. Morgan:** Perhaps because the row is about the amount of money the landlord retained.

**Mr. N. Ahern:** That is a different issue.



**Mr. Morgan:** Is it? I do not think so.

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

Amendment declared lost.

**Mr. Morgan:** I move amendment No. 101:

In page 51, line 13, to delete "28" and substitute "56".

I will concede the four days to Deputy Gilmore and will withdraw the amendment.

Amendment, by leave, withdrawn.

**Mr. McCormack:** I move amendment No. 102:

In page 51, between lines 22 and 23, to insert the following:

"77.—Either or both parties to an existing or terminated licence to occupy a dwelling may, individually or jointly, as appropriate, refer to the Board a licence agreement relating to a dwelling so that the Board may determine whether—

(a) it is a licence, or

(b) determine whether it is a device by which the landlord was seeking to deny the tenant of his or her rights under this Act."

I would like to hear the Minister of State's response to the amendment.

**Mr. N. Ahern:** As I indicated in the course of the Committee Stage debate, I do not propose to accept this amendment on the basis that it is unnecessary. The provisions in section 84 will ensure that decisions made by the board to reject dispute referrals will have to follow a rigorous analysis of their applicability to this legislation.

**Mr. McCormack:** Is the licence agreement referred to here a licence or can the board determine that it was only a device used by the landlord hoping he or she could deny the tenants their rights? Is it for the board to define that issue?

**Mr. N. Ahern:** There is well-established case law in the area of licensing versus tenancy arrangements and the board will be required to have regard to this law when deciding whether to accept a dispute referral. Work currently being undertaken by the Law Reform Commission to review landlord and tenant law may also have a bearing on this matter. If the letting has the characteristic of a tenancy, unless one of the exclusions in section 3 applies, the letting will come within the scope of the Bill, regardless of what the landlord may seek to call it. This will be the case and it requires no amendment.

Amendment, by leave, withdrawn.

**Mr. Gilmore:** I move amendment No. 103:

In page 51, line 34, to delete "all".

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

Amendment declared lost.

**Mr. Gilmore:** I move amendment No. 104:

In page 52, between lines 3 and 4, to insert the following:

"(a) whether the rent at the commencement of a tenancy was or was not greater than the market rent,".

We are dealing with section 78, which lists the various matters that may be referred to and examined by the board for resolution. One of the issues which should be entitled to be referred to the board is whether the rent, at the commencement of the tenancy, was or was not greater than the market rent. A tenant can go to the board if he or she feels that the current rent is not the market rate and similarly a landlord can go to the board if he or she wants an increase in rent.

In all this, the point of reference is the market rent. However, because of the manner in which this Bill is being commenced and because the rights established in this Bill will not come into operation until it has been commenced by the Minister, many tenants currently in rented accommodation may well want to dispute that the rent set at the beginning of their tenancy was not the market rent in the first place. It should be possible to have that issue examined by the board.

**Mr. N. Ahern:** I thought we discussed this matter on Committee Stage and inserted it at that stage. Paragraph (b) of subsection (1), which was amended on Committee Stage, clarifies that the amount that ought to be set as the initial rent is a matter which may be the subject of a dispute to the board. I thought that clarified the point the Deputy made at that stage.

**Mr. Gilmore:** I stand corrected. We did indeed do so and I apologise for taking up the time of the House on an amendment which was dealt with on Committee Stage.

Amendment, by leave, withdrawn.

**Mr. N. Ahern:** I move amendment No. 105:

In page 52, after line 48, to insert the following:

"(p) an allegation that an agreement referred to in section 35(6) has not been complied with,".

Amendment agreed to.

**Mr. Morgan:** I move amendment No. 106:

In page 53, line 23, to delete “28” and substitute “56”.

This is about the period of time that ought to be given in disputes for resolution or appeal. A period of 28 days is not nearly enough time for what might be a major dispute between the landlord and the tenant. In such circumstances, one could expect communication and attempts at reconciliation between the parties, but after 28 days have gone by, without a submission being made to the board, the whole issue falls. A longer period would be more useful.

**Mr. N. Ahern:** I am opposed to this amendment. It does not make sense. A period of 28 days is more than ample time in which to take a decision to refer a dispute to the board about the validity of a termination notice which has been received. Apart from the seven day notice period, to which we referred earlier, for serious anti-social behaviour, 28 days is the minimum notice period specified in Part 5 of the Bill. It would not make much sense for dispute referrals about the validity of terminations to come before the board after the notice period had expired and the tenancy is over. There is always a danger over a longer period that a person will forget to take the necessary action. In all walks of life, people leave everything to the last moment. The time to dispute an issue is when one is within that period of notice in order that something can be done about it. If one leaves it until the period is over, it does not fully add up.

Amendment, by leave, withdrawn.

**An Leas-Cheann Comhairle:** As it is now 3.30 p.m., I am required to put the following question in accordance with an order of the Dáil of this day: “That amendment No. 168 and the amendments set down by the Minister for the Environment, Heritage and Local Government and not disposed of are hereby made to the Bill, that Fourth Stage is hereby completed and the Bill is hereby passed.”

**Mr. N. Ahern:** I advise Deputies of two further typographical errors in amendments Nos. 109 and 176.

**An Leas-Cheann Comhairle:** Perhaps the Minister of State would give a note to the Clerk.

**Mr. N. Ahern:** The Chair mentioned that we are accepting amendment No. 168. I thank all the Deputies, particularly party spokespersons, for their work and contributions on the various Stages. Hopefully this will be good and valuable legislation for the tenants we are trying to serve

while maintaining a balance. I pay tribute to the officials in the Department for the work they have done, some of whom have been involved in it for many years and have put a significant part of their life into this issue from the time of the commission.

Question put and agreed to.

## Ceisteanna — Questions.

### Priority Questions.

#### Abbey Theatre.

1. **Mr. Deenihan** asked the Minister for Arts, Sport and Tourism if a survey is being carried out on the Carlton site by the Office of Public Works regarding its suitability for development as a new location for the Abbey Theatre; if so, when such a survey will be completed; if such a survey shows that the site is not suitable for development, when he will be in a position to examine other possible venues; and if he will make a statement on the matter. [19623/04]

**Minister for Arts, Sport and Tourism (Mr. O’Donoghue):** The resolution of the issues surrounding the redevelopment of the National Theatre, are complex. As I have previously informed the House, the Government authorised me last year to invite expressions of interest by way of public invitation from the private sector in participating, on the basis of a public private partnership, in the capital redevelopment of the Abbey Theatre in and/or around the vicinity of the site of the existing theatre.

My Department, with the Department of Finance and the Office of Public Works, has been working to implement that decision. As An Agreed Programme for Government commits the Government to ensuring the development of the Abbey, I maintain regular contact with all of the parties involved and ensure that the Government is kept fully abreast of all developments. I circulated my last progress report to my colleagues at this week’s Cabinet meeting at which Ministers again affirmed their support for the redevelopment project.

It has been accepted that at whatever location is eventually selected for the Abbey, the new building must satisfy the following requirements if it is to be compatible with the status, profile and functions of a national theatre: to be a signature development, representative of a national theatre in the 21st century; to be in an appropriate civic setting and form part of the overall urban regeneration represented by the O’Connell Street integrated area plan and the north-east inner city plan; it must have three significant

[Mr. O'Donoghue.]

enlarged auditoria for the Abbey, the Peacock and a third multipurpose space, a dedicated education and outreach facility, a publicly accessible archive, restaurant-bar, improved public areas, disabled access for audiences and artists, and best practice theatre production facilities.

For the Abbey and Peacock to function efficiently, effectively and without compromise, their basic functioning must not depend on movement of goods and people by mechanical lift. In essence this means that the stages of both the Abbey and Peacock theatres must be positioned at ground level. In addition, both theatres must have easy access, also at the same level, to the scenery store and the prop store. It is agreed between the management of the Abbey and the OPW that there is a requirement for a ground floor footprint that is considerably larger than now exists. The larger ground footprint is non-negotiable if the redevelopment is to achieve its objectives.

I am advised that redevelopment of the Abbey at its existing location would entail the acquisition of adjacent properties — a process which would be likely to prove very costly and problematic regarding timescale. Accordingly, my Department and the OPW are now actively considering other possible alternative locations for the redevelopment. This exercise will include an assessment of the suitability and availability of the Carlton Cinema site for this purpose. The Deputy will be aware of the legal issues arising in connection with that particular site.

I am currently awaiting a report from the OPW on these issues and assure the Deputy that I remain determined to have decisions taken on the redevelopment of the Abbey Theatre in this its centenary year.

**Mr. Deenihan:** Given that the centenary of the Abbey is on 27 December decision time is rapidly approaching. I am pleased the Minister has, more or less, today given a definitive response on the suitability of the present Abbey Theatre site and has ruled it out and also that he took my advice on getting the Office of Public Works to carry out an assessment of the Carlton Cinema site. In the event of the Carlton Cinema site not being suitable the Minister indicated that other sites are being looked at as well. Will he advise the House of those sites? Coláiste Mhuire in Parnell Square and Grangegorman were mentioned. Will the Minister confirm if these sites are being actively assessed as regards their suitability? I am sure the Minister will agree it is important that a conclusion be reached on a new site for the Abbey Theatre as soon as possible and preferably before 27 December 2004.

**Mr. O'Donoghue:** The difficulty, as outlined, is that there is a problem in regard to the cost of acquisition of properties adjacent to the present Abbey Theatre. There is also the question of the

timescale that would be involved in acquiring properties there. The problem with the Carlton Cinema site is that it is embroiled in legal issues at present and it is not known when these issues will be resolved. In addition, it is not known if our proposal would be attractive to the developer. In those circumstances the Office of Public Works will be examining alternative sites in the city. When the Office of Public Works has reported back to me it is my intention to go back to the Government with the alternatives put forward.

At this point I do not intend to rule in or rule out any site for the theatre except to say that all the options, which the Office of Public Works put forward will be carefully considered. I am anxious that the theatre would be located in the city and that we would be in a position to map the way forward this year given that it is the centenary of the theatre.

**Mr. Deenihan:** Will the Minister agree the timescale is important and that this must not become a long running saga like the National Stadium. Will the Minister clarify what timescale he envisages for the Office of Public Works to report definitively on its preferred site to house the Abbey Theatre?

**Mr. O'Donoghue:** I am anxious that we should be in a position to make some announcement in this the centenary year of the Abbey. Therefore, it is important that the Office of Public Works would come back to us at the earliest possible opportunity so that I can outline the way forward. I am anxious, as is the Deputy, to ensure we have some news on where we are going with the theatre this year.

#### **Film Industry Development.**

2. **Mr. Wall** asked the Minister for Arts, Sport and Tourism; his views on whether high production costs are a deterrent to foreign filmmakers coming here to make their films; the consequences of this for the film industry here; and if he will make a statement on the matter. [19826/04]

4. **Mr. Deenihan** asked the Minister for Arts, Sport and Tourism his views on recent statements from leading film producers, carried in media reports in recent weeks, that Ireland is losing its attractiveness to international film production companies due to increased costs and to increased competition abroad; the measures he will take to restore Ireland's competitiveness as a destination for film production; and if he will make a statement on the matter. [19622/04]

**Mr. O'Donoghue:** I propose to take Questions Nos. 2 and 4 together.

The market for international film finance is global and extremely mobile, with financiers carefully weighing up what competing locations have to offer. Final decisions are usually based on a mix of factors rather than on one particular

factor. In this context, I am aware of the concerns expressed by the Irish film industry about the competitive implications of wage costs that are high compared to some competing locations and of the current euro-US dollar exchange rate. However, I am also aware of the positives that Ireland offers, including good locations, qualified and experienced personnel, the fact that English is widely spoken, and a positive approach to the industry by Government.

I am satisfied that the Government has met its responsibilities regarding maintaining the attractiveness of Ireland as a film location. In particular, in his last budget speech the Minister for Finance, Deputy McCreevy, announced that the section 481 tax incentive, which gives tax breaks to those investing in Irish film production, will continue until at least 2008, with the amount that can be raised increasing from €10.48 million to €15 million from 2005.

The Irish Film Board is charged with the development of the Irish film industry and with marketing Ireland as a location for international productions. The board provides a range of supports and assistance to producers and is independent of Government in day-to-day terms. I was able to provide an increase of 10% in the board's funding in 2004. It is up to the industry to address those factors within its control that are considered to render Ireland less attractive for film production.

**Mr. Wall:** The newspaper reports that Ireland is being shunned as a production base for major films and that costs have rocketed for those films, which are in production, are of deep concern to us all. Has the Minister had a meeting with the Irish Film Board on this matter? What action has the Minister's Department taken to assure major film industry players that the section 481 tax incentive has been restored and that we want major productions to come here? "Saving Private Ryan", "Braveheart" and films of that scale have been of major benefit to the economy and to employment levels within the industry and among actors and actresses.

What meetings have taken place, what action has the Department taken since the budget and what has the Irish Film Board done since it was given the boost for which the Minister must be congratulated? What has been done to reverse the shunning of Ireland by the major movie giants and production teams?

**Mr. O'Donoghue:** It is not correct to say the Irish film industry is being shunned. Ireland is an extremely attractive location for incoming film producers and productions. As Deputy Wall pointed out, Ireland has hosted some serious and major films in recent years and I anticipate that we will do the same in the not-too-distant future. While wage costs appear to be a difficulty, the matter must be dealt with by the industry itself. There is very little one can do about exchange rates and the value of the euro against the US

dollar. I have no control over fluctuations on the money markets.

The Irish Film Board provides a considerable level of assistance to incoming producers as well as to the indigenous film industry. Its record is very strong. On occasion, I meet the chairman of the board to discuss the future and I have over the last year and more been in regular contact with people involved in the industry generally with a view to advancing the cause of Irish film. The best news the industry has received in many years was the extension of the section 481 relief into 2008 and the increase of the cap to €15 million. These measures are regarded by the industry as the most important lift it has received in a very long time. The industry anticipates and I am confident that the benefits will be seen in the near future.

**Mr. Deenihan:** I am sure the Minister will agree there is cause for serious concern and action. Surely, the fact that no feature film has been shot in Ireland in the first six months of 2004 makes its own statement. There must be a reason for this circumstance. Neil Jordan and Morgan O'Sullivan, two of our most eminent film producers, have said that Ireland is no longer an attractive location in which to make films which highlights the need for corrective action.

Is the Minister aware that New Zealand, Hungary and the Isle of Man have improved upon Ireland's incentives? The global film industry is becoming more competitive while Ireland is being matched by countries many of which have raised the ante to compete for film productions. It is a serious scenario.

When Deputy de Valera was Minister, she established the Kilkenny group which reported in 1999. Developments in film industry work practices and the impact of the rate of exchange constitute only a small part of the problem. Will the Minister revisit the report and perhaps reconvene the group, which previously suggested major solutions to review events in the film industry over the last five years?

While the Minister mentioned section 481, a significant problem has been the uncertainty generated around it over the last year. The wrong signals were sent to the film industry. While the section has been restored, nothing more has happened to incentivise the Irish film industry. We cannot take this serious difficulty lightly. I understand the only major film which will be shot in Ireland this year is the "The Honeymooners" which compares poorly with the level of production of a few years ago.

**Mr. O'Donoghue:** I disagree with Deputy Deenihan. The outlook for the Irish film industry is bright. The extension of the section 481 relief to 2008 will massively encourage incoming producers. The definite incentive of the increase in the amount which can be raised under the relief from €10.48 million to €15 million from the start of 2005 could not send a stronger signal to the



[Mr. O'Donoghue.] international film community about Ireland's intention to develop the industry and our desire to attract inward investment.

We can only control those things, which are under our remit and maintain the highest standards in those areas in which we have power. We can expect the industry to go from strength to strength. While it is true that concern was expressed about wage costs and the exchange rate between the euro and the US dollar, these are factors over which I have little or no control, unfortunately. Through section 481, we have incentivised like no other Government in the history of the State.

**Mr. Wall:** Given its importance to the film industry, will the Minister lead a trade mission to the USA in conjunction with the Irish Film Board to talk to the heavy hitters such as Disney to create interest in Ireland and attract the major players? We have a workforce which is as knowledgeable as any in the world when it comes to producing major films, and actors and actresses who are well able to support international stars. We also have the tax incentives which seem to make the difference. Now is the time to put Ireland back in the film market. What is being done to communicate with the heavy hitters and ensure that Ireland is put back in its rightful place among the main players in film production?

**Mr. O'Donoghue:** Now that the Irish film industry has been placed on a sound footing with the renewal of section 481 up to 2008 and the increase in the cap on the amount that can be raised from €10.84 million to €15 million from the start of 2005, it is appropriate that we seek to market Ireland on whatever stage we can. In the circumstances, I intend to try to organise a trade mission to the western side of the United States of America with a view to promoting Ireland as a destination for film production. I am anxious to meet the larger production companies to assess their interest in coming here. I will take up Deputy Wall's suggestion and try to move on it soon.

**Mr. Deenihan:** I suggest the Minister speak to the Disney organisation during his visit as it has expressed grave concern about the attitude it found within the Irish industry recently. I remind the Minister that Ardmore is empty at present and the only film of any significance that will be made here this year is "The Honeymooners". Other countries are successfully upping the ante and it is time for the Government to review what others are doing in the international film market.

Will the Minister revisit the Kilkenny report and its recommendations? Will he reconvene that group and seek its advice on the situation and a way forward? Section 481 is not the reason for the demise of our film industry, although it contributed to it. Other factors of which people are

not aware have come into play and have not been fully considered by the Minister.

**Mr. O'Donoghue:** I will not speak of a demise because I do not believe there is one. I would like to watch how the new incentive develops over the coming year. The current section 481 incentive is progressive and competitive. I spoke with people from the Disney organisation during the course of discussions on the renewal of section 481. They impressed on me the need to renew the incentive and to provide certainty. I have done that by extending the provision until 2008 and by increasing the cap on the amount that can be raised. Let us see how this progresses. I expect the Deputy will find it progressive and that we will see a considerable number of major films made in Ireland in the not too distant future.

### **Tourism Industry.**

3. **Mr. Gormley** asked the Minister for Arts, Sport and Tourism his views on whether the April 2004 overseas travel figures from the Central Statistics Office suggest that a gap is widening between persons who are leaving here to go abroad when compared with the relatively smaller increase in visitors to Ireland; the remedy he will put in place to address the issue; and if he will make a statement on the matter. [19926/04]

**Mr. O'Donoghue:** Internationally, more people are taking holidays and doing so more often. Over the past ten years or so, there has been extraordinary growth in the short urban break market as an international phenomenon. Irish people are not immune from these trends.

Owing to the phenomenal increase in Irish prosperity in recent years, the increased availability of competitive access to foreign markets and the increasing number of those who own foreign holiday homes, Irish people are travelling abroad in greater numbers and with greater frequency. I do not necessarily regard this as a negative phenomenon because, looked at globally, we find that the reverse side of the coin is that an increasing number of overseas visitors are visiting Ireland.

The latest CSO visitor figures for 2004 show Ireland continuing to perform strongly in a highly competitive international market. The number of overseas visitors to Ireland in the first four months of this year increased by more than 7% compared with last year. The latest Revenue figures for 2004 are also positive, with overseas visitor earnings increasing by more than 5% in the first quarter of this year compared with 2003. These early results are in line with the growth targets set by Tourism Ireland and Fáilte Ireland for the year as a whole and, in relative terms, compare favourably to the performance of some of our competitor destinations.

The overall number of inbound visitors continues to exceed that of outbound visitors. That said, it is apparent from CSO figures in the recent past that Irish visitors abroad spend, in total, mar-

ginally more than overseas visitors spend here. That increase in outward spend is because more Irish people go abroad more often.

To get a more accurate picture of trends across tourism, the tourism and travel survey to which the Deputy refers needs to be considered in conjunction with the CSO's household travel survey. The agency's tourism and travel survey does not, for instance, include domestic tourism. The latest available figures from the household travel survey, covering 2003, show expenditure by Irish people on domestic trips growing by 14% to €971 million, compared with 4% growth in expenditure by Irish people on international trips. Even making allowances for inflation, this represents a significant increase in expenditure. While Irish people may now spend more on international trips, the CSO survey clearly indicates that domestic tourism is benefiting disproportionately from the increased spending power of the Irish population.

Taking the two CSO surveys together, it would appear that our tourism sector is winning market share, both at home and internationally, in the face of the stiffest competition ever in this sector. In that context, we need to maintain our focus, get the product right, get the message out, give real value for money and ensure we continue to deliver on the promise. It is important for the Irish industry to realise that the more frequently Irish people travel abroad, especially within the eurozone, the more conscious they will be of relative value for money. It is essential our industry continues to focus on increasing its competitiveness.

Looking at 2004, the two tourism agencies, Tourism Ireland and Fáilte Ireland, are rolling out a comprehensive range of programmes and activities in conjunction with the industry and overseas trade to build on the momentum generated to date and achieve their ambitious targets of more than 4% visitor growth. Their programmes are supported by an unprecedented level of Exchequer investment in tourism services through my Department, especially for marketing purposes, totalling well over €110 million this year.

As for the medium to long-term future of the sector, significant progress is being made in advancing the recommendations of the report of the tourism policy review group through the tourism policy implementation group chaired by Mr. John Travers. The ultimate goal is to ensure that Ireland's competitive position is optimised to take full advantage of the expected upturn in international tourism over the next decade.

**Mr. Gormley:** I thank the Minister for his interesting reply. Does the Minister agree that many Irish people, some of whom may have foreign holiday homes — perhaps the Minister will let us know how many, if he has the figures — choose to holiday abroad because they feel they get better value for money? It is the same old story of this being “rip-off Ireland”, as it is some-

times called. People feel that public transport, eating out, car hire, etc. do not provide value for money. Is that a factor and is the tourism policy review group examining the issue? The issue arises both anecdotally and in actual responses from those who holiday here.

Has the Minister information as to why Irish people who go abroad spend more when abroad? With regard to the 14% increase in expenditure on domestic trips, has he qualitative data on what domestic tourists find attractive about staying at home? What is it they like about Ireland as a holiday destination?

**Mr. O'Donoghue:** It is encouraging that the domestic market has increased so significantly. The 14% increase is remarkable given the current level of competition on the international market. We have stressed the issue of value for money over the past two years and this has paid dividends. For example, the Irish restaurant association introduced a very successful value for money menu for visitors. The Irish car rental market is as competitive as one will find anywhere and value for money offers are provided by almost all our major outlets and many of our medium and smaller outlets. All this is extremely encouraging. This is reflected in the figures. The fact that the domestic market increased by 14.3% is a tribute to the response of the industry, and I hope this response continues — it is important that it does.

With regard to people who travel abroad on holiday, the Irish economy has improved in leaps and bounds in recent years, people have more disposable income and, as a consequence, more people take holidays abroad. The figures in this regard were up 4%, but we must take that figure against the 14% plus increase in the domestic tourism market, which is, to say the least, most encouraging.

The implementation group, which is overseeing the implementation of the policy review group, is progressing with its work. It is due to report to me in August of this year. That report should be interesting and should give us further indicators. If there is further information on data or statistics Deputy Gormley requires, I will be only too pleased to communicate them to him.

**Mr. Gormley:** The Minister touched on two areas, eating out and car hire, and said services in those areas are improving. However, there is one area where there has not been an improvement, namely, that of public transport. Anyone who has travelled by train to Cork or elsewhere will have seen tourists on the train and, more likely than not, it will have been packed. The standard of our public transport is appalling and it gives a poor image of this country. Is this an issue about which the Minister is concerned?

**Mr. O'Donoghue:** In regard to public transport, in recent days in Dublin in particular the avail-

[Mr. O'Donoghue.]  
ability of public transport has increased beyond recognition, something everyone will greatly welcome. There is further room for improvement in our public transport system, of that there is no question. When I spoke about 14% growth, I was referring to expenditure.

*Question No. 4 answered with Question No. 2.*

### Other Questions.

#### Tourism Industry.

5. **Mr. Cuffe** asked the Minister for Arts, Sport and Tourism his views on whether the €89 million net outflow of expenditure in the January to March 2004 travel period represents a worrying trend for the Irish tourism sector in view of the huge coverage given to Ireland by the EU Presidency; and the steps that are being taken to ensure that this outflow does not increase further. [19748/04]

33. **Mr. Boyle** asked the Minister for Arts, Sport and Tourism his views on whether the April 2004 overseas travel figures from the Central Statistics Office suggest that a gap is widening between persons who are leaving Ireland to go abroad when compared with the relatively smaller increase in visitors to Ireland; and the remedy he will put in place to address the issue. [19746/04]

**Mr. O'Donoghue:** I propose to take Questions Nos. 5 and 33 together.

I refer Deputies Boyle and Cuffe to my earlier answer to Question No. 3, which addressed the same topic.

**Mr. Gormley:** The Minister answered two questions. In his reply to my last question, he referred to the issue of public transport. I would like to go into this in more detail. When tourists arrive here is it not the case that many of them do not opt for car hire but depend on public transport to travel around the country? This applies not only to overseas tourists but to those of us who want to travel around Ireland and have to do so on public transport. The state of our public transport is a major factor. Will the Minister agree that investing in public transport is not only good for the country in terms of facilitating proper decentralisation as opposed to relocation, but it is also important for our tourism market?

Will the Minister stress to the Minister for Tourism the importance of the need to get this right? If the Minister travels abroad to Italy or France, he will find state-of-the-art transport services. He could board a train and travel from A to B relatively quickly, on time and in comfort, yet in this country that is not possible. If one tries to have a meal on one of our trains, it is an awful

experience. This is an area the Minister ought to examine if we are to attract growing numbers to this country. May I have a more detailed response from the Minister on this issue?

**Mr. O'Donoghue:** The replies to Deputy Gormley's interesting questions are more appropriate to the Minister for Transport. In general terms, the question of access to the regions is of immense importance, in particular if we are to see a greater degree of regionalisation of the tourism industry. In that context, improving the service, the rolling stock and rail links is of immense importance. We have seen benefits from the regional airports and their development is providing rich dividends to the regions. For example, developments at Knock, Galway, Kerry and other airports are proving to be extremely beneficial. However, about 350,000 cars are rented every year by visitors to this country. Therefore, the private car market should not be underestimated in any way. However, I take the Deputy's point that it is important we continue to improve public transport.

**Mr. Deenihan:** To some extent Question No. 10 is related to these questions. Ireland received considerable exposure, as indicated in Question No. 5, during our Presidency of the EU, but that does not seem to be having a positive impact on our tourism industry. What initiatives to address this did the Minister raise with his European counterparts during our Presidency? Is the Minister at liberty to inform us of what was discussed or to outline how our Presidency of the Union during the past six months benefited Irish tourism?

**Mr. O'Donoghue:** There is a detailed question, Question No. 10, on this matter which I think we will reach. It might be fairer and more expansive for the Deputy if we concentrated on this issue at that point.

**Acting Chairman (Mr. Carey):** Is the Deputy prepared to wait until we reach that question?

**Mr. Deenihan:** Yes, that is fair enough.

#### National Lottery Funding.

6. **Mr. Connolly** asked the Minister for Arts, Sport and Tourism the annual levels of expenditure in counties Cavan and Monaghan, respectively, from the national lottery; the levels of lottery-funded grant aid disbursed annually; the amounts of this funding returned to counties Cavan and Monaghan; and if he will make a statement on the matter. [19719/04]

**Mr. O'Donoghue:** In regard to the disbursement of national lottery funding, my Department administers the lottery-funded sports capital programme, which provides facilities for sporting and for voluntary and community organisations at local, regional and national level throughout the

country. The programme is advertised on an annual basis.

I am providing in tabular format grant allocations since 1988 to counties Cavan and Monaghan under the programme. The vast majority of the overall funding since its inception has been allocated since 1999 and, as I relayed to the Deputy in my reply to his Priority Question No. 31 on 25 May last, the allocations to Cavan and Monaghan are in line with what those counties might expect if funding were strictly on a *per capita* basis.

In regard to the 2004 sports capital programme, on 7 May last I announced funding allocations totalling €50.8 million to 717 projects, including €925,000 to 14 projects in County Cavan and €996,000 to 17 projects in County Monaghan. In

addition to this, my colleague, the Minister for Community Rural and Gaeltacht Affairs, Deputy Ó Cuív, recently announced top-up funding to some of those projects which I funded under the 2004 sports capital programme, specifically those located in CLÁR areas and those in RAPID areas which were endorsed by their local RAPID area implementation teams. A further €108,000 has been allocated to Cavan and €24,000 to Monaghan through these top-ups.

Overall, I am satisfied that counties Cavan and Monaghan have been treated fairly and adequately in the levels of national lottery funding disbursed through the sports capital programme, funding which has made a major difference to the range and quality of the sports facilities in those counties and in every other county in Ireland.

Sports Capital Programme Allocations to Cavan and Monaghan 1988-2004

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Cavan	118,086	0	6,349	12,697	0	0	347,908	25,395	27,934	168,875
Monaghan	222,204	330,132	12,697	76,184	0	0	326,323	24,125	29,204	241,250
Total	21,379,849	1,737,002	2,161,094	1,943,829	1,676,689	5,721,440	13,963,310	3,685,414	9,084,976	11,829,514

	1998	1999	2000	2001	2002	2003	2004	Total
Cavan	121,895	333,941	452,027	591,698	691,200	580,000	925,000	3,478,005
Monaghan	83,803	248,869	502,181	615,823	1,233,000	485,000	996,000	4,430,795
Total	7,554,942	25,382,064	45,496,874	56,179,561	78,779,400	53,352,500	50,800,000	390,728,458

**Mr. Deenihan:** Does the Minister agree that questions like this will continue to appear on the Order Paper until an audit is carried out of all facilities throughout the country to determine the need and identify the black spots to ensure that national lottery funding can be targeted at those areas of greatest need? As a Kerry person, I recognise and continue to welcome the increased allocations to the county since the Minister took office. Prior to that, Donegal benefited considerably. I am sure we understand that from the perspective of Deputies Connolly and others it appears that counties like Cavan and Monaghan are not getting a fair share of such funding. There is a later question on a national audit. When does the Minister consider a national audit will commence? Will it commence in the near future? When Fine Gael gets back into power with our Labour colleagues, we will be very much directed and influenced by the findings of such a national audit and we will invest such money in areas of greatest need and where there is a lack of facilities. That is the way to go in the future.

**Mr. O'Donoghue:** Counties Cavan and Monaghan have certainly not been ignored by the Government. I suppose it is easy to zone in on one area and forget others. I have already said

that the sports capital programme has been kind to counties Cavan and Monaghan. I have visited both counties on a number of occasions to see developments there which are progressing well. I recently sanctioned the construction of a new swimming pool in Monaghan town. My Department was also responsible for sanctioning funds under the ACCESS programme for an arts centre in Carrickmacross. There have been a number of other developments in Cavan and Monaghan under the aegis of my Department. It must be said that my Department does not have a large budget but, in so far as I was in a position to assist Cavan and Monaghan, I certainly did so.

On the audit of national lottery funding, I am satisfied to proceed with it where the sports capital programme is concerned. In that respect, an expenditure review is under way. I hope this will be completed shortly and that we will then proceed to carry out the audit and put in place a strategic plan to map out the way forward. I suppose Deputy Deenihan would not mind calling for a national audit of expenditure in every Department.

**Mr. Deenihan:** Absolutely.

**Mr. Wall:** Have many applicants for national lottery funding, not specifically those in Cavan



[Mr. Wall.]  
and Monaghan, failed to draw down funding they were allocated? What mechanism is in place to ensure that, in such instances, there is an investigation into the reasons for not drawing down funding? What can be done where people may have problems generating the extra funds required or where they simply do not draw down the funding?

**Mr. O'Donoghue:** There have been several instances where funding was not drawn down. Figures released on the day of the sports capital programme announcement may look great on paper but the reality is that some organisations never get around to drawing down the funds.

There are misconceptions regarding the sports capital programme. One glaring misconception is that grants, once announced, will be paid regardless of whether the necessary criteria are met. This is not the position. Irrespective of how a decision on a grant is arrived at, the payment can never take place unless the criteria to which the grant is subject are complied with. These criteria involve issues such as matching funds, planning permission, where appropriate, foreshore licences and by-laws.

Unfortunately, several instances arise in which the criteria are not fulfilled and therefore the grants are not paid. On occasion, we have written to various clubs and organisations to state we were subjecting them to a sunset clause whereby we would have to say goodbye to them if they did not take up their grants by 31 December. In such cases, the clubs or organisations suddenly become more active than they were previously and one finds that, in some instances, they then fulfil the criteria. However, as I stated, there are instances in which the criteria are never fulfilled. However, it must be remembered that most of the organisations and clubs with which we are dealing are voluntary and it is perfectly understandable therefore why documentation, etc. may not be forthcoming. In general, most clubs do everything they can to comply with the criteria.

**Mr. Wall:** Are they given every opportunity?

**Mr. O'Donoghue:** They are given every opportunity.

**Mr. English:** Would it be in order for a club purchasing equipment to change its mind and opt for a different model or type of equipment if it were the same price?

**Mr. O'Donoghue:** If a club has been allocated funding, it is open to the club to apply to the Department and provide a valid reason it wishes to change direction regarding that funding. The Department and I are as flexible as we possibly can.

### **Sport and Recreational Development.**

7. **Mr. Sargent** asked the Minister for Arts,

Sport and Tourism if he will consult the Department of Education and Science with a view to making the proposed and long-delayed nationwide sports facilities audit include facilities which are operated by or are available to schools, in light of the significant increase in obesity and recognised lack of sports facilities for schools, as revealed in a recent INTO survey. [19754/04]

34. **Mr. McCormack** asked the Minister for Arts, Sport and Tourism when the national audit of local sports facilities will commence to ensure a more effective targeting of new facilities at locations at which they are needed; and if he will make a statement on the matter. [19742/04]

**Mr. O'Donoghue:** I propose to take Questions Nos. 7 and 34 together.

It is my intention that the proposed national audit of local sports facilities be carried out in conjunction with the development of a sports facilities strategy. As the Deputy will appreciate, completion of a review of the sports capital programme is a necessary precursor to the development of overall strategy in this area. As this review is now in its final stages, I intend to set up an inter-agency steering group to oversee the project.

One of the immediate tasks for this group will be to oversee the commencement of the national audit of local sports facilities. Part of this work will be to decide on the type and location of facilities to be included as part of the scope of such an audit. It will be a matter for this group when established to decide on the scope in light of all the requirements set out.

It is worth noting that the Irish Sports Council's most recent statement of strategy, recognising the need to engage young people in sporting activity, sets out as one of the key objectives the need to increase opportunities to participate in sport at local level, particularly for school-aged children. Last month, I launched the Irish Sports Council's Buntús programme, a national initiative targeting primary schools designed to give children a fun, but high-quality, introduction to sport.

I have no doubt that the facility needs to cater for school-aged children will comprise one of the key issues to be considered in the sports facilities strategy, the development of which will heavily influence the scope and requirements of the national audit of sports facilities.

**Mr. Gormley:** Question No. 7 makes reference to the significant increase in obesity. Clearly, an approach similar to the inter-agency one is required to tackle this problem. Bearing in mind that yesterday was the deadline for submissions to the Department of Health and Children on this worsening problem, does the Minister agree that if we are to deal with it, we must make children play more sport at school? Is it the case that it is not just a question of facilities but also of attitude in that we must change the attitude to sport so it will not be regarded as a waste of time in schools? Perhaps our approach has focused too much on

competition. Those who are good at sports are allowed to participate in them and are provided with the necessary facilities while the rest are simply not encouraged to do so. Is it the Minister's intention to again require the participation of all in sport?

**Mr. O'Donoghue:** There are more than encouraging signs to the effect that we are treating sport more seriously. The funding available for sport has increased significantly to €110 million from a base of €17 million which obtained when the issue of sport was on the Cabinet table in 1997. There has also been tremendous expenditure under the sports capital programme. There has been expenditure of €370 million on 3,500 different projects since 1998. However, there is still a long way to go. Facilities at national school level, for example, leave a lot to be desired in many cases. The construction of physical education halls is a matter of urgency in many cases, particularly in the context of the new physical education curriculum in national schools.

It is important for us to recognise that resources only stretch so far and that where there is a choice between providing a PE hall and a classroom, the classroom will be chosen. However, my Department has shown a willingness to become involved in joint ventures with the Department of Education and Science to constructing PE halls, for example, whereby the community can utilise the halls when the school is not doing so. We might usefully progress this initiative in the context of the audit of sports facilities in recent years and the strategic plan that we will develop.

We have made progress but, in truth, we still have a long way to go to deal with the issue of obesity, take children away from their Playstations and put them on the playing fields.

**Mr. Deenihan:** While I agree with the Minister that funding for sport has been increased, I do not believe it has been directed at physical education at both primary and secondary levels. In 1991, I carried out a national survey of all primary and post-primary schools in the country. I discovered that 75% of primary schools in Kerry, for example, had no PE hall. A recent survey by the INTO confirmed that 70% of schools did not have PE facilities, so matters have not improved in the last 13 years. Most of the PE halls in schools in Kerry have been converted into classrooms and schools do not have the facilities to put the new PE curriculum in place. In addition, teachers do not feel confident to take on the new curriculum. Inservice courses of two or three days will not provide this confidence. We have a major problem in our primary and post-primary schools.

We are sitting on a medical timebomb. Some years ago, when I forecast that we would have a major obesity problem I was accused of exaggeration. It is now obvious that we have such a prob-

lem. Young people are now less fit and less active than they were ten years ago.

There will have to be a major refocus on how national lottery money is spent. A community which is prepared to provide a sports facility on school grounds, whether primary or secondary, should be given preference. Such a facility could be used by the school during the day and by the community during the evening. Time constraints and weather make it impractical for a teacher to walk children to a sports facility half a mile or a mile away from a school. In future, when money is being provided for sports facilities, preference should be given to communities, clubs and organisations which are prepared to build facilities on or adjacent to school grounds. That would be a good start but it is not happening.

**Mr. O'Donoghue:** Since 1998, more than 3,500 projects in every city, village and parish in the country have seen development and almost €270 million has been spent.

**Mr. Deenihan:** It was mostly spent on competitive sport.

**Mr. O'Donoghue:** If one adds the amount allocated under the swimming pool programme the total comes to €350 million since 1997. It is not an insignificant sum. In fact, it is the first serious expenditure on sports facilities in the country. I accept that we have a long way to go. I am under no illusion about the fact that facilities in schools are, for the most part, inadequate. This is particularly the case in primary schools. However, we are trying to build up the base and we have made a considerable amount of progress in a very short space of time.

The facilities I have mentioned are, for the most part, utilised by schools and the volunteers in the clubs and organisations concerned encourage participation by schools. We always look benevolently on applications which would result in schools and the community benefiting from sports facilities. Resources are finite. Under the sports capital programme, the amount available in any given year rarely exceeds €22 million. That is a vast increase on what was available, even seven or eight years ago when very little was available.

**Mr. Wall:** I would welcome this audit and the sooner it is done, the better. I acknowledge that considerable funds have been provided through the national lottery for sports facilities and that this matter is not entirely the problem of the Department. Nevertheless, lottery funds have been spent in areas which have major social problems but no link appears to have been made between providing sports facilities and helping those communities. It is imperative that an audit be done as soon as possible.

I do not know the solution to this problem. I am familiar with the application forms for lottery funding and I know they take account of various

[Mr. Wall.]

aspects of social inclusion and so on. Nevertheless, communities which experience social exclusion are often not involved in the provision of lottery funded sports facilities. The proposed audit will show up these black spots.

**Mr. O'Donoghue:** Deputy Wall is right. There are, unquestionably, blackspots throughout the country and in disadvantaged areas. In that respect, we have tried to prioritise such areas through the RAPID and CLAR programmes. We have seen considerable developments in recent times, not least in the Acting Chairman's own constituency, in areas which might be described as vulnerable or disadvantaged. Participation rates in the areas concerned where we have seen these developments have been quite high. The Government is committed to continuing to invest in areas of disadvantage in order to build up the necessary facilities, because there are gaps.

We have only begun to take sport seriously. We did not have a Cabinet Minister for sport until 1997, we had no statutory Sports Council until a few years ago and we had no proper sports capital programme until 1998. In 1997, our budget for sport was €17 million while today it is €110 million. We had no budget for a sports council but the Sports Council's budget is now €30 million. We had no programme for elite athletes and we now have a carding system. We had no measurements for high performance athletes and we now have. Sam Lynch, the oarsman, has said that while a few years ago his biggest worry was how he would pay his hotel bill, he can now worry about rowing. Our sports men and women now know that the Government and people are behind them.

It is true that there are huge gaps and that we have a long way to go. If we all recognise that, Government and Opposition can work together to build up facilities with a view to ensuring greater participation, that more women become involved in sport, that more young people come away from the Playstations and onto the playing fields and that we have a healthy sporting society. Sport is endemic in Ireland. We are all interested in it but we did not invest sufficiently in sport for the simple reason that we did not have the resources to do so. Now we have more resources and we will treat it more seriously. That is true of every party in the House.

#### **Abbey Theatre.**

8. **Ms McManus** asked the Minister for Arts, Sport and Tourism the position with regard to the redevelopment of the Abbey Theatre; if redeveloping the theatre on its current site remains his preferred option; if an announcement on the future of the Abbey Theatre will be made prior to December 2004, the 100th anniversary of the founding of the Abbey; and if he will make a statement on the matter. [19727/04]

19. **Mr. Neville** asked the Minister for Arts, Sport and Tourism the progress made with regard to the provision of a new building for the Abbey Theatre; and if he will make a statement on the matter. [19702/04]

**Mr. O'Donoghue:** I propose to take Questions Nos. 8 and 19 together.

I refer the Deputies to my earlier reply to today's Priority Question No. 1.

**Mr. Wall:** I welcome the Minister's earlier assurance that the new Abbey Theatre building will be in the city. None of us could envisage the Abbey Theatre being anywhere else. If the Carlton Cinema site is not available it is important that the theatre remain within the boundaries of the city.

#### **Arts Funding.**

9. **Mr. Broughan** asked the Minister for Arts, Sport and Tourism the results to date of the cultural relations committee funding supporting Irish artists working abroad; if these proposals have been successful; if he, on the recommendation of the CRC, will continue such funding; and if he will make a statement on the matter. [19736/04]

**Mr. O'Donoghue:** With effect from January 2002 responsibility for the cultural relations committee transferred from the Department of Foreign Affairs to the then Department of Arts, Heritage, Gaeltacht, and the Islands. It is now, of course, under the aegis of my Department.

Since its establishment in 1949, it has advised on support for cultural projects with a view to enhancing Ireland's image and reputation abroad and promoting friendly relations and a mutual knowledge and understanding with other countries. The CRC has played a vital role in promoting Irish arts and artists internationally.

In the context of my statutory responsibility under the Arts Act 2003 to promote the arts both inside and outside the State, I am in the process of reviewing the mechanisms and the basis of funding used to promote and support Irish arts internationally with a view to formulating a new strategic approach that will galvanise Irish arts in an international context, and is flexible, responsive, and efficient enough to meet the needs of today's fast moving world. Proper promotion of arts and culture can make a positive contribution to enhancing Ireland's image abroad, and our relationships with other peoples and with key people in other countries. Such promotion also helps to protect cultural diversity and cultural identity in the context of globalisation. The arts must also be promoted internationally for their own sake. Irish artists can, by performing and exhibiting abroad, develop and enhance their artistic talents, find new markets for their work and open doors for other Irish artists who may follow later.



**Mr. Wall:** What is the timescale for the proposals the Minister will make and what part will the CRC play? Artists have benefited from its involvement in the past. Is demand for this funding increasing and is there a world-wide scene for Irish artists? What types of artists are involved or does the CRC receive applications from all disciplines?

**Mr. O'Donoghue:** The term of the office of the current Cultural Relations Committee was to expire earlier this year but we extended it until the end of 2004. The issue is how we will proceed from here. It is important to recognise that the Arts Act 2003 provides for the first time for a role for the Minister in the promotion of Irish arts on the international stage. Whatever mechanism we use when replacing the Cultural Relations Committee, we will ensure that it is in a position to use the resources available to promote Irish arts.

Traditionally, the committee was a branch of the Department of Foreign Affairs and was used to build good relations with other countries. Now the remit will be much broader because it relates to the effective co-ordination between my Department, the Department of Foreign Affairs and the new committee. I hope the new mechanism will be up and running later this year when the CRC's remit will finish and that it will be an innovative and invigorating body which will be a success in assisting me, as Minister, to promote Irish arts on the international stage.

**Mr. Deenihan:** How many artists are supported by the Cultural Relations Committee? The question related to the support of Irish artists working abroad but there are also Irish students studying abroad who are finding it difficult to cover the costs of fees and maintenance. Will the fund be extended to include them?

**Mr. O'Donoghue:** My Department has commissioned a report on the way forward and I hope we can discuss it in the near future. I do not have the exact number of artists who have been assisted by the Cultural Relations Committee but the allocation this year by the committee amounts to €700,000. It has helped artists in theatre and dance, film, music, visual arts, literature and the Imagining Ireland conference. I hope the new body will be in a position to allocate substantially more but one never knows.

### EU Presidency.

10. **Mr. Kehoe** asked the Minister for Arts, Sport and Tourism the matters that he has pursued with his European Union counterparts during Ireland's Presidency of the European Union; and if he will make a statement on the matter. [19713/04]

**Mr. O'Donoghue:** Across my portfolio, a wide variety of events and initiatives was organised and advanced as part of my Department's Presidency programme.

In the face of the common challenges facing the tourism sector across Europe, I requested Fáilte Ireland to organise a major international conference on tourism as the centrepiece of Ireland's tourism programme for the Presidency. The event, entitled "Charting Tourism Success", was held in Dublin Castle and was very well attended by policy makers and industry practitioners across Europe. A diverse panel of distinguished speakers provided valuable insights and set out some fresh ideas on how to meet the challenges facing the sector.

In the sports field, Ireland successfully launched the European Year of Education through Sport and has worked closely with the Commission and other member states in establishing a clearer framework for subsequent Presidencies initiating action in the sports arena.

A meeting of Troika Sports Ministers, as well as a joint meeting of Sport and Education Ministers, was held in January. Matters addressed included the need to promote the educational and social values of sport; developing a better partnership between the worlds of school and sport; sport as an instrument in improving multi-cultural dialogue and in promoting peace; and the key role of sport in the area of cardiovascular health and combating obesity, especially among children.

On the arts and culture front, three separate events were held in Ireland with the aim of enhancing European co-operation in the field of culture, particularly in the area of linguistic diversity, music and the digitisation of cultural content. The feedback from those who attended these events has been very positive and I am confident they will lead to greater mutual understanding and co-operation among the 25 member states. The digitisation conference which I opened in Dublin Castle on Tuesday was one of the final events of the Presidency.

In terms of advancing the agenda on cultural co-operation at European level, the Irish Presidency achieved progress in a number of areas, including securing consensus on a Community action programme to promote bodies active in the field of culture at European level; securing decisions on the extension of the Culture 2000 and media programmes to the end of 2006 which will allow the necessary time to debate and achieve consensus on the next generation of programmes in this field; securing political agreement to the continuation of the EU involvement with the European Audiovisual Observatory; securing political agreement on a proposal to allow new member states to participate in European Capitals of Culture programme; and securing agreement on the designation of the cities of Luxembourg and Sibiu for the European Capital of Culture event 2007 and the cities of Liverpool and Stavanger for the European Capital of Culture event 2008.

In more general terms, Ireland's Presidency of the EU has proven to be an invaluable oppor-



[Mr. O'Donoghue.]

unity to showcase all that is best about our country. In this regard, an extensive cultural programme was organised and supported by my Department which has encompassed a variety of cultural links, tours and exchanges between Irish artists, Irish festivals and artists from the new member states. The centrepiece of this programme was the "Day of Welcomes" on 1 May to celebrate the historic enlargement of the Union. This day long carnival involving towns and cities across Ireland proved an enormous success both locally and internationally and was an outstanding tribute to the generosity and warmth of the Irish welcome. In terms of building goodwill throughout Europe, particularly in the new member states, it was an overwhelming success.

Obviously, such positive images of Ireland and the Irish people in celebratory mood, which were broadcast throughout Europe and the world over the May weekend, provided a major boost to our image as a tourism destination. Almost 1,000 journalists, radio and TV crews from across the world were in Ireland for the weekend and television coverage of the events was beamed into more than a billion homes worldwide.

The cultural programme's tours to and from the new member states continued right until the end of the Presidency. These events have proven particularly successful in building strong ties with our new EU neighbours which will serve us very well at the enlarged negotiating table.

**Mr. English:** I thank the Minister for his comprehensive answer. It was like "This Is Your Life" for the past six months. Did the association between alcohol and sports sponsorship arise during any conversations? The Minister outlined the benefits of sport, one which is that it acts as a deterrent with regard to alcohol and drugs. Do our colleagues in Europe share the view that the association of sport with alcohol in advertising is a problem?

**Mr. O'Donoghue:** A Troika meeting was held which was extremely useful in terms of advancing the cause of sport in the European Union. The new treaty, which was successfully negotiated by the Taoiseach and his team, has provided for sport for the very first time. The question of alcohol and sport is something, which obviously needs to be addressed as does the question of alcohol and drugs. I have often said that no sport is the enemy of any other sport but sport has enough enemies, including alcohol and drugs. In that context, the European year of education through sport can be of immense importance since for the first time, meetings of sports Ministers will be on a formal basis under the new treaty. We should be in a position to advance sport and take on the enemies I have described.

We did not set out specific measures or discuss specific ways to tackle alcohol, however the underlying trend or objective is to use sport to tackle such issues.

### National Concert Hall.

11. **Mr. O'Dowd** asked the Minister for Arts, Sport and Tourism the proposals to improve the accommodation available to the National Concert Hall; and if he will make a statement on the matter. [19704/04]

**Mr. O'Donoghue:** I refer the Deputy to my reply to Question No. 59 of 25 May 2004.

*Written Answers follow Adjournment Debate.*

### Adjournment Debate Matters.

**An Leas-Cheann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputy Joe Higgins — the need to raise with the Minister the concern over the case of a person (details supplied); (2) Deputy Pat Breen — the need to ask the Minister the current position with regard to the Quilty Scariff and Feakle sewerage schemes; (3) Deputy Neville — orthodontic services in the mid-western region; (4) Deputy Costello — to ask if the Minister will investigate the causes of a major fire in a Shell depot in Dublin Port on 27 June 2004 and ensure that proper health and safety measures are in place in the port at all times; (5) Deputy Rabbitte — the urgent need for the provision of protection and security for St. Anne's Primary School, Fettercairn, Dublin 24; (6) Deputy Cowley — to ask the Minister whether he feels the decision not to renew the licence of North West Radio by the Broadcasting Commission of Ireland is a travesty of justice.

The matters raised by Deputies Rabbitte, Neville, Pat Breen and Costello have been selected for discussion.

### Barron Report: Statements.

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I express the Taoiseach's regret that he is not able to be present in the House today for these statements. He initiated this process following a meeting with the Justice for the Forgotten group on 22 April 1999 and he remains deeply committed to the victims and their families and the search for the truth surrounding these terrible atrocities. As Attorney General at the time, I was centrally involved in these developments and can testify to the commitment of the Taoiseach to getting to the truth of that series of terrible events. When I was on the Opposition benches, I was aware of the Justice for the Forgotten group and assisted on an all-party basis with a group of Deputies from all sides of the House in an effort to promote the group's cause at a time when it did not have that many friends.

The Dublin and Monaghan bombings left an indelible mark on the people of Ireland. They did not simply affect Dublin and Monaghan. Those who were so cruelly blown away on that day and

many of those who suffered such terrible injuries, came from all walks of life and from all over the country.

The Independent Commission of Inquiry into the Dublin and Monaghan Bombings, whose sole member was at first, the former Chief Justice, the late Liam Hamilton and later Judge Henry Barron, began its work in early 2000. It was asked to undertake a thorough examination involving fact-finding and assessment of all aspects of the Dublin and Monaghan bombings and their sequel, including the facts, circumstances, causes and perpetrators of the bombings; the nature, extent and adequacy of the Garda investigation, including the co-operation with and from the relevant parties in Northern Ireland and the handling of evidence, including the specific analysis of forensic evidence; the reasons no prosecutions took place, including whether and if so, by whom and to what extent the investigations were impeded; and the issues raised by the "Hidden Hand" television documentary broadcast in 1993.

This was to prove a difficult and time-consuming task. The events being examined took place 30 years ago and many of those who were centrally involved at that time are since deceased. Accessing records both inside and outside the jurisdiction proved difficult and, in some cases, was simply not possible. In particular, arising from the non-availability of records in Northern Ireland, the scope of Mr. Justice Barron's report was, as he described it, limited as a result.

Mr. Justice Barron drew conclusions relating to the terms of reference given to the commission. I do not propose to go into all the conclusions in his report in detail, save to say that the report sheds a great deal of light on what happened on that day, why it happened, who was responsible and the actions that ensued.

Key among Mr. Justice Barron's conclusions was that the Dublin and Monaghan bombings were carried out by loyalist paramilitaries, most of whom were members of the UVF, primarily as a reaction to the prospect of a greater role for the Irish Government in the administration of Northern Ireland arising from the Sunningdale agreement. It was also concluded that these loyalist groups were capable of carrying out the bombings without help from any section of the security forces in Northern Ireland, although it is likely that individual members of the UDR and RUC either participated in or were aware of the preparations for the attacks. Mr. Justice Barron further concluded that the Garda investigation failed to make use of the information it obtained and that the State was not equipped to conduct an adequate forensic analysis of the explosions, one consequence of which was that potentially vital clues were lost.

As I stated at the time of publication of the Barron report, it would not be possible for me to account for the course of a Garda investigation some decades ago but it is a matter of consider-

able regret that the report found inadequacies with the Garda investigation.

Since that time, there have been profound changes in Garda structures, criminal justice legislation, available technology and the level of co-operation between police services. Although there is obviously concern and disappointment about what the Barron report says about the Garda investigation, we should not lose sight of the fact that in the course of the past 30 years the Garda has proved vital in preserving the security of the State and some of its members have been called on to pay the ultimate sacrifice in that regard.

Mr. Justice Barron found no evidence that any branch of the security forces in Northern Ireland knew in advance that the bombings were about to take place. I place on record my appreciation and that of the Government for the work carried out by the late Mr. Justice Liam Hamilton, Mr. Justice Barron and their team. I also thank Mr. Justice Barron for the assistance he gave the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights, which greatly appreciated his help.

On 10 December last, Mr. Justice Barron's report into the bombings was referred to the Oireachtas and both Houses asked the Joint Committee on Justice, Equality, Defence and Women's Rights to consider whether the report addressed all the issues covered in its terms of reference, the lessons to be drawn and any actions to be taken in light of the report, its findings and conclusions and whether, having regard to the report's findings and following consultations with the inquiry, a further public inquiry into any aspect of the report would be required or fruitful.

The referral of Mr. Justice Barron's report to the joint committee provided a very useful context for detailed consideration of his report and for further submissions by those who contributed to the work of the commission or were the subject of comment in the report. I am glad so many submissions were received and many of those who were the subject of the conclusions in the report availed of the opportunity to meet the joint committee and put their points of view. The Taoiseach appeared before the joint committee on 25 February last and I appeared before it on 10 February to respond to questions on points of interest.

**Mr. F. McGrath:** Many people did not show the joint committee the courtesy of turning up. It is a disgrace that a former Taoiseach did not turn up.

**Mr. McDowell:** Anybody who heard the testimony of those who lost loved ones or were injured in the bombings, some of whom are still suffering from horrific injuries to this day, could not fail to have been moved by their harrowing stories. Following 17 May 1974 the lives of those affected by the bombings were never the same again. Rarely, if ever, have such distressing

[Mr. McDowell.]  
accounts been heard in the halls of this Parliament.

I am glad the inquests into the deaths of those who were killed in the bombings have, at last, been held. The coroner apologised to the families for the delay in holding the inquests. This apology was welcome because I have no doubt that the absence of inquests contributed significantly to the sense of abandonment of the families. At the inquest hearings, the families had a further opportunity to remember their lost loved ones and recall the circumstances of their deaths. I hope this experience has helped in the healing process.

The joint committee reported back to the Oireachtas on 31 March 2004 and since then Members of this House have had an opportunity to consider its findings. I will address some of the issues raised in the joint committee's report and the conclusions it reached. The Government has not yet considered the report in advance of the House having an opportunity to express its views on the matter but it will do so in light of the views expressed by Deputies in the debate today and the inquest jury's findings.

The joint committee expressed views on a wide range of issues as requested in its terms of reference. These require careful examination and will be considered by the Government in due course. The joint committee also considered the very difficult questions about whether a public inquiry into any aspect of the report would be required or fruitful.

It broke down the issues of concern to it into internal issues which could be resolved within this jurisdiction, namely, the reason the Garda investigation was wound down, missing documentation in the Garda organisation and the documentation, if any, missing from my Department. The joint committee is of the view that a commission of investigation pursuant to legislation, which has been passed in this House and is currently before Seanad Éireann would be an ideal way to deal with the issues pertaining to this jurisdiction. In particular, the joint committee hopes such a commission would resolve these issues in a speedy and effective manner, while fully respecting fair procedures and natural justice. If the Bill is enacted into law, the commission would have powers of compulsion to send for papers and so forth and would not, therefore, be in the position of a non-statutory, voluntary inquiry.

I am aware that reservations have been expressed by Justice for the Forgotten about the suitability of this type of inquiry for a matter of this nature. Deputies will, I am sure, express their views on this in the House. The alternative being sought is a public tribunal of inquiry. One must consider whether such an inquiry would be significantly better or worse than a commission of inquiry established under the legislation currently before the Houses.

The joint committee also considered external issues relating to the identity of the perpetrators and whether there was collusion. Many of the submissions, and Mr. Justice Barron's statement, to the joint committee allude to the high level of collusion operating in Northern Ireland. There is a significant amount of material in the Barron report which could suggest a link between some of those suspected of having a role in the bombings and the security forces in Northern Ireland. The joint committee considered this issue at length and received both oral and written submissions from representatives of victims and relatives groups, legal representatives and other organisations. Most of these submissions relate to the issue of co-operation by the British authorities with Mr. Justice Barron's independent commission and the joint committee.

The Secretary of State for Northern Ireland wrote to the joint committee and gave his personal assurance that information was provided in the fullest possible manner, consistent with his responsibilities to protect national security and the lives of individuals. Notwithstanding this reply, however, on the question of whether there should be a further investigation or inquiry on the identity of the perpetrators and the issue of collusion, the joint committee considers that a public tribunal of inquiry in Northern Ireland and/or Britain is required and represents the best opportunity to be successful.

Before any inquiry would proceed, the joint committee has recommended that what is required, in the first instance, is a Weston Park style inquiry of the kind carried out by Judge Peter Cory. The House will recall that following agreement reached between the British and Irish Governments at Weston Park in 2001, Judge Cory, a retired Canadian Supreme Court judge, was appointed to undertake a thorough investigation of allegations of collusion between British and Irish security forces and paramilitaries in six cases. The aim of the process was to determine whether there is sufficient evidence of collusion between state security forces and those responsible for the killings in each case to warrant a public inquiry.

Such a Cory-type investigation, according to the joint committee, should be conducted on the basis that the judge conducting the investigation should be of international stature, the investigation would have the powers to direct witnesses for interview, compel the delivery of documentation and inspect premises — statutory powers not available to Judge Cory, time limits should be agreed for the commencement, duration and conclusion of the investigation, the judge conducting the investigation could recommend further action, including whether a public inquiry in either jurisdiction should be held, and the relevant Government would be obliged to implement any recommendation within a defined time limit. The Government will consider this recommendation carefully, although a Cory-type



inquiry would be non-statutory and, thus, would not have powers beyond those available to Mr. Justice Barron.

The question of dealing with the events of the past 30 years in Northern Ireland is difficult. In this jurisdiction, we asked Mr. Justice Barron to examine a number of further cases and he recently sent his report to the Taoiseach on atrocities that were attempted or perpetrated before 1974. These include the 1972 and 1973 Dublin bombings and other bombings and incidents. It is intended that this report, which I have just seen, will also be referred to the Oireachtas and will also be published.

Mr. Justice Barron will report later this year on other events perpetrated after 1974, including the Seamus Ludlow case, the Dundalk bombing of 1975 and the Castleblayney bombing of 1976. The Government's primary concern in carrying out this work has been for the victims of all these outrages and their relatives. The excellent work of the former Tánaiste, John Wilson, in preparing the report of the Victims Commission provided a basis for responding to the needs of those who suffered such loss and who, over the years, were largely forgotten.

The Government has established a Remembrance Fund Commission and will provide €9 million over the next three years to acknowledge the loss that people suffered and to provide for the ongoing medical needs of victims. Applications for receipt of funding have recently been invited by the commission. Through the fund, it is also being arranged to provide a substantial contribution to the Northern Ireland memorial fund.

There are lessons to be learned from all this. The Government will consider the sub-committee's recommendations, take account of the contributions to this debate and action will be taken. I thank all those who co-operated with Mr. Justice Barron in compiling his report and with the joint Oireachtas sub-committee in its deliberations. They have made a valuable contribution to the search for truth. The committee carried out its work diligently and with great care and I pay tribute to the Chairman and members of the sub-committee for the work they did, the sensitive way they conducted proceedings and the careful way in which they avoided broad brush solutions as they examined the realities of what they had to deal with and faced up honestly to the complexities involved.

I pay special tribute to the work of the members of Justice for the Forgotten who have so ably represented those who suffered so much as a result of the atrocities that were perpetrated on them. I know this has been a difficult and lengthy process for them as I have been privy to their dealings with the Government over the past five years. I am glad that, over recent years, my Department has been able to assist the group financially and that this support will continue through the remembrance fund.

Over recent years, considerable progress has been made in securing peace and stability on this island but we still have a considerable way to go. However, the position is infinitely better than in the dark days of the Troubles when the agenda of a great number of people on the island was to destroy human life as a way of making political points. Sadly, a few people still cling to that mad view of the world whereby they can advance the cause to which they adhere by killing other people. However, there are a tiny minority. The ongoing work of Mr. Justice Barron is helping people to understand and come to terms with that past.

**Mr. P. McGrath:** I welcome the opportunity to contribute to the debate. I express my sincere sympathy to all the families of the victims of the bombings. These terrible atrocities were carried out 30 years ago but the damage then and since has been incalculable as families continue to live with that terrible day when their loved ones were blown away.

Mr. Justice Barron appeared before the sub-committee on the Barron inquiry, of which I was a member, on 10 December 2003 and stated, "The Dublin and Monaghan bombings of 17 May 1974 remain the most devastating attack on the civilian population of this State to have taken place since the 'Troubles' began." It was the greatest atrocity in the State's history and nobody has been brought to justice for it.

The sub-committee examined various aspects of the Barron report. On the first day of hearings we received submissions from various people whose loved ones were murdered that day, which are listed in the report. I refer to three people representing different age groups who made presentations. The first is Derek Byrne who was a young man at the time. The sub-committee's final report stated:

Mr. Derek Byrne told the Sub-Committee how at the age of 15 he was caught up in the blast of the Parnell Square bomb. He was pronounced dead on arrival in Jervis Street Hospital and placed in a morgue. It was only when he later woke up that the hospital authorities realised he was alive and brought him to the operating theatre to treat his injuries. He stated: "I am still attending hospital. The stigma of the bombings is the scars I carry. When I was a teenager I was refused entrance into night clubs and discotheques and still to the present day you have a stigma attached to you..."

That young man's presentation to the sub-committee was touching as he outlined his terrible memory of the bombings and the ongoing difficulties it created for him.

The second person is Mr. Tim Grace, a man whose life was shattered at the time. He had recently married and had a baby son. His wife went to town that day. The report states:



[Mr. P. McGrath.]

Mr. Tim Grace asked us to reflect on the fact that it was by total chance that his wife was killed: "During the day and in the afternoon, I looked after the baby for my wife. She had been suffering from flu during the week. The baby was teething and she was not in the best form so I said to her that she should take the car, go into town and have a look around. She went into town and parked the car in Gardiner Street, just around the corner from Talbot Street. She was obviously killed on the way back at 5.30 p.m. when the bomb went off. The elements of chance are, as I pointed out, colossal."

This case involved a man and woman starting out in life and we can all identify with what he has been through.

The third person was a more elderly man, Mr. Edward Roice, whose daughter was killed. The report states:

Mr. Roice urged the Sub-Committee to address the feelings of neglect which he and other victims of the bombings have suffered. "It has gone too far, as the other speakers have said. The Dublin and Monaghan bombings are like dirty words to some higher ups. The attitude is to ignore it and maybe they will forget about it. But we will never forget."

These are examples of the testimony given at the sub-committee hearings.

I commend Deputy Ardagh, who chaired the sub-committee and did exemplary work as he guided members through the hearings. I pay tribute to the staff of the sub-committee, particularly Mairead McCabe, the clerk to the committee, and the legal advisers who assisted us. Even though we went through a difficult time and we worked remarkably hard, we almost reached unanimity on the report. One or two members had reservations but it was well received across the board.

Members received a letter from the Justice for the Forgotten group yesterday which commended the findings of the sub-committee. I am glad the group endorsed our report. We were asked to examine the Barron report from different points of view and not to re-investigate it. We went through the findings of the Barron report, the adequacy of the Garda investigation, the missing documentation, the role and response of the Government of the day and the composition of the bombs. We also had a huge number of submissions.

On the perpetrators of the terrible crime, which killed 34 people, we refer back to what was said in the report. Mr. Justice Barron stated categorically that the inquiry was satisfied that the persons principally responsible for carrying out the bombing attacks on Dublin and Monaghan were loyalist paramilitaries. This was the view of the security forces on both sides of the Border at the time and most of the information available to the inquiry pointed in that direction.

He went on to inform the sub-committee that the report generally indicated that there was a high level of collusion in Northern Ireland at the time of the bombings. The issue of collusion came before us and Mr. Justice Barron stated clearly that it was his opinion that it was more than likely that there was collusion. We dealt with that issue over a long period and various submissions on the matter were made to us. We can look at what Mr. Justice Barron said, which I quoted, but there is also the testimony of another witness. Mr. Sean Donlon, the former Secretary General of the Department of Foreign Affairs, was assistant secretary on the Northern Ireland desk in 1974 and he was very close to Northern Ireland affairs at the time. His response to the question of whether there was collusion in the Dublin-Monaghan bombings was: "I would certainly, with the passage of time, use the word 'probability' rather than 'possibility' when it came to collusion." We must look at his judgement very carefully as he was in the thick of it at the time and was aware of what was happening.

We also received a comprehensive report from the Pat Finucane Centre, which also reported to Mr. Justice Barron. The findings of that report point clearly to a group of people operating in Northern Ireland, which had close links to the security forces and which was more than likely involved in the bombing. The suspicion of collusion is very strong and needs further review.

The committee decided that a number of issues had to be examined. Internally there was the matter of the Garda inquiry, and the Minister for Justice, Equality and Law Reform has outlined the Bill which, when enacted, we felt would be the best mechanism with which to examine the Garda inquiry and missing documents. Although certain people have reservations about it, we should give the legislation the chance to show it is effective before condemning it. It is the way forward.

The next issue, which caused some controversy, was whether the Government of the day did what it should have done. Did it handle the issue sensitively and follow through on the reports? Mr. Justice Barron was quite critical of the Government of the day, saying it had not addressed the matter with adequate concern. The report states that one of the complaints made related to the importance Mr. Justice Barron was attaching to the question of whether the Irish Government of the day had failed to show adequate concern and that an opportunity should have been afforded to allow a response on this issue.

Many members of that Government addressed the committee. One of them, who was in the eye of the storm at the time, was the Minister's predecessor, former Deputy Pat Cooney. The sub-committee noted that the atmosphere and political landscape was very different 30 years to what it is today. As Mr. Cooney said, the ambience in which the Barron report was produced was:

. . .light years removed from the fraught and frenetic times of 1974. The burnt out British

Embassy was still standing as a stark reminder that democracy could very quickly become anarchy. Atrocities were being committed, mainly by the Provisionals, mainly in the North, on a distressingly regular basis. Some of those atrocities spilled over here. I think Dr. FitzGerald mentioned the murder of our colleague and predecessor, Senator Billy Fox.

Senator Fox was murdered six weeks before the Dublin-Monaghan bombings. Mr. Cooney went on to say:

Armed robberies on post offices, banks and mail vans were commonplace. Demonstrations and agitation were being fomented and agitators bussed in. There were hunger strikes and unrest in the prisons. It was a very fraught time. The contemporary context has always to be kept in mind when considering the task that Judge Barron had to contend with.

That gives us a small flavour of what was happening at the time, when the State was under attack. I recall going to meetings addressed by Mr. Cooney and one had to run the gauntlet of demonstrators outside who were verbally attacking those attending such meetings. It was a very difficult time.

When Mr. Justice Barron came to the committee on 10 December, we asked if he felt that criticism of the Government of the day was a little harsh. He said:

One of the problems we faced was that in doing an independent inquiry we had to stand back from the people we were dealing with. That was a consideration. Looked at from the point of view I believe that the Deputy who put the question is looking at it, maybe it was unfair.

In that response Mr. Justice Barron told the committee that perhaps his condemnation of the Government of the day was, in hindsight, something he would have looked at further.

Why did we not bow the pressure from various sectors to ask for a public inquiry? I referred earlier to the fact that the best way to deal with the inquiry within our jurisdiction was by way of the new legislation, which is presently in the Seanad. We felt strongly that if we were to make progress with material outside the State and we got expert advice on this matter, we could not do so by way of a public inquiry. When Mr. Justice Barron sought documents from the North he simply was not afforded the opportunity of getting those documents.

It is important that there are further inquiries into this matter. The committee's view was that the only way forward was to have a Weston Park-style agreement between the Irish and British Governments. In that way a Cory-style inquiry could be set up which would have access to various documents and could then decide whether a further inquiry was required. That is possible. The friendship between the Irish and British

Governments could lead to a Weston Park-style agreement. It is the only way forward and is what we should seek. I intended to say a few more things, but I do not want to delay the House further.

**Mr. Costello:** I commend the chair of the all-party Oireachtas sub-committee, Deputy Ardagh, on the excellent manner in which he chaired it and the secretariat which did such fabulous work. It was not an easy report to compile, but it was done expeditiously and efficiently. I also commend the groups and individuals who appeared before the sub-committee. In particular, I pay tribute to Justice for the Forgotten. It is difficult to appreciate how much work has been done by that voluntary organisation over the years and how we could have reached this stage without that work. The group represented by Desmond J. Doherty gave its expertise and information. The Pat Finucane centre from Derry did extraordinary research work in difficult circumstances and British Irish Rights Watch gave us good advice on the matter. We were ably supported by those organisations which had a direct interest and involvement in and had been working for years — some for well over a decade — in this area.

The background to this matter has been well rehashed in the context of the Northern problems and the Dublin and Monaghan bombings in 1974 which, combined, were the greatest atrocity in the history of the State. It was preceded by two other bombings in 1972 and 1973, which the Minister mentioned, and further inquiries. I am glad Mr. Justice Barron has reported on those two bombings because there is a link in regard to the perpetrators of, and collusion in, those bombings in 1972, 1973, 1974, the other bombings which took place in 1975 and 1976 and the killing of Seamus Ludlow. It will be interesting when we are able to put the full picture together.

The 1974 bombings were the greatest atrocity in the history of the State. The horror stories of the victims — the survivors — were seared into the consciousness of all members of the sub-committee. Their testimony was very powerful. None of us would have expected the degree of grief, suffering and courage expressed by those who appeared before us. Over the years there was a lack of counselling or support services from State agencies for the victims — the survivors. Not only that, the financial contribution which had been made over the years in terms of any form of compensation was paltry.

I remember the time of the bombings. I was a young teacher in my first year in Loreto College in North Great George's Street. One of my students was injured in the bombing. If the bombing had taken place an hour or so earlier, there could have been a far greater catastrophe with hundreds of students streaming down North Great George's Street to Parnell Street to catch buses home.

Over the years there has been a lack of focus on and public interest in this atrocity. At this

[Mr. Costello.]

point, I do not believe anyone can comprehend why. It was lost in the litany of suffering, deaths and bombings in Northern Ireland. It was put to the back of people's minds and was never dealt with by the State or the body politic until the 1990s with the "Hidden Hand" programme, the formation of Justice for the Forgotten, the anniversary meetings, the anniversary masses in the Pro-Cathedral and other meetings which took place. We also remember the extent of State suspicion and hostility to any form of organisation that remembered the atrocity. The early meetings were always attended by a strong presence from the special branch which often questioned people who attended and tried to warn off the public from becoming involved. It was a sad period in terms of the State's response to this atrocity which affected so many lives dramatically.

Eventually people were listened to. John Wilson, the former Tánaiste, was the first person to be made responsible for conducting an investigation. He recommended the inquiry established under the late Mr. Justice Hamilton and, following his death, Mr. Justice Barron. It resulted in a comprehensive report which was published last year and which gave rise to the Oireachtas sub-committee being established. I do not want to dwell on the findings of the Barron investigation as they have been well rehashed. It was a good report and it went as far as he could go on a voluntary basis and with the powers at his disposal. It laid the path for further progress.

The establishment of the Oireachtas sub-committee enabled it to take a comprehensive look at the findings and submissions made, to bring the various people before it and to come up with recommendations for a way forward from that research. I was a member of that sub-committee and I believe it did a good day's work, although I would be expected to say that. However, the sub-committee put together a coherent, practical package of proposals which showed a step by step way forward to achieving the objective.

The sub-committee started out by saying it believed a public inquiry into the perpetrators of, and the collusion in this atrocity was necessary. It did not shy away from making the hard decision. However, it showed how that could be achieved and how steps could be taken in this jurisdiction and in Northern Ireland-Great Britain to do so. In the first instance, work has to be done to find out why the Garda investigation ended so abruptly. The investigation was all over by the summer of 1974 yet this atrocity had taken place in May 1974. Normally such an investigation remains open in a meaningful way for many years if it has not been concluded. There is a proposal that a commission of investigation be established to look into that matter. The commission of investigations legislation, which I hope will pass through both Houses of the Oireachtas by next week, would be an appropriate mechanism for doing that.

An investigation is also required into why so many crucial and relevant documents appear to be missing from Garda files and from the Department of Justice, Equality and Law Reform. Those crucial investigations need to be conducted at an early stage by this Government. The next step for the Minister, the Taoiseach and the Government is to set up those commissions of investigation as quickly as possible and I would like to see them established in early autumn.

An issue which we perhaps did not properly address in having this debate and which needs to be dealt with is the recommendation that a resolution should be passed by both Houses of the Oireachtas adopting the recommendations of the sub-committee. I do not know how we can do that because we are having statements today, but perhaps it can be done by way of a motion. That would be a preliminary step before transmitting that resolution to Westminster to ask the British Parliament to do likewise, namely, accept the findings of the Barron committee and the recommendations of the sub-committee on Justice, Equality, Defence and Women's Rights as the way forward. Those recommendations need to be implemented in this jurisdiction and in the United Kingdom.

We proposed that a public inquiry should take place covering Northern Ireland and Great Britain because we felt that was where the real meat of the investigation had to take place. We could not conduct an investigation or public inquiry in this jurisdiction in a meaningful fashion because we could not compel witnesses from Northern Ireland or Great Britain to attend here. We proposed a Weston Park-type introductory investigation, which would have much the same role at the Cory investigation, of proposals for public inquiries into a number of matters, including the killings of Pat Finucane, Rosemary Nelson, Superintendent Buchanan and Superintendent Breen. I understand the Taoiseach is about to establish such a process here as an indication to the British Government that he and his Government colleagues are serious about the cases of people from Northern Ireland who were assassinated, where there is some evidence to indicate that their deaths came on foot of actions taken in this jurisdiction. That is a necessary step.

The powers that we are proposing as regards the Weston Park proposals are in excess of what were granted to Judge Cory who has powers of compellability, can direct witnesses for interview and also has power to seize or require documentation to be produced before him. There is also an obligation on the relevant government to implement any recommendations that are made. The difficulty, however, is that it can only come about by agreement and that will only happen if the Taoiseach is able to persuade the British Prime Minister to establish such a process. We are quite convinced that this would lead to a full-blown public inquiry.



In the event that the British Government does not co-operate and does not establish a Weston Park-type investigation or a subsequent public inquiry, there is a provision in the proposals that the committee and the Government should go to the European Court of Human Rights to seek relief for the failure by the British Government to act on an extraordinary matter that required an inquiry. The totality of that package means that we can proceed in a practical way with a reasonable opportunity of obtaining results. I hope we will be able to achieve that effectively.

The sub-committee came up with other recommendations, apart from those directly related to the findings I have mentioned about proceeding further with the inquiry into the Dublin-Monaghan bombings. There was an extraordinary, hands-off role by the Minister for Justice, Equality and Law Reform and the Government as regards what should have been the most serious investigation ever to have taken place in this State. It seemed that the Garda Síochána operated without any great involvement by the Executive. The sub-committee recommended that while the Garda Síochána is entitled to independence in its investigations, the Government and the Minister for Justice, Equality and Law Reform should at all times be informed of a serious investigation. No serious matter that is being investigated should be allowed to disappear off the face of the criminal investigatory map within a short space of time, as if it never existed. In addition, the informal basis on which the Cabinet sub-committee on security seemed to operate at that time certainly needs to be examined carefully.

There is one final recommendation that should be examined and which the Minister for Justice, Equality and Law Reform could address with his colleagues in Europe. Since we have experienced difficulties in opting directly for a full-blown public inquiry in this jurisdiction because of the difficulty in getting witnesses to come forward, there should be some inter-jurisdictional co-operation — a protocol or agreement — to provide mutual recognition in EU member states so that where a civil public inquiry is established in one jurisdiction, it could also be recognised in another. If such a protocol were established, all the difficulties that gave our sub-committee such headaches could be surmounted quite easily. The Minister for Justice, Equality and Law Reform should advance that proposal with his EU opposite numbers.

I am glad that we are having this debate and I am also glad that the Justice for the Forgotten group seems, by and large, to have accepted and commended the findings of the Oireachtas sub-committee. I hope its recommendations will be implemented in full.

**Caoimhghín Ó Caoláin:** I wish to share time with Deputies Gregory and Sargent.

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

**Caoimhghín Ó Caoláin:** Saddam Hussein is in the dock in Iraq today and I welcome that such a tyrant has been made answerable for his crimes. However, how many British Prime Ministers, Secretaries of State and senior army and police officers should also be in the dock for their war crimes around the world, particularly here in our own country? Thirty years on, victims of the Dublin and Monaghan bombings still seek truth and justice. The agents of the British Government who colluded in the bombings and their political masters in Whitehall have yet to be subjected to an inquiry, let alone prosecuted for war crimes. They, too, should be in the dock.

The British Government follows debates in the Dáil closely through its representatives who are almost permanent fixtures in Leinster House. The British Government's refusal to co-operate with the inquiry of Justice Barron, with the hearings of the Oireachtas sub-committee, or with the recently concluded inquests, speaks volumes. Their Secretary of State in the Six Counties, Paul Murphy, recently wrote in *The Irish Times* that he is interested in listening to victims of the Troubles. Yet, the same Mr. Murphy turned down an invitation from the Oireachtas sub-committee to attend its hearings. The Northern Ireland Office, the Police Service of Northern Ireland and the North's forensic science department were each invited to send representatives and give evidence at the inquests but refused to do so. This followed their refusal to attend the Oireachtas joint committee's hearings. Their silence and non co-operation exposes their guilt.

I share the anger and frustration of the survivors and the bereaved of Dublin and Monaghan at the British Government's stonewalling, but I am equally exasperated by the meek acceptance of this by the Government here. We have repeatedly seen the Taoiseach shrug his shoulders and deem as inevitable the silence from the British side. That is not good enough.

Worse still, we have seen this used as an excuse to refuse a public inquiry in this jurisdiction. I must question the determination and drive of this Government in pursuing the British Government. Regrettably, the dedication and commitment necessary is lacking. The inquiry should be held and the British Government's representatives should be summoned to attend it, along with those who, we understand, will have a contribution to make. If they refuse to come, let the empty seats expose their position globally.

The report of the sub-committee under discussion was a disappointment. I may be the first to say so this evening, but it is the case. When the report recommended a Cory-type investigation in the North, it stated that the judge conducting the investigation could recommend further action, including whether a public inquiry in either jurisdiction should be held. Yet, in Mr. Justice Barron's report, the sub-committee had more



[Caoimhghín Ó Caoláin.]

than enough evidence to call, in its own right, for a public inquiry covering both jurisdictions. However, the majority of the committee failed to do so. Therefore, I acknowledge the minority view of the sub-committee member, Deputy Finian McGrath, who rightly held out for a full public inquiry, for which courageous stance I commend him.

The establishment of the Barron inquiry represented a measure of long-overdue progress but we have now reached another impasse. Until the British agree to co-operate, the recommendation for an inquiry in the North will be a dead letter. Another key recommendation of the sub-committee was a commission of investigation in this State into the inadequate Garda investigation, incidents in Dublin at the time of the bombing which pointed to collusion and the now notorious missing or destroyed Garda files and other documentation in this State.

That investigation should be set up immediately on enactment of the Commissions of Investigation Bill. It should examine the issue of infiltration of the Garda Síochána by British intelligence which, it is widely accepted, took place. Moreover, its extent and how far up the ladder it went are relevant to the Dublin and Monaghan bombings. Successive Governments, apart from the defensive commentary which will be offered, have sadly failed to ensure that the survivors and families of the victims of the Dublin and Monaghan bombings secured truth and justice. Some 30 years later it is a binding responsibility on us all to ensure that is achieved.

**Mr. Gregory:** I affirm my commitment to the campaign of the families, relatives and victims of the Dublin and Monaghan bombings in their search for the truth about the single worst atrocity in the history of the Northern conflict. We owe it to the families and the memories of those who died to bring closure and finality once and for all to this issue. It is the duty of the Government to take the necessary steps to ensure this happens. Having listened carefully to the Minister's statement and those of the Fine Gael and Labour Party spokespersons, there seems to be a distinct lack of political will to unambiguously support the request of the relatives and victims of the Dublin and Monaghan bombings.

The most recent policy statement from the Justice for the Forgotten group, dated 19 June this year, ends with the following appeal: "We urge the Oireachtas to call for and the Government to establish in this State nothing less than a public tribunal of inquiry into those grave matters which require immediate investigation."

**Mr. F. McGrath:** Hear, hear.

**Mr. Gregory:** It seems that finality can only be achieved by a public tribunal of inquiry in this State. Nothing else has any hope of bringing closure to this issue. Those involved in the Justice for

the Forgotten group are not unreasonable people. They accept in the group's statement that an effective investigation of collusion by British security forces in the 1974 bombings, an investigation conducted in Ireland, will require the participation and full co-operation of the British Government. The debate is no longer about whether a further inquiry is needed, rather it is about the form that inquiry should take. The group's preference is for a voluntary binding agreement between the Irish and British Governments to pursue an effective human rights investigation into the bombings. This, they say, could be held under the aegis of and in accordance with the Good Friday Agreement. This seems to be a very reasonable proposition, so what is the problem?

What is the obstacle to having one effective and efficient public inquiry held in this State with the full support of the Irish and British Governments, which could jointly take steps to ensure that all relevant evidence, documentation and persons would be made available to that inquiry? I call on the Government to initiate such a public inquiry and announce a firm timetable for action, to engage with the families and agree the structure of a properly constituted human rights inquiry. Surely, the Taoiseach can meet the British Prime Minister specifically on this issue and, if necessary, demand Mr. Blair's full co-operation. After all, hardly a day goes by without the British Prime Minister condemning terrorism somewhere in the world. Why, therefore, does the British Government have a difficulty with this issue?

Is it because the single worst act of terrorism in this State may have been perpetrated by agents of the British Government and carried out with the collusion of members of the British security forces? The reluctance of the Irish Government to pursue with the British Government the need for a full public inquiry must also be questioned. Why are the main Opposition parties, namely Fine Gael and the Labour Party, so reluctant to demand this course of action? I am intrigued by the reticence of all the established political parties to pursue the most logical course of action. Is there a reluctance to cause serious embarrassment to the coalition politicians in power in 1974 or to senior Garda figures with very grave responsibilities in the matter, or the Anglo-Irish relationships of today?

I am aware that this issue will not go away because for many years I have seen the commitment and determination of relatives and victims to pursue this until finality is achieved. The recent inquests, part of which I attended, will only serve to strengthen the resolve of the families. I trust the Government will not cop out on this issue but rather will facilitate the Justice for the Forgotten group in its members' search for truth.

**Mr. Sargent:** The term "fight against terrorism" is one we hear much about from the Taoiseach and the British Prime Minister, Mr. Tony Blair, not to mention President George W. Bush.

However, such words ring hollow in the ears of relatives and victims of the Dublin and Monaghan bombings. The interest in the bombings is recent when one considers the commemorations which have taken place. The first was organised by two elderly citizens and it was some years later that the State felt embarrassed enough to get involved, and even then, it took a long time.

On the 17th anniversary, my colleague Ms Patricia McKenna circulated a letter to all Deputies and Senators, which received very little response, not to mention attendance at the commemoration. I pay tribute to her, as someone who lost out in the European Parliament elections, as a consistent, determined and inspiring champion for justice and peace who remains determined to assist the Justice for the Forgotten group in finding justice and truth. Patricia McKenna attended the recent 30th anniversary commemoration in Monaghan at a time when one could have forgiven a Dublin MEP candidate for forgoing events outside her constituency. Such is the level of her commitment and interest in the issue we are debating.

The Green Party commends Mr. Justice Barron's report and the findings of the Oireachtas committee on the Barron report. The horrific events of 17 May 1974 are still an open wound for many who are looking for closure. Mr. Justice Barron has properly turned the spotlight on those events of 30 years ago and his report, in which he found it "probable and more than likely that there had been collusion between members of the RUC, the UDR and UVF bombers", needs to be followed through. Answers are still needed and they are out there.

The lack of co-operation by British authorities in Mr. Justice Barron's inquiry, which extended to the Oireachtas sub-committee when neither Northern Ireland Secretary, Mr. Paul Murphy, nor his two predecessors would accept invitations to give evidence before the sub-committee, has necessitated Mr. Justice Barron withholding judgment on whether that collusion involved British military intelligence. We need a definitive answer to this.

We all need a definitive answer to the question of the Garda Síochána's unprofessional behaviour at the time. Why were its investigations wound down in 1974 without following up certain leads? Why have official Government files gone missing from the Department of Justice, Equality and Law Reform and the Garda Síochána? Why were there years of Government neglect of all these issues?

That the Dublin City Coroner's inquest adjourned for nearly 30 years is a poignant symbol that not only were the bombings horrific, the suffering and neglect imposed for a generation by successive Governments on the victims and families of those bombings has also been horrific. Much of the information being revealed 30 years later at the inquest was information available in 1974.

The Green Party, Comhaontas Glas, supports the Justice for the Forgotten group's call for nothing less than a public tribunal of inquiry to follow through on the findings of the Barron report and the Oireachtas sub-committee report. There is a need for this inquiry to be held in Ireland, not just because many of the witnesses are elderly but because many of the witnesses, such as the former Taoiseach, Mr. Cosgrave, and the former Minister, Mr. Cooney, need to be close to the inquiry because they have many questions to answer. Justice for the Forgotten does not support the Oireachtas committee's recommendation that an investigations commission, a private process, be established and points out that the Human Rights Commission has expressed deep concerns as to the suitability of such a commission where abuses of fundamental human rights are involved. I could relate, but time does not permit, the press release from February 2004 in which that is stated.

Given that co-operation from the British authorities, which is a necessity, seems not to be forthcoming to say the least, the decision by the Justice for the Forgotten group to take a case to the European Court of Human Rights is fully justified and based on sound argument. First, there is a *prima facie* case that the UK, through its security forces, colluded in the Dublin and Monaghan bombings and, second, the UK, by failing to co-operate with the Barron inquiry, the Oireachtas committee hearings and the inquests, has breached its obligations to co-operate with inquiries into loss of life as set out under Article 2 of the European Convention on Human Rights. If there is anything the Irish Government can do to facilitate this, it has a bounden duty to do so.

The issue of the remembrance fund, established in early 2003, to provide funding for victims of the Troubles in this jurisdiction is one I have often raised during the Taoiseach's questions. The money from the fund has been a long time coming. I understand from the Justice for the Forgotten group that the limited terms set down to qualify for the fund, siblings being excluded, mean that 17 of the 37 victims' families involved in the bombings and the earlier Dublin bombings will not qualify. This fund was not just about money; it was about acknowledgement. I urge the Government to reconsider its terms.

**Mr. B. Smith:** I am glad to have the opportunity to make a contribution on the final report of the Joint Committee on Justice, Equality, Defence and Women's Rights into the report of the Independent Commission of Inquiry into the Dublin and Monaghan bombings of 17 May 1974. That we are debating this report in the second half of 2004 is clearly a terrible indictment of our public administration system. It is regrettable and it is unacceptable that these awful tragedies of 30 years ago were not comprehensively investigated at a much earlier time.

I recall the Taoiseach, when speaking at the joint committee, repeatedly using the words

[Mr. B. Smith.]  
 “pain, loss and abandonment”. Those victims and the families of victims have every reason to believe the State abandoned them for many years and they have had to endure such pain and loss. The former Tánaiste, John Wilson, as victims commissioner, recommended in 1998 that a private inquiry should be undertaken into the Dublin and Monaghan bombings. Like the Minister for Justice, Equality and Law Reform, I strongly commend his work as, victims commissioner. Then the Government appointed the former Chief Justice, the late Mr. Justice Hamilton, to examine all the circumstances of the bombings. Subsequently, Mr. Justice Henry Barron took over the completion of this inquiry and its work. I compliment Mr. Justice Barron on a very detailed and thorough report and commend the work of Deputy Ardagh and all the members of the sub-committee.

The Justice for the Forgotten group has been exceptional in its painstaking work and deserves great credit. Mr. Greg O’Neill, solicitor, and other members of its legal team have been very impressive in outlining the circumstances of these awful tragedies, the subsequent neglect in pursuing meaningful inquiries and, above all, the need to get to the truth.

In his evidence to the joint committee I recall that the Taoiseach referred, in particular, to the commitment and the dignified way in which relatives of the victims and victims of the bombings put their case. I fully endorse the Taoiseach’s comments. From my dealings with the Justice for the Forgotten group and also with relatives of the victims, I realise the terrible pain and suffering that has been inflicted and the great dignity with which those people have put forward their own case.

Mr. Justice Barron’s report is comprehensive and it is obvious to us all that the work was thorough. We were all conscious that maximum, not minimal, co-operation from the British authorities at all levels would be essential to get to the truth. One telling comment from Mr. Justice Barron states:

Correspondence with the Northern Ireland Office undoubtedly produced some useful information, but its value was reduced by the reluctance to make original documents available and the refusal to supply other information on security grounds. While the Inquiry fully understands the position taken by the British Government on these matters, it must be said that the scope of this report is limited as a result.

I believe those comments of Mr. Justice Barron clearly demonstrate that the necessary co-operation was not forthcoming from the British authorities. I wish to refer again to the work of the joint committee. Listening to people who gave evidence to that committee brought home to us repeatedly the terrible pain and suffering inflicted

on so many and also the absolute futility of violence.

The essential aim of any inquiry must be to get to the truth. In its report, the joint committee has put forward practical proposals and I hope the Government will agree to those recommendations. The business is unfinished. The least these victims deserve is that the truth is achieved and that justice is administered.

Some time ago I requested the Taoiseach to include the Belturbet bombing of 1972 in the Barron report. I was pleased the Taoiseach acceded to this request. I understand that Mr. Justice Barron’s consideration of the Belturbet bombing, along with other terrible events, including the murder of Séamus Ludlow, will be reported this week. Two young people were killed in Belturbet on that fateful night and, unfortunately, nobody has ever been brought to justice for those terrible murders. Today’s generation has a chance to put the murder, the mayhem and the killings behind us. One small tribute we could pay to the thousands of victims of the Troubles since 1969 is to ensure that the people of this island never again face that type of lawlessness and complete disregard for human life.

The political leaders in the Six Counties who are not living up to their responsibilities should realise that the overwhelming majority of the people of this island have demonstrated their desire for our country and island to be at peace and to be a place where human life is treated as sacred. That mandate was conferred on all of us with the approval of the Good Friday Agreement in referenda both North and South.

I commend the work of the Taoiseach and the Minister for Justice, Equality and Law Reform in their efforts to achieve the truth in regard to the desperate tragedies that are the subject of our deliberations this evening. What is important is not the name of an inquiry, but an inquiry, whether private or public, that gets to the truth. The mechanisms and procedures recommended in the report of the joint committee should be accepted by the Government. As other speakers have said, more answers are needed and the decisions to enable us to get those answers should not be delayed. I hope the Government will move on those recommendations at the earliest possible date.

**Mr. Neville:** I welcome the opportunity to contribute to the debate on the Barron report and commend the sub-committee on the great work by all its members under the excellent chairmanship of Deputy Ardagh. Those of us who were not members of the sub-committee looked in on its proceedings on a regular basis. The statement by Deputy Paul McGrath on the suffering and difficulties experienced over the years by the families of the victims was heart rending and moving. The exposure of the suffering and difficulties by the sub-committee constituted a great service in helping us to understand the great hurt felt.

6 o'clock



While it is one thing to read and debate the hurt felt by the families of the 33 people who died on the fateful night of 17 May 1974, the human aspect of the tragedy is brought to light when one hears the testimony of families and victims who were injured and still carry the scars. The testimony on the terrible events which took place in South Leinster Street, Talbot Street and Parnell Street in Dublin and in North Street in Monaghan exposed the psychological trauma which continues to be suffered by so many. It should be remembered that while today we are dealing with the Barron report, there are many other victims and families who were traumatised over the 30 years of the difficulties experienced in Northern Ireland.

The Barron report came to a number of conclusions. It concluded that the Dublin and Monaghan bombings were carried out by two groups of loyalist paramilitaries, one based in Belfast and the other in the Portadown-Lurgan area. Most, though not all, of those involved were members of the UVF. According to the Barron report, the bombings were primarily a reaction to the Sunningdale agreement while the loyalist groups which carried out the bombings in Dublin were capable of doing so without help from any section of the security forces in Northern Ireland. This, however, was not deemed to rule out involvement by individual RUC, UDR or British army members.

The report states that the Garda investigation failed to make full use of the information it obtained and that certain lines of inquiry which could have been pursued further in this jurisdiction were not followed up. A number of those suspected of the bombings were reliably said to have had relationships with British intelligence or RUC special branch officers.

The Barron inquiry examined allegations that the Garda investigation was wound down as a result of political interference but no evidence was found to support this proposition. It also concluded that there is no evidence that any branch of the security forces knew in advance that the bombings were about to take place. While the inquiry further concluded that there are grounds for suspecting the bombers may have had assistance from members of the security forces, the involvement of individual members in such activity does not of itself mean the bombings were officially or unofficially state sanctioned.

As alluded to by Mr. Justice Barron, the lapse of time has greatly diminished the usefulness of an inquiry such as the one he carried out. In addition, the failure of the Taoiseach to secure the co-operation of the British Government meant the inquiry did not have a substantial amount of vital information available to it. Perhaps the single greatest failing of the Barron inquiry process was the consistent failure to secure British co-operation which is disappointing when one reflects on the special relationship between the Irish and British Governments, the

Irish and British people and, in particular, between the Taoiseach and the Prime Minister. The negative impact of the unco-operative British approach has, been mentioned on several occasions by members of the sub-committee who pointed out that it cannot be overstated in the context of the completion of all aspects of the report.

In its report, the sub-committee stated that it had heard nothing in the course of its hearings to detract from Mr. Justice Barron's conclusions that the Garda investigation failed to make full use of the information available to it at the time, that the State was not equipped to conduct forensic analysis and that no proper chain of evidence was maintained. The sub-committee recommended that a commission of investigation should be established under the legislation in this area currently before the Houses to investigate why the Garda investigation was wound down and to examine why the Garda failed to investigate specified leads. The sub-committee went so far as to suggest that in recognition of the trauma, which can be caused to victims by the perception of a poor investigative process, major Garda investigations should be subject to periodic review.

The Barron inquiry encountered difficulty in locating all of the relevant files it believed were in this jurisdiction and the sub-committee considers that the question of missing documentation is one, which must be resolved. Accordingly, the sub-committee has proposed that a commission of investigation should be established to investigate the identity of the files or documentation which is missing, the reason for this circumstance, whether they can be located and whether systems recently put in place can prevent the recurrence of this problem.

On page 52 of its report, the sub-committee advances the idea of an agreement between EU member states to lend recognition to civil public inquiries to ensure they have the power to gather evidence and compel witnesses in other jurisdictions. The sub-committee considers that the possibility of holding a further inquiry into the identity of the perpetrators of the bombing and the issue of collusion requires further and extensive consideration. In advocating this consideration, the sub-committee recognised that many of the witnesses reside outside this jurisdiction. Accessing original documentation in the United Kingdom and Northern Ireland is also considered vital to the success of any further investigation or inquiry into these issues. The sub-committee favours the establishment of a public tribunal of inquiry in Northern Ireland and/or Great Britain, the terms of reference of which should be based on those of the Cory inquiry.

Failing this, the sub-committee believes Ireland should take the United Kingdom to the European Court of Human Rights for its failure to put in place an appropriate investigation. The sub-committee recommended that a resolution of both



[Mr. Neville.]

Houses of the Oireachtas be passed endorsing its report and that Westminster be invited to pass a similar resolution. I would appreciate it if the Minister in his response to the debate would comment on this last recommendation.

I pay special tribute to the Justice for the Forgotten group, which was established after the broadcast of the 1993 television programme, "Hidden Hand". The group has done a service to the people it represents and those whose lives were taken. It has prompted the excellent report which the Joint Committee on Justice, Equality, Defence and Women's Rights presented through its sub-committee to the House.

**Mr. Ardagh:** It was a great privilege to chair the all-party Oireachtas sub-committee on which sat Deputies Paul McGrath, Finian McGrath, Costello, Hoctor and Peter Power and Senator Walsh. A finer group of parliamentarians would be very difficult to find in any parliament in the world.

It was also a privilege to be part of the lives of the relatives and victims of the Dublin-Monaghan bombings for eight to ten weeks. There is no doubt that the whole country was moved by what Charlie Bird on RTE described as the raw emotion that came out during the first day of hearings. Deputy Paul McGrath today read some excerpts from those hearings. Everyone in the country was moved by the horror that happened and by the tragedy that continues to this day.

As the Minister for Justice, Equality and Law Reform said, the Taoiseach was the catalyst for the Barron report and the hearings of the joint Oireachtas committee as, following a meeting on 24 April 1999 with the members of Justice for the Forgotten, he promised action on the issue. This was followed by, John Wilson's Victims Commission and his recommendation that an independent commission be established.

The late former Chief Justice, Mr. Liam Hamilton, initiated that independent commission and he was followed by Mr. Justice Henry Barron. Neither I, nor most Members knew Mr. Justice Barron but he came to the committee to explain items in the report we did not fully understand. I have never met a more incisive or intelligent person. I understand he has just completed his report on the 1972-73 bombings and the Minister said he has seen those reports.

I note from the letter we have just received from Justice for the Forgotten that a Government announcement is imminent on the establishment of a public tribunal of inquiry into the murders of RUC officers Breen and Buchanan. Deputy Ó Caoláin rightly criticised the British Government and officials in the Northern Ireland Office for not attending the hearings of the Oireachtas committee and not meeting Mr. Justice Barron. I hope the leadership of the republican movement will co-operate fully with the public inquiry into the Breen and Buchanan murders.

Justice for the Forgotten was ably represented by, Mr. Cormac Ó Dúlacháin and the group's solicitor, Mr. Greg O'Neill. I pay tribute to Ms Bernie McNally, the chairperson of the group and Ms Margaret Irwin its campaign secretary. Lest anybody thinks Justice for the Forgotten did not think highly of the Oireachtas committee, a recent press release from the group on its response to the recommendations of the joint committee said it "commends the findings of the Oireachtas committee on the Barron Report". Various qualifications are made to this but the essence of the press release — from discussion I understand this to be true — is that Justice for the Forgotten commends the work we did and feels we did a good job within the parameters available.

I wish to mention Judge Peter Cory. When we wanted him to attend the committee as a witness, he had pneumonia so instead of him attending the committee we conducted our meeting by teleconference. Although a man of mature years, he was an impressive witness. He provided a great insight into how he worked as a result of the Weston Park talks. He explained how he went about his investigation and provided much useful information, which found its way into our report.

I am not here to defend, explain or advocate recommendations of the report. It stands on its merits. I am interested in hearing the views of the Members and seeing what action the Government will take on it. The committee has been of service and has done its job. Responsibility for progress now lies with the Members and Government as they see fit.

I am delighted the Commissions of Investigation Bill will, hopefully, pass through all Stages by the end of this session. Certain recommendations in our report will be better enabled, by the passing of that Act. The Minister for Justice, Equality and Law Reform has been most helpful to the committee and put in place provisions that will help to bring about the recommendations of the report. If it was not for his interest in the issue, the Commissions of Investigation Bill would not be as advanced as it is.

The Garda Síochána Bill, which is expected to come before the Houses in the autumn is an integral part of what we believe is needed as a result of our examination and investigation into the Dublin-Monaghan bombings. We wish that legislation success.

In chapter three of our report we recommend a number of actions on which there has not yet been much discussion. I hope the Government sees fit to consider some of them. The Minister has addressed some of them through actions he is taking in the Garda Síochána Bill. However, matters relating to forensic science, retention of documents, support for victims and their families etc. have not yet been addressed. Not only in the investigation into the Dublin-Monaghan bombings do victims need support, but in many other areas. I am aware the Minister thinks along the

same lines and hope he will be able to provide the resources to improve matters in this regard.

It was a privilege to be involved in the inquiry process and the production of the report. I wish the House and the Government success in ensuring that relatives and survivors of the Dublin-Monaghan bombings get finality as soon as possible.

**Mr. Crawford:** I welcome the opportunity to comment on the Barron report and the committee's findings on it. I pay tribute to Deputy Ardagh and his vice-chairman, my colleague Deputy Paul McGrath, on their tremendous work and that of their colleagues on the committee.

Those Monaghan relatives and survivors who attended were impressed by the inquiry and valued the opportunity they were given to put their stories on the record. I sympathise with the families of the victims of those tragedies. The bomb explosion, which occurred at North Road in Monaghan and the three bomb explosions in Dublin on 17 May 1974 resulted in the deaths of 33 people, including one expectant mother. They also resulted in many serious injuries. Some of my best friends were among those injured. The people injured carry those injuries as a burden for their lifetime. There is not only the issue of the victims but also the grief and human hardship suffered by the families and friends of all those who died. While it is my understanding that the victims of these atrocities and their relations received some compensation shortly afterwards, the fact that no one was brought to justice for these desperate atrocities means there is no closure to the case, and that is unacceptable.

From my early days of involvement in farm organisations at county level starting in the mid-1960s and at national and European level from the 1970s, I have worked tirelessly, often behind the scenes, to build up good working relationships between people involved in farming and the food industry on both sides of the Border. The current cross-Border involvement of co-operatives and private companies in the food industry is fruit of that type of co-operation.

Since my election to this House I have been involved in the British-Irish Interparliamentary Body and other groups. We have come a long way since the signing of the Anglo-Irish Agreement and the more recent agreements up to the Good Friday Agreement leading to a much better relationship and understanding between the two countries. We must use this new relationship especially at Taoiseach and Prime Minister level to secure a realistic and workable agreement that could allow a new investigation or inquiry possibly based, as the committee suggests, in Northern Ireland or Great Britain where the relevant people would have to attend and the inquiry would also have the power to compel delivery of documents etc.

It is important to remember that these atrocities took place more than 30 years ago. Many young people or those living away from Dublin

or the Border areas may not realise the state of war we were in at that time, with terrorists from both sides of the political and religious divide carrying out all sorts of savagery and claiming that they were attacking legitimate targets. For instance, Mr. Archie Harper, one of the victims of the Monaghan bombing was a good friend and near neighbour of mine. It is only by the grace of God that other members of his family were not in his car. It could have been his daughter, Iris, who spoke at the committee, or his grandson, or both. However, his cousin, the late Senator Billy Fox, a Member of the Oireachtas, died as a result of an IRA bullet on 11 March only two months earlier. This not to resurrect old wounds but to put that whole tragic period of our history into context. I condemned then and still do any use of bombs or arms to deal with issues where democracy and co-operation is the way forward.

I well remember trying to talk to a local politician in 1969 at the start of the last serious round of Troubles in Northern Ireland and the Border region and advising him that with our entry into the EEC, as it was then known, the Border would disappear in time. However, his only answer to me was, "Who would get the thanks for that?" Some people who are now thankfully embracing democracy often forget or do not even want to know the commitment of others to our peaceful process.

I record my welcome and thanks to Monaghan County Council, under Councillor Seán Conlon from Sinn Féin, and its sub-committee, under the chairmanship of my colleague, Councillor Mary Carroll, for the recent memorial service and commemoration of the victims of the Monaghan bombing at which President Mary McAleese unveiled a fitting memorial tower. This means a great deal to the family members and the victims in that they are at least remembered by their local town and people.

People from Omagh and other places where people experienced atrocities attended that service, and that helps in the healing process. The Omagh bomb, as a result of which 29 people were killed, including the mother of unborn twins, is another example of where there is still no closure. While a good deal seems to be known about what happened and who carried out the deed, the people concerned are still not behind bars. I mention this only to instance how difficult it is, even with the advent of much more modern technology, to bring well, organised terrorists to justice. Mobile and other telephone calls can now be traced as a matter of form, yet justice has not been done.

The Barron report came to a number of conclusions including that the Dublin and Monaghan bombings were carried out by loyalist paramilitaries based in Belfast, Portadown or Lurgan or perhaps in all three using the Sunningdale Agreement as an excuse. The Barron report also states that the loyalist group who carried out the bombings in Dublin was capable of doing so with-

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out the help of any section of the security forces in Northern Ireland, although the report did not rule out the involvement of individual members of the security forces. The report also concluded that the Garda investigation failed to make full use of the information it obtained. That is regrettable.

One must remember the pressure gardaí and other people were under at that time. I remember that time well. I attended the funeral last Friday of my uncle who was 92 years of age. He was buried in the same plot as his son who died at 36 years of age in 1977. I remember that clearly because he was a very close friend of mine; he was closer to me than either of my two brothers, and I do not apologise for saying that. His brother-in-law could not attend that funeral because of the danger to his life. Those were the times we lived in then. The security forces, North or South, would not dream of allowing him attend that funeral because of the danger to his life simply because he was in a job he took up simply because it was a job, and not for any other reason. We sometimes forget the background to this whole process.

I want to see this issue brought to fruition. I welcome the proposals brought forward by the justice committee in that context and I realise the difficulties contained in those proposals, but we must get agreement. The Barron report was set up in the hope that the Government would seek the co-operation of the British authorities with the Chief Justice's examination, but we failed to get that. Perhaps under the new relationship between Mr. Blair and the Taoiseach we can get some co-operation but unless we get agreement that information and documentation will be made available, it will be the same situation as that which pertains in some of the other inquiries currently sitting. Those inquiries were organised and pushed for by certain people, yet when it came to giving information to those inquiries, they failed to produce. We all know that. This inquiry can only be set up, and finality brought to this situation, if we can get agreement that the necessary information will be given. I hope that whatever this country can do in terms of the Garda investigation and so on will be done as quickly as possible. In that way the Northern Ireland or United Kingdom authorities cannot use that as an excuse. I have total sympathy for all those affected by the various atrocities. I remember the time when some of these actions would not be condemned in council chambers. Thank God we have come a long way from that. We must move forward and try to encourage others to move forward with us in a positive way.

**Aengus Ó Snodaigh:** I wish to share time with Deputy Connolly.

**Acting Chairman:** That is agreed.

**Aengus Ó Snodaigh:** The format of these statements is totally inadequate. My colleague, Deputy Ó Caoláin, had asked the reason the Government did not present the motion, which was the logical thing to do. The sub-committee of the Committee on Justice, Equality, Defence and Women's Right recommended that the resolution be passed by the Dáil and Seanad and also by the British Houses of Parliament. Rather than having statements on this issue, we should be debating a motion and agreeing on it because the logic is that all sides of the House should be in agreement on a motion on this issue.

One question I would like answered is why such a motion was not presented. Is the Government still considering preparing a comprehensive motion to be passed by the Houses of the Oireachtas and then presented to the British Government for its endorsement in the British Parliament? The Irish Government needs to tell us its intentions on this aspect of the committee's report.

The committee also recommended that the Government consider taking a case against the British authorities to the European Court of Human Rights seeking to compel them to co-operate with the investigation on this aspect of the report. It is sad and disgraceful that the Justice for the Forgotten group is taking such a case rather than the Government. However, I urge the Government to fully support it with all the necessary resources, including financial resources, required to engage in such a court challenge in Europe. It is also disgraceful that the families feel so let down by this Government that they feel it necessary to consider legal action against it over its failure to establish a public inquiry. I hope they take such a case and win so the Government will then be compelled to take the logical step of establishing an inquiry.

In 1974, the then Government and the Garda were fatally compromised in respect of the Dublin and Monaghan bombings. During Jack Lynch's time as Taoiseach up to 1973 and afterwards, British agents were very active in this State. They included the Littlejohn brothers, English criminals who were hired by British intelligence to act as *agents provocateurs*. They also included British spy John Wyman, who infiltrated the Garda special branch with the aid of a senior special branch employee, Patrick Crinnion. While all four were arrested, the full extent of the British operations in this State in that period has never been fully revealed.

When challenged on this issue at the time, Jack Lynch denied having any knowledge of it and later claimed he had forgotten about it. However, there are surviving Ministers from that Government, particularly the then Minister for Justice, Dessie O'Malley, who could answer questions on the period, on the infiltration of the Garda Síochána and on the operations of British agents in this State.



Mr. Crinnion and other Garda agents systematically supplied the British with information on republicans but this process was actually formalised during the term of the Fine Gael-Labour Party coalition between 1973 and 1977. British intelligence became the Garda source of information on loyalists although it was British intelligence that was directing the operations of loyalists, especially operations in the Twenty-Six Counties.

Information flowed from the Garda through official channels, as agreed by the two Governments, and unofficially through British agents in the Garda. Obviously the role of the Garda in protecting this State from British and loyalist attacks was therefore fatally and deeply compromised but it was following the lead of its political masters, the likes of the then Taoiseach, Liam Cosgrave, the Minister for Justice, Paddy Cooney, and the Minister for Posts and Telegraphs, Conor Cruise-O'Brien, who in the wake of the massacres in Dublin and Monaghan blamed republicans for provoking loyalists and warned people in the Twenty-Six Counties not to support republicans.

It is important to put on record the political context of the Dublin and Monaghan bombings, which lies at the root of the failure by successive Governments to vindicate the rights of the survivors and the bereaved and at least 14 others who died in this State as a result of direct British military operations or collusion with loyalists. Despite this, the truth about collusion will emerge and I commend all relatives and survivors who have campaigned for justice.

**Mr. Connolly:** The 17 May 1974 is a day that will be remembered by people in both Monaghan and Dublin for all the wrong reasons. It will be remembered particularly by the relatives and friends of the 34 innocent people who lost their lives on that day. It is a day that will be remembered for being the day of the worst atrocity ever perpetrated on the island of Ireland, not merely in the period of the dark Troubles in Northern Ireland but down the centuries.

Thirty years after that day, the Barron report has been issued. It provides us with the most damning indictment of the inactivity of successive Irish and British Governments in apprehending the perpetrators. In the immediate aftermath of the Dublin and Monaghan atrocities, the contrast between our security measures and those of the United States in the wake of the events of 11 September 2001 could not have been more stark. There were no helicopters to track the bombers, no closures of sea ports or airports and no roadblocks until the perpetrators had well and truly disappeared into their lairs. In addition, the State was not equipped to conduct an adequate forensic analysis of the explosions, leading to the loss of vital clues. This was due to the appalling lack of appreciation of the importance of preserving the crime scenes and of prompt collection and analysis of evidence.

In effect, our intelligence, for what it was worth, let us down and the report strongly suggests that grounds existed for believing that the bombers received assistance from Northern Ireland security force members. The suggestion that the RUC special branch and British army were reluctant to compromise relationships with some of the suspected bombers is deeply disturbing, especially to the relatives and families of the victims.

The "loss" — I question the use of this word — of vital documentation, which is "missing in its entirety" according to the report, from the Department of Justice would provide us with sufficient grounds for an inquiry. A vast amount of information, running to over 60,000 documents, was suppressed by the British authorities, from which they supplied a mere ten pages to the Barron inquiry. What was contained in the other 59,990 documents? Surely this knowledge is of relevance and should be provided.

The Sunningdale agreement, which led to the establishment of the North's first cross-party Administration, or power-sharing Executive, provided the pretext for the bombings. Co-operation was forthcoming on both sides of the Border in the matter of safehouses and general backup and assistance.

According to Mr. Justice Barron, Garda investigations were inadequate and characterised by a distinct lack of zeal in pursuing certain lines of inquiry and co-operating with the RUC. Why was there a lack of purpose in pursuing the matter? Even a single murder would be pursued vigorously for many years, not to mention 34 murders. A report that was compiled on the basis of missing forensic records, missing files and photographs of suspects is utterly incomplete and must be found wanting.

Nothing less than a full cross-jurisdictional judicial public inquiry similar to the Lord Saville inquiry into Derry's Bloody Sunday killings will be sufficient to assuage public concern. Such an inquiry into this most heinous chapter in our history would require the full and unqualified co-operation of both jurisdictions. Our Government has already indicated its opposition to a full judicial inquiry since it feared that it would become as expensive and long-running as the Saville inquiry. I wonder if expense is the only thing our Government is worried about. The same Government happily sanctioned tribunal after tribunal year after year, yet it questions their value for money. We are talking about 34 lives. Should we put a price on lives? I have a feeling we have a Government that knows the price of everything and the value of nothing. A nice, quiet commission of inquiry with a "Do not disturb" sign on the door will provide no answers. The Government and all the parties in this House should know that.

The relatives and families of the dead are aggrieved to learn that the Government will shortly announce a public inquiry into the hein-



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ous murders of RUC officers Breen and Buchanan. They feel doubly aggrieved that the Government will hold this public inquiry while it continues to resist the most thorough and far-reaching investigation of mass murder on a massive scale. A fully cross-jurisdictional judicial public inquiry into our State's worst-ever atrocity is much needed. I commend the relatives, friends and lobby groups that have brought this particular episode so far and who have not given up after 30 years.

**Mr. F. McGrath:** I welcome the opportunity to address the Dáil on the Barron report and the Dublin and Monaghan bombings. I particularly welcome this opportunity as a member of the sub-committee of the Joint Committee on Justice, Equality, Defence and Women's Rights.

Some of the speeches made today on the Barron report and the Dublin and Monaghan bombings were a distortion of the facts and a misrepresentation of what really happened. I welcome the opportunity to challenge the cosy consensus, which seems to be emerging. We should look at the facts. The victims are unhappy and are demanding a public tribunal of inquiry. They feel totally let down. Let us accept that before we go into the detail of the debate. I suggest that Members read the last paragraph of the victims' statements, which deals with these issues.

I was a member of the sub-committee and I regret that I had to take a minority view of some of its findings. I regret my opposition to the sub-committee's final report on the Dublin and Monaghan bombings because I believe that a full inquiry under the Tribunals Act 1921 represents the best way forward for everyone. I listened for weeks to the families and heard their views. I came to the view that the only way to deal properly with them and to get to the truth of the matter was through a full public inquiry. I felt there was no alternative and that we had a duty to restore confidence in the security forces, both in this State and in the North. I also felt that the public must be satisfied. I listened carefully to the victims and I heard their voices asking the sub-committee to support them. We also looked at the idea of the inquiry's power of investigation. They can be very wide, even abroad.

Mr. Justice Barron made a good report but that was phase one. We considered the serious issues of collusion. We then faced the nightmare that the Government of the day had failed to show the concern expected of it. That is something for which we must accept responsibility. Successive Governments have let the victims down. The Government should put its hands up and accept that and not present a different spin to the House today.

The sub-committee received very credible oral and written submissions from people and groups such as the Pat Finucane Centre, Mr. Seán Donlon, Mr. Colin Wallace, Mr. Nigel Wyld, Justice for the Forgotten, the O'Neill family, the

O'Doherty group and Mr. Mike Mansfield. They had a major influence on my decision to support the call for a public inquiry. We also considered the professional issue of Garda obstruction and missing files. We considered the argument about the cost of the inquiry. A time limit could be placed on an inquiry and a cap on legal costs. There has not been a proper investigation and there are too many outstanding issues.

My greatest concern was collusion. The evidence presented to the sub-committee showed that the bombings could have been an act of war. If security forces and death squads from another jurisdiction are working together, which I believe to have been the case, this must end. One cannot have a peace process unless one deals with those situations. Cost should never be a factor when dealing with this matter. It is a separate issue.

This was the greatest mass murder in the State since the Troubles began. Some 34 people, including a pregnant woman, and a still-born child were killed on that day. There are too many outstanding issues and these can only be addressed by a full public tribunal of inquiry. Many of the families are elderly so we should move quickly. Too many people are dragging their feet on this issue.

Almost 30 years have passed since the Dublin and Monaghan bombings occurred and it has taken the bereaved families and survivors more than a decade of active campaigning to reach the point where the Barron report has been published and the joint committee's public hearings completed. The goal of a public tribunal of inquiry has still to be achieved. The Yorkshire Television documentary "Hidden Hand — The Forgotten Massacre" claimed that the Garda investigation into the bombings was wound down after 12 weeks. The Barron report confirms this to be the case and, even more disquieting, finds that the Monaghan investigation was, to all intents and purposes, wound down after seven weeks. The families and survivors know, as a matter of public record, that there was an unexplained collapse in the Garda investigation. Mr. Justice Barron accepts that collusion, in some shape or form, did occur. He expresses the belief that former RUC sergeant, Mr. John Weir, is a credible witness and was in a position to corroborate many of Mr. Weir's claims from other sources.

I believe that the farm of Mr. James Mitchell, the RUC reservist, at Glenanne, County Armagh, was used to organise the Dublin and Monaghan bombings. While I also accept the credibility of Mr. Colin Wallace and Mr. Fred Holroyd, I believe that the judge should have attached more weight to the documents made available to him, such as letters and lists of loyalists compiled by Mr. Colin Wallace and the notebooks of Mr. Fred Holroyd. These are important issues.

I support the families and the victims in demanding that the issue of collusion by the security forces of the United Kingdom in the

Dublin and Monaghan bombings be subjected to international scrutiny and adjudication. I support the sections of the sub-committee on the Barron report, which found that there are significant internal issues within the State which must be investigated and that the issue of collusion must now be fully and properly investigated. These are two recommendations, which I support.

I also have concerns that the information made public by the Barron report, the sub-committee hearings and the inquest findings establish a *prima facie* case that the United Kingdom, through its security forces, colluded in the Dublin and Monaghan bombings. This is in direct breach of article 2 of the European Convention on Human Rights. It has taken 30 years for the necessary information to emerge to enable a case to be presented based on factual material as distinct from suspicion and speculation. My other concern is that the United Kingdom, by failing to co-operate with the Barron inquiry, the sub-committee hearings and the inquest, has breached its obligations under article 2 of the European Convention on Human Rights to co-operate with inquiries into loss of life.

I am not just blaming the British for this. I blame some of our own people also. It is unacceptable that a former Taoiseach would not attend sub-committee hearings and that people with high profiles in political life do not show respect to an Oireachtas sub-committee. The Government of the United Kingdom has failed to act in a manner consistent with its international obligations to assist in the vindication of the right to life. It has shunned the inquiry procedures, which exist to protect and vindicate the right to life. These are crucial and important issues.

The public inquiry should be given two other additional powers. It should have the power to gather and publish further evidence of which it becomes aware relating to collusion in the bombings and a discretion to inquire into any significant matter concerning the bombings which it considers to be warranted in the public interest.

Some of my colleagues who are directly involved have been selective in picking information from the statement of Justice for the Forgotten. In the last paragraph of that statement, Justice for the Forgotten urges the Oireachtas to call for and the Government to establish in this State nothing less than a public tribunal of inquiry into those grave matters, which require immediate investigation. It could not be clearer. I hope the Minister and the Government are listening to this debate. My nightmare is that we will have another debate about legislation, that the matter will go on and on and that the families will have to wait and wait.

We must prioritise the needs of the victims. I welcome information which is given to people and I thank those who made detailed submissions to the sub-committee. It was difficult for all the victims and families and I commend their bravery, integrity and humility. I also commend their

patience. If a member of my family had been a victim of the bombings I would not be as patient as many of those people.

When we talk about victims we are talking about all victims of the Dublin and Monaghan bombings, but we should also be respectful of other victims. Some of the major political parties sometimes appear to be selective about who they regard as victims. When I talk about victims of the Northern Troubles I am talking about the 3,800 people who were killed over 30 years. I am not selective. Catholic, Protestant and dissenter are included in my broader view.

In the debates in this House we sometimes lose track of ourselves. It is essential that we listen to the victims, their families and their legal team, and support them totally by answering their call for a full public inquiry.

**Mr. Durkan:** I welcome the opportunity to speak on this important issue. I compliment the Chairman and members of the committee who examined this and the witnesses who came forward. It behoves us all to extend our sympathies many times over to the victims, their families and those who have campaigned to get to the truth that has been so elusive.

I listened with interest to some of my colleagues who became very loquacious about the European Convention on Human Rights and breaches of it. There were many things that happened on this island in the past 30 years that repeatedly breached not only the European Convention on Human Rights but every other precept ever thought, read or written about. They did not start with the Dublin and Monaghan bombings, they happened throughout the country, and the sad thing is that all of this happened to pursue a cause of one kind or another. If the cause was good enough, it was deemed fit to do whatever was necessary to bring about the greatest atrocity possible to justify one's existence and to point out in some odd way that this was they way to solve what was wrong.

I was driving around Dublin on the evening of those bombings. I was at Parkgate Street and, like many other people, I was confused. Then the stories began to emerge of the broken bodies, the dead, the mutilated and those who would have to carry the scars for the rest of their lives. People were asking what had happened, who did it and why. Now we know why. It was done to retaliate. That is the saddest part of our history, one retaliation after another, tit for tat killings, bombings and stabbings. There are those who disappeared completely whose bodies have never been found and who to this day await for someone to give them justice, just as the families of the forgotten victims on this occasion are trying to do.

Everyone remembers where they were on that day but I wonder how many people recognise how fragile the security of this State was at the time. We would wake up in the morning wondering what would happen next, when the fuse would be lit that would set the whole country on

[Mr. Durkan.]  
 fire. That was the climate at the time. When Dublin and Monaghan were visited with these events and our people were killed in such an outrageous and vulgar way to demonstrate someone's reaction, did we ask ourselves at the time if we were doing the right thing, if we were pursuing the right tactics? Did we have the right idea in our minds? Does everyone who speaks today remember and recognise the conditions that prevailed at that time? People mention the former Taoiseach and the former Minister for Justice. I remember well that they found it difficult to gain access to meeting halls across the country to exercise their right to free speech because of the activities of certain people.

In case anyone wants to know from where I come on this subject, I was involved, along with other Members of this House, in the campaigns on behalf of the Guildford Four, the Birmingham Six and the Maguire family. We pursued those cases because we believed something was wrong and that justice had not been done. We were right. That does not necessarily mean, however, that we should attempt to wash away the awful atrocities that were committed, sometimes in the name of Ireland, sometimes of our flag and sometimes in the name of those who want to take revenge against us. Let it be a salutary lesson for us all that, as we move forward in this time of international atrocities, one atrocity begets another and it is not so easy to divest ourselves of responsibility at the end of the day.

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Parts of this debate were excellent and other parts were not. The parts that were not excellent were those where people have clouded their minds and obtruded on to our consciousness some selective aspect of history about which they want to make points, while washing their hands of their responsibilities for other things which people who were very close to them did which were on a scale equivalent to or worse than some of the atrocities we have discussed this evening.

I believe the Birmingham Six were innocent. I also want to say that people were blown to pieces in Birmingham and I have never heard anyone come forward and say they want truth and accountability about who blew up those innocent people that evening in that pub. Let us remember that there are two sides to many stories and sanctimonious humbuggery in this House, such as that I have heard attacking people like Jack Lynch and Des O'Malley, saying that they were anti-republican when they stood by and defended this Republic against vicious thugs who remain unconvinced that killing people in the name of Irish unity is wrong.

**Mr. F. McGrath:** What does this have to do with the Dublin and Monaghan bombings?

**Mr. McDowell:** When I hear that my stomach heaves, as it does when I see some people come into this House who were not even born when some of these events took place and lecture us about their theory of history. I want to hear an explanation and an apology regarding the child who was blown up on Lord Mountbatten's boat, or to his family, but I hear instead of memorials erected in County Leitrim. I hear someone say it was right to look through binoculars and blow that boat to pieces when there was a child on it. Whatever the differences with Lord Mountbatten, his family and what they stood for in history, there was child on that boat and he was blown to pieces by people who were later commemorated and honoured by the so called republican movement in Ireland. An explanation and an apology is due.

I heard some of the remarks made here this evening about honourable people who stood by democracy in this State when people were trying to blow democrats to pieces. I agree with Deputy Finian McGrath that we cannot be selective about people and about victims but there must be many, many people who, if they were unfortunate enough to hear Deputy Ó Snodaigh's contribution to this debate, would have their wounds torn open by the low, callous disregard of history and the wholly undemocratic attacks on decent people who stood for democracy in this country.

I will not go any further except to say that my mind went back to a former Member of this Oireachtas, Gordon Wilson, whose daughter was blown to pieces in another atrocity that was carried out about which I do not hear people calling for inquiries or tribunals to decide if that was right or wrong. He did not just become a victim, he extended the hand of friendship from Enniskillen to the people of this State. Against all the grain of what might be expected of someone in his position, he came down to participate in the democratic life of this State. He spoke to the people on the political front of the organisation that had killed his daughter and he tried to establish from them the prospects for peace in this country. His virtues and his memory are a far more attractive sight than Deputy Ó Snodaigh trying to destroy the reputations of people like Lynch and O'Malley and others who stood up for the rule of law in this country when it was very difficult to do so.

While I agree with one remark made by Deputy Finian McGrath, I have to disagree with another remark when he used the phrase "Garda obstruction" in the context of the recent inquiry. There was no Garda obstruction; the Garda Síochána co-operated completely with the inquiry. If there are documents missing, it is not due to any deliberate act of the Garda Síochána or any will on the part of the Garda Síochána to obstruct the proceedings of this House.

I have listened carefully to this debate and such of it as merits being remembered and acted upon I will bring to the attention of the Taoiseach

7 o'clock



tomorrow morning. I will be meeting him in the context of Northern Ireland affairs. It was proper that this House should consider the report of the sub-committee and that the Government should have an opportunity of hearing what its Members had to say about it before taking any further action on foot of it.

I have noted and have considerable sympathy with the recommendations of the sub-committee. I know the Taoiseach, if he could have been here today, would say what I am saying, namely, that the Government will now carefully examine how to implement the roadmap laid out by that sub-committee which behaved responsibly and decently in this matter.

I will conclude by re-echoing a point made by Deputy Ardagh. As part of the Weston Park agreement, the Government will shortly establish yet another public tribunal of inquiry. This inquiry is into the death of two RUC officers who came, unarmed, to Dundalk Garda station to try to improve the security situation on this island. As they travelled north, they were encountered by, an active service unit of the IRA. Their car was hit by, a hail of automatic gunfire. One of them came out of the car, unarmed, waving a white handkerchief. His assailants rushed up, machine-gunned him to the ground and then shot him in the head on the road.

One of the points arising from that incident is whether there was collusion by any member of the Garda Síochána with that ambush. One group of people know intimately whether there was collusion with that ambush and they were those who carried out the ambush. When that tribunal of inquiry is established, I look forward to the full, unambiguous, truthful and total co-operative involvement of the people who carried out that murder on that day because they are the people who can tell us whether or not they had collusive information from the Garda Síochána or whether that atrocity—

**Caoimhghín Ó Caoláin:** The Minister has now spoken for five minutes and has not once mentioned the inquiry into the Dublin and Monaghan atrocities—

**An Leas-Cheann Comhairle:** Order, please. Allow the Minister without interruption. The Minister should conclude.

**Caoimhghín Ó Caoláin:** He is blinded by his anti-republican bile. Will the Minister address the issue of the inquiry into the Dublin and Monaghan bombings?

**An Leas-Cheann Comhairle:** Deputy Ó Caoláin is out of order.

**Mr. McDowell:** —or whether that atrocity—

**Caoimhghín Ó Caoláin:** Will the Minister address the issue?

**Mr. McDowell:** —was carried out on foot of other information which became available to the murderers from some other source. One group of people will be able to enlighten us on that.

As to the Dublin and Monaghan bombings, I have listened to this debate—

**Caoimhghín Ó Caoláin:** So the Minister will address it.

**Mr. McDowell:** —very carefully. As I indicated to the House at the beginning, I will bring to the Taoiseach tomorrow all the portions of today's proceedings and all the views that have been expressed. The Deputy may rest assured that nothing that was said today will be forgotten.

### Adjournment Debate.

#### Vandalism of School Property.

**Mr. Rabbitte:** I thank the Leas-Cheann Comhairle and his office for permitting me to raise the urgent matter of the vandalism at St. Anne's primary school at Fettercairn in my constituency where local parents and teachers fear for the scale of damage that may be caused to the school over the summer months if it is not secured against the depredations of local youths.

Damage costing €32,000 has already been incurred in the year so far and the school has been broken into on three separate occasions even since a public meeting to address the issue was held on 21 June. Valuable school property is at risk and the capacity of local gardaí to protect the school is very limited. Windows and doors have been broken, rooms trashed, classrooms flooded and there has been damage to the inadequate perimeter fencing. For whatever reason, the school has become the target of a small number of local youths who are out of control.

The campus also accommodates an Obair office, two community pre-schools, one VEC office for adult education and a computer room. A report prepared by the local Garda has led to a proposal put to the Department of Education and Science for the installation of steel shuttering on the inside of windows at a cost of €80,000.

Unfortunately, the Minister, Deputy Noel Dempsey, responded to me on 25 June stating, "As the funding available under the 2004 summer works scheme has now been allocated, it is not possible to consider this application in the current year." Teachers and parents fear that this leaves the school very vulnerable. Given the three break-ins since 21 June, the likelihood is that significant damage will be done to the school in the interim. Accordingly, I am pleading with the Minister of State to authorise the works recommended by the board of management.

I accept that this phenomenon of anti-social activity is a complex one and that there is a role for other agencies, especially the Garda Síochána.



[Mr. Rabbitte.]

However, the failure of this Government over seven years to implement the 1997 decision to afford divisional status to Tallaght Garda station, which would have brought additional manpower, vehicles and extra resources, means that Fettercairn cannot be adequately policed.

The destruction of classrooms is regrettably a phenomenon not restricted to Fettercairn. For example, Scoil Santáin in my constituency has endured similar destruction while awaiting refurbishment. A roof has been repeatedly damaged, windows kicked in, a boiler damaged and most recently, an electric cable ripped down and recklessly left lying around as a hazard to schoolchildren. Such wanton destruction is costing the taxpayer a lot of money. These schools must be secured through adequate perimeter fencing, shuttered windows and, where feasible, contract security to be hired in for the most critical hours. Where, as in the case of Scoil Santáin, refurbishment has been approved in principle, it should be authorised to be carried out without further delay.

I sincerely hope the Minister of State will not reiterate the sentiments in the letter sent to me last week. Parents and teachers are generally fearful that serious damage costing tens of thousands of euro will be the result if the school is not secured. It gives an indication of how grave the situation is that neither the teachers nor the parents think the employment of a local man in some kind of community employment scheme to provide security is acceptable. They believe he would be at risk from those local youths.

I suggest it would be possible for the Department to authorise the contracting in for the critical hours of a contract security service. Otherwise, the cost of the damage which will ultimately be charged to the taxpayer, will greatly exceed what is proposed by the school principal in a submission to the Department. I ask the Minister of State to give us some hope this evening.

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** I thank the Deputy for raising the matter as it affords me an opportunity to outline to the House the position regarding the severe difficulties the school community of St. Anne's primary school in Fettercairn is experiencing as a result of wanton vandalism.

The Minister for Education and Science is fully aware of the circumstances at St. Anne's primary school in Fettercairn, Tallaght, following representations he received from his colleagues, Deputies O'Connor and Conor Lenihan. He can well appreciate the concerns of the school community in question at the wanton vandalism of school property. There can be no place in a civilised society for the wanton destruction of property. It is of the utmost importance that the perpetrators of such destruction are apprehended and face the full rigours of the law.

The normal procedure is for management authorities to report the matter to the local Garda, which is best placed to provide practical advice and support to the school authorities and to make recommendations as to how best to mitigate the potential risk to the school.

**Mr. Rabbitte:** They have done that.

**Mr. B. Lenihan:** I am aware of that. It is the understanding of the Department that the Garda Síochána in Tallaght has a crime prevention officer on the staff who works with the management authorities in this matter. If the Garda recommends equipment which cannot be procured from normal funding sources, an application for contingency funding can be made to the school building section of the Department.

The problems at St. Anne's must be resolved and advice from the Garda on all security issues presenting at the campus will be considered in the Department. It is open to the school's management authorities to apply under the 2005 summer works scheme, details of which will be announced later this year, for funding to implement any costly measures the Garda may recommend to address long-term security measures which may be required at the school.

**Mr. Rabbitte:** The damage will be done by then. The Garda has already made its report.

**Mr. B. Lenihan:** Has it been furnished to the school principal?

**Mr. Rabbitte:** Yes.

#### Orthodontic Services.

**Mr. Neville:** Thank you, a Leas-Cheann Comhairle, for allowing me to raise this important matter, namely, the orthodontic service in the Mid-Western Health Board, in particular the recent report on the service submitted to a meeting of the health board on 4 June 2004. The orthodontic service in the mid-west region has been in difficulty for some time, while the orthodontic service generally, which has been discussed on numerous occasions by the Joint Committee on Health and Children, is a disgrace and a scandal as a result of developments since 1999. Prior to that date, an excellent service had been developing but was destroyed by politicking in the dental community.

In a report by Dr. David Spary, consultant orthodontist at the Burton Hospitals NHS Trust, Burton-on-Trent, the orthodontic service in the mid-west region was described as being of an excellent standard until 1999. Since then, access to the service has declined due to staff retention difficulties and patients are experiencing long delays for assessment and treatment. The report recommends a range of measures needed to address this, including a revised grading system, the restoration of the training system linked to the dental hospital and the appointment of another specialist post. The Mid-Western Health

Board sought a meeting with the Department of Health and Children to discuss the report and I ask the Minister of State to clarify whether it will take place.

Mr. Ted McNamara, the orthodontic consultant in the mid-west region, set up a treatment facility in 1985. Non-consultant grade dentists were appointed and trained to carry out orthodontic procedures. Three dentists completed higher specialist training leading to a higher qualification in orthodontics in the department. Following an application to the specialist advisory committee, SAC, in orthodontics of the Royal College of Surgeons in England, the department was visited in 1987 and the post was passed as suitable for training.

Dr. Spary stated he had good reason to conclude that the quality of treatment provided during the period prior to 1999 was excellent. He noted that he had seen a large number of study casts taken during this period of patients who had treatment within the department. In addition, one trainee was awarded the gold medal by the Royal College of Surgeons, Edinburgh, and her cases were published in the *British Journal of Orthodontics*. The award of this medal, according to Dr. Spary, reflects highly not only upon the trainee in question but also on the standard of teaching she received. He also had an opportunity to discuss the situation with the president of the Irish Dental Association, who described the work done in the department during that time as a 'blue ribbon service'. Dr. Spary also notes that he had an opportunity to discuss the service with the general manager of the acute hospital services who confirmed that no complaints were made about the service at that time.

In 1999, the Department of Health and Children stopped training orthodontic specialists in the mid-west and did not replace the service. Since then, waiting lists in the region have increased. A dispute has arisen concerning who should be on the waiting list. The Department has stated that people should not be on a waiting list if no service is available to treat them. It is a disgrace that people in need of treatment are being removed from a waiting list for this reason.

The continuation of orthodontic services at a level equivalent to that in 1998 is being prevented by a reduction in the number of personnel working in the orthodontic department in Limerick. This appears to have been caused by a withdrawal of approval of training posts, which in turn makes it much less attractive for dentists to work in the department because they have no chance of receiving training to the level of master of orthodontics. The position may, however, have been improved recently by recognition of the grade of orthodontic specialist.

There is no doubt that the model for the provision of orthodontic treatment established in Limerick was highly successful. It produced a high number of well trained specialists and a good quality training programme for some trainees

who progressed to achieve a registrable qualification. It may have been perceived as a problem by the SAC that clinics were being filled with unqualified, poorly trained personnel. Dr. Spary is convinced, however, that this is not the case.

Dr. Ian Dowling stated that the national orthodontic service is in crisis. This crisis has been created by the incompetence and dishonesty of the Department of Health and Children and the greed of the dental health schools in Cork and Dublin. In March, the Joint Committee on Health and Children invited the Minister for Health and Children to discuss the orthodontic service, specifically the recommendations of the previous joint committee on orthodontics. The Minister has refused to meet the joint committee.

**Mr. B. Lenihan:** I am replying on behalf the Minister for Health and Children, Deputy Martin. The provision of orthodontic treatment to eligible persons in the Mid-Western Health Board is the statutory responsibility of that board in the first instance. The Minister is aware of the waiting list for orthodontic treatment in the Mid-Western Health Board. He notes that some improvements have been made in the service. For example, between December 2001 and March 2004, the assessment and treatment waiting lists in the board have been reduced by 999 and 404, respectively.

The Department and the Mid-Western Health Board have worked hard to get more children into orthodontic treatment and their efforts have been rewarded. In December 2001, the chief executive officer of the Mid-Western Health Board informed the Department that 1,593 children were receiving treatment in the board. At the end of March 2004, the chief executive officer informed my Department that 1,827 children were receiving treatment. This means an additional 234 children are obtaining treatment in the board's orthodontic service.

The Minister has taken a range of measures to improve the orthodontic services both nationally and in the Mid-Western Health Board. The grade of specialist in orthodontics has been created in the health board orthodontic service. The creation of this new grade will attract orthodontists to work in the health service on a long-term basis.

In 2003, the Department and the health boards funded 13 dentists from various health boards for specialist in orthodontics qualifications at training programmes here 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 training in 2001. There is, therefore, an aggregate of 19 dentists in specialist training for orthodontics.

Furthermore, 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

[Mr. B. Lenihan.]  
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 1 December 2003. In recognition of the importance of this post at Cork Dental School the 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 and will ultimately support an enhanced teaching and treatment service to the wider region under the leadership of the professor of orthodontics.

**Mr. Neville:** If the excellent regime in place in 1999 had been left alone, we would not have a waiting list.

**An Leas-Cheann Comhairle:** Deputy Neville is out of order.

**Mr. B. Lenihan:** The Deputy will have heard the statistics on the waiting lists in the health board.

**Mr. Neville:** We know what has happened to Triona McNamara since 1999.

**Mr. B. Lenihan:** Orthodontic initiative funding of €4.698 million was provided to the health boards in 2001. This has enabled health boards to recruit additional staff, engage the services of private specialist orthodontic practitioners to treat patients and build additional orthodontic facilities. Under this initiative, the Mid-Western Health Board received an additional €513,000 in funding.

In June 2002, my Department provided additional funding of €5 million from the national treatment purchase fund to health boards specifically for the provision of orthodontic treatment.

**Mr. Neville:** Would the Minister of State like to put money on that?

**Mr. B. Lenihan:** The treatment purchase fund provides the best of value for money.

**Mr. Neville:** Does the Minister of State maintain that?

**Mr. B. Lenihan:** Yes. I wish Oppositions Members would wake up, realise how the health service can be reformed and stop chasing the last trolley.

**Mr. Neville:** I am referring specifically to orthodontics.

**An Leas-Cheann Comhairle:** The Deputy is out of order.

**Mr. B. Lenihan:** This funding is enabling boards to provide both additional sessions for existing staff and purchase treatment from private specialist orthodontic practitioners. The Mid-Western Health Board was allocated an additional €451,000 from this fund for the treatment of cases in this way.

A total of 1,827 patients were obtaining treatment in the board at the end of March 2004. Orthodontics is unique in that the treatment period for a child is between 18 and 24 months, and each year thousands of children with varying needs are placed on assessment waiting lists. This presents challenges for services delivery and will continue to do so.

However, the Minister's aim is to continue to make progress and to develop a high quality, reliable and sustainable service in the Mid-Western Health Board and all the other boards for children and their parents.

**Mr. Neville:** Will the Minister of State respond to the committee? He will have been promoted before that happens.

#### Water and Sewerage Schemes.

**Mr. P. Breen:** I thank the Ceann Comhairle for giving me the opportunity to raise this issue. We are all aware of the difficulties encountered by people as they try to secure planning permission to build houses in rural villages and towns and we are all conscious of raw sewage entering our rivers and seas. It is in our interest that our seas are protected for future generations.

The Quilty, Scarriff and Feakle sewerage schemes have been grouped and are located in sensitive areas in County Clare. Quilty, which includes the village of Mullagh, is an excellent fishing and tourist spot on the Atlantic coastline. Many tourists visit each year. The Minister of State will be familiar with the area as he has many relations there. It is a shame that both local people and tourists must deal with the sight and smell of raw sewage.

The Quilty scheme has been approved for some time and the only reason it is being delayed is Clare County Council is awaiting a foreshore licence which was applied for on 18 November 2003. It is unfortunate that the application is also delaying the Scarriff and Feakle schemes. These two schemes were in the part A process for a considerable time but were approved by the county council last December. An application relating to the schemes is before the Department of the Environment, Heritage and Local Government and approval is being sought to go to tender.

The current situation regarding the Scarriff scheme, which includes the village of Tuamgraney, is unacceptable. The present facility is located at Druidsboro in Scarriff, adjacent to the docks, which is the site of construction works for the upgrade and extension of the marina by Waterways Ireland Limited which has responsibility for inland waterways. It is proposed that the



treatment effluent will be discharged into the Scarriff river.

The schemes, when implemented, will remove septic tanks and private waste water treatment systems from a substantial number of houses and this will have a significant environmental benefit for all three towns. Many applications for schemes are being held up by the planning process. Even where lands are zoned for the purpose, they cannot be built on because planners regard the applications as premature. A sewerage scheme was undertaken at Sixmilebridge some times ago and it has benefited the town greatly. Significant building is taking place, which is a boost to the local economy.

Unfortunately, in recent times the number of schemes being undertaken has slowed. It is unacceptable that, because a foreshore licence is awaited for the Quilty scheme, the other schemes are also delayed. I am delighted that my colleagues from Clare, Senators Daly and Dooley, are present to give me support on this issue.

The delay in these schemes is, in turn, delaying other schemes, particularly the Labasheeda, Cooraclare and Carrigaholt group scheme. I hope the Minister of State will respond regarding the foreshore licence, which is creating the problem, and that the Minister for the Environment, Heritage and Local Government will fast-track the schemes. Perhaps the Minister of State will have good news given that his colleagues are present.

**Mr. B. Lenihan:** I am replying on behalf of the Minister for the Environment, Heritage and Local Government.

I thank the Deputy for raising this issue. I note the substantial interest of Senators Daly and Dooley in it. I will first outline the major investment being made by my colleague, the Minister for the Environment, Heritage and Local Government, in improving water services infrastructure throughout the country and, particularly in Clare, under the national development plan. Last May, the Minister published the water services investment programme 2004 — 2006, which comprises 869 schemes at different stages of development, with a total investment of €5 billion. Almost 150 new projects worth €556 million have been added to the programme since last year. It is the most significant milestone yet in the push to bring our water services infrastructure up to world standard.

The total allocated to County Clare under the latest phase of the programme is €194 million, a substantial investment that extends to 44 individual schemes. It includes major sewerage projects for Ennis-Clarecastle as well as Ballyvaughan, Corofin, Doolin, Kilkee, Kilrush, Carrigaholt, Labasheeda, Cooraclare, Shannon town, Broadford, Ennistymon, Liscannor, Miltown Malbay and Spanish Point. It also includes major water supply schemes for Ennis, Newmarket-on-Fergus and the Lisdoonvarna extension to Ballyvaughan and Fanore and the west Clare regional water supply scheme.

Funding has also been provided under the serviced land initiative to bring additional residential sites on stream as rapidly as possible to meet housing needs at a number of locations throughout the county, including Gillogue, Clarecastle, Clonlara and Tulla. A large number of towns and villages in Clare are benefiting from the drive to bring our water and sewerage infrastructure up to a modern standard.

With regard to the Quilty, Scarriff and Feakle schemes, they are included in the investment programme and have been approved to go to construction. Tender documents for the schemes, which are being advanced as a grouped design-build-operate project, are awaited in the Department.

**Mr. P. Breen:** The council says the Department is holding up the schemes.

**Mr. B. Lenihan:** Once these are received from Clare County Council and approved, the council will be able to invite tenders for the schemes. Our function in Government is to provide funding for the schemes and that has been done. I assure the Deputy I have listened carefully to what he has said and I will advise the Minister for the Environment, Heritage and Local Government to take account of the issues raised by him. I will also ensure the examination of the tender documents takes place as quickly as possible, once they are received in the Department to advance these schemes.

### Industrial Accidents.

**Mr. Costello:** My matter relates to a fire in an empty Shell depot at Dublin Port last Sunday. The fire lasted three hours and the Dublin fire brigade had to use specialist equipment to quench it. Local people heard an explosion prior to the fire. The depot had been used to store tar and bitumen for road surfacing. It is located near oil and petrol storage tanks and the Irish Ferries dock. It is fortunate the fire took place when the dock was quiet, as normally many people and cars travel to and from the ferries while a small number of people work in the vicinity.

However, extensive damage was caused and a pall of thick, black, acrid smoke stretched across Dublin Bay and the docklands. This is a serious matter. Irish Shell indicated it would conduct an investigation, but that is not adequate. We must have an independent, external body conducting the investigation. We cannot simply have the people in whose depot the fire started being wholly responsible for the investigation.

That is why I put down this motion — to call on the Minister to ensure that an investigation is conducted by him or under his auspices. Then we can be sure of finding out the cause of and threat from the fire in order to put the proper health and security provisions in place to prevent such a fire happening again. We can then be sure that those working, travelling or living in the area can



[Mr. Costello.]

be safe. The residential areas of Dublin are encroaching upon the port area and while there may be nobody living in the port there are people living near it. Large numbers of people also work in and travel through the port.

There is a huge amount of petrol and oil, very inflammable fuel, stored in the docks and if a fire catches in one empty depot and travels to one of those massive tanks of fuel a huge disaster could take place. Such a disaster would not just threaten the local environment but the livelihoods of many people in the area and the city of Dublin. We have a potentially serious problem on our doorstep and we need to be cognisant of this warning, which shows what might happen if there were a serious explosion or fire here.

What steps does the Minister intend to take to ensure there is a proper, full, thorough, comprehensive and independent investigation into this? What steps will he take to ensure something like this does not happen again?

**Mr. B. Lenihan:** I thank Deputy Costello for raising this matter. I am replying on behalf of my colleague, the Minister for the Environment, Heritage and Local Government. Like Deputy Costello and other citizens of Dublin I was very concerned by the incident. I express my appreciation of the professional and efficient response of Dublin Fire Brigade to this incident, which ensured that the fire came under control quickly and the possibility of a major incident was averted. That is a tremendous tribute to the professionalism of the fire service in Dublin.

The initial call to the fire brigade was received at 15.19 and the brigade immediately mobilised two water tenders, one foam tender, one turntable ladder, an ambulance and a district officer. An additional two water tenders were mobilised, with a further water tender and the foam support unit being mobilised shortly afterwards. The first fire brigade appliance arrived at the incident at 15.23, within four minutes, and on arrival found they were facing an oil-bitumen fire extending approximately 1,000 m<sup>2</sup> and engulfing three bitumen tanks. The fire produced large amounts of black smoke with flames about 60 feet high.

Dublin Fire Brigade initiated the pre-determined response for this type of incident, which involved setting up water and foam monitors. With these monitors in place the foam attack

commenced and the fire was quickly contained and brought under control. Damping down and cooling operations continued until the area was made safe. Dublin Fire Brigade personnel have been trained to deal with this type of incident in a safe manner and at no time during the incident were any of the fire fighters in danger. There was no injury to anyone at the fire ground nor at any stage was there a danger to the public. That is a tremendous tribute to the professionalism and efficiency of the fire service in Dublin.

Dublin City Council, including Dublin Fire Brigade, have regular meetings with Irish Petroleum Importers Association and the Dublin Port Company to review fire safety in Dublin Port and to ensure there are sufficient measures available in terms of procedures, fixed and mobile equipment, and other resources to deal with incidents in the port. The fire brigade, in conjunction with the IPIA and the Dublin Port Company, carries out detailed pre-planning for foreseeable incidents as well as regular exercises. The incident in question will be discussed and debriefed in the near future between the parties, and any lessons learned, whether in terms of a need for improved procedures, equipment, or any other matter, will be promptly acted upon. I reassure the Deputy that those procedures are already in place.

Regarding health and safety requirements at Dublin Port, it is a matter for the companies involved, in the first instance, as well as the Dublin Port Authority as licensing authority, to ensure that all health and safety requirements are in place and the Minister of the Environment, Heritage and Local Government has no strict statutory function in the matter.

However, the Health and Safety Authority, Shell and the Dublin Port Authority initiated a joint investigation into the incident on the day it occurred, which is currently ongoing. I can confirm that international consultants have also been brought into the investigation at the company's expense. Following this investigation and the debriefing with the fire brigade, the co-operation of all concerned will be sought to consider the lessons learnt from this incident and to endeavour to ensure, as far as possible, that a similar incident will not occur again.

The Dáil adjourned at 7.30 p.m. until 2.30 p.m. on Tuesday, 6 July 2004.

## Written Answers.

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

*Questions Nos. 1 to 11, inclusive, answered orally.*

### Tourism Review Report.

12. **Mr. McCormack** asked the Minister for Arts, Sport and Tourism the recommendations of the tourism review report which have to date been implemented; and if he will make a statement on the matter. [19694/04]

29. **Ms Burton** asked the Minister for Arts, Sport and Tourism the number of meetings there have been to date of the Tourism Action Plan 2003-2005 implementation group; the actions taken as a result of these meetings; and if he will make a statement on the matter. [19735/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I propose to take Questions Nos. 12 and 29 together.

The high level tourism action plan implementation group, which I appointed to advise on and drive forward the recommendations made by the tourism policy review group, has had five meetings to date. The first meeting of the group was in February 2004 and its next meeting is scheduled for 19 July 2004.

In line with its terms of reference, the implementation group will report to me on a six monthly basis. As I advised the House on 25 May last, the first report of the group is due in August and will outline its work to date and set out progress in implementing the action plan. I understand that the intention is that the first report will include an activity update on the actions recommended by the tourism policy review.

### National Conference Centre.

13. **Mr. Stagg** asked the Minister for Arts, Sport and Tourism if the report to the chairman of the national conference centre steering group by the assessment panel considering the four submissions for the provision of the national conference centre is complete; if he has received a copy of this report; the latest situation with regard to the development of the conference centre in view of this report; and if he will make a statement on the matter. [19728/04]

27. **Mr. Ring** asked the Minister for Arts, Sport and Tourism if he will be in a position to make a decision with regard to the provision of a national conference centre before the end of 2004; and if he will make a statement on the matter. [19705/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I propose to take Questions Nos. 13 and 27 together.

I understand that the national conference centre, NCC, steering group met on 21 June last and considered the reports of the NCC financial and economic standing/technical ability panel and the NCC site assessment panel. In line with the recommendations set out in the two reports, I am informed the steering group has taken decisions as to the qualification of candidates and their sites and has so advised the Office of Public Works which will notify candidates accordingly.

In the meantime, as I informed the House on 25 May last, the Office of Public Works and its advisers are continuing to work on the preparation of the very detailed documentation required before that next stage can be initiated. In addition, consultants have been engaged by the OPW to undertake a public sector benchmarking exercise, as required by the Department of Finance's interim guidelines for the provision of infrastructure and capital investments through public private partnerships. I am told this is likely to take some weeks to complete.

The timeframe prepared following the Government's decision to secure the provision of a national conference centre, and which envisaged that a final decision from Government could be secured in the autumn, was an indicative timeframe, based on the information and assumptions available at the time. The procurement process that was subsequently undertaken is, as one would expect for a project of this scale, necessarily complex. In addition to the procedural requirements of the PPP process itself, the development of the detailed design and contract documentation is demanding, with details requiring careful scrutiny and consideration.

As I previously informed the House, it is now unlikely that the procurement process will be sufficiently advanced to facilitate a Government decision in the autumn and while I would hope to be in that position before the end of the year, given the complexity of the process, I am reluctant to be categorical. My priority is to have this project brought to a conclusion at the earliest possible date. However, it is important that the relevant procedures and guidelines pertaining to the process are closely observed and that nothing is done that might jeopardise its successful conclusion.

### Crime Against Tourists.

14. **Mr. Coveney** asked the Minister for Arts, Sport and Tourism his views on the level of crime directed against tourists here; the response of his Department to crime against tourists; and if he will make a statement on the matter. [19695/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** We have no official statistics on crime against tourists. From anecdotal reports and the general feedback received by the tourism agencies, there would not appear to be any significant incidence of such crime in Ireland.

Last year, the tourist victim support service, TVSS, dealt with some 357 cases of crimes against

[Mr. O'Donoghue.]

tourists, as against 344 in 2002. I understand the majority of the cases, 188, were in regard to theft but, regretfully, some 22 cases involved violence. These 22 cases should be seen in the context of well over six million visitors to Ireland in 2003.

I deplore any incidents of crime against tourists, who are a vulnerable group away from their home country and without a network of family or friends to support them. Like me, most Irish people have a natural repugnance for crimes against those who are guests to our shores. It offends against the fundamental traditions of welcome which are a deep rooted cultural characteristic of our people. The establishment of the TVSS was, in itself, an expression of that concern.

In the past, I have called on the wider tourism sector to give greater financial support to the TVSS and I again repeat that appeal. I applaud and support the excellent work of the tourist victim support service and I am encouraged by the support and close co-operation it continues to receive from the Garda Síochána. Fáilte Ireland contributes some €25,000 a year towards the running costs of the TVSS.

#### **Irish Genealogical Project.**

15. **Mr. J. Bruton** asked the Minister for Arts, Sport and Tourism the position in regard to the Irish Genealogical Project, commenced in 1990 with a view to completion by 1994; if the project is now complete and comprehensive in its coverage of all relevant genealogical information; and if not, the reason therefor. [17506/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** Responsibility for the Irish Genealogical Project passed from the Department of the Taoiseach to the Department of Arts, Heritage, Gaeltacht and the Islands in October 1997. The Irish Genealogical Project's primary aim is to include all church and civil records up to 1900. The number of records involved is in excess of 20 million. To date, 76% of church records and 40% of civil records have been indexed by the 35 designated Irish Genealogy Limited centres.

The rate of inputting of records was considerably facilitated by the assistance of participants in a FÁS work experience programme. The number of participants on this scheme has decreased considerably in recent years, resulting in a slower rate for the inputting of records. I understand from the project managers that they expect 90% of church records will be completed by the end of 2007. Due to the prioritising of the indexing of church records, a target date for completion of civil records has not been determined.

The IGL website provides for a central signposting index link which gives basic information and directs inquiries to the relevant county centres. In the case of nine centres, the detailed database can be accessed by the user. This facility is being expanded to comprehend all county locations.

#### **Tourism Industry.**

16. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism if he has satisfied himself regarding the competitiveness of the Irish tourism industry; and if he will make a statement on the matter. [19769/04]

39. **Mr. Wall** asked the Minister for Arts, Sport and Tourism his views on the fact that continuing price rises across many sectors of the tourism industry serve as a deterrent to visitors coming here; his further views on the rise in the price of a pint, in view of the potential negative implications for the hospitality industry here; if he will raise the possibility of introducing price controls in the drinks trade with the Department of Finance; and if he will make a statement on the matter. [19734/04]

80. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism if he can, directly or through bodies or agencies under his direction, take steps to ensure that the tourism industry here remains competitive; and if he will make a statement on the matter. [19910/04]

81. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism if he has satisfied himself regarding the competitiveness of the tourism industry with particular reference to the ability to compete with other tourism locations throughout the world; and if he will make a statement on the matter. [19911/04]

82. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism if he has taken steps, directly or indirectly, to maintain the competitiveness of the tourism industry; and if he will make a statement on the matter. [19912/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I propose to take Questions Nos. 16, 39, 80, 81 and 82 together.

As I have indicated many times since my appointment as Minister for Arts, Sport and Tourism, I share the concern of most people involved in the tourism industry regarding the decreasing levels of satisfaction, evident in visitor attitude surveys, about the value for money offered by the overall tourism experience in Ireland. One of the strongest messages from the tourism policy review group was that restoring competitiveness is the major challenge facing the tourism sector and that the industry itself must offer better value to its customers if it is to maximise the opportunities for future growth.

The review group confirmed that there is no immediate, single or easy solution to addressing concerns about competitiveness and listed some ten specific actions that require responses from both the private and public sectors. Its recommendations covered a broad range of actions and included proposals in regard to taking responsibility for restoring competitiveness, inflation, benchmarking, customer relationship management, management capability, high standards for competitive advantage and training.

My role is to work, in so far as it lies within my power, towards ensuring a coherent action plan is implemented quickly and effectively. To this end, I have established the high level implementation group to advise and assist in driving forward and monitoring the recommended actions set out in the report. The first report of the implementation group is due in August and we will have to await that report before we can assess the impact of the action plan on competitiveness and value for money.

I made my views on the drink prices issue quite clear in a public statement on 26 May in which I called on brewers and the licensed trade to seriously consider the potential negative impacts of proceeding with drink prices which would only exacerbate our existing competitive disadvantage in this area. While the issue of price control is a matter for the Minister for Enterprise Trade and Employment, at this juncture I would not be in favour of going back down the road of price controls. Public debate and consumer pressure may be a more efficacious way of dealing with this type of issue.

#### Swimming Pool Projects.

17. **Mr. Deenihan** asked the Minister for Arts, Sport and Tourism when Ballybunion health and leisure centre will proceed to tender stage; and if he will make a statement on the matter. [19741/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** Kerry County Council has submitted to my Department the contract documents for a new swimming pool in Ballybunion. This documentation has been examined by my Department's technical advisers, the Office of Public Works, and is now under consideration in my Department.

#### Tourism Industry.

18. **Mr. Connaughton** asked the Minister for Arts, Sport and Tourism the number of tourists to Ireland who rent vehicles whilst on holiday here; and if he will make a statement on the matter. [19692/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I am informed by Fáilte Ireland that the number of overseas holiday visitors using a hired car while in Ireland in 2003 was 799,000. With an average occupancy of just over two visitors per hired car, this represents an estimated 383,000 car hire transactions. Due to the significant contribution made to the car hire sector by the American market, the number of overseas visitors using hired cars in Ireland has declined since 2000. However, there is evidence that the recovery in the sector is continuing in 2004, and with North American visits ahead of 2000 for the first time during the first four months of this year, the prospects for the sector are encouraging.

The Government is supportive of the car rental sector and has demonstrated this by the operation

of the vehicle registration tax, VRT, repayment scheme, which contributes to the development of a critical tourism product and stimulates a competitive environment within the car rental sector.

*Question No. 19 answered with Question No. 8.*

#### European Cultural Identity.

20. **Mr. Gilmore** asked the Minister for Arts, Sport and Tourism if his attention has been drawn to a call from over 80 artists and cultural leaders from across Europe for a strengthened European cultural identity; his views on the signatories' belief that the EU serves primarily an economic and monetary purpose to the detriment of a European cultural identity; if he has received and replied to the letter; and if he will make a statement on the matter. [19738/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I assume the Deputy is referring to a communication addressed to the President of the European Commission recently from a group of artists regarding the importance of culture in the European Union. My office has not received this correspondence. I am pleased that the new constitution continues to recognise the importance of our common cultural heritage as well as the cultural diversity of member states in a newly enlarged Europe.

#### Tourism Promotion.

21. **Mr. P. Breen** asked the Minister for Arts, Sport and Tourism the implications for tourism promotion of the decision to invest moneys from the International Fund for Ireland in the Border counties; and if he will make a statement on the matter. [19689/04]

25. **Mr. Costello** asked the Minister for Arts, Sport and Tourism if the €4 million in funding provided from the International Fund for Ireland for new tourism facilities and community centres will have an impact on tourism promotion in Border counties; and if he will make a statement on the matter. [19737/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I propose to take Questions Nos. 21 and 25 together.

The International Fund for Ireland is an independent international organisation established by the British and Irish Governments in 1986 and administered by a joint secretariat, the Irish element of which is provided by the Department of Foreign Affairs. My Department, with Fáilte Ireland, contributes to the fund's tourism programme.

On 18 June 2004, the International Fund for Ireland announced that the board had approved funding of almost €4 million to support approximately 20 community based reconciliation and job creation projects throughout the southern Border counties. While these projects will, in the main, be funded under the regeneration of



[Mr. O'Donoghue.] deprived areas programme and the economic development programme, some of them have a significant tourism dimension and will thus play a vital role in attracting an increased number of visitors to the Border area. The fund's tourism programme, with its focus on tourism projects that demonstrate a capacity to create employment and encourage cross-Border and cross-community activities which are economically and environmentally sustainable, has made an important contribution to the tourism infrastructure of the Northern Ireland counties and the southern Border counties, and to tourism marketing and human resource development initiatives in the region.

#### National Stadium.

22. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism the position in regard to discussions, negotiations or consultations he has had with the representatives of the various sporting bodies in regard to the national stadium; and if he will make a statement on the matter. [19770/04]

24. **Mr. Perry** asked the Minister for Arts, Sport and Tourism the progress made to date with regard to the Lansdowne Road stadium refurbishment; and if he will make a statement on the matter. [19709/04]

32. **Ms Lynch** asked the Minister for Arts, Sport and Tourism if the formal grant agreement between his Department and the IRFU and the FAI for the redevelopment of Lansdowne Road has been finalised; and if he will make a statement on the matter. [19730/04]

37. **Mr. Rabbitte** asked the Minister for Arts, Sport and Tourism the latest contact he has had or report he has received from the Lansdowne stadium project steering group, constituted to co-ordinate the redevelopment of Lansdowne Road; and if he will make a statement on the matter. [19729/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I propose to take Questions Nos. 22, 24, 32 and 37 together.

The Government decided on 27 January 2004 to provide financial support for a joint IRFU-FAI project to redevelop Lansdowne Road stadium. I arranged for the establishment of a project steering group to oversee its delivery by the two sporting bodies. Since then, my Department has been working with the IRFU and the FAI within the forum of the steering group and bilaterally to ensure implementation of the decision.

The Lansdowne stadium project steering group is chaired by the Secretary General of my Department and comprises representatives from the Department, the Office of Public Works, the IRFU and the FAI. It has held six meetings. There is regular contact between the parties involved to ensure that all aspects of the project are progressing smoothly. A priority for the steer-

ing group is to ensure that all the legal, financial, planning and procurement requirements are met in an efficient and timely manner so that actual construction work can get under way by the target date of July 2006. The chairman of the steering group reports regularly to me on the group's deliberations.

The IRFU and FAI have reached agreement on formation of a special purpose vehicle under the Companies Act to deliver the project and the legal formalities to give effect to this are nearing completion. A project manager has been selected. The text of a formal grant agreement between my Department, on the one hand, and the IRFU and FAI, on the other, is being finalised and will soon be ready for signature.

#### Tourism Industry.

23. **Ms O. Mitchell** asked the Minister for Arts, Sport and Tourism the projected tourist numbers to Ireland from European Union states for the 2004 season; and if he will make a statement on the matter. [19688/04]

26. **Mr. Hogan** asked the Minister for Arts, Sport and Tourism the projected North American tourist numbers for the 2004 season; and if he will make a statement on the matter. [19685/04]

36. **Mr. Howlin** asked the Minister for Arts, Sport and Tourism his views on the latest CSO statistics on tourist numbers to Ireland for the first quarter of 2004; his further views on whether the numbers demonstrate a significant recovery in numbers visiting Ireland from abroad; the efforts his Department is making to attract an increased number of tourists from other European countries specifically; and if he will make a statement on the matter. [19726/04]

38. **Mr. Murphy** asked the Minister for Arts, Sport and Tourism the amount to be spent in 2004 promoting Ireland as a tourist destination abroad; and if he will make a statement on the matter. [19715/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I propose to take Questions Nos. 23, 26, 36 and 38 together.

Government investment in support of tourism this year will be well over €110 million. Of this, almost €70 million will be spent in general support for the marketing and promotion activities of the State tourism agencies, including the largest ever provision for the tourism marketing fund of €31.5 million. This represents a strong endorsement of the performance of the two agencies and the tourism industry generally in delivering value for this substantial Exchequer investment.

On the basis of such a significant Exchequer investment, Tourism Ireland and Fáilte Ireland are rolling out a comprehensive range of programmes and activities across all product niches and markets to help realise the ambitious target of 4% growth in visitor numbers again this year. Key to achieving this target will be Irish tourism's

performance in two of our most important markets, continental Europe and North America. Last year, visitor numbers from continental Europe were at record levels. The North American market also performed strongly in the aftermath of the war in Iraq and the SARS crisis. In 2003 we had 6.3 million visitors to our shores, of whom almost 2.5 million came from either continental Europe or North America.

In revenue terms, these two markets account for over 50% of our overseas earnings. This year, Tourism Ireland has once again focused its marketing programme on those segments of the continental European and North American markets which offer the greatest potential. Close to 60% of its marketing budget is being deployed to target 6% and 8% growth in numbers from continental Europe and North America, respectively, in 2004. The early indications from these markets have been positive and provide grounds for optimism for the remainder of the year.

For the first four months of 2004 the Central Statistics Office has reported an increase of 22% in the number of North American visitors to Ireland. This performance compares very favourably with a growth rate of 8% in all outbound travel from the United States to Europe in the first two months of the year. The 2003 performance for the same period was weak due to the Iraqi situation but there are strong grounds for optimism regarding the North American market generally this year. This is good news for the regions and for those sectors of the industry which rely heavily on US business.

The Central Statistics Office has reported an increase of 4.5% in the numbers of continental European visitors to Ireland in the first four months of 2004. As European economies begin to recover, tourism demand will increase and Ireland is competitively well positioned to take full advantage of this upturn. Scheduled air access capacity from continental Europe to the island of Ireland is higher this summer than last year, which augurs well for continued growth from Europe over the peak months.

The accession of ten new member states to the EU may also produce tourism dividends in the future. These countries represent an EU population increase of nearly 20% and generated outbound travel spending of €8.2 billion last year. These figures suggest that there is market potential for Irish tourism and, over the last four years, Ireland has experienced steady growth, albeit from a low base, in visitor numbers from eastern Europe, most notably Poland, the Czech Republic and Hungary.

In line with our programme for Government and the recommendations of the tourism policy review group, Tourism Ireland has initiated a review of continental European markets to identify what is required to realise significant increases in the numbers of tourists Ireland attracts from these markets. Barring major external shocks, all the indications this year are for

positive growth in our key tourism markets, particularly in terms of winning market share against stiff international competition. I am confident that, if the industry maintains its focus on promoting and delivering a value for money tourism product, Ireland can continue to outperform its nearest competitors into the future.

*Question No. 24 answered with Question No. 22.*

*Question No. 25 answered with Question No. 21.*

*Question No. 26 answered with Question No. 23.*

*Question No. 27 answered with Question No. 13.*

### **Sport and Recreational Development.**

28. **Ms O'Sullivan** asked the Minister for Arts, Sport and Tourism if he has received a copy of the Football Association of Ireland's technical development plan for player development over the next five years; the level of support the Government will provide to the FAI for the implementation of this plan in order to enhance the football community here; and if he will make a statement on the matter. [19733/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I have received a copy of the plan in question which has just been published by the Football Association of Ireland. I welcome the association's comprehensive plans for the future of its sport and ongoing commitment to the development of football in this country. In particular, I recognise its efforts in providing quality opportunities for participation for more young people in their own communities countrywide. Last week, I announced an allocation of €2 million from the Irish Sports Council to the FAI for 2004 aimed at supporting its technical development plan with a special emphasis on participation in soccer at under age level.

This brings to €6.3 million the total allocated to the FAI since the introduction in 2001 of the special budgetary measure for the encouragement of greater under age participation in the four major field sports. The investment supports the council's strategic objectives of increasing opportunities to participate in sport, particularly for school aged children. Under the national lottery funded sports capital programme, which is administered by my Department, funding is allocated to sporting and community organisations at local, regional and national level throughout the country. The programme is advertised annually. Two sports capital grants of €225,000 in 2003 and €100,000 in 2004 have been allocated to the FAI towards the provision of equipment required for its development programmes.

The sports capital funding allocations since 1998 to projects classified as soccer projects,

[Mr. O'Donoghue.]

including the FAI's regional development centres, Eircom League clubs, district junior and schoolboy leagues and clubs and some municipal community soccer facilities are as follows: 1998, €0.89 million; 1999, €4.10 million; 2000, €6.92 million; 2001, €8.62 million; 2002, €19.98 million; 2003, €9.17 million. On 7 May I announced provisional funding allocations totalling €50.8 million, of which €8.05 million was for soccer projects under the 2004 sports capital programme. I will shortly make further announcements under the 2004 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 necessary for increasing levels of participation and improving standards of performance.

My Department and the Irish Sports Council will continue to work closely with the governing bodies of sport, including the FAI, in the provision of appropriate facilities and programmes aimed at increased participation, the raising of standards of performance and the achievement of excellence in top level national and international sport by our leading sports men and women.

*Question No. 29 answered with Question No. 12.*

#### **Interdepartmental Committees.**

30. **Mr. P. McGrath** asked the Minister for Arts, Sport and Tourism if officials from his Department are involved in interdepartmental committees with the Department of Education and Science with a view to increasing the availability of music and art education at second level; and if he will make a statement on the matter. [19712/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The provision of music and art education at second level is, in the first instance, a matter for the Department of Education and Science. My Department's officials are not involved in interdepartmental committees in this context. Separately, I am considering the establishment of a special committee under section 21 of the Arts Act 2003 to advise the Arts Council on the question of art and education.

#### **Sport and Recreational Development.**

31. **Mr. O'Shea** asked the Minister for Arts, Sport and Tourism his views on whether the Government will fulfil its commitment to the GAA to grant it €38 million for the redevelopment of Croke Park; if his attention has been drawn to recent comments from the GAA president that the organisation was paying €6 million a year in interest to service the debt incurred during the redevelopment project; and if he will make a statement on the matter. [19732/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The Government has provided

financial support of €69.84 million to the GAA towards the redevelopment of Croke Park. I do not share the contention that there is an outstanding commitment to provide additional funds for this work. In the context of the development of a State financed national stadium at Abbotstown, special funding proposals were made in April 2001 to the GAA on the basis of its intended usage of the completed stadium's facilities. This proposal lapsed with the Government's decision not to proceed with the development of a national stadium at Abbotstown.

Earlier this year I met with officers of the GAA and discussed with them the provision of additional funding for Croke Park. Following a useful exchange at that and previous meetings, the organisation understands that the Government is well disposed to support the GAA. The important contribution made by the GAA to Irish sport is well recognised in terms of the supports it has received through various funding channels operated through my Department. For instance, over €156 million has been allocated in capital and current funding in the five years up to 2003 between the sports capital programme and funds provided through the Irish Sports Council. Most recently, grants announced under the 2004 sports capital programme have included an allocation of €21 million to assist 260 local GAA projects.

*Question No. 32 answered with Question No. 22.*

*Question No. 33 answered with Question No. 5.*

*Question No. 34 answered with Question No. 7.*

#### **Irish Festival in China.**

35. **Mr. M. Higgins** asked the Minister for Arts, Sport and Tourism if he will report on the Irish Festival of Arts and Culture held in China; the details of the Chinese festival to be held here; the purpose and aims of each festival; and if he will make a statement on the matter. [19725/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The Irish Festival in China, which was formally opened by me in Beijing on 9 May 2004, comprised a total of 27 performances and events from 22 performing groups and leading artists and two exhibitions. The festival in Beijing was included as part of the Meet in Beijing Festival in May, at which Ireland was the featured guest nation. Many of these events transferred to Shanghai, where the entire festival finishes on 3 July with the closing of an exhibition of contemporary art from the Irish Museum of Modern Art. Our programme in China also included a number of artistic collaborations and residencies involving Irish and Chinese artists.

As extensively reported in the Irish and Chinese media, the festival was a great success with

Chinese audiences. The events were well attended and many sold out.

The festival in Ireland of Chinese arts and culture encompasses many art forms and includes several Chinese artists in residence. It will open at the Galway Arts Festival with the China Conservatory of Music and the Beijing Academy of Dance in July. Details of the programme are attached for the Deputy's information. The cultural exchange is intended to lead to a greater

understanding between our two peoples and should assist in the ongoing development of positive cultural, economic, trade and social relations between our two countries and to raise awareness of Ireland within China as part of the Government's Asia strategy. It is hoped, also, to develop lasting relationships between Irish artists and organisations that will hopefully encourage continuing artistic dialogue between Ireland and China.

Chinese Cultural Programme — Provisional Schedule for 2004

Programme	
China Conservatory of Music	Galway Arts Festival, Thursday 15 July Earagail Arts Festival, Letterkenny, Friday 16 July
Beijing Academy of Dance	Diversions Festival, Temple Bar, Sunday 18 July Galway Arts Festival, Friday 16 and Saturday 17 July Siamsa Tíre, Tralee, Sunday 18 July The Helix, Dublin, Wednesday 21 July
Chinese Film Festival	Irish Film Institute, Dublin, 24-30 September. Films to be confirmed
Peking Opera of Beijing	National Concert Hall, Dublin, 1 and 3 October. Pre-show talk confirmed
Exhibition of Peking Opera Costumes	NCH foyer as above
Exhibition of Contemporary Art — a collaboration between IMMA and Shanghai Art Museum	IMMA, opens 13 October to January 2005.
Shanghai Dramatic Arts Centre	European Capital of Culture, Cork Opera House. 28, 29 and 30 October
Shanghai Percussion Ensemble	European Capital of Culture Cork Town Hall — Thursday 4 November Glór, Ennis — Saturday 6 November Dublin date — Wednesday 10 November; promoted by Improvised Music Company and venue/date to be confirmed
Beijing People's Arts Theatre	The Helix, Dublin — 4, 5 and 6 November
Visual Arts in Residence	IMMA, October — dates to be advised by Beijing Municipal Government cultural office
Writers in Residence	October — dates to be advised by China Writers Association
Dancers in Residence	October — dates to be advised by China Dancers Association

*Question No. 36 answered with Question No. 23.*

*Question No. 37 answered with Question No. 22.*

*Question No. 38 answered with Question No. 23.*

*Question No. 39 answered with Question No. 16.*

**Work Permits.**

40. **Ms Enright** asked the Tánaiste and Minister for Enterprise, Trade and Employment the details of any new scheme for work visas for

skilled workers outside the EU; the categories and the countries which will be eligible under this scheme; if she has plans to amend the existing scheme; and if she will make a statement on the matter. [19885/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** While I do not at this stage see a need for any new scheme, my Department is closely monitoring labour market developments following EU enlargement. Depending on our experience of the enlarged labour market and an assessment of our future skills needs, I will be prepared to consider if a more formal programme of permanent migration for highly qualified personnel from outside the European Economic Area is necessary.



[Ms Harney.]

A working group set up under Sustaining Progress, including representatives of employer bodies and unions, recently concluded that such a programme is not necessary at this time. I will be guided by the emerging evidence from the labour market. Both the working visa/work authorisation and work permit facilities continue to be available for such higher skilled recruitment needs as cannot be satisfied within the enlarged EU.

#### **Pension Provisions.**

41. **Mr. N. O'Keefe** asked the Minister for Defence if consideration will be given to the entitlement of a person (details supplied) in County Cork to a disablement pension from his Department. [19860/04]

**Minister for Defence (Mr. M. Smith):** Under the Army Pensions Acts, a wound or disability pension may be granted to a former member of the Permanent Defence Force in respect of permanent disablement due to a wound or injury attributable to military service. Noise induced hearing loss comes within the scope of this provision. Under the Acts, application for a wound pension must be made to my Department within one year of discharge from the Permanent Defence Force.

The person in question was discharged from the Permanent Defence Force in June 1989 and he first made an inquiry regarding a pension in respect of disablement in February 1997. As this was outside the statutory time limit, it was not open to my Department to accept an application for a wound pension from him. This person received civil compensation from my Department in 1998 in settlement of a civil action alleging loss of hearing.

#### **Reserve Defence Forces.**

42. **Mr. Stanton** asked the Minister for Defence the further decisions and actions that have to be undertaken to complete the planned reorganisation of the Reserve Defence Forces; the current strength of the various Reserve Forces; his further plans and the timescale for further development; and if he will make a statement on the matter. [19927/04]

**Minister for Defence (Mr. M. Smith):** On 15 January 2003, I approved, in principle, the report of the Reserve Defence Forces review implementation board for the implementation of the recommendations of the special steering group on the Reserve, which had reported to me in September 1999. The Permanent Defence Force is now organised in a three brigade structure and a Defence Forces training centre. The Reserve Defence Force will be similarly reorganised and restructured and it is envisaged that the implementation of these changes in the Reserve Defence Force will take place over a period of approximately six years.

The White Paper on defence recognised that a notable and important feature of the existing FCA organisation is its countrywide, geographi-

cal spread. This particular aspect will, in general terms, be retained in the future. The full organisational and establishment details of the new Reserve will be determined in the course of the ongoing detailed implementation process. Plans within each brigade for the amalgamation of FCA units in line with the proposals outlined in the steering group report will ensure that better training and other facilities will be provided to members of the Reserve Defence Force. No decisions have yet been taken on the location of proposed newly amalgamated units but the military authorities have advised me that all proposed amalgamations will provide an optimal environment for personnel in the relevant areas to partake in the new enhanced Reserve Defence Force.

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

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

The current strength of the Reserve Defence Force, as on 31 May 2004 is shown on the tabular statement below.

	Number
<i>1st Line Reserve</i>	
Total	412
<i>2nd Line Reserve</i>	
FCA	13,217
Slua Muiri	406
Total	13,623

#### **Service Medals.**

43. **Mr. Hogan** asked the Minister for Defence if a service medal will be provided in respect of a person (details supplied) who served in the Army; and if he will make a statement on the matter. [19928/04]

**Minister for Defence (Mr. M. Smith):** The criteria for qualification for the award of service medals to non-commissioned officers or privates is governed by the terms of Defence Force regu-

lations, which provide that the minimum qualifying period for the award of a service medal is 3,650 days of continuous service in the Permanent Defence Force. Service in the First Line Reserve may also be aggregated for the purposes of meeting the service qualifying period.

I understand that the person in question served in the Army in the rank of private for a period between 1922 and 1924, which would not be sufficient time to qualify for such a medal.

#### **Animal Feedstuffs.**

44. **Mr. Timmins** asked the Minister for Agriculture and Food if, in view the fact that article 6 of Directive 95/53/EC applies only to imports from third world countries and does not apply to intra-EU trade, he will give reasons and apologise to those trading companies whose goods were seized for breaches of an effectively voluntary code of prior notification for feeding stuffs originating in other member states; and if he will make a statement on the matter. [19839/04]

**Minister for Agriculture and Food (Mr. Walsh):** EU Directive 95/53, transposed into national legislation through Statutory Instrument 283 of 2003, European Communities (Animal Nutrition Inspections) Regulations 2003, permits the competent authority, as part of its control measures, to request prior notification of all imports of feed materials. I am satisfied that this legislation is being operated as intended, which is to ensure effective control on the safety of feed materials entering the feed chain. If the Deputy has details of any particular case, he can forward the details to me.

#### **Rural Environment Protection Scheme.**

45. **Mr. N. O'Keefe** asked the Minister for Agriculture and Food when a REP scheme payment will issue to a person (details supplied) in County Cork. [19856/04]

**Minister for Agriculture and Food (Mr. Walsh):** Payment dated 10 June 2004 has issued in this case.

#### **Grant Payments.**

46. **Mr. N. O'Keefe** asked the Minister for Agriculture and Food when payment in respect of a reactor animal will issue to a person (details supplied) in County Cork. [19857/04]

**Minister for Agriculture and Food (Mr. Walsh):** A valuation payment in respect of the reactor animal disclosed in the herd of the person concerned will issue shortly.

47. **Mr. N. O'Keefe** asked the Minister for Agriculture and Food if the awarding of a hardship grant to a person (details supplied) in County Cork will be reconsidered. [19858/04]

**Minister for Agriculture and Food (Mr. Walsh):** The hardship grant scheme is aimed at assisting eligible owners-keepers with restricted holdings where animals are retained and fed during periods of restriction. The eligibility period is

between 1 November and 30 April each year. The onus is on the owners-keepers to apply for a hardship grant. An essential eligibility prerequisite is that the applicant cannot be supplying milk for sale at the time of applications.

An application for hardship grant was received by the local district veterinary office from the person concerned on 22 April 2004. Under the terms and conditions applying, any period prior to date of receipt of the application form in the DVO is not eligible for a hardship grant. In assessing the application for the period 22 April 2004 to 30 April 2004, it was established that the applicant was supplying milk for sale since 3 February 2004. Consequently, he did not meet a basic eligibility condition which rendered him ineligible for payment consideration.

#### **Single Payment Scheme.**

48. **Mr. Connaughton** asked the Minister for Agriculture and Food the level of single farm payment that will apply to a person (details supplied) in County Galway; and if he will make a statement on the matter. [19887/04]

**Minister for Agriculture and Food (Mr. Walsh):** My Department is continuing the work of establishing an entitlements database under the single payment scheme, which will come into effect in 2005. The processing of the 15,000 *force majeure* applications is also continuing with decisions being communicated to farmers on an ongoing basis. In addition, farmers who wish to be considered as new entrants during the reference period or who have inherited holdings were invited to submit their applications by the closing date of 18 June 2004. Work has commenced on the processing of these applications and it will not be possible to determine the precise value of individual entitlements until these cases are determined.

It is my intention to issue notifications of provisional entitlements under the single payment scheme to the majority of farmers over the next two months. It should be noted however, that provisional entitlements may be subject to amendment later this year when all *force majeure*, new entrants and query cases are resolved. The intention is that all farmers will then be issued with a definitive entitlement early in 2005. It is not possible, therefore, to indicate what the definitive entitlement will be for the person named or indeed for any individual farmer.

#### **Grant Payments.**

49. **Mr. Hogan** asked the Minister for Agriculture and Food when a payment will be made in respect of forestry premia to a person (details supplied) in County Kilkenny; and if he will make a statement on the matter. [19929/04]

**Minister for Agriculture and Food (Mr. Walsh):** The 2004 forestry premium will be paid to the person in question next week.

50. **Mr. Hogan** asked the Minister for Agriculture and Food when beef cow premia will be awarded to a person (details supplied) in County

[Mr. Hogan.]  
Kilkenny; and if he will make a statement on the matter. [19930/04]

**Minister for Agriculture and Food (Mr. Walsh):** The person named submitted two applications under the 2003 EU special beef premium scheme, one on the 16 January 2003 in respect of one animal and one on the 31 December 2003 in respect of four animals. An 80% advance payment in respect of the application lodged in January issued on 16 October 2003.

Balancing payment for the first application and full payment for the second were initially delayed as the person named applied for premium on an animal which was dead at the time of application. As this is in breach of the terms and conditions of the special beef premium scheme, the animal was rejected from the application of the person named and a 7.14% reduction penalty was applied. Balancing payments amounting to €612.03 issued to the person named on 24 June 2004.

The person named applied for premium on nine animals under the 2003 suckler cow premium scheme. The application has been fully processed and payment of the 80% advance instalment amounting to €1613.88 issued on 17 October 2003 with a balancing payment of €259.44 issued on 22 June 2004. These represent payment in respect of the nine animals applied on, subject to the 7.14% reduction penalty aforementioned. During 2003, one animal was deemed eligible for the slaughter premium scheme and payment in full has issued in respect of this animal.

#### **Tax Code.**

51. **Mr. J. Higgins** asked the Minister for Finance the revenue which was generated by DIRT on court awards to injured children for the most recent year for which figures are available; and if he will make a statement on the matter. [19866/04]

52. **Mr. J. Higgins** asked the Minister for Finance the reason there are no plans to remedy the anomaly whereby injured minors cannot reclaim the DIRT paid on interest on their court awards. [19867/04]

**Minister for Finance (Mr. McCreevy):** I propose to take Questions Nos. 51 and 52 together.

I am informed by the Revenue Commissioners that the information furnished on DIRT returns made by financial institutions does not require the yield from deposit interest retention tax on interest income arising from court awards to injured children to be identified. Accordingly, the specific information requested by the Deputy is not available.

As indicated in my reply to Parliamentary Question No. 104 on 6 May 2004, the entitlement of individuals to repayment of DIRT deducted is limited to situations where: (i) he or she or his or her spouse is either aged 65 years or over at any time during the tax year or permanently incapacitated by reason of mental or physical infirmity

from maintaining himself or herself — or became so incapacitated — at any time during the tax year; and (ii) the income of the individuals — inclusive of the deposit interest — is below the appropriate income exemption limit for tax purposes. Partial refund may be due to the individuals, including minors, outlined in (i) whose income — inclusive of the deposit interest — does not greatly exceed the appropriate income exemption limit.

In addition, as regards awards in respect of personal injuries, section 189 of the Taxes Consolidation Act 1997 provides that certain income — including deposit interest — arising to individuals, including minors, from the investment of compensation payment awarded by the courts or under an out of court settlement in respect of a personal injuries claim is exempt from tax. However, the following conditions apply to this exemption: as a result of personal injuries, the individual is permanently and totally incapacitated by reason of mental and physical injury from maintaining himself or herself; and the income from the investment of the compensation awarded is the sole or main income of the individual.

Accordingly, a minor who, as a result of personal injuries, is permanently and totally incapacitated by reason of mental or physical injury from maintaining himself or herself has a statutory entitlement to repayment of DIRT deducted from the investment of compensation awarded. This is without reference to whether his/her income is below the income threshold for tax purposes.

While court awards for injuries are generally not subject to taxation, special income tax treatment of the income from such awards by way of exemption or repayment of DIRT is confined by and large to those individuals, whether adults or children, who as a result of these injuries are permanently and totally incapacitated and where the income from the award is the sole or main income of the individual. DIRT is applied on a very wide basis and there are very few repayment situations. To widen the DIRT repayment to the income from all court awards irrespective of the personal circumstances of the individual would narrow the DIRT tax base and undoubtedly lead to requests for similar repayments for other categories of individuals. Accordingly, I have no plans at present to extend the DIRT repayment rules to cover all injured minors.

53. **Mr. Hogan** asked the Minister for Finance if value club cards or similar concessions to employees of major supermarkets are included for calculation purposes under the benefit in kind changes made in the Finance Act 2004; and if he will make a statement on the matter. [19934/04]

**Minister for Finance (Mr. McCreevy):** The position is that, except where otherwise provided, benefits in kind have been subject to taxation. However, provision was made in the Finance Act 2003 and the Social Welfare Act 2003 to bring taxable benefits in kind within the PAYE system from 1 January 2004. I am informed by the Rev-



enue Commissioners that a concession of the type mentioned by the Deputy given by an employer to an employee may, depending on the circumstances of the case, be subject to tax and PRSI as a benefit in kind.

Where a discount is given by an employer on the purchase of goods by one of his or her employees, it is not regarded as a taxable benefit if the sum paid by the employee is equal to or greater than the cost to the employer of acquiring or manufacturing the goods. Many employers, including many supermarkets, operate staff discount schemes and I understand that Revenue have no difficulty in approving exemption for such schemes where the discount is given in a transparent way at the time of purchase and the goods are not sold to employees at below cost.

However, where an employee can accumulate value over a period — based on purchases from the employer — and that value is subsequently given by the employer either in the form of vouchers or through a value club card scheme, then a tax liability will most likely arise as the value in such circumstances is capable of being converted into money or money's worth. Each case will depend on its own facts but, in general, staff value accumulation schemes are, because of the convertibility factor, considered to go beyond the scope of the tax treatment of staff discount schemes.

54. **Mr. Penrose** asked the Minister for Finance the income limits available to a married couple aged 65 and 62; the amount of income they can earn, prior to their entering the tax net at 20%; and if he will make a statement on the matter. [19943/04]

**Minister for Finance (Mr. McCreevy):** Under the current age exemption limits, a married couple, where one is or both are aged 65 or over, may earn up to €31,000 per annum without any liability for income tax arising. If the married couple have a dependent child or children, the age exemption limit of €31,000 is increased by €575 for each of the first two children and by €830 for each subsequent child. A dependent child is a child of the claimant who is: under 18 years of age; over 18 years of age and in full-time education or training full-time as an apprentice where the training is for at least two years; or incapacitated, either physically or mentally, having become so before reaching 21 years of age or after reaching the age of 21 while still in full-time education or while training full-time for a trade or profession for a minimum of two years.

Where one or both spouses are aged 65 or over and their income rises above the exemption limit applying in their case, they will pay tax under the system of marginal relief taxation at a rate of 40%. They will do so, however, only on the amount of income in excess of the exemption limit and until such time as their income level reaches a point — sometimes referred to as the marginal relief cut off point — where the tax payable under the system of marginal relief is the same as would be payable under the normal system of credits and bands or until their income

reaches a statutory maximum as set out in legislation, namely, twice the exemption limit of €62,000. For a married two-earner couple, the cut-off point will usually be significantly below €62,000 and will vary depending on whether one or both spouses are in the PAYE sector or self employed, on the number of dependent children, if any, and on the income split between the spouses.

Where the income of a married couple with at least one spouse aged 65 or over exceeds the marginal relief cut-off point appropriate to them, the couple will pay tax on all their income in accordance with the normal system of rate bands and tax credits. Depending on their level of income and their income split, the couple may be liable for tax at a rate of 20% or 42% or a combination of both under the normal system. I am informed by the Revenue Commissioners that if the Deputy has in mind a specific case, they will be happy to examine the details and furnish a report to the Deputy in due course.

### School Curriculum.

55. **Mr. Durkan** asked the Minister for Education and Science the extent to which he has encouraged the promotion of the arts in primary and second level schools; and if he will make a statement on the matter. [19908/04]

**Minister for Education and Science (Mr. N. Dempsey):** Music, the visual arts and drama provide for sensory, emotional, intellectual and creative enrichment and contribute to the young person's holistic development and self-esteem.

Arts education — visual arts, music and drama — is one of the seven subject areas that comprise the primary curriculum, which was revised in 1999. The primary curriculum support programme, PCSP, provides professional development support to teachers to assist them in implementing the curriculum. The PCSP is engaged in a wide range of support activities, including organising seminars for teachers, visiting schools and providing tailored support for individual schools and clusters of schools. Visual arts has already been implemented in schools. The in-career development programme for music will take place in the school year 2004-05. All primary teachers will receive training in the new programme during that year. Teachers will begin to implement the programme during the following school year.

In preparation for this roll out, the PCSP has recruited a team and a supplementary panel of trainers for music and an assistant national coordinator who has particular responsibility for this team. The role of this team is to plan supports for the implementation of the music curriculum. These trainers are at present using the new methodologies in their own classrooms and sharing their experiences and expertise with colleagues on the staff. They also work closely with the education centre network in the provision of evening and summer courses. It is planned that inservice for drama will take place in the school year 2005-06, with implementation the following year.



[Mr. N. Dempsey.]

In order to assist schools in buying the materials and resources necessary for the implementation of the visual arts curriculum, my Department issued a grant to all primary schools in autumn 2000, at a rate of £5.50 per pupil or, for schools with 60 pupils or fewer, a minimum of £330. In addition, in December 2000, a further £6.1 million pounds was issued to support primary schools in their implementation of all aspects of arts education. This capitation grant amounts to £13 per pupil or a minimum of £780 for schools with 60 pupils or fewer.

At post-primary level there are approved syllabi for junior certificate in music and art, craft and design. In the senior cycle there are syllabi in music and art. Modules in the arts are also available as part of the leaving certificate applied. In the transition year programme, schools offer a variety of modules which stimulate pupils' interest in the arts in general and which, in many cases, give them the opportunity to interact with practising artists in their own classrooms and in other contexts.

The leaving certificate in music was revised for first examination in 1999. To ensure the satisfactory implementation of this syllabus, a comprehensive two year programme of in-career development for teachers of music was set in place. Further courses for teachers are provided on an ongoing basis. The assessment structure allows students to specialise in the component of the course best suited to their interests and ability. The broad range of performance options available to students has increased accessibility to the subject and allows for students of diverse music backgrounds to participate in the subject. Leaving certificate art is currently being revised by the National Council for Curriculum and Assessment.

#### **School Accommodation.**

56. **Mr. Stagg** asked the Minister for Education and Science his views on whether the use of general purpose rooms for classroom space is unacceptable; if his national school planning section will not recommend the use of general purpose rooms for classrooms; if he will re-examine the application for temporary accommodation by a school (details supplied) in County Kildare; and if he will make a statement on the matter. [19424/04]

58. **Mr. Stagg** asked the Minister for Education and Science his views on the fact that the use of general purpose rooms for classroom space is unacceptable; if his national school planning section will not recommend the use of general purpose rooms for classrooms; if he will re-examine the application for temporary accommodation by a school (details supplied) in County Kildare; and if he will make a statement on the matter. [18900/04]

**Minister for Education and Science (Mr. N. Dempsey):** I propose to take Questions Nos. 56 and 58 together.

While an application for additional accommodation was received from the school to which the Deputy refers, in the context of the available funding and the number of applications for that funding, it was not possible to approve all applications for temporary accommodation this year and only those with an absolute and demonstrated need for additional accommodation were approved. All other schools are required, as an interim measure, to maximise the use of existing accommodation until my Department is in a position to make extra accommodation available.

#### **Special Educational Needs.**

57. **Mr. Stagg** asked the Minister for Education and Science if he will sanction the provision of a special needs assistant and resource hours for a person (details supplied) in County Kildare; and if he will indicate when a decision will be made. [18899/04]

**Minister for Education and Science (Mr. N. Dempsey):** My Department received an application for special education resources, SER, for the pupil to whom the Deputy refers on 5 February 2004. It is my intention that all applications for special education resources received by 30 June 2004 will be responded to before the commencement of the 2004-05 school year. Applications for resource teacher support that were received between 15 February and 31 August 2003 for which a response is outstanding have been considered and schools have now been notified of the outcome. This outcome indicates to schools the resources that may be put in place immediately. Applications received after 31 August 2003 and by 30 June 2004, including that for the person in question, will be processed in the near future and the outcome will be notified to schools before the commencement of the 2004-05 school year.

The teacher allocations involved will be made in the context of a new weighted system I announced recently. An additional 350 teacher posts are being provided to facilitate the introduction of the new system. This system will involve a general weighted allocation for all primary schools to cater for pupils with higher incidence special educational needs such as, for example, those with borderline mild and mild general learning disability, specific learning disability and also those with learning support needs. It will also allow for individual allocations in respect of pupils with lower incidence special educational needs.

The weighted allocation will be made as follows: in the most disadvantaged schools, as per the urban dimension of giving children an even break, a teacher of pupils with special educational needs will be allocated for every 80 pupils to cater for the subset of pupils with higher incidence special needs; in all boys schools, the ratio will be one teacher for every 140 pupils; in mixed schools or all girls schools with an enrolment of greater than 30% boys, one for every 150 pupils; and in all girls schools, including those with mixed junior classes but with 30% or less boys overall, one for every 200 pupils. It is intended that the details of

the new model will be set out in a comprehensive circular to issue to schools for the commencement of the new school year.

The weighted allocation will enable teaching support to be provided to pupils with higher incidence special educational needs and this will obviate the need for schools to submit individual applications for pupils in the higher incidence categories. Schools may continue to apply for specific teacher allocations in respect of pupils with lower incidence disabilities.

My Department now proposes to devise clusters in respect of allocations to be made under the weighted model. Sanction for the filling of posts will be considered in the context of these clusters and the weighted arrangements. The Department will communicate with schools in this regard before the commencement of the coming school year.

Special needs assistants may be approved to support a pupil who has a significant medical need for such assistance, a significant impairment of physical or sensory function or where their behaviour is such that they are a danger to themselves or other pupils. The criteria used for the assessment of the need for special needs assistant support is outlined in the Department's circular 07/02, which may be accessed on my Department's website, [www.education.ie](http://www.education.ie), under "Children with Special Needs".

I refer the Deputy to circular SP ED 09/04 which may also be accessed on my Department's website. The circular advises schools that have applied for special needs assistant support that they will be advised of the outcome of their applications as soon as possible in advance of the next school year.

*Question No. 58 answered with Question No. 56.*

#### **School Transport.**

59. **Mr. Healy-Rae** asked the Minister for Education and Science the reason a school (details supplied) in County Kerry was not notified of the availability of a remote area grant which has been available for approximately 15 years at around €4.20 per day; if all arrears due will be awarded to all who qualify for this grant; and if he will make a statement on the matter. [19851/04]

**Minister for Education and Science (Mr. N. Dempsey):** Under the terms of the primary school transport scheme, only eligible children qualify for free school transport. In order to be eligible children must live at least two miles from their nearest national school. In the case of children wishing to receive instruction in Irish, their nearest school offering subjects through the medium of Irish is regarded as their nearest national school.

An application for a remote area grant is normally considered in the context of transport provision to the nearest national school. For children eligible for school transport residing in remote areas or outside the range of transport services, a remote area grant, based on distance and school days attended, may be payable.

The school to which the Deputy refers in the details supplied does not have a transport service. An application has only recently been received for such a service and Bus Éireann has been asked to investigate and report on the matter. When the report is received and considered, the school authorities will be advised of the outcome. Information on the school transport scheme and remote area grants is currently available on my Department's website, [www.education.ie](http://www.education.ie).

60. **Mr. Wall** asked the Minister for Education and Science the position regarding the provision of transport for persons attending a special school (details supplied) in County Kildare; and if he will make a statement on the matter. [19852/04]

**Minister for Education and Science (Mr. N. Dempsey):** A report on this case has been requested from Bus Éireann. The Deputy will be advised of the position as soon as the report has been received and assessed.

#### **Special Educational Needs.**

61. **Mr. J. Higgins** asked the Minister for Education and Science if he will immediately revoke the decision to withdraw two special needs assistant posts from a school (details supplied) in Dublin 15; and if he will make a statement on the matter. [19868/04]

**Minister for Education and Science (Mr. N. Dempsey):** The two special needs assistants, SNAs, to whom the Deputy refers were sanctioned on a temporary basis on 1 August 2003 to cater for the needs of a number of pupils at the school. The professional recommendation at the time was that, in the interests of the development of the personal independence skills of the pupils concerned, the posts should be withdrawn in June 2004. In this regard, the school authorities were informed that the posts would cease at this time.

Applications for SNA support are considered in terms of the criteria set out in my Department's circular 07/02, which may be accessed on my Department's website, [www.education.ie](http://www.education.ie), under "Children with Special Needs". Any applications for such support received from the school in question will be fully considered in this context.

#### **School Accommodation.**

62. **Mr. Connaughton** asked the Minister for Education and Science if his attention has been drawn to overcrowding at a school (details supplied) due to the increase in student numbers; if his attention has further been drawn to the fact that there are two new classrooms urgently required in this school in view of the fact that an extra teacher will be employed in September 2004; if he will give consideration to this school being allocated the devolved initiative programme; and if he will make a statement on the matter. [19869/04]

**Minister for Education and Science (Mr. N. Dempsey):** The school to which the Deputy refers was recently approved for grant aid towards the

[Mr. N. Dempsey.] rental of temporary accommodation to meet its needs for September 2004. The school's permanent accommodation needs 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 it as part of a multi-annual school building programme from 2005, details of which will be announced later in the year.

### Schools Refurbishment.

63. **Mr. Gregory** asked the Minister for Education and Science, further to Parliamentary Question No. 140 of 16 June 2004, if his Department received a funding request from a school (details supplied) in Dublin 3 to refurbish the toilet facilities in the school; when the application was made; the scheme under which it was made; and if he will make a statement on the matter. [19872/04]

**Minister for Education and Science (Mr. N. Dempsey):** The school to which the Deputy refers submitted an application for grant aid to carry out works to toilet facilities in 2002. On the basis of the budgetary allocation in 2002, it was not possible to fund the project at that time. The application was assessed again in 2003 for consideration for contingency funding but the application was unsuccessful at that time. However, the scope of works required at the school is appropriate for consideration under the summer works scheme, SWS. This scheme was launched in December 2003 and it replaces all existing small scale building project schemes. The school did not apply for funding under the scheme for 2004. It is open to the school's management authority to apply for the key priority works required at the school as part of the 2005 SWS, details of which will be announced shortly.

### Special Educational Needs.

64. **Mr. Quinn** asked the Minister for Education and Science if he has received a request for a meeting with ASPIRE in connection with the promise of the provision of a second level class, to be operational in September 2004, at a school (details supplied) in Dublin 3; if his attention has been drawn to the distress caused due to the delay in the provision of the promised service; when he will meet with the group; and if he will make a statement on the matter. [19879/04]

**Minister for Education and Science (Mr. N. Dempsey):** My Department is actively engaged in pursuing the development of a second level programme for children with Asperger's syndrome on Dublin's north side. The group concerned has already met with officials of my Department and I will be happy to make arrangements for a further meeting as soon as possible.

65. **Mr. Quinn** asked the Minister for Education and Science if he has received an application from a school (details supplied) in Dublin 4 for a full-time resource teacher to be based at the school, in place of the existing arrangement

whereby a resource teacher is shared with another local national school; if the application has been evaluated; if a decision has been made; when the decision will be communicated to the school principal; if the resource teacher will commence their essential work in September 2004; and if he will make a statement on the matter. [19880/04]

**Minister for Education and Science (Mr. N. Dempsey):** My Department has received applications from the school to which the Deputy refers for special education resources, SER. Applications for resource teacher support that were received between 15 February and 31 August 2003 for which a response is outstanding have been considered and all schools, including the school in question, have been notified of the outcome. This outcome indicates to schools the resources that may be put in place immediately. It is my intention that all applications for SER received by 30 June 2004, which includes two applications from the school in question, will be responded to before the commencement of the 2004-05 school year.

The teacher allocations involved will be made in the context of a new weighted system I announced recently. An additional 350 teacher posts are being provided to facilitate the introduction of the new system. This system will involve a general weighted allocation for all primary schools to cater for pupils with higher incidence special educational needs such as, for example, those with borderline mild and mild general learning disability, specific learning disability and also those with learning support needs. It will also allow for individual allocations in respect of pupils with lower incidence special educational needs.

The weighted allocation will be made as follows: in the most disadvantaged schools, as per the urban dimension of giving children an even break, a teacher of pupils with special educational needs will be allocated for every 80 pupils to cater for the subset of pupils with higher incidence special needs; in all boys schools, the ratio will be one teacher for every 140 pupils; in mixed schools or all girls schools with an enrolment of greater than 30% boys, one for every 150 pupils; and in all girls schools, including schools with mixed junior classes but with 30% or less boys overall, one for every 200 pupils. It is intended that the details of the new model will be set out in a comprehensive circular to issue to schools for the commencement of the new school year.

The weighted allocation will enable teaching support to be provided to pupils with higher incidence special educational needs and this will obviate the need for schools to submit individual applications for pupils in the higher incidence categories. Schools may continue to apply for specific teacher allocations in respect of pupils with lower incidence disabilities.

My Department now proposes to devise clusters in respect of allocations to be made under the weighted model. Sanction for the filling of posts will be considered in the context of these clusters and the weighted arrangements. The



Department will communicate with schools in this regard before the commencement of the coming school year.

### **Educational Disadvantage.**

66. **Ms Enright** asked the Minister for Education and Science if he has received an application for funding from persons (details supplied) in County Kildare in line with the Government's commitment to ending educational disadvantage and social exclusion; and if he will make a statement on the matter. [19881/04]

**Minister for Education and Science (Mr. N. Dempsey):** I met representatives of the Kildare community education partnership on 5 May and discussed in detail its proposal for tackling educational disadvantage in Kildare. I am pleased to inform the Deputy that I have now approved the secondment of a primary school teacher, on a full cost recoupment basis, to work with the partnership as a full-time education officer.

### **Special Educational Needs.**

67. **Mr. Ring** asked the Minister for Education and Science the recommendations that have been implemented to date from the report on autism; the plans there are to implement the remaining recommendations; and if he will make a statement on the matter. [19889/04]

**Minister for Education and Science (Mr. N. Dempsey):** The report of the task force on autism is lengthy and complex. It contains approximately 180 individual recommendations ranging from measures aimed at identifying prevalence rates and early intervention, through issues relating to diagnosis and assessment, the centrality of the role of parents, the required models of education and health care services and the need for specialist training for those involved in service provision, to structural, constitutional and policy issues.

The scope of these recommendations is such as to require a multi-faceted response. My Department's key focus to date has been on progressing the fundamental structural and legislative measures which are necessary to underpin the development and delivery of services for persons with autism in line with the task force's recommendations. These measures will be fundamental to the implementation of many of the task force's recommendations.

A key development on the structural front has been the decision to establish the National Council for Special Education. The council, which will have a local area presence, will play a key role in the development and delivery of services for persons with special needs, including persons with autism. It will have a research and advisory role and will establish expert groups to address particular areas of special needs provision. It will also establish a consultative forum to facilitate inputs from the education partners and other interested parties. Arrangements for the establishment of the council are now well advanced.

I have also published the Education for Persons with Disabilities Bill 2003, aimed at establishing the rights and entitlements of children

with special needs, including autism, to an appropriate education service and providing the necessary framework for effective service delivery. My objective is to secure the passage of this legislation through the Oireachtas as quickly as possible.

### **Residential Institutions Redress Scheme.**

68. **Mr. O'Shea** asked the Minister for Education and Science the proposals he has to add a school (details supplied) in County Dublin to the list of institutions covered by the Residential Institutions Redress Act 2002; and if he will make a statement on the matter. [19938/04]

**Minister for Education and Science (Mr. N. Dempsey):** Section 4 of the Residential Institutions Redress Act 2002 enables additional institutions that are identified as reformatory schools, industrial schools, orphanages, children's homes and special schools, in which children were placed and resident and in respect of which a public body had a regulatory or inspection function, to be added to the Schedule.

The institution to which the Deputy refers was a privately operated establishment and no public body had a regulatory or inspection function in respect of it. In the circumstances, it does not meet the criteria outlined in section 4 of the Act and is, therefore, not eligible for inclusion in any list of additional institutions that may be added to the Schedule to the Act.

### **Teaching Qualifications.**

69. **Mr. Ring** asked the Minister for Education and Science the information required from a person (details supplied) in County Mayo as mentioned in the reply to Parliamentary Question No. 140 of 22 June 2004, in view of the fact that this person has informed this Deputy that all information required has already been submitted. [19939/04]

**Minister for Education and Science (Mr. N. Dempsey):** My officials have written to the person in question confirming that the documentation required by my Department has been received. On foot of the requested documentation, I am pleased to say that provisional restricted recognition is being granted to the applicant in accordance with the terms of circular letter 25/00, which outlines the provisions relating to the recognition of teacher qualifications in national schools. Notification to that effect will issue to the person in question today.

### **Marina Development.**

70. **Mr. Kenny** asked the Minister for Communications, Marine and Natural Resources if assistance is being made available to a marina development (details supplied) in County Donegal; and if he will make a statement on the matter. [19841/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The Deputy will be aware, from my previous reply to Parliamentary Question No. 378 of 16 December 2003,



[Mr. D. Ahern.]

that Figary Water Sports Development Company Limited submitted an application under the marine tourism grant scheme of the national development plan for funding for a marina at Lough Swilly, County Donegal. However, the grant scheme was suspended in December 2002 due to lack of funding and no projects were approved for funding in Donegal or elsewhere. No funding was available to the grant scheme in 2003 or 2004. In light of the findings of the mid-term review of the regional operational programmes completed by the ESRI, which recommended reallocation of funds to other priorities, it is unlikely that the scheme will be reactivated within the term of the national development plan.

I am aware that an application for funding under the marine safety and port infrastructure measure of the INTERREG IIIA programme has been submitted for consideration. While my Department acts as implementing agency for this measure, it is a matter for the steering committee of the special EU programmes body to assess the application.

#### Harbours and Piers.

71. **Cecilia Keaveney** asked the Minister for Communications, Marine and Natural Resources the position in respect of an application to upgrade a crane at a pier (details supplied) in County Donegal; and if he will make a statement on the matter. [19899/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** Funding of €82,064.81 was provided by my Department to Donegal County Council in 2001 and 2002 towards the provision of a crane at Portaleen pier. Donegal County Council has not made an application to my Department for funding to upgrade the crane at Portaleen pier.

#### Property Transaction.

72. **Mr. Rabbitte** asked the Minister for Communications, Marine and Natural Resources the position regarding the application submitted to him on 10 April 2003 from Sligo Harbour Commissioners for his consent to a proposed package relating to the sale of a company (details supplied) to a person and Sligo Harbour Commissioners; when he expects that a decision will be made on the matter; and if he will make a statement on the matter. [19945/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** Sligo Harbour Commissioners have sought clarification from my Department regarding the applicability of section 157 of the Harbours Act 1946 to a property transaction proposed by them. As this issue involves a matter of legal interpretation, the Chief State Solicitor's office has been requested to clarify the position. My officials have been in contact with the Chief State Solicitor's office and have been informed that the matter is under consideration and a reply will be issued as soon as possible.

#### Inland Fisheries.

73. **Mr. Ring** asked the Minister for Communications, Marine and Natural Resources the investigations which have taken place regarding a lake (details supplied) in County Mayo in view of the fact that this is the second year that the lake cannot be fished due to pollution; if a report has been compiled; if so, if he will provide this Deputy with a copy; the outcome of any investigation which has taken place; the cause of the pollution problem; and if his Department will contact the Bangor angling club to see if this matter can be discussed. [19946/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I am advised by the North Western Regional Fisheries Board that Carrowmore Lake is undergoing a severe algae bloom for the second year in succession. The chief executive officer of the board informs me that as a result of last year's bloom, the board convened a meeting of all relevant agencies to discuss what action could be taken. It was agreed at this meeting that a number of core samples would be taken from the lake bed and that a regular water sampling program would be put in place. I understand that analysis of core samples confirmed that discharges of phosphorous to the lake had increased significantly over recent years.

The North Western Regional Fisheries Board advises me that the water sampling programme is ongoing with at least two samples per month being taken from the lake and at least four samples being taken weekly from inflowing rivers. The samples are taken by fisheries board personnel and are analysed in the capital EPA laboratory in Castlebar. I understand from the fisheries board that the EPA intends to produce a report at the end of one year of sampling which will be August 2004. The chief executive of the board informs me, however, that at this point no single cause of the nutrient enrichment has been identified and more than one cause may be involved. Meanwhile, representatives of the fisheries board continue to meet representatives of Bangor angling club to discuss the matter.

#### National Stadium.

74. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism the state of the discussions between his Department and other sporting bodies in regard to the national stadium; and if he will make a statement on the matter. [19902/04]

75. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism his preferred options for the development of stadium accommodation for various sporting bodies; and if he will make a statement on the matter. [19903/04]

76. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism the organisations with which he has had recent discussions in the matter of national stadium accommodation; the outcome of any such discussions; and if he will make a statement on the matter. [19904/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I propose to take Questions Nos. 74 to 76, inclusive, together.

The Government decided on 27 January 2004 to approve proposals to redevelop Lansdowne Road stadium as a 50,000 seat state of the art stadium at an estimated cost of €292 million, with the Exchequer providing €191 million and the balance to be met by the IRFU and the FAI. This proposal was brought to the Government following consideration of a joint proposal by the IRFU and the FAI to meet the stadium infrastructure deficit for the playing of soccer and rugby matches. Since the Government's decision of 27 January, my Department has been working with the IRFU and FAI to plan for and progress the implementation of the decision, both through the stadium steering group, which is chaired by the Secretary General of my Department and comprises representatives of my Department, the Office of Public Works, the IRFU and the FAI, and through bilateral contact with both organisations.

#### Arts Council.

77. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism the extent to which he or his Department has a role in determining policy for the arts; if this is devolved to the Arts Council; and if he will make a statement on the matter. [19905/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The Arts Act 2003 recognises that the Minister responsible for the arts has a role in broad arts policy issues. This allows the Minister to direct the council to comply with Government or ministerial policies on the arts. The Act also copperfastens for the first time in legislation the independence and autonomy of the Arts Council in disbursing the funds allocated to it from the Exchequer through subheads D9 and D10 of the Vote for my Department.

#### Grant Payments.

78. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism the extent to which he or his Department has awarded grant or other forms of funding to various bodies or groups throughout the country to date in 2004; and if he will make a statement on the matter. [19906/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The national lottery funded sports capital programme, which is administered by my Department, provides funding to voluntary sporting and community organisations at local, regional and national level throughout the country towards the provision of sport and recreational facilities. The programme is advertised on an annual basis. A total of 1,302 applications were received before the closing date for the current round of allocations of 16 January 2004. These applications were evaluated against the assessment criteria outlined in the guidelines, terms and conditions of the programme.

Following this evaluation process, I announced on May 7 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

As the Deputy will appreciate, payments are made on an ongoing basis in respect of allocations made in previous years and details of such payments are published in my Department's annual report.

I will shortly make 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 — 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 the Minister, Deputy Ó Cuív, at a later stage regarding top-up funding allocations under these programmes.

A provision of €15 million has been made in my Department's Estimates for this year to meet costs associated with the local authority swimming pool programme. So far this year, I have approved grant aid of €3,809,000 each to projects

[Mr. O'Donoghue.]  
located in Tuam, County Galway, Churchfield in Cork City and Ballymun in Dublin.

In addition to sports projects, my Department also funds a number of cultural institutions, for which the funding to date in 2004 is set out below.

Cultural Institutions	Grants to end June 2004
	€
Irish Architectural Archive	200,000
Marsh's Library	150,000
The Hunt Museum	135,000
Maritime Museum	17,000
National Print Museum	75,000
Foynes Flying Boat Museum	50,000
Irish Genealogy Project	190,000

#### Arts Plan.

79. **Mr. Durkan** asked the Minister for Arts, Sport and Tourism if he or his Department has set out the grounds on which the arts are to be promoted; and if he will make a statement on the matter. [19907/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The promotion of the arts is primarily a matter for the Arts Council. While the Arts Act 2003 allows me, as Minister, to direct the council to comply with Government or ministerial policies on the arts, no directions have been issued in this context. The Act also gave, for the first time, statutory recognition to the council's independence in disbursing its funds.

*Questions Nos. 80 to 82, inclusive, answered with Question No. 16.*

#### Health Board Services.

83. **Mr. Stagg** asked the Minister for Health and Children the reason for the delay in reopening the supplementary welfare allowance office in Naas, County Kildare; when the office will be opened so that the public will be able to meet with community welfare officers directly to discuss their cases; and if he will make a statement on the matter. [19848/04]

**Minister for Health and Children (Mr. Martin):** The provision of health centres to meet the needs of local communities and the maintenance and upgrading of such centres within its functional area are matters for the relevant health board or the Eastern Regional Health Authority, ERHA. In the case of the supplementary welfare office in Naas, this responsibility rests with the ERHA. My Department has asked the regional chief executive of the ERHA to examine the matter and reply directly to the Deputy.

#### Services for People with Disabilities.

84. **Mr. Gregory** asked the Minister for Health

and Children the funding his Department is making available for the training of dogs to assist persons with disabilities; if additional funding might be provided in 2004 to allow any such project to progress; and if he will make a statement on the matter. [19949/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** I recently allocated €50,000 to the Irish Guide Dogs for the Blind from national lottery funds towards the cost of a strategic review of the organisation's activities, including the training of dogs to assist people with other disabilities.

#### Health Board Services.

85. **Mr. Ring** asked the Minister for Health and Children the reason a person (details supplied) in County Mayo has still not been called for physiotherapy. [19849/04]

**Minister of State at the Department of Health and Children (Mr. Callely):** As the Deputy will be aware, the provision of health services in the Mayo area is, in the first instance, the responsibility of the Western Health Board. My Department has, therefore, asked the chief executive of the board to investigate the matter raised by the Deputy and reply direct to him as a matter of urgency.

86. **Mr. Wall** asked the Minister for Health and Children if his attention has been drawn to the grave concerns of persons (details supplied) in County Kildare in regard to lack of funding; if he will investigate the matter, have the application reassessed and a process put in place to permit these persons to function to their full capacity; and if he will make a statement on the matter. [19850/04]

**Minister of State at the Department of Health and Children (Mr. Callely):** As the Deputy will be aware, the provision of health services in the Kildare area is, in the first instance, the responsibility of the South Western Area Health Board 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.

87. **Mr. N. O'Keeffe** asked the Minister for Health and Children if he will investigate the delay of almost one year in having a person (details supplied) in County Cork assessed by an occupational therapist with a view to having a wheelchair provided; and if his attention has been drawn to the fact that this delay has caused serious problems for the person. [19859/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The provision of health services, including occupational therapy, for people with a physical and/or sensory disability is a matter for the Eastern Regional



Health Authority and the health boards in the first instance. Accordingly, the Deputy's question has been referred to the chief executive officer of the Southern Health Board with a request that he examine the matter raised and reply directly to the Deputy, as a matter of urgency.

88. **Ms Harkin** asked the Minister for Health and Children if he will consider funding a digital hearing aid for a person (details supplied) in County Leitrim. [19876/04]

**Minister for Health and Children (Mr. Martin):** Responsibility for the provision of audiology services to eligible persons in County Leitrim rests with the North Western Health Board. Therefore, my Department has asked the chief executive officer to investigate the matter raised by the Deputy and to reply to her directly.

#### Medicinal Products.

89. **Mr. M. Higgins** asked the Minister for Health and Children his views on providing the most effective possible treatments to combat multiple sclerosis, specifically on the effectiveness of a drug (details supplied) and the likelihood of this treatment being made widely available for sufferers of auto-immune disease here. [19877/04]

**Minister for Health and Children (Mr. Martin):** The Irish Medicines Board is the statutory body responsible for the regulation of medicinal products in Ireland. I understand from the board that the product referred to by the Deputy is licensed for use in this country in treatment programmes for substance abuse. It is not licensed for the treatment of multiple sclerosis or any of the auto-immune diseases, nor are any clinical trials taking place in Ireland at the moment for any of these indications.

To the board's knowledge this product is not licensed for use for the treatment of multiple sclerosis or auto-immune diseases anywhere worldwide. There have been anecdotal reports of improvements in patients with multiple sclerosis who have been administered this drug and similar improvements in patients with auto-immune diseases.

In the absence of satisfactory evidence of efficacy for use in these conditions and, consequently, the absence of the appropriate license to place the medicinal product concerned on the market for the treatment of these conditions, it is unlikely that this treatment would be widely used or available to persons with multiple sclerosis or auto-immune diseases in this country.

#### Grant Payments.

90. **Mr. Deenihan** asked the Minister for Health and Children if a grant will be provided to persons (details supplied) in County Kerry for the installation of new playground equipment; and if he will make a statement on the matter. [19878/04]

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** On 8 March, I launched "Ready, Steady, Play: A National Play Policy". The aim of the policy is to increase the range of public play opportunities available to children. At the launch of the policy a number of funding programmes were announced, including the local authority playground grants scheme. Under this scheme, which is administered by the National Children's Office, NCO, in conjunction with the Department of the Environment, Heritage and Local Government, an amount of €1 million is available in 2004 for the development or refurbishment of local authority playgrounds. Each local authority was invited to submit one project under the scheme. Kerry County Council's chosen project was that referred to in the Deputy's question.

The Kerry County Council application complied with all of the criteria for completion of stage 1 of the process and a more detailed proposal was then submitted for stage 2. The closing date for receipt of stage 2 proposals was 22 June and a total of 32 applications were received. These proposals, including the proposal which is the subject of this question, are being evaluated by a panel consisting of staff from the NCO and the Department of the Environment, Heritage and Local Government, and an announcement regarding the allocation of grants will be made shortly.

#### Services for People with Disabilities.

91. **Mr. Ring** asked the Minister for Health and Children the recommendations that have been implemented to date from the report on autism; the plans there are to implement the remaining recommendations; and if he will make a statement on the matter. [19890/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** In line with the recommendations of the report of the task force on autism, my Department has liaised with the Department of Education and Science on the provision of the relevant health related support services. Since 1998, €16 million has been invested in the early intervention, pre-school and multi-disciplinary support services to enhance access to those services by children with autism and those with intellectual disability. My Department is continuing to work with the health boards and the Department of Education and Science to further develop the necessary support services for people with autism.

#### Health Board Services.

92. **Mr. Rabbitte** asked the Minister for Health and Children if his attention has been drawn to the fact that a service (details supplied) offers the only suitable speech and language therapy for children with high functioning autism in the Tallaght area, that it is not currently accepting new clients, and that as a consequence there is no suit-



[Mr. Rabbitte.]  
able service available to such children; the plans he has to immediately rectify this appalling situation; and if he will make a statement on the matter. [19891/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** Responsibility for the provision of services to persons with autism in the Tallaght area lies, in the first instance, with the Eastern Regional Health Authority. My Department has, therefore, asked the regional chief executive to investigate the matter and reply directly to the Deputy.

93. **Mr. Kehoe** asked the Minister for Health and Children the reason a person (details supplied) in County Wexford was refused the application for domiciliary care allowance; the options now available to this person; and if he will make a statement on the matter. [19897/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The assessment of entitlement to and payment of the domiciliary care allowance in any individual case is a matter for the relevant health board. My Department has therefore asked the chief executive officer of the South Eastern Health Board to investigate this case and reply directly to the Deputy as a matter of urgency. An individual can appeal an unfavourable decision with the relevant health board.

94. **Mr. Kehoe** asked the Minister for Health and Children the position with regard to the speech therapy required for a person (details supplied) in County Wexford; if priority can be given in order to ensure this person is prepared before starting school; and if he will make a statement on the matter. [19898/04]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The provision of health services, including speech and language therapy, for people with a physical and/or sensory disability is a matter for the Eastern Regional Health Authority and the health boards in the first instance. Accordingly, the Deputy's question has been referred to the chief executive officer of the South Eastern Health Board with a request that he examine the matter raised and reply directly to the Deputy, as a matter of urgency.

95. **Mr. Durkan** asked the Minister for Health and Children the reason for the delay in providing a stair lift in the case of a person (details supplied) in County Limerick; and if he will make a statement on the matter. [19913/04]

**Minister of State at the Department of Health and Children (Mr. Callely):** As the Deputy will be aware, the provision of health services in the Limerick area is, in the first instance, the responsibility of the Mid-Western Health Board. My Department has, therefore, asked the chief executive of the board to investigate the matter

raised by the Deputy and reply direct to him as a matter of urgency.

96. **Mr. Hogan** asked the Minister for Health and Children if an early appointment will be made for orthodontic treatment for a person (details supplied) in County Kilkenny; and if he will make a statement on the matter. [19936/04]

**Minister for Health and Children (Mr. Martin):** Responsibility for the provision of orthodontic treatment to eligible persons in County Kilkenny rests with the South Eastern Health Board. My Department has asked the chief executive officer to investigate the matter raised by the Deputy and to reply to him directly.

97. **Mr. Gregory** asked the Minister for Health and Children if additional funding will be allocated to enable the ERHA to employ staff to bring into use the four fully equipped emergency respite beds in St. Clare's Nursing Home, Dublin, in view of the extreme shortage of respite beds; and if he will make a statement on the matter. [19950/04]

**Minister of State at the Department of Health and Children (Mr. Callely):** As the Deputy will be aware, the provision of health services in the Dublin 9 area is, in the first instance, the responsibility of the Northern Area Health Board acting under the aegis of the Eastern Regional Health Authority. My Department has been informed by the authority that St. Clare's Home primarily provides extended care to clients in the Northern Area Health Board area and respite care. The home has 59 extended care beds and two respite beds. Both respite beds are fully operational.

Eight extended care beds were closed in St Clare's Home in 2003 due to staffing recruitment difficulties. Following a submission by the Northern Area Health Board to the Eastern Regional Health Authority, additional funding with an increased staff ceiling adjustment was agreed in January 2004 to recruit the additional staff necessary to reopen these beds.

The authority also stated that the Northern Area Health Board ran a number of recruitment campaigns in January, February and June 2004 to recruit nursing staff for all of the elderly community units in the board's area. In an effort to speed up the recruitment campaign, the Northern Area Health Board arranged interviews in the community units and requested candidates to complete Garda clearance forms at interview. Two applicants applied for St Clare's Home and four of the extended care beds were reopened in February 2004.

The authority has further advised that it entered into discussions with An Bord Altranais as a number of registered nurses have let their registration lapse. An Bord Altranais, in co-operation with the Eastern Regional Health Authority, wrote to these nurses to offer "back to nursing" courses and advise them of the recruitment

campaign. Further to interviews held in June 2004 a number of candidates have been offered posts. On the basis of information supplied by the authority it is anticipated that the remaining beds will be reopened by the end of July 2004.

#### Driving Tests.

98. **Mr. J. O’Keeffe** asked the Minister for Transport the position regarding driving testers, including the total number in the country, the qualifications required to become a driving tester, the training given to such testers and the steps taken to ensure an even standard of testing. [19896/04]

**Minister for Transport (Mr. Brennan):** The corps of driver testers consists of a chief tester, ten supervisory testers and 111 driver testers, 19 of whom are employed on a contract basis.

Details of qualifications which candidates were required to possess for the last competition conducted by the Civil Service Commission included: a good general education; a satisfactory knowledge of the “Rules of the Road”, road procedures and the law relating to road traffic in so far as it concerns the driver of a mechanically propelled vehicle; at least five years satisfactory driving experience within the seven years ending on 25 June 1998; a general understanding of the working of mechanically propelled vehicles; report writing skill with a particular reference to accuracy, clarity and conciseness; a clean driving licence, other than a provisional licence, valid in the State on the day of the test; excellent interpersonal skills, including the ability to communicate clearly both orally and in writing; the capacity to remain calm and courteous in dealing with applicants; and otherwise possess the requisite knowledge and ability and be suitable to enter on the discharge of the duties of the position.

Following recruitment, each driver tester undergoes a six week training course, which covers all aspects of the driving test. The work of driver testers is monitored on an ongoing basis by supervisory driver testers to ensure that a uniform standard of test is maintained. Procedures exist to ensure that further training is provided if difficulties in applying this standard are identified.

All driver testers underwent a comprehensive two week refresher training programme in 2002 which covered procedures for carrying out driving tests, guidelines for assessing driving faults and training to enhance customer service in the delivery of the driving test.

#### Driving Instruction.

99. **Mr. Hogan** asked the Minister for Transport if the current driving instructors will be recognised in advance of changes that may be made to the driving instructor regulations in view of the training and courses that have already been

completed by these same instructors; and if he will make a statement on the matter. [19935/04]

**Minister for Transport (Mr. Brennan):** I refer the Deputy to my reply to Parliamentary Question No. 567 of 10 February 2004.

Proposals being developed by my Department for the regulation and quality assurance of driving instruction will involve a test of the competence of individual instructors. A working group comprising representatives of my Department and instruction interests has formulated the design of the standards that a driving instructor must meet. I am considering what arrangements will be put in place to oversee implementation of the standard in the context of the establishment of the driver testing and standards authority. The position of existing driving instructors will be considered in the context of the drafting of regulations introducing regulation of driving instruction.

#### Departmental Correspondence.

100. **Mr. Quinn** asked the Minister for Justice, Equality and Law Reform if he has received a letter from a person (details supplied) in County Meath outlining their concerns; if he has proposals to restore the balance in this complex and sensitive area; the changes in the law or in the practice of the law he proposes to introduce; and if he will make a statement on the matter. [19875/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I confirm I have received correspondence from the person in question. Under section 6A of the Guardianship Of Infants Act 1964, as inserted by section 12 of the Status of Children Act 1987, an unmarried father may apply to the court to be appointed a guardian of his child. Alternatively, where there is agreement between the parents, they can make a statutory declaration under section 2(4) of the Act, as inserted by section 4 of the Children Act 1997, conferring on the father the status of guardian.

Under section 11 of the 1964 Act, a guardian may apply to the court for its direction on any question affecting the welfare of the child, including directions as to custody and access. In addition, the section provides that the unmarried father of a child, even if he is not a guardian, may apply to the court for orders on custody and access. Section 3 of the Act provides that, in deciding on an application relating to the custody, guardianship or upbringing of a child, the court shall regard the welfare of the child as the first and paramount consideration.

I believe the existing provisions, which I have outlined, strike a good balance between the interests involved. In particular, they provide that, where a mother does not consent to the appointment of the father as guardian, he may apply to the court to be made a guardian. Even if he is not a guardian he may still apply to the court for custody or access. The overriding point

[Mr. McDowell.]  
is the weight the court is obliged to give to the welfare of the child under section 3 of the 1964 Act.

### Crime Levels.

101. **Mr. Neville** asked the Minister for Justice, Equality and Law Reform the number of homicide victims in 2003. [19827/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have made inquiries with the Garda authorities and the information sought by the Deputy is outlined in the table below.

I am informed by the Garda authorities that homicide is one of the headline offences groups used to record crime on the PULSE system. Murder and manslaughter are the two most important offences in the group. However, the group contains other homicide offences such as infanticide, abortion and attempted murder. I understand that other homicide offences recorded in 2003 relate to attempted murder.

Homicides recorded 2003\*

Murder	Manslaughter	Other Homicide Offences	Total No. of Homicides
45	7	49	101

\*Figures for 2003 are provisional and subject to change.

### Child Care Services.

102. **Mr. Neville** asked the Minister for Justice, Equality and Law Reform when a child care grant under the equal opportunities child care programme will be awarded to a person (details supplied) in County Limerick. [19828/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I understand from inquiries I have made that an application from this group for a substantial capital grant of more than €1.8 million was submitted in May 2003. I understand that the assessment process can involve lengthy dialogue with the applicant group and that, in this instance, the assessment is almost complete.

The Equal Opportunities Childcare Programme 2000 — 2006, EOCP, is a seven year development programme, which aims to increase the availability of child care to support parents in employment, education and training. The progress of the EOCP was commented upon very favourably by the mid-term evaluators of both the regional operational programmes and the National Development Plan 2000 — 2006. Expenditure under the programme covers the period to end 2007 and must take place in a planned manner as must grant approvals to ensure that the programme can meet its financial commitments at all times.

There has been considerable demand from community based groups for capital grant assistance under the programme and every county has

benefited from significant grant commitments to provide new and enhanced community based child care facilities and to support capital developments in the private child care sector. ADM, on behalf of my Department, is currently carrying out an extensive review of the programme's capital commitments to date, numbering more than 1,100 and at a value of €114 million, to ensure that grant commitments previously entered into will be realised. Projects may be awaiting planning permission or the completion of tender processes before reasonable assurance can be taken that they will proceed and, if they do not, the funding set aside can be decommitted and made available to another project.

In addition, my Department has recently reviewed the different budget lines under the EOCP, including the capital programme, to ensure that the most effective use is made of all remaining funding in accordance with the programme's objectives. Some transfers between measures were recommended and require the approval of the regional assemblies. I expect that this technical process will be completed shortly and that it will bring to at least €157 million the total allocation for the capital development of child care under the present EOCP. This amount includes an element for the administration by ADM Limited of the capital programme. At the same time, an extensive review of child care provision on the ground has taken place to identify obvious service gaps, the filling of which will be a priority using the remaining capital funding which currently amounts to approximately €35 million.

I intend to allocate the remaining capital funding under this strand of the Government's commitments to child care to address the most immediate service gaps. As a result, all the projects in the pipeline are being reviewed again by ADM Limited on the basis of geographical need, the range of services being offered and the capacity of the groups to complete a project before the end of the programme. Those projects which best meet the criteria will receive priority. The review process will be repeated as necessary to maximise the benefits deriving from this phase of the EOCP.

The day to day administration of the EOCP is undertaken by ADM Limited, which has been engaged by my Department to carry out thorough assessments against the programme criteria of all applications for grant assistance under the programme on my behalf. All large scale capital projects are referred by ADM Limited to an independent external building specialist to assess the suitability of the proposal and its value for money. On completion of the assessment process, applications are considered by the programme appraisal committee, chaired by my Department, which makes a funding recommendation to me before I make a final decision on the matter.

The current review of the applications in the pipeline will be concluded as speedily as possible to facilitate the development of additional child



care places at the earliest opportunity and to ensure that the funding is drawn down in the planned manner I referred to earlier before the end of 2007.

I am sure the success of the present strand of the EOCP and the need to continue to make child care available to support the child care needs of our still growing work force will support my case for ongoing capital and current funding from Government for this key sector. Should any additional funding become available before the end of the present national development plan, I expect that the programme would again benefit from transfers.

#### **Garda Operations.**

103. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the estimated cost of providing Garda policing for the visit of President George Bush to the Shannon area in June 2004; and if he will make a statement on the matter. [19829/04]

104. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the breakdown of the cost of providing 4,000 gardaí for duty in the Shannon area in the days surrounding the visit of President Bush, including consequential and ancillary costs; and if he will make a statement on the matter. [19830/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 103 and 104 together.

I have been informed by the Garda authorities responsible for the detailed allocation of resources, including personnel, that approximately 3,800 gardaí were deployed for the EU/US summit. Complete costs of the security operation for the EU/US summit are not available at present. However, the estimated additional cost of providing gardaí for duty in the Shannon area, based on the initial operating police plan, is €4.9 million. This figure is broken down as follows: €3.1 million for overtime and €1.8 million for travel, subsistence and accommodation. When all expenditure returns have been received and collated, a full costing of the operation will be made.

105. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform if the need for a high Garda presence in the Shannon area in the days surrounding 25 June 2004 would have been greatly reduced if President Bush had chosen to travel from Shannon Airport to his destination by air rather than by road; and if he will make a statement on the matter. [19832/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities who are responsible for the detailed allocation of resources, including personnel, that the Garda numbers and presence required in both the Shannon and Dromoland areas would not have been reduced had President

Bush travelled from Shannon Airport to Dromoland Castle by air.

When planning for major security operations, such as the EU/US summit, the Garda Síochána must plan for the securing of both primary and secondary travel routes. The securing of these routes would have had to be carried out even if the President travelled by air. Adverse weather conditions have a bearing on helicopter travel so in the prior planning of the transportation of the President it could not be determined whether the prevailing weather conditions would be conducive to air travel. Accordingly, the same number of gardaí would still have had to be deployed in planning for operations of this nature.

106. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform if the additional levels of policing required by the May Day protests 2004, the EU Presidency and the visit of George Bush have not impacted on the ability of the Garda to attend to ordinary policing duties throughout the State; and if he will make a statement on the matter. [19833/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities that while particular high profile events during the Irish Presidency of the EU placed considerable demands on Garda resources, Garda management endeavoured to ensure that all resources at the disposal of the Garda Síochána were utilised to optimum effect in delivering the highest possible level of policing service to the community at all times.

An additional €12.473 million was made available in the Garda Vote to take account of the increased workload associated with our hosting of the EU Presidency this year to ensure, as far as possible, that normal policing resources would not be diverted during the six month Presidency period.

#### **Garda Vote.**

107. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform if additional funding will be provided to the Garda Síochána to meet the costs incurred in policing the visit of President Bush, in order not to impact negatively on Garda budget allocations in other areas; and if he will make a statement on the matter. [19834/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Garda costs associated with the EU-US summit fall to be met out of the Garda Vote. An additional €12.473 million was made available in the Garda Vote to take account of the increased workload associated with our hosting of the EU Presidency this year so as to ensure, as far as possible, that normal policing resources would not be diverted during the six month Presidency period.



### EU Presidency.

108. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the reason Parliamentary Questions Nos. 113, 115 and 116 of 29 April 2004 and 204 of 27 May 2004 have not been answered to date; and if he will make a statement on the matter. [19835/04]

109. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the estimate of the costs incurred in policing and renting equipment in respect of the weekend of 30 April to 3 May 2004; and if he will make a statement on the matter. [19836/04]

110. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the reason there has been an undue delay in responding to Parliamentary Questions Nos. 113, 115 and 116 of 29 April 2004 and 204 of 27 May 2004 concerning the cost of policing the May Day protests 2004; if he will provide a full response; the measures which have been put in place to ensure that such delays are not repeated; and if he will make a statement on the matter. [19837/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 108 to 110, inclusive, together.

Due to the size and complexity of the security operation surrounding the EU enlargement ceremony and related events that took place over the weekend of 30 April 2004 to 3 May 2004, the information requested by the Deputy in respect of the associated costs has taken some time to collate. I have written to the Deputy with the details of the costs associated with these events.

### Consultancy Contracts.

111. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform, further to Parliamentary Question No. 244 of 22 June 2004, for the details of the moneys paid to the 105 IT consultant firms engaged by his Department since 1 January 1997, including total cost, the cost paid to each company and the moneys paid to unidentified firms engaged on security matters in this respect; and if he will make a statement on the matter. [19838/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In the time available for answering parliamentary questions it has not been possible to compile the detailed information requested by the Deputy. The information sought is being compiled at present and I will forward it to the Deputy shortly.

### Visa Applications.

112. **Mr. Naughten** asked the Minister for Justice, Equality and Law Reform the reason persons (details supplied) were refused a holiday visa; and if he will make a statement on the matter. [19865/04]

### Minister for Justice, Equality and Law Reform

**(Mr. McDowell):** The persons in question made visa applications in May 2004, to enable them to visit their son and his wife who are resident in the State. The applications were refused because it was not established, on the basis of the documentation supplied to my Department, that the applicants would observe the conditions of the visa. In particular, it was considered that the applicants had not displayed evidence of any obligations to return home following their proposed visit. It was also noted that the applicants stated that their son and his wife would be responsible for all their expenses during their proposed visit. However, the bank statement which accompanied the applications showed an overdrawn balance. It is open to the applicants to appeal against the refusal by writing to the Visa Appeals Officer in my Department.

### Registration of Title.

113. **Mr. Neville** asked the Minister for Justice, Equality and Law Reform when a folio map will be issued to a person (details supplied) in County Limerick. [19870/04]

### Minister for Justice, Equality and Law Reform

**(Mr. McDowell):** I am informed by the Registrar of Titles that this is an application for a copy folio and filed plan which was lodged on 10 March 2004 — application number C2004PS002427J refers. I am further informed that this application was completed on 25 June 2004.

### Garda Investigations.

114. **Mr. Ferris** asked the Minister for Justice, Equality and Law Reform if the Garda Special Branch held a file on a person (details supplied) in 1958. [19871/04]

### Minister for Justice, Equality and Law Reform

**(Mr. McDowell):** I am informed by the Garda authorities that, in the interests of the security of the State, it is not Garda policy to make known the existence or non-existence of a file on any individual in the area of the Garda organisation referred to by the Deputy.

115. **Mr. Gregory** asked the Minister for Justice, Equality and Law Reform if the gardaí have apprehended the persons involved in several morning muggings that took place at 8 a.m. at a location (details supplied) in Dublin 1; if charges have been brought; if the persons involved are back on the streets; and if he will make a statement on the matter. [19873/04]

### Minister for Justice, Equality and Law Reform

**(Mr. McDowell):** I am informed by the Garda authorities that there is only one recorded incident in the area concerned for the month up to 29 June 2004. I understand the incident concerned relates to a robbery where a sum of cash was taken. Two suspects have been identified by the Garda authorities but no arrests have been made

to date. I am assured by the Garda authorities that investigations are ongoing and the area continues to receive attention from both mobile patrols and community police.

#### **Citizenship Applications.**

116. **Mr. Nolan** asked the Minister for Justice, Equality and Law Reform the position of the application by a person (details supplied) in County Carlow for naturalisation. [19874/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** An application for naturalisation from the person referred to by the Deputy was received in the citizenship section of my Department on 12 December 2003.

Applications for naturalisation are currently taking approximately 18 months to process. Consequently, it is likely that the application of the person concerned will be finalised in mid-2005. As soon as I have reached a decision on the matter, I will inform both the applicant and the Deputy of the outcome.

#### **Residency Permits.**

117. **Ms Enright** asked the Minister for Justice, Equality and Law Reform when he expects to be in a position to process an application for residency by a person (details supplied) on the basis of marriage to an Irish national; and if he will make a statement on the matter. [19882/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The person in question arrived in the State on 23 October 2002 and made an asylum application. This application was unsuccessful. She subsequently married an Irish national on 11 July 2003 and on 16 July 2003 she made an application for permission to remain based on that marriage. Applications of this type are dealt with in strict chronological order and currently take approximately 12 months to process. Applications submitted in April 2003 are currently being finalised.

118. **Ms Enright** asked the Minister for Justice, Equality and Law Reform the position of an application by a person made in July 2003 for residency on the basis of marriage to an Irish national (details supplied) in County Offaly; and if he will make a statement on the matter. [19883/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** An application for permission to remain in the State based on marriage to an Irish national was received from the person concerned in July 2003. Applications of this type are dealt with in strict chronological order and currently take approximately 12 months to process. Applications submitted in April 2003 are currently being finalised.

#### **Registration of Title.**

119. **Mr. Ring** asked the Minister for Justice,

Equality and Law Reform if the Land Registry Office will expedite an application pending on a folio for a person (details supplied) in County Mayo; and when this matter will be completed. [19892/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Registrar of Titles that this is an application for transmission which was lodged on 21 January 2004 — dealing number D2004SM000580C refers. I am further informed that this application was completed on 28 June 2004 and that notice of completion was issued to the lodging solicitor.

#### **Visa Applications.**

120. **Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform, further to Parliamentary Question No. 252 of 22 June 2004, if his Department has received the additional documentation; if further documentation will be required; and when a decision will be taken in the matter. [19901/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The additional documentation referred to by the Deputy has been received and both visa applications were approved on appeal on 29 June 2004.

121. **Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform the steps his Department is taking to address the fact that his Department's visa helpline is only available for seven and a half hours per week, that during these hours it is virtually impossible to reach a visa officer and that callers to the helpline are repeatedly disconnected. [19933/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** It is important to bear in mind that the visa section in the immigration and citizenship division does not deal with all visa applications; it only deals with those which on the basis of experience, including international experience, are more problematic and contentious. The vast majority of visa applications are granted without reference to that section as a result of a series of delegated sanctions which have been put in place over the years.

Nonetheless, in common with other areas of the immigration and citizenship division of my Department, it has seen a huge increase in recent years in its volume of business. A total of 17,100 visa applications were processed by the staff of the section in 1999, compared to 27,700 in 2003. On a weekly basis, the staff in the visa section deal with approximately 800 telephone calls, 500 faxes, 200 e-mails and a large volume of other communications and queries. In many cases those who avail of these services are not individual visa applicants but persons whose business involves securing entry to the State for large numbers of non-nationals, for example, for educational purposes. The visa section staff operate a helpline from 10 a.m. to 12.30 p.m. on Mondays,

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Wednesdays and Fridays. During these periods five telephones on average are in operation. I have been assured that callers to the helpline are dealt with in a fair and courteous manner and are not repeatedly disconnected, as the Deputy has suggested.

The immigration division is in the process of upgrading its existing telephone system to make its operation more transparent for customers and to avoid any possibility of a mistaken impression that factors other than sheer volume have a bearing on the current situation. I intend to review the workings of the immigration division and visa section with a view to improving the quality of customer service.

### **Garda Operations.**

122. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the number of persons arrested during a protest against the visit of President Bush on the evening of 25 June 2004. [19954/04]

123. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the number of persons arrested during a protest against the visit of President Bush on 26 June 2004. [19955/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 122 and 123 together.

I am informed by the Garda authorities that no persons were arrested during the protests against the visit of the US President on 25 to 26 June 2004. I am further informed that, other than during the actual protests, four persons were arrested.

### **Detention Centres.**

124. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the cost of the detention centre set up by the Garda Síochána in Shannon industrial estate; and the number of persons who were detained there. [19956/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The costs associated with the works necessary to convert a commercial unit in the Shannon industrial estate into a Garda station and holding cells are not yet available. I am informed by the Garda authorities that four people were taken to the converted unit on arrest.

125. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the reason a commissioner of the Garda Síochána (details supplied) refused a request from this Deputy to be allowed to inspect the detention centre set up by the gardaí in Shannon industrial estate at the end of the protest march on 26 June 2004. [19957/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda

authorities that, where security and-or operational considerations are paramount, it is not Garda policy to permit access to Garda detention centres.

### **Garda Investigations.**

126. **Mr. J. Higgins** asked the Minister for Justice, Equality and Law Reform the reason a campsite was raided by gardaí in the Shannon area around the time of the visit of President Bush; the materials which were confiscated by gardaí; and the justification for this confiscation. [19958/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the Garda Síochána was in possession of reliable information that persons in the campsite in question were in possession of flares and other material intended for release into the path of the aircraft carrying the US President, thereby impeding its safe landing. I am further informed that the campsite was searched pursuant to a warrant issued under the provisions of section 29 of the Offences against the State Act 1939, as amended. In the course of the search, a container of helium gas and a large quantity of helium filled balloons were seized and destroyed.

### **Water and Sewerage Schemes.**

127. **Mr. Wall** asked the Minister for the Environment, Heritage and Local Government the position regarding group water schemes that are amalgamating under the new initiative as proposed by his Department in regard to capital funding and maintenance and refurbishment costings of schemes; and if he will make a statement on the matter. [19842/04]

128. **Mr. Wall** asked the Minister for the Environment, Heritage and Local Government the position regarding group water schemes as operated by a voluntary group; the effects that new proposals will have on such groups in regard to amalgamation; if the trustees will continue to be trustees of the scheme; the role the trustee board will play in the new proposals; the way in which funding or membership fees will be collected; and if he will make a statement on the matter. [19843/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** I propose to take Questions Nos. 127 and 128 together.

Design, build, operate, DBO, procurement, together with the bundling of numbers of schemes under a single contract, is the established procedure for the procurement of water treatment and disinfection equipment for privately sourced group water schemes. Under this process the selected contractor operates and maintains the new equipment under a 20 years contract with each of the participating groups.

Subject to a maximum cost of €7,618 per house, grants of up to 100% of the cost of water treat-



ment and disinfection equipment and 85% of related civil works — including buildings, reservoirs, water conservation and network renewal — are available. An annual subsidy of up to €196.81 per house is payable towards the operation and maintenance costs of schemes participating in DBO contracts.

Bundled DBO contracts do not affect general management of group water schemes' affairs, including the setting and collection of charges or fees. Participating group schemes retain their independent status and operate as separate entities unless two or more schemes decide to amalgamate by way of a private arrangement.

To improve the management structure of group schemes and to facilitate long-term operational contracts, the National Federation of Group Water Schemes, the representative body for the group scheme sector, recommends that all groups participating in DBO contracts should be incorporated as registered co-operatives. Where a group scheme is restructured from trust to co-operative, the board of directors assumes the duties and responsibilities formerly discharged by the trustees.

129. **Ms B. Moynihan-Cronin** asked the Minister for the Environment, Heritage and Local Government if his Department has received an application from Kerry County Council for a new sewerage system for Miltown, County Kerry; if so, when this application will be considered and decided upon; if funding is available for this project; and if he will make a statement on the matter. [19900/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** I have approved the preparation of preliminary assessments by Kerry County Council of the need for improved sewerage systems in a number of villages, including Miltown, under my Department's water services investment programme 2004-2006. On receipt of the assessments in my Department, further consideration will be given to the need for infrastructural improvements in the locations concerned.

#### **Social Welfare Benefits.**

130. **Mr. Ring** asked the Minister for Social and Family Affairs when a person (details supplied) in County Mayo will be paid the carer's allowance, considering that the application was submitted at the end of January 2004. [19893/04]

**Minister for Social and Family Affairs (Mary Coughlan):** The person concerned has been awarded the carer's allowance with effect from 29 January 2004, at the maximum weekly personal rate of €139.60. She has also been awarded €33.60 dependent child allowance per week. She was notified of this decision on 30 June 2004 and arrangements have been made to have her payment collected from her nominated post office.

131. **Mr. Durkan** asked the Minister for Social and Family Affairs when rent supplement will be awarded to a person (details supplied) in County Kildare who has supplied all documentation as requested, including bank details; and if she will make a statement on the matter. [19915/04]

**Minister for Social and Family Affairs (Mary Coughlan):** The South Western Area Health Board was contacted again regarding this case and has advised that it is currently examining additional documentation just received. The board expects to be in a position to make a determination on the person's application for rent supplement by the end of the week.

132. **Mr. Durkan** asked the Minister for Social and Family Affairs when payments of one-parent family allowance in the case of a person (details supplied) in County Kildare will be awarded; and if she will make a statement on the matter. [19916/04]

**Minister for Social and Family Affairs (Mary Coughlan):** An application for one-parent family payment by the person concerned was refused recently on the grounds of cohabitation. However, on 22 June 2004 the Deputy informed my Department that the person concerned was no longer cohabiting and requested that her entitlement be re-examined.

As a result, her file has been referred to a local officer of my Department to establish her current circumstances. On completion of all the necessary inquiries, the file will be referred to a deciding officer for decision and the person concerned will be notified of the outcome. Under social welfare legislation, decisions on claims must be made by deciding officers and appeals officers. These officers are statutorily appointed and I have no role in regard to making such decisions.

133. **Mr. Durkan** asked the Minister for Social and Family Affairs the extent to which rent allowance is available in the case of a person (details supplied) in County Kildare who has one child dependant, with special needs, and has no income other than one-parent family allowance for the foreseeable future; and if she will make a statement on the matter. [19917/04]

**Minister for Social and Family Affairs (Mary Coughlan):** As I advised last week in my reply to the Deputy's previous parliamentary question relating to this case, the South Western Area Health Board was recently made aware of changes in the person's financial circumstances which necessitated a review of the amount of rent supplement payable. The board was contacted again and has advised that the person concerned took up part-time employment in September 2003 and recently received an increase in her maintenance payments. She failed to notify the board of the changes in her circumstances and, consequently, she has incurred an overpayment of rent supplement. The amount of rent supplement payable



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has been revised to €497 per month with effect from the end of July.

The board is to contact the person concerned regarding the repayment of the overpayment. I should also advise that the person's one-parent family payment is also being reviewed arising from the changes in her circumstances. In addition, the board has advised that the person concerned is due to resume her part-time employment in September. Any changes in household income will necessitate a revision of the amount of rent supplement payable.

134. **Mr. Durkan** asked the Minister for Social and Family Affairs if and when a person (details supplied) in County Kildare will be offered rent allowance; and if she will make a statement on the matter. [19918/04]

**Minister for Social and Family Affairs (Mary Coughlan):** The South Western Area Health Board was contacted regarding this case and has advised that the local authority has assessed this person's need for accommodation and that when she secures accommodation appropriate to her circumstances she should advise the board accordingly, so that her application for rent supplement can be finalised.

135. **Mr. Durkan** asked the Minister for Social and Family Affairs if an exceptional needs payment can be made in the case of a person (details supplied) in County Kildare; and if she will make a statement on the matter. [19920/04]

**Minister for Social and Family Affairs (Mary Coughlan):** The South Western Area Health Board was contacted regarding this case and has advised that there is no record of an application for an exceptional needs payment from the person concerned. If the person concerned wishes to make such an application, she should contact the community welfare officer at her local health cen-

tre who will assess her circumstances and determine whether payment is warranted in this case.

136. **Mr. Stanton** asked the Minister for Social and Family Affairs her Department's views on payments made to town councillors as a result of their being elected; and the way in which such payments impact on disability allowance or other such allowances which may be granted by her Department; and if she will make a statement on the matter. [19931/04]

**Minister for Social and Family Affairs (Mary Coughlan):** New payments for councillors, known as representational payments, were introduced with effect from January 2002. The amount of the representational payment varies depending on the particular office held. Councillors are regarded as office holders in the same manner as TDs, MEPs, Senators and members of the Judiciary. Accordingly, the representational payment is treated, for social welfare purposes, as income from self employment and dealt with on that basis for social welfare payments.

For the purposes of disability allowance and other social assistance schemes, income derived from the representational payment is assessed as means. However, any legitimate expenses incurred in carrying out the self employment, for which the councillor is not otherwise compensated, may be disregarded in assessing the representational payment.

This may reduce the amount of means assessed so that the impact on the weekly rate of disability assistance would be reduced. Each case would have to be examined by reference to its own circumstances. For disability allowance purposes, a further disregard of €120 per week applies to earnings from employment or self employment that is rehabilitative in nature. This is subject to the approval of the Department's chief medical adviser on foot of satisfactory medical evidence. I consider that the present arrangements are appropriate and I am satisfied that local representatives are treated fairly in regard to social welfare entitlements.