



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Wednesday, 7 July 2004.

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## DÁIL ÉIREANN

—  
*Dé Céadaoin, 7 Iúil 2004.*  
*Wednesday, 7 July 2004.*  
 —

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

—  
*Paidir.*  
*Prayer.*  
 —

### Leaders' Questions.

**Mr. Kenny:** This is our last opportunity to have the Taoiseach answer questions on Leaders' Questions before the summer recess. I will start by quoting Paul Byrne of Tallaght, who said, "The next time I go to A&E again I'd rather not be breathing." He was the patient who, during a visit to hospital, found that, when he returned from the toilet, his trolley had been taken for another patient. We have had lists of promises and statistics from the Taoiseach and his Ministers over the last few years regarding accident and emergency units. On 7 January 2004 there were 179 patients on trolleys in Dublin accident and emergency units. On 3 February there were 207 patients, on 26 April 160, and on 22 June 150. The figures for summer are almost the same as for winter, despite the fact that €11 billion is being spent on health services.

That is not confined to the Eastern Regional Health Authority area, and those situations will be exacerbated by the requirements of the working time directive when it enters force later this year. Similar problems have been experienced in University College Hospital, Galway, in Mayo General Hospital in Castlebar, in the Midland Regional Hospital in Tullamore, the Mid-West Regional Hospital in Limerick, Naas General Hospital and Wexford General Hospital.

The Taoiseach has examined the economic situation, which is quite strong. He has said publicly that we have more money to spend, and the Tánaiste has said that we have three years in which to put the boot to the floor. Is the Taoiseach satisfied, and does he agree with me, that the structure that currently applies is not capable of delivering 24-hour accident and emergency services for those who need them when they need them and that it must be radically altered now? Does the Taoiseach intend providing extra moneys this year to deal with the provision of 24-hour accident and emergency cover in hospitals throughout the country for people who need it and currently cannot get it? Will it continue to be the case that, if they go there, they will find themselves lying on trolleys for days on end?

**The Taoiseach:** The Government identified some years ago that health reform and a change to our structures were necessary. We must change our health board system and many other structures in the health system. We have identified that and prepared and produced reports. We have passed the Health (Amendment) Act 2004. We are already trying to put extra resources into different areas of health care. I will not go through the long list of the improvements in staff and everything else. I assume that people who were there are doing a better job.

It is a fact that there are particular problems in accident and emergency departments. We have identified those problems and tried several ways of alleviating the difficulties. We have far more accident and emergency consultants in the units. We have opened additional beds and tried through various measures to eliminate the problem as far as one can. Deputy Kenny suggested that 24-hour cover is a difficulty. We must find out exactly whether it is a matter of simply having more beds. I do not like the term "bed blockers", but it means that there are people who, owing to the lack of stand-down facilities, cannot go home or get alternative accommodation, instead staying in acute hospitals longer than they normally would.

**Mr. F. McGrath:** Two years later.

**The Taoiseach:** Please listen. If that is the case—

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

**Mr. F. McGrath:** Some 150 people—

**An Ceann Comhairle:** This is Deputy Kenny's question, and Deputy McGrath should leave it to him. The Taoiseach should continue without interruption.

**Mr. F. McGrath:** That is the reality two years later.

**The Taoiseach:** If that is the case, though we have opened additional beds, we have to try to do more in the area. Accident and emergency departments are clearly the main focus. In all surveys of patients, they say that, by and large, they find the hospital service excellent but the accident and emergency departments fairly disastrous, though not in all areas of the country. That is the challenge.

It is a question of changing some of the systems. I remember a time not that many years ago when it was not possible to have accident and emergency departments in every hospital. However, it seemed at that time that it was not so difficult in accident and emergency, though that appears a total contradiction. Now we have accident and emergency units everywhere, all well staffed.

**Mr. Crawford:** Monaghan is not.

**The Taoiseach:** If it is a question of resources——

**Mr. F. McGrath:** They have not delivered.

**The Taoiseach:** ——and more staff, we will have to see what we can do. The Minister has identified the hospitals and the areas and tried to eliminate those problems.

**Mr. Kenny:** That is more or less the same reply that the Taoiseach has given on numerous occasions in the past. The Minister for Health and Children, Deputy Martin, is being strangled by the Department of Finance and the Taoiseach's Government. Today is the Taoiseach's 2,568th day in continuous Government. There have been seven years of plenty and seven years of waste.

When the Taoiseach says that he has opened extra facilities, perhaps I should remind him that a €96 million wing of the James Connolly Memorial Hospital in Blanchardstown remains substantially idle. A brand-new health centre costing €48 million in Ballymun has been lying vacant since it was finished 18 months ago, despite the fact that the Northern Area Health Board has paid €5.25 million in rent for the facility. A €26 million high-tech accident and emergency unit has been lying idle in Cork University Hospital for the past seven months. The hospital wing at South Tipperary General in Clonmel has been idle for 15 months. A €2.8 million, 90-bed unit for the elderly in Birr, County Offaly remains unoccupied. Is the Taoiseach not ashamed that he presides over a Government that has failed utterly to deal with a fundamental issue of rights for our people — access to health care when they need it?

The litany from Minister after Minister reminds me of Edmund Burke's remark that falsehood has a perennial spring. Seven years later the Government continues to spout endless lists of money spent when the evidence is available in every household in the land that this has been the worst Government in 50 years and has failed completely to deal with the nation's health issues. The Taoiseach should be ashamed of himself heading into the summer recess. Shame on him and his Ministers.

**Deputies:** Hear, hear.

**Mr. Healy:** Tuam hospital is closed.

**The Taoiseach:** Deputy Kenny and his colleagues never like to hear the facts but he is not going to get away with giving the impression of misleading the public.

**Mr. Hayes:** Show us that.

*(Interruptions).*

**The Taoiseach:** The facts are Deputy Kenny asked whether there are still problems in accident

and emergency units. The honest answer is yes, in some places.

**Mr. Kenny:** I asked what extra moneys his Government intends to provide.

**The Taoiseach:** Based on all the figures for ordinary people, over 30% more receive treatment in our hospitals.

**Mr. Crawford:** They are not on medical cards.

**Mr. F. McGrath:** That is history.

**Mr. Kenny:** The Minister for Health and Children is strangled.

**The Taoiseach:** There have been 1 million in-patient treatments this year. We have far better cancer treatments and a significant improvement in heart surgery. There is a massive improvement in our maternity services. At least we built the units the Deputy mentioned and we will open every single one of them.

**Ms Burton:** They are closed.

**Mr. Kenny:** The Government should open them.

**Mr. Hayes:** On a point of order, the Government did not build them.

**An Ceann Comhairle:** Is Deputy Hayes not satisfied with his leader's handling of the question?

**Mr. Hayes:** I am happy with it.

**Mr. Kenny:** He is very happy with it.

**An Ceann Comhairle:** The Taoiseach's minute is concluded.

**The Taoiseach:** I assure Deputy Kenny that not alone did this Government build all these units but his colleagues will come along for the opening days, trying to claim some credit for them as they always do.

**Mr. Howlin:** When?

*(Interruptions).*

**Mr. D. Ahern:** It will be like decentralisation at home.

**Mr. Kenny:** We know who wrote the Taoiseach's speech.

**Mr. D. Ahern:** Hypocrites.

**Mr. Kenny:** Deputy Ahern has enough trouble in Dundalk.

**Mr. D. Ahern:** The Deputies got their photographs taken.

**Mr. Rabbitte:** Who is misleading the public? Who was it told the public two years ago, on 6 May 2002, that he would abolish public queues for hospitals? Who spoke on the radio this morning on behalf of the Royal College of Surgeons in Ireland and the Irish Medical Organisation to say that implementation of the Working Time Directive will adversely affect patient care, inevitably lengthen the queues and slow down appointments for elective treatments?

Who is fooling whom? Is it not the reality that there are new units of hospitals to the value of €416 million, as identified in the Minister's memorandum to Government, boarded up because they cannot be commissioned? Only this morning a newspaper reports a €30 million unit in St. James's Hospital, that would treat 20,000 cancer patients a year, is chained and padlocked. Cancer patients await access to Dublin's largest hospital which is padlocked and chained a year after the unit was provided.

Deputy Kenny has given the Taoiseach the list of hospitals we visited in Mullingar, Clonmel, Naas, the University Hospital in Cork, Wexford, James Connolly Memorial Hospital in Blanchardstown and several others. Who is the Minister responsible for health? Clearly he is the Minister for Finance, Deputy McCreevy, who brought in six-monthly returns last week showing a surplus in tax of €1,049 million and an underspend on the budget provision of €609 million. Essential moneys to commission hospitals for patients awaiting treatment for cancer cannot be provided and the Taoiseach says Deputy Kenny is misleading the House and the public. Has the Taoiseach lost all touch with reality? Does he see the embarrassment of his own backbenchers? When will he do something about the chronic state of the health services?

**The Taoiseach:** This year the health estimates are up by over 10% and the capital programme for health is approximately €1 million extra. Every one of the units to which the Deputy refers was built by this Government in recent years and in the next few years every one of these units—

**Mr. Crawford:** They were not.

**Mr. Howlin:** The buildings are padlocked.

**Mr. Hayes:** On a point of order, they were sanctioned by Deputy Noonan. The Government has failed to open them. The Taoiseach is misleading the House.

**The Taoiseach:** No unit in the State, built by this Government, is closed. We are spending more on capital programmes and opening more units; we have more staff, more treatments, better services and will continue to provide that. The Deputy persists with the idea that these units were always there and are closed.

**Mr. Hayes:** The Government has failed to open them. The Taoiseach is misleading the people.

**The Taoiseach:** They are new units, newly staffed, with 30,000 extra people working in the health service. We will continue to open all those units.

**Mr. Howlin:** They are empty.

**Ms Burton:** They are closed.

**The Taoiseach:** We have improved the cancer service beyond all doubt.

**Mr. English:** People are queueing.

**The Taoiseach:** Deputy Kenny's party launched a small cancer programme some years ago. Deputy Rabbitte's party did nothing for it. We have put in significant funding, good units, good services and we are going to continue that. Those are the facts.

**Mr. Howlin:** What a joke

**Mr. Crawford:** What about the cancer unit in Cavan hospital?

**An Ceann Comhairle:** This is a Labour Party question. Deputy Rabbitte is entitled to ask his supplementary question without interruption.

**Mr. Rabbitte:** The Taoiseach seems to have learnt nothing from his recent encounter with the people. The Irish Medical Organisation said this morning that implementation of the Working Time Directive would lead to a situation that was unsafe, unworkable and, in some cases, reckless. That directive must be implemented by 1 August. There are 700 nurse vacancies.

The Taoiseach talks of people blocking beds but there is bed capacity in private nursing homes that cannot be accessed because of their cost. He boasts about his friends in the construction industry building units and new wings of hospitals and says that his Government did all this. His Government has kept them closed.

His Minister brought a memo to Cabinet that someone contrived to leak into the public domain showing that €416 million worth of plant is lying idle that cannot be commissioned. Meanwhile his Minister for Finance boasts of how he intends to stay in that Department, no matter what the Taoiseach intends, and he will not provide the basic money for people in need of appointments in our public hospital system. It is a disgrace and it is appropriate that this is the final theme in this House before it rises for the summer recess.

**The Taoiseach:** I do not wish to enter an industrial dispute on the Working Time Directive with people who spoke on the radio this morning. However, I ask that they quickly engage with the Minister for Health and Children. It is not reasonable for any wing of the hospital service to suggest we can run our hospitals between 9 o'clock and 5 o'clock from Monday to Friday.

**Mr. Rabbitte:** Nobody is suggesting that.

**The Taoiseach:** I am sorry to say people are.

**Mr. Rabbitte:** No, they are not.

**The Taoiseach:** They are.

**Mr. N. Dempsey:** The Deputy is not so well informed.

**The Taoiseach:** The IMO will not agree on the meaning of working time and it insists that all the non-consultant hospital doctors working between 9 o'clock and 5 o'clock from Monday to Friday will not propose a working time complaint officer or agree to local implementation groups. That is their position.

**Mr. Rabbitte:** No. They said clinical training could not take place in those hours.

**The Taoiseach:** They and we know that is not workable. If they engage with the Minister for Health and Children we can resolve this so that from 1 August it will apply to doctors in training. They have long campaigned on the basis they were working too long. We supported that campaign and made significant improvements from the 80 or 90 hours a week they were forced to work. The Working Time Directive requires that doctors work no more than an average of 58 hours in hospital each week, and no more than 13 hours per day and receive daily and weekly rest breaks. We support that. To make it operate effectively, however, there will be an enormous cost to the State, which it is willing to pay. Negotiations must be concluded on how the rosters will work.

As regards the other issues, I will say no more than I have already said. The Government has built the units, it will open those units and it will continue to build the further units listed in a capital programme, under which funding of €36 billion will be provided in the coming years.

**Caoimhghín Ó Caoláin:** For the third time today and, all too sadly, for the final time for the next ten weeks, the House asks the Taoiseach to indicate the immediate and effective measures he will take during the summer months to address the crisis in the health service. He must accept the facts. The Irish Nurses' Organisation has highlighted the drastic shortage in the number of nurses. There are some 700 vacancies and it is projected that this will increase to in excess of 2,000 within the next 18 months.

The crisis continues in accident and emergency departments, particularly those in Dublin with which the Taoiseach should be familiar. My colleague, Councillor Dessie Ellis, informed me about a man from his constituency who spent three days on a trolley in the Mater Hospital's accident and emergency department. On the day the man, who had suffered a stroke, obtained a bed, there were 29 patients on trolleys in the

hospital. Some of these individuals had been on trolleys for five days at that juncture.

Yesterday and again today, four women from my constituency, including an expectant mother, are bringing a case before the High Court to challenge the decision to remove maternity services from Monaghan General Hospital. In addition to the closure of these services, accident and emergency services at the hospital have also been withdrawn. The Government has stood idly by and ignored Monaghan. The Taoiseach did not refer to it earlier in the context of the list of issues relating to hospitals that need to be addressed. Citizens are being obliged to resort to the courts in order to secure their basic right to access essential hospital services.

A report into the death of a nine-year old child, Frances Sheridan of Cootehill, Cavan, was published recently. The girl in question was sent home from the accident and emergency department of Cavan General Hospital and the report to which I refer illustrates a litany of errors and system failures which must raise questions about the overall management of our hospital delivery systems.

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

**Caoimhghín Ó Caoláin:** The report must invite a challenge to the ever-increasing control over the configuration of hospital services delivery by consultant interests.

**An Ceann Comhairle:** I ask the Deputy to give way to the Taoiseach as his time is concluded.

**Caoimhghín Ó Caoláin:** Will the Taoiseach cease providing a litany of statistics and information about financial expenditure and refer to service delivery?

**An Ceann Comhairle:** The Deputy must give way to the Taoiseach.

**Caoimhghín Ó Caoláin:** Will the Taoiseach respond in clear terms?

**The Taoiseach:** The Deputy asked me to respond in clear terms. He is aware of the details of the health reform programme. As a member of the health board in his area, he oversaw the changes that occurred there. I accept that these were obviously not to his satisfaction but he is aware of the position.

I will not provide a litany of statistics but I will state that there are 8,000 more nurses and 30,000 additional staff in the health services than was previously the case. These nurses are treating 1 million more people. The service is far better—

**Caoimhghín Ó Caoláin:** How does the Taoiseach propose to respond to the crisis?

**The Taoiseach:** I listened to the Deputy and I ask him to allow me to reply. These additional

staff are serving many more people than was the case in the past. There are vacancies in the area of nursing but 8,000 more positions were created before the question of vacancies was ever addressed. A few years ago there were 2,500 vacancies but the Minister has reduced this figure to under 700. We should at least give credit where it is due.

**Ms McManus:** There are over 700 vacancies.

**The Taoiseach:** The Deputy asked in particular about what we intend to do this summer in terms of increasing the number of beds. The Minister has given €17.6 million to the ERHA alone and he has also provided money to the other health boards. This funding has already resulted in the discharge of some 300 patients from a number of acute hospitals in the eastern region who were taking up the spare capacity to which Deputy Rabbitte referred. The numbers are being substantially reduced. That is the case in all areas.

I do not believe that the extra 30,000 staff or the additional billions of euro provided are not being used properly.

**Mr. Durkan:** There is something wrong.

**The Taoiseach:** There are still problems in some areas, particularly in respect of accident and emergency services. I object to the view that hospital beds, capacities, facilities and the numbers of consultant, paramedical and medical staff have not increased to a position where they are now far more extensive than ever before. I accept that units have been completed which have not yet been opened. These will be opened.

**Mr. Durkan:** When?

**The Taoiseach:** There are other units on which work has commenced. We are spending more than any other country on our capital programme for health and we will continue to do so.

Members should not try to indicate, as the Dáil session draws to a close, that nothing is happening. When the health Bill comes forward, I hope Members will support the Minister for Health and Children.

Deputy Ó Caoláin referred to consultants and others. As soon as we—

**Caoimhghín Ó Caoláin:** Face up to the consultants.

**The Taoiseach:** This morning, a section of the medical service is trying to suggest that we can roster people for duty from 9 a.m. to 5 p.m., five days a week. That is baloney and it is not acceptable. These are the issues we need to address.

*(Interruptions).*

**Mr. J. O'Keefe:** The Government is baloney. That is the problem.

**Mr. Durkan:** What the Taoiseach said is an admission of failure.

**Caoimhghín Ó Caoláin:** I am glad the Taoiseach has highlighted a matter on which we can agree in respect of the health services and the particular influence that continues to be exercised by the consultant representative offices. However, the Minister cannot, Macbeth-like, wash his hands of ultimate responsibility. That is what is actually happening.

We all recognise and acknowledge that there is more money being spent on the health services today than at any time in the past.

*(Interruptions).*

**An Ceann Comhairle:** Deputy Ó Caoláin to continue, without interruption.

**Caoimhghín Ó Caoláin:** What is the Taoiseach going to do to address the specific areas in respect of which urgent action is required? We cannot allow the current position to obtain. Trundling out statistics time and again and offering only a defensive response will do nothing to meet the needs of people who are suffering. What is the Taoiseach going to do immediately to avert the possibility of there being some 2,000 nursing vacancies during the next months? He should be specific.

He stated that he would like to see the various units completed under the €400 million capital programme opened. However, he has not stated that he will not only support but will insist on the provision of €50 million for resources to ensure that the doors of these units are opened. Included in these units is that at St. James's Hospital which could cater for some 20,000 cases annually.

**An Ceann Comhairle:** I ask the Deputy to give way to the Taoiseach as his time is up.

**Caoimhghín Ó Caoláin:** Will the Taoiseach give an assurance that this €50 million will be provided to the Minister to allow these units to be opened immediately?

**An Ceann Comhairle:** Deputy Ó Caoláin should give way to the Taoiseach. There cannot be a separate Standing Order for the Deputy.

**Caoimhghín Ó Caoláin:** I would not expect there to be such a Standing Order. We are seeking real answers from the Taoiseach.

**The Taoiseach:** The Deputy inquired about the ERHA. I stated that additional staffing and resources have been provided and that several hundred cases have already been discharged as a result. The Minister is actively engaged in trying to recruit nurses. He has already reduced the number of vacancies from approximately 2,500 to 700.

As regards some of the new units, it is not merely a question of opening the doors. The

[The Taoiseach.]  
Minister has been continually providing resources. The units will be opened but they must be equipped, commissioned and staffed.

**Ms Burton:** The equipment is already in place at Blanchardstown.

**Caoimhghín Ó Caoláin:** Will the Taoiseach provide the Minister with the necessary funding?

**The Taoiseach:** The Minister is engaged in progressing this matter and he has been provided with enormous funding under the capital programme.

There are now over 50 emergency medicine consultant posts. Those occupying them are providing substantial assistance in terms of providing service in accident and emergency departments. We accept that in some areas we must provide more step-down beds to resolve the issue. I said that at the very start to Deputy Kenny. I hope in the months ahead we will be able to complete that process.

**Mr. Durkan:** The backbenchers are getting very uneasy. They could be about to stampe.

### Ceisteanna — Questions.

#### Freedom of Information.

1. **Mr. Kenny** asked the Taoiseach the number of freedom of information requests received by his Department during May 2004; the way in which the figure compares with the same period in 2003; and if he will make a statement on the matter. [17222/04]

2. **Mr. Rabbitte** asked the Taoiseach the total number of applications received by his Department under the Freedom of Information Act in the first five months of 2004; the way in which this compares with the same period in 2003; and if he will make a statement on the matter. [18309/04]

3. **Mr. Kenny** asked the Taoiseach the total amount received by his Department in freedom of information fees for the period 1 July 2003 to 30 June 2004; and if he will make a statement on the matter. [19005/04]

4. **Mr. Kenny** asked the Taoiseach the total number of freedom of information requests received by his Department in the periods 1 July 2003 to 30 June 2004 and 1 July 2002 to 30 June 2003; and if he will make a statement on the matter. [19006/04]

5. **Mr. Sargent** asked the Taoiseach if he will report on the number of freedom of information requests received by his Department during the first five months of 2004; the way in which this compares with the figure for the first five months

of 2003; and if he will make a statement on the matter. [19008/04]

6. **Caoimhghín Ó Caoláin** asked the Taoiseach the total amount received in fees for freedom of information requests to his Department since the enactment of the Freedom of Information (Amendment) Act 2003; and if he will make a statement on the matter. [20248/04]

**The Taoiseach:** I propose to take Questions Nos. 1 to 6, inclusive, together.

A table showing the information requested by the Deputies will be included in the Official Report. The total amount received in fees by my Department from 1 July 2003 to 30 June 2004, is €593.80, consisting of €510 in application fees and €83.80 in search and retrieval fees.

#### Department of the Taoiseach

##### FOI Applications

	Time Period	Number of Applications Received
(1)	May 2004	1
	May 2003	11
(2)	Jan — May 2004	16
	Jan — May 2003	101
(3)	July '03 — June '04	52
	July '02 — June '03	182

**Mr. Kenny:** Last month the Information Commissioner published a report on the effects of the Freedom of Information (Amendment) Act 2003 and the introduction of fees on the use of freedom of information legislation. Her report echoes what I said to the Taoiseach on numerous occasions in the House. The report stated that usage of the Act had been cut dramatically. She found that overall usage of the Act was down by 50%, with requests for non-personal information cut by 75%. Does the Taoiseach accept that if a person successfully appeals a refusal of access to information, he or she should be reimbursed the fees in respect of the appeal?

**The Taoiseach:** Is the Deputy suggesting we should look at introducing a system of refunds for successful appeals? It is a constructive suggestion that will be looked at.

On the first part of the question, the fee for making a FOI request is €15. I do not believe that can be considered a major deterrent to a responsible use of the Act. It is modest when set against the cost of administering the service, which when it was calculated some time ago by the Department of Finance, was about €425 per request. I will pass on the Deputy's comment about appeals.

Every time I say this it tends to come across differently outside, I repeat that the service is free for people who wish to seek personal information; they do not pay fees.

**Mr. Rabbitte:** Does the Taoiseach agree with the view of the Information Commissioner when she said: “The decline in usage of the Act has gone far beyond what the Government had intended when it decided to introduce fees.” I do not agree with that because I think that is what the Government intended. I would like to hear the Taoiseach’s view on that.

I would also like to hear his view on whether it is right that, of the other jurisdictions surveyed, only three imposed a fee for FOI application requests, none charged for internal review and only one, namely, Ontario, charged for an application to the information commissioner’s office. That fee was less than half the Irish fee.

What is the response of the Taoiseach’s Department to the recommendation from the Information Commissioner, given that Ireland is “substantially out of line with practice abroad” on fees for reviews of decisions and so on? She called for a reappraisal of the €150 charge that applied to reviews carried out by her office. Will the Taoiseach indicate if it is the Government’s intention to carry out such a reappraisal?

**The Taoiseach:** There is no doubt that the numbers are down; they have been falling since 1999. In the first year of the operation of FOI a total of 207 applications were received in my Department. The numbers peaked in 2001 at 279 applications. When FOI was first introduced, people were looking for information from the past and there was a flood of requests for both personal information and information on other issues. Even before the changes were introduced a year ago the figures were substantially down and they have continued to come down. There is no doubt that it is not being used to the extent that it was.

Over 66% of requests to my Department were from journalists but since the fee was introduced they have not been using it to the same extent. In the other areas, the number of requests from academics, business and others has not changed significantly. The figure for personal cases is still the same.

A study in my Department revealed that less than 10% of cases go for internal review and, from the beginning, only 4% of cases have gone to the Information Commissioner, which is quite a low number.

As the Deputy knows, the original Act was based on the Canadian model. The United States does not charge anything for FOI requests but according to information available to me, which I do not have to hand, all of the other areas were charging. If the Information Commissioner stated the charge for reviews made to her should be examined, the Department of Finance will do that. It will look at that figure.

**Mr. Sargent:** What did the Taoiseach mean by saying the Department would “look at” the figure? Did he say FOI requests from journalists had declined by as much as 83% between the first

quarter of 2003 and the first quarter of 2004? I take it that is the extent to which he referred when he said, “not to the same extent”.

Does the Taoiseach agree with the Information Commissioner’s statement that the Act has gone far beyond what the Government intended when it introduced fees? Others would have their doubts but giving us the benefit of the doubt, does he agree with that statement? Will he indicate in more detail what he meant when he said the Minister for Finance might look at the fees and perhaps introduce some of the recommendations suggested by the Information Commissioner to bring the system more into line with international practice, given that we are out on a limb in this country and open government is not being practised as a result?

**The Taoiseach:** The figures are not down to the extent indicated by Deputy Sargent, although there has been a decline in recent years. The costs are not out of line with what happens in other countries. For a period, the media, business and others were using the Act to a great extent. In other countries that is not the case, it is used by the public. By and large, FOI was introduced for the benefit of the public and it is settling back to that being the case. For some time, the situation was that over two thirds of cases were from journalists but that has reduced substantially. We also had vexatious applications and business interests using the system to obtain information. A small number of them were using it to a considerable extent. The change in fees has stopped that.

The Minister for Finance, who has overall responsibility for the Act, will examine closely the report of the Information Commissioner. We have only operated this system for a year. I have no doubt he will take account of and examine what the commissioner has said and ultimately it will be a matter for decision. I believe only the United States has a free system. I have found the note I sought for Deputy Rabbitte a few minutes ago. In Australia, 574 Australian dollars, or €335, applies to an appeal to the administrative tribunal. That is broadly equivalent to an appeal to our Information Commissioner. Statistics suggest that the fees for internal review and review by the Information Commissioner will not be affected and that most users are getting the information they request.

The Freedom of Information Act was introduced to allow members of the public to be able to get information about themselves freely and easily. The Act works very well in that regard. In some areas information cannot be given. Last night I reviewed the section 20 certificates, which relate to the mandatory exemption of records where the Secretary General of the Department certifies that the deliberative process of the Department is ongoing. While we had considerable debate on that matter when the change was introduced last year, no Freedom of Information Act request has been refused under this or other



[The Taoiseach.] sections. Some matters before Government would be refused, as was provided for in the original Act. The Act has settled down and will need to be reviewed after a few years.

The main purpose of the Act was to allow people to get information that the State or agencies of the State held about them and that has happened. While I know this is away from the question, it offers some clarity to point out that, outside Departments, the figures relating to individuals seeking information from local authorities and health boards have not reduced, because they seek information about themselves. We need to leave this for some years and see how it operates.

**Mr. Ferris:** Does the Taoiseach agree that the Freedom of Information Act was designed to hold Government and public servants to account for their administrative actions? Does he agree with the Information Commissioner in saying that the scale and structure of the charges should be reviewed because the media represent a key element in an open and properly functioning democracy? Given the 83% decline in journalists' inquiries under the Freedom of Information Act during a five-month period, does the Taoiseach not accept that the fees inhibit journalists and others who scrutinise the workings of Government, the Civil Service, etc. from advancing democracy and accountability?

**The Taoiseach:** If members of the public wish to get information about themselves, they do not pay. A fee of €15 for making a request under the Freedom of Information Act cannot be considered a major deterrent to responsible use of the Act. It is a very modest fee. The cost of processing a request is approximately €425 and the fee is a very small fraction of that. The Long Title of the Freedom of Information Act confers a right of access, to information to the greatest extent possible consistent with the public interest. A modest system of charges which strikes an appropriate balance between the public's right to obtain information and the administration of the Freedom of Information Act and all other services must be provided and is in the public interest. The system the Government has introduced does this and it would not be appropriate to change it, notwithstanding any decline in the number of requests being made.

**Mr. Sargent:** As was asked, the Taoiseach should inform the House what he regards as the purpose of the freedom of information legislation. He said it was to allow people to obtain information about themselves. Is it not the case that this legislation is designed to make Government more open and transparent, and therefore the workings of Government are to be open to public access? Is the Taoiseach not overlooking that point?

**An Ceann Comhairle:** The questions to the Taoiseach refer specifically to his Department and are statistical questions.

**Mr. Sargent:** I appreciate that point.

**An Ceann Comhairle:** I suggest that the Deputy submit a question to the line Minister responsible, namely, the Minister for Finance.

**Mr. Sargent:** The Taoiseach seems to think it is only about personal information. Does he not realise it is about more than that? Does he not realise that journalists are also members of the public and may well seek information in the public interest?

**The Taoiseach:** The practice of my Department during the Presidency, which will continue, was to put most reports and documents on the website so that they were available. I accept that, in the past, people had to trawl and ask questions to get such information, but that is not happening now and the information is on the website within half an hour. That is a change in the position. We can see where the world is going. We estimated that 10 million to 15 million hits during the Irish Presidency would indicate good use of the website, but we had 46 million hits. This is how the world seeks information.

If they are not in the deliberative process of Government, most other reports and information that people might seek are put on the website. More Departments are doing this. The view of my Department's Secretary General and the management advisory committee is that any matter, even one of interest only to a select group, should be made available. There is no great secrecy about most of this information. I accept that used to be the attitude in the past, but it is not the attitude now. This has changed the position.

I only made the point about the individuals because the freedom of information is important for them. It represents a major change from the past and was a real breakthrough. I saw how it was being used by some vexatious individuals and business interests. Some businesses, which were established for this purpose, are now gone. They submitted in a substantial number of requests under the Freedom of Information Act at considerable cost to the State. They are out of the system now.

#### **Programme for Government.**

7. **Mr. Kenny** asked the Taoiseach if he will report on the implementation of An Agreed Programme for Government; and if he will make a statement on the matter. [17225/04]

8. **Mr. Kenny** asked the Taoiseach the progress to date in respect of the implementation of the elements of the programme for Government for which his Department is responsible; and if he will make a statement on the matter. [17233/04]

9. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on the progress made to date in implementing those areas of the programme for Government for which his Department has responsibility. [18310/04]

10. **Mr. Sargent** asked the Taoiseach if he will report on implementation of An Agreed Programme for Government; and if he will make a statement on the matter. [18990/04]

11. **Mr. J. Higgins** asked the Taoiseach if he will report on the progress to date in implementing An Agreed Programme for Government. [18998/04]

12. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on the progress on implementation of An Agreed Programme for Government; and if he will make a statement on the matter. [20249/04]

**The Taoiseach:** I propose to take Questions Nos. 7 to 12, inclusive, together.

Progress on the Government programme is kept constantly under review. Deputies will be aware that for every full year of the previous Government's term of office, we published an annual progress report. Last summer, we published the first annual progress report of the current Administration and it is my intention to publish a further report later this year. I am pleased to have this opportunity to make a statement to the House on the implementation of An Agreed Programme for Government between Fianna Fáil and the Progressive Democrats.

Our programme for Government is both clear in intent and specific in detail. It is the agreed agenda for this partnership Government over five full years. The starting point for the current programme was rooted in a recognition that, in an ever-changing world, the reform process is never over. As a Government, we are determined to keep driving forward. In implementing this programme for Government, we will not rest on past successes. Instead, we will build on the solid foundations we have put in place since 1997.

In setting out to implement our commitments, we will bring forward and progress the most ambitious legislative programme in the history of the State. Since the present Government took office on 6 June 2002 some 90 Bills have been published, 78 have already been enacted into law and 38 are before the Oireachtas. Given the scale of the Government's legislative programme and the large number of specific commitments set out in the agreed programme, it would be impossible in the time allowed to detail fully the amount of progress already delivered. It would be more appropriate for individual Ministers to answer that.

The cornerstones of An Agreed Programme for Government are based on our desire to build a better Ireland for everyone and our promises to protect and expand prosperity for all, strengthen peace and reconciliation, guarantee improved pensions, reform and develop our health services

and invest in better public services. Without economic strength, there will never be an Ireland where everyone can prosper and fulfil their potential. A key objective of our programme for Government is to sustain a strong economy and "keep the finances of general Government close to balance or in surplus". Our prudent management of the economy has meant that Ireland has come through the worst world recession in 20 years stronger than most countries and as good as the best. This was shown again in recent weeks by figures which indicate we have maintained one of the lowest unemployment rates in Europe as well as the budgetary figures which show real strength.

Since 1997, when the Government was first formed by the current parties, there are more people working in Ireland than ever. The policies the Government has implemented have supported the creation of 420,000 extra jobs and positioned us among the top countries in terms of global competitiveness. We have also substantially increased real incomes and introduced major reform of the taxation system. The OECD recently highlighted that workers here now enjoy one of the lowest taxation regimes in the developed world.

Our overriding priority as set out in the programme for Government is to secure lasting peace in Northern Ireland and we have worked towards it. We will continue to apply our energies in support of the Good Friday Agreement, as it remains the template for political progress.

Our other key commitments are to run a proactive EU Presidency and I wish to acknowledge the efforts of the Minister for Foreign Affairs, Deputy Cowen, and the Minister of State, Deputy Roche. We are committed to addressing Ireland's infrastructural deficit in a coherent way. Capital envelopes totalling €33.6 billion for the period from 2004 to 2008 were introduced in the last budget. The capital envelopes include a commitment to keep the level of Exchequer-funded capital investment at 5% of GNP during the period. The envelopes will allow for an even flow of investment projects, facilitate better value for money and provide greater certainty in tackling the infrastructure deficit. The total capital envelope for roads and public transport projects is €9.4 billion.

We are committed to implementing a multi-stranded approach to addressing housing needs right across the spectrum, with up-to-date figures showing the success of our policies in increasing housing supply. Now approximately 70,000 houses a year are being built, which is three times the level of ten years ago, three times the EU average and five times the UK average.

We are committed to encouraging a better spread of jobs throughout the country and people should not forget that the rate of unemployment is among the lowest in the European Union. The 2002 census showed that employment has grown strongly in every county since the last census in

[The Taoiseach.]

1996. The Government is determined that strong national employment growth will continue to be felt throughout the regions. More than 53,000 new jobs were created last year. Ireland has recently secured major foreign direct investments.

We are committed also to bringing forward a programme of fundamental reform of the insurance industry. A comprehensive set of inter-related measures, designed to improve the functioning of the Irish insurance market have been brought forward by the Tánaiste. We are committed to rural development, in particular the widening of the CLÁR boundaries.

We are committed to the implementation of the penalty points system, which has had an impact on road safety. The penalty points system has been operating since October 2002 for the offence of breaching a speed limit; from 1 June 2003 for insurance offences; and from 25 August 2003 for seatbelt wearing offences. The system was recently extended to include the offence of careless driving with effect from 4 June 2004.

We are committed to putting in place open access broadband on a national basis. The 19 town metropolitan area network broadband programme is on time and on target. A radical €140 million broadband action plan was launched in December. This extends the current programme of local authority infrastructure to 19 regional towns with the aim of bringing low-cost broadband to every Irish town with a population of more than 1,500 people. The other schemes will be set out in the booklet of actions, which will be delivered shortly.

**Mr. Kenny:** I am nearly unable to ask a question after that response from the Taoiseach. May I make a number of observations before I ask two specific questions?

I looked at the programme for Government recently and the following are relevant extracts from it. The Government promised to keep down personal and business taxes, but 27 stealth taxes have been introduced since then. It promised to ensure that 80% of all earners would pay tax only at the standard rate, however, 52% now pay at the top rate as the tax bands have not been widened. It promised to support the positive role of the community employment schemes to meet the needs of both the long-term unemployed and communities, but 4,500 jobs have been cut in that area.

The programme also stated the Government will give a fresh impetus to the important role of small business in Ireland to ensure that their interests are taken into account in formulating and implementing policies that impact on the enterprise centre. ISME has warned that 35,000 jobs in small firms are in danger because owners perceive the Government as being a regulator rather than a facilitator of small businesses. The programme further states that it will seek to resolve potential issues, difficulties and conflicts

in the spirit of social partnership, but now companies such as Aer Lingus, Aer Rianta, CIE and the ESB are facing strike action.

How can the physical renewal of third level campuses, which has been referred to in the programme for Government, take place when cuts of more than 40% have been made in the capital allocations to third level colleges and universities last year?

The programme for Government makes a commitment to progressively develop adult education services. Does the Taoiseach accept that the actions of the Government in capping places at colleges of further education and PLC courses and in cutting back on child care funding for those who want to do such courses, has undermined educational opportunities to the detriment of thousands of people?

Did the Taoiseach state that he would expect each Minister to produce a progress report on his or her Department or are we to have a revised copy of the programme for Government on what has been achieved and what will be achieved in the coming period?

**The Taoiseach:** In response to Deputy Kenny's final question, the programme we publish every year is a review of actions against the programme. We normally publish it at this time, but as the staff were working on the EU Presidency, it will be published during the summer and I hope to have it out as quickly as possible.

On the question of the universities, during the past number of years the Government has been able to facilitate significant capital programmes. However, that was cutback in 2002 and 2003. We have to finish the drive whereby every third level institution had a major capital programme. The benefit of that programme has been an additional 25,000 places for students. The universities have now come forward with new plans and I am due to meet the presidents of the universities in the next few days, if not today, to discuss these issues.

The former Ministers for Education, Deputies Martin and Woods, and the Minister of State, Deputy de Valera, have been involved in the adult education programme and in building up NALA and other organisations and PLC courses. There has been some tightening of the finances in that area, as there was everywhere when revenues were not strong.

Infrastructure has been built up in adult education and I support that. I recently attended a seminar in the Gresham Hotel of all the national groups working in this area. Obviously the groups are concerned that the Government will continue to develop the programmes in the future, but there is a sense of satisfaction that we have built them up to this level and that we have provided some increases. We have to continue to do so.

I agree with the Deputy that PLC courses are very important to a certain section of society who were not able to access education because of disadvantage. That is why the then Minister for Education, Deputy Martin, put so much effort and

resources into that service in 1997 and the Government will continue to do that.

**Mr. Rabbitte:** I could ask the Taoiseach a great many specific questions. We could go down through the waiting lists, which the Taoiseach promised to abolish in two years; the promise made to recruit an additional 2,000 gardai; the 200,000 medical cards; the 10,000 affordable houses and so on. On the question of PLC courses, which Deputy Kenny raised, I visited a school during the local election campaign where five teachers are being let go because of cuts in the PLC allocation. I think the school is in Templemichael, County Longford. Tremendous work has been done in this school which has more students on PLC courses than in the traditional leaving certificate cohort. The five teachers are being let go because the figures are capped.

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

**Mr. Rabbitte:** This is a question, Sir. I am asking the Taoiseach if he knows about that case because an intervention would be greatly appreciated.

Is there any sign of a loosening of the purse strings for chronic and acute need on the social side? If taxes are in excess of €1 billion over what was guesstimated by the Minister and if the underspend so far is €609 million, it is surely possible to address some of the more chronic under-provisions in social services. One could go through them all but there is no need. The PLC one that Deputy Kenny mentioned accidentally or I accidentally pick up on is just an example. A health centre in Millbrook Lawns in my constituency was burned down five years ago. Nine rooms were destroyed by vandals five years ago and after all this time, even though the cost is €1 million, it has not been reconstructed. This centre served a large populous area with an entire range of social services, nursing, pre-natal and antenatal care etc., yet it cannot be rebuilt. The Taoiseach must have heard this argument at his parliamentary party, and I am asking him to tell the House and the public whether we are likely to see some of these more chronic deficiencies addressed in the next six months or so.

**The Taoiseach:** I am not aware of the individual areas. However, I would like to make two points about the figures. Obviously, all the under-allocations can be spent. One sees this in the final quarter of every year where there tends to be underspending. The Minister for Finance, to his credit, is always urging people to have a more even spread of the profile of their figures. We all know how that system operates and now with monthly accounting it is far more effective than it used to be. There are many areas within individual Departments where programmes can be funded within the Estimates.

While the revenue position is better this year, of course it allows some leeway in the Estimates process and in the figures for this year. I mentioned this morning some of the areas in regard to health and education. The Minister for Health and Children, Deputy Martin, has been able to put in resources to assist with bed shortages, for example, in funding health boards across the country to alleviate the pressure on beds. In the Eastern Region Health Area alone, there are about 300 extra beds. In the education area, the Minister for Education and Science, Deputy Dempsey, has recently been able to appoint a net 350 extra resource teachers and there have been increases in other areas.

In the Estimates process for next year, obviously the baseline figure can improve. The Minister for Finance did not make cutbacks in the past few years. He reduced expenditure from the high levels that were possible — expenditure had increased by over 20%, which was strongly condemned in this House — to norms of 6% that were sustainable in a tighter economy. Now the economy is growing again and this allows for buoyancy and more money to be put into particular areas.

When somebody mentions, as Deputy Rabbitte has done, individual cases such as a health board building that was burnt down five years ago without being reconstructed, I am not in the business of defending that. I can never understand, given the allocations and the individual Estimates for some of these areas and where money is spent, why necessary facilities are not provided in deprived areas. I will not try to defend that. I witness similar occurrence at times in my constituency, and I will raise the case of the centre in Millbrook Lawns, as the Deputy has made the point.

**Mr. Eamon Ryan:** I have two specific questions on areas of infrastructural investment. Will the Taoiseach first clear up the confusion that occurred last week when he appeared to indicate that the whole metro project for Dublin was being scuppered? Perhaps he intended to say that parts other than the Dublin metro line would not go ahead. Will he confirm that this is the case? If it is the case, will he ask the Dublin Transportation Office to review the overall transport profile for Dublin, given that all the other metro lines are not to be proceeded with? Will he confirm when the Government will finally make a decision on this? We have heard over the past year that it would be made “within weeks”.

How does the Taoiseach answer criticism from certain people in the telecommunications sector about the State spending up to €170 million on the unnecessary laying of new fibre optic cables for broadband metropolitan area networks? While the investment is welcome, how does the Taoiseach answer the criticisms of people in the sector that duplicating existing fibre optic cables in the ground amounts to a massive waste of money and that some of the existing cables could

[Mr. Eamon Ryan.]  
be used in our metropolitan area networks rather than spending excessive funds laying a second fibre optic cable alongside existing installations?

**The Taoiseach:** I will take the second question first. The point has been made at the Cabinet sub-committee on infrastructure, which I chair, that we should be using the best services, whether on rail lines or whatever. We should be getting the best value for money rather than duplicating the system. The Minister for Communications, Marine and Natural Resources, Deputy Dermot Ahern, has been endeavouring to get the telecommunications companies to co-ordinate their efforts with his Department and the agencies so that we are not getting into a competitive position involving unnecessary duplication. Both State and private sector companies should have a vested interest in providing the network to businesses and citizens throughout the country rather than duplicating effort in competition with each other. I do not disagree with what the Deputy has said, but I reassure him as regards what the Minister has been doing and his intervention has worked in some areas.

**Mr. Eamon Ryan:** Duplication is happening.

**The Taoiseach:** I accept that—

**An Ceann Comhairle:** The Deputy should allow the Taoiseach to answer without interruption.

**The Taoiseach:** He has been trying to stop that so that we get best value for money. While I have mentioned the broadband lines, it is a costly system. We should not be in duplication, but should be using the best efforts of the State companies and those with licences in telecommunications companies to work together and co-operate.

On the first question, we have no plan to change the Dublin Transportation Office study. As regards the proposals for the metro, the Minister for Transport, Deputy Brennan, is in discussion with the Government and the Department of Finance on the plans. The point I made last week was that the overall plan of the metro, as it is envisaged for Dublin, even as amended, is enormously costly. Obviously the DART and airport lines must be linked up, and the plan was to link the line to Swords. I am not sure what the latest costs are, but even that project is enormously costly and the Minister is looking at how to deal with that. If the whole line is to be extended into the entire Dublin area one is talking about billions of euro, which would account for the entire capital programme of the country. While one hears about and reads fancy plans about how the private sector can do all these things and take over the contract, I assure the Deputy that it never works out.

**An Ceann Comhairle:** We could have told the Taoiseach that.

**The Taoiseach:** They will defer the payments, whatever way one likes, but the taxpayer ends up paying them, and the more the deferral the more that will have to be paid. Having been through the Luas project, we must now see what can be done. If the Dublin Transportation Office study is correct, there will be another 600,000 people in the Dublin area within a 30 year period, but since it has been wrong on all its other surveys, it will probably be a 20 year period.

**Mr. Rabbitte:** That will put pressure on hospital beds.

**An Ceann Comhairle:** The Deputy should allow the Taoiseach to speak.

**The Taoiseach:** It will put pressure on a great many areas. I accept that and that is why it has to be looked at. A plan must be linked to financial reality. It is great to come up with plans and state, for instance, that a project will cost €15 billion in a short period of time. However, the money needed for the entire plan is not there. The Minister is looking at priority areas and this does not mean changing the existing Dublin Transportation Office study. I do not see any reason to change it, but we must try to implement the main part of it. The main part of it is obvious because there is no light rail, DART or Luas to the airport. That issue has to be addressed as the Dublin Transportation Office study has highlighted.

**Mr. Ferris:** The first paragraph of An Agreed Programme for Government states that the Government's "overriding priority will be to secure lasting peace in Ireland through the full implementation of the Good Friday Agreement, the consolidation of its institutions, and the development of a spirit of friendship and cooperation between North and South". Does the Taoiseach accept that the achievement of this priority has been obstructed by the continuing delays and the British Government's suspension of the institutions? In the programme, the Government also pledges support for "full public enquiries into the murders of Pat Finucane, Robert Hamill and Rosemary Nelson". Does the Taoiseach accept that the inquiries have been obstructed by the British Government's delays? Is it not time for the Taoiseach to take a much more determined stand on these issues in his dealings with Tony Blair and the British Government?

**Mr. Naughten:** The Taoiseach spoke about the broadband network earlier in response to Deputy Eamon Ryan. Is the Government considering the establishment of a national broadband backbone by bringing together Iarnród Éireann, the ESB, Bord Gáis and the metropolitan area networks? Such a State-controlled broadband network

would be accessible to new companies entering the market.

In light of the Taoiseach's comments that there may be an extra 600,000 people in the greater Dublin area within 20 years, are there plans to pursue a co-ordinated approach to land use and transportation in the Dublin area in line with the Government's commitment?

What has happened to the plans for a dedicated Garda traffic corps? Will we ever see it?

**The Taoiseach:** I will respond to Deputy Naughten's questions first. The Minister, Deputy Dermot Ahern, has been trying to co-ordinate the broadband effort. He has had some success in that regard by trying to get the private telecommunications companies and the State agencies to co-operate.

No decision has been made in respect of the Garda traffic corps. The proposal, which has some merit, has not been agreed on by everybody. Many have argued about the practicalities of the matter. I still believe that such a service would be much more efficient and cheaper than having fully trained gardaí all the time. I quickly add that there is no wholehearted support for the proposal.

The report of the Department of the Environment, Heritage and Local Government's Dublin transportation study has been published, as has the national spatial strategy. Studies of the configuration of how things will develop over the next 30 years are in place. The reports have been fully taken into account, from an infrastructural point of view, in the Government's plan for the capital programme between 2004 and 2008. Obviously, that will have to be reflected in the areas we have just been discussing. The Minister, Deputy Cullen, has reminded the House that the regional planning guidelines are in place under the spatial strategy.

In response to Deputy Ferris, we are committed to trying to work to achieve lasting peace. We must make progress. We are committed to inquiries into the Finucane, Hamill and Wright cases. We will continue to hold the British Government to account on what was agreed at Weston Park. We are committed to that.

Regarding the other areas, while it is possible to get the institutions up and running, Deputy Ferris is aware that we need progress on all the areas if that is to be achieved. We need to restart the institutions and we must deal with the decommissioning of arms and the policing issue. We must be certain that if we establish the institutions, they will be sustained rather than being set up and brought down, which has been the case. All of these decisions must be taken collectively. The process is continuing. The Minister, Deputy Cowen, had meetings yesterday and I will have meetings today. We will continue to co-operate to see if we can make an effort in this regard in September. We need everybody to play a role in doing that.

### **Requests to move Adjournment of Dáil under Standing Order 31.**

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

**Mr. Broughan:** I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the need for the Minister for Communications, Marine and Natural Resources, Deputy Dermot Ahern, to intervene immediately between staff and management at ESB to ensure that 2,300 workers do not have to resort to strike action from next Monday.

**Dr. Cowley:** I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the unacceptable and disgraceful fact that a single consultant rheumatologist must look after the entire Western Health Board area, which comprises three counties as well as counties Clare and Limerick, while 1,000 people wait in terrible pain for four years for a first appointment to see the rheumatologist, meaning that the window of opportunity in which successful and early treatment can prevent permanent joint damage in the case of rheumatoid arthritis and the consequent severe pain and permanent disability is missed, resulting in decreased life expectancy and a life of pain in a wheelchair.

**Mr. Ferris:** I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the future of salmon drift and draft fishermen in light of the fact that the salmon season for commercial fishermen closes at the end of July, the probability, due to the late arrival of salmon on the west coast, that drift and draft fishermen will be unable to fill their respective quotas—

**Mr. D. Ahern:** There are no salmon on the east coast.

**Mr. Ferris:** —and the need for the Minister to extend the salmon season into August for at least two weeks so that dependent salmon fishermen can make a viable income.

**Mr. D. Ahern:** Those boys get the salmon before we can get at them.

**Mr. Rabbitte:** The Minister is expanding his range of expertise.

**Mr. Sargent:** I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter: the need to clarify the Taoiseach's perceived endorsement of the practice of transporting persons through Shannon Airport as detainees to Guantanamo Bay in Cuba, even though their detention conditions are in breach of the Geneva Convention, according to Amnesty

[Mr. Sargent.]

International, the Pope, the UN High Commissioner for Human Rights, the Council of Europe and Human Rights Watch. I understand that concerns have been expressed by President McAleese and the Taoiseach.

**An Ceann Comhairle:** The Deputy is going well beyond the terms of the notice he submitted to my office.

**Mr. Sargent:** There is no end to the number of people who have expressed concern about this matter.

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

### Order of Business.

**The Taoiseach:** It is proposed to take No. *a14*, motion re proposed approval by Dáil Éireann of the Electoral Act 1997 (section 53) Order 2004 and the Presidential Election (Reimbursement of Expenses) Regulations 2004; No. 21, Maritime Security Bill 2004 [*Seanad*] — Order for Report, Report and Final Stages; No. 22 — Dumping at Sea (Amendment) Bill 2000 [*Seanad*] — Order for Report, Report and Final Stages; and No. 22a — Civil Liability and Courts Bill 2004 [*Seanad*] — Order for Report, Report and Final Stages, to be taken not later than 5 p.m. today and the order will not resume thereafter.

It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 8.30 p.m. and business shall be interrupted not later than 10.30 p.m.; No. *a14* will be decided without debate; and Report and Final Stages of No. 22a shall be taken today and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 10.30 p.m. by one question which shall be put from the Chair and which shall, in relation to amendments, include only those set down or accepted by the Minister for Justice, Equality and Law Reform.

Private Members' business shall be No. 33, Sustainable Communities Bill 2004 — Second Stage (resumed) to conclude at 8.30 p.m.

**An Ceann Comhairle:** There are three proposals to be put to the House. Is the proposal for dealing with the late sitting agreed?

**Mr. Sargent:** It is not agreed. I ask that the House accede to a request from the Green Party to extend the late sitting by 15 minutes tonight because we lost 15 minutes of Private Member's time last night. Given that the House finished eight minutes early last night, the Taoiseach's concern about losing his beauty sleep was without foundation. Whatever about losing sleep, it is important that we should not lose Dáil time unnecessarily. The House finished eight minutes early last night, but we can make up time tonight

by ordering that the House should sit for an extra 15 minutes to allow Private Members' time to run for the full three hours for which it is intended to run. We want that time back, and I ask that the House accede to that.

**Aengus Ó Snodaigh:** On the late sitting, we had a late sitting last night and at 9.30 p.m. a revised schedule was sent to us by the Whip's office regarding tomorrow, and it included Report Stage of the Ombudsman (Defence Forces) Bill. We got no notice of that and had no time to submit amendments because the amendments have to be in——

**An Ceann Comhairle:** Sorry, Deputy, that has nothing to do with the late sitting tonight.

**Aengus Ó Snodaigh:** It is to do with the late sitting. We had a late sitting last night which facilitated the Whip's office issuing a revised schedule. That forced Members to come in here early in the morning to table amendments to a Bill. It is not acceptable that a late sitting is used for that purpose, and we will oppose it tomorrow.

**An Ceann Comhairle:** Is the late sitting agreed?

**Mr. Sargent:** No.

**An Ceann Comhairle:** I will put the question.

**Mr. Boyle:** Will the Taoiseach respond?

**Mr. Sargent:** It is a reasonable request. Fifteen minutes might do the job.

**The Taoiseach:** If there is co-operation on the other Bills and if I can take them collectively——

**Mr. Sargent:** There was co-operation.

**The Taoiseach:** If we can agree that and get co-operation on the other Bills, I have no problem with the extra 15 minutes.

**Mr. Boyle:** After 8.30 p.m.?

**The Taoiseach:** After 8.30 p.m., but only if we can co-operate on the other issues because these Bills, in particular No. 22a, must be completed today. We are just asking for co-operation on it.

**Mr. Sargent:** I appreciate that.

**Mr. Rabbitte:** I wanted to make a point on the Civil Liability and Courts Bill, which is not before the House currently, but if the Taoiseach has time to tie us into committing to No. 22a, as set out, I would have some difficulties with that. I defer to my colleague, Deputy Costello, but there is a problem about that.

**An Ceann Comhairle:** Deputy Kenny, did you want to raise a point?

**Mr. Kenny:** I want to speak on No. *a14*.

**An Ceann Comhairle:** Perhaps if we agree the late sitting the point raised by Deputy Sargent can be taken in the context of—

**Mr. Costello:** A Cheann Comhairle—

**An Ceann Comhairle:** Sorry, Deputy, Deputy Rabbitte has already spoken on the matter. There is provision for a question from only one member of each party.

**Aengus Ó Snodaigh:** If the Taoiseach extends the Private Members' time by 15 minutes, it will take up valuable time required for No. 22*a*, which is due to be guillotined tonight. If the late sitting and the change he is talking about is agreed, 15 minutes of valuable time will be lost, and that is not acceptable.

Question, "That the late sitting be agreed to", put and declared carried.

**An Ceann Comhairle:** I call Deputy Kenny on the proposal for dealing with No. *a14*.

**Mr. Kenny:** This matter is proposed to be taken without debate. The note refers to a presidential election. First, on the recoupment based on Dáil expenditure in elections, if a party sponsors or nominates a candidate in a presidential election, is the recoupment made to the party or the candidate? Second, paragraph 5 of the explanatory document states that any presidential election, if held, would take place in October and the election period would commence before the Houses resume after the summer recess. The approval, therefore, must be obtained before the summer recess. Has the Taoiseach had any indication that it might be necessary to have candidates nominated for the presidential election or does he intend to nominate a candidate? In other words, has he had any news?

**Mr. Cullen:** Like an expectant father.

**Mr. J. Higgins:** Everybody in Europe wants the Taoiseach to stand for it.

**The Taoiseach:** The Deputy should have a go again.

**Mr. J. Higgins:** One never knows.

**Mr. Rabbitte:** On the same matter, a Cheann Comhairle, I was somewhat surprised to find this item on the Order Paper this morning without any communication from Government or from the Minister.

**Mr. Cullen:** I tried to contact Deputy Gilmore last night. I understand he was on his way to Chicago. I tried to contact Deputy Stagg.

**Mr. Stagg:** I was available.

**Mr. Cullen:** I managed to contact Deputy Allen. I tried to contact Deputy Sargent as well.

**Mr. Rabbitte:** Deputy Gilmore is an immensely valuable member of my team but we still manage to function even when he is *en route* to Chicago.

**Mr. Cullen:** That is why I tried to contact Deputy Stagg.

**Mr. Rabbitte:** It is proposed to pass this item on the nod without even referral to committee, not to mention the House. It is proposed that we set a spending limit for the presidential election of €1.3 million. With the greatest respect, Sir, that warrants some discussion and it should not be nodded through in this fashion. As I understand it, the €1.3 million is computed on the basis of an aggregate of the spend for the Dáil constituencies. Incidentally, the figure for the Dáil constituencies is not the figure in the 1997 Act but includes the 50% increase the Minister, Deputy Dempsey, ushered in just before the 2002 general election. A €1.3 million spend and a threshold for recoupment that most of the candidates in the last general election would not have attained is almost as appalling a vista as going down to the Four Courts to effect one's rights as a citizen.

The notion of nodding through this item without discussion and without referral even to a committee is very unusual and introducing it here on the penultimate day of the session is less than respectful to the House and to the Opposition.

**Mr. Sargent:** I appreciated getting the telephone call from the Minister this morning but whoever advised him that he had to rush this measure through the House was remiss in not advising him that he should have had spending limits for local elections also. I wonder why they did not advise him accordingly. In this case, however, a huge amount of money is being aggregated without recognition of the economy of scale.

This is not the same as running a number of candidates in different constituencies. Running a presidential candidate is completely different and I ask that we would debate this matter either in committee but preferably in the Dáil. It is an area that applies to us all and as representatives of the people we should discuss what is a considerable spending limit.

**The Taoiseach:** To answer Deputy Kenny's question, I do not have any news.

**Mr. Kenny:** The Taoiseach does not have any news?

**The Taoiseach:** It is purely precautionary.

**Mr. Durkan:** Belts and braces.

**Ms Lynch:** It is a little late for that.



**The Taoiseach:** The Attorney General advised that we have to do it this way also. Under the legislation a limit has to be set. The Electoral Act 1997 provides for expenditure limits for presidential elections in the same manner as Dáil elections. It is directly linked. Where limits are proposed to be introduced, the Minister is required to lay a draft order before each House of the Oireachtas for positive resolution.

In setting the expenditure limits, the Act requires the Minister to have regard, as Deputy Rabbitte said, to the limits for the Dáil as set out under the Act. The current expenditure limits for Dáil and European elections are set out for three, four and five seat constituencies. The approval of both Houses of the draft order is required because if a presidential election was held it would take place in October. The election period would commence before the Houses resume after the summer recess, and the approval needs to be obtained before the summer recess. That is the precautionary reason for it.

The issue on recoupment is based on what is actually spent and it is paid to the candidate, but the figure has to be fixed.

**Mr. Rabbitte:** The Taoiseach is permitting a spend of €1.3 million and, quite frankly, that is anti-democratic. No party other than the Taoiseach's can afford anything like that.

**The Taoiseach:** There is no figure at present. All we have is that it should be related to an existing figure. The Deputy is correct. I do not believe anyone would spend anything like that but—

**A Deputy:** Why include it?

**The Taoiseach:** Because it is in law we have already passed. It is related to the constituencies issue. That is the reason.

**Mr. Boyle:** On a point of order—

**An Ceann Comhairle:** Sorry, Deputy Boyle, but Deputy Sargent has already spoken on the question.

**Mr. Boyle:** On a point of order I do not believe it is possible to approve this motion because it refers to 42 constituencies.

**An Ceann Comhairle:** That is not a point of order.

**Mr. Boyle:** It is a point of order as there are not 42 constituencies

**Mr. Howlin:** It is a point of order.

**An Ceann Comhairle:** The Chair has ruled it is not a point of order. The House is discussing a simple motion whether this issue will be taken

without debate. The Deputy is discussing the substance of the motion which is not in order.

**Mr. Sargent:** The proposal falls.

**Mr. Boyle:** I am arguing that it cannot be put before the House as it is not valid. The Electoral Act has not been amended to change the number of constituencies from 41 to 42. This motion cannot be passed today.

**An Ceann Comhairle:** That is not a point of order. The Chair agreed—

**Ms McManus:** It is a point of order.

**Mr. J. O'Keeffe:** It surely is a valid point.

**Mr. Howlin:** It clearly is a point of order. The Deputy is questioning the validity of an order put to the House.

**Mr. Rabbitte:** The Ceann Comhairle has rail-roaded the decision without even listening to a word of what the Deputy had to say.

**Mr. Stagg:** There is nothing new in the Ceann Comhairle doing that.

**Aengus Ó Snodaigh:** We can bring in another constituency

**Mr. Durkan:** How many constituencies were there in the last election?

**Aengus Ó Snodaigh:** The Deputy should ask the Minister.

Question, "That the proposal for dealing with No.14a be agreed to", put and declared carried.

**An Ceann Comhairle:** Is the proposal for dealing with No. 22a agreed to?

**Mr. J. O'Keeffe:** Four hours were spent on Committee Stage of the Bill yesterday during which substantial changes were made. Report Stage of the Bill is to be taken today. The Minister for Justice, Equality and Law Reform indicated that further substantial amendments would be introduced on Report Stage but Members have not even seen the list of those amendments. I do not wish to hold up the Bill. However, I am concerned that, in the unseemly haste in getting the Bill through the House, we may end up with bad law. From a parliamentary rather than a political point of view, it is not the way to finalise legislation.

**Mr. Costello:** I have difficulty in taking Report and Final Stages of the Bill in one day and am surprised by the Taoiseach's claim that it has to be passed today. The Bill is another typical Deputy McDowell special. It is a hybrid Bill,

initially introduced for dealing with civil liability and personal injuries matters. The Minister then grafted on the appointment of eight extra judges — three to the High Court and Circuit Court, respectively, and two to the District Court — with no opportunity for discussion.

Major changes to the *in camera* rule for family law, domestic violence and rape cases have also been introduced. For the first time yesterday on Committee Stage, Members saw the raft of major amendments that the Minister was introducing. However, he did not have the amendments for the *in camera* rule. These will be introduced on Report Stage while Members still have to receive and study them.

There is a real danger that bad legislation will emanate from this procedure. The manner in which the Minister deals with legislation is not good enough and this is the worst example so far. It is wrong that the Bill will be guillotined tonight. It would be better if it was debated again tomorrow.

**Mr. Rabbitte:** A man like the Minister for Justice, Equality and Law Reform should not have to come into the House at all. He should simply be allowed to make law. The House is just an irritant.

**Mr. Durkan:** Unless the House has a suitably raised status.

**Aengus Ó Snodaigh:** On Committee Stage yesterday, we only received the amendments for that Bill as we sat down, while the deadline for submitting amendments for Report Stage had already passed. This shows how crazy the Mini-

ster for Justice, Equality and Law Reform is in rushing this Bill.

The Minister also presented draft amendments that he might possibly introduce to the Bill. While the amendments were discussed on Committee Stage, the Minister was withdrawing amendments to resubmit them on Report Stage. The Minister did not know what he was doing on Committee Stage. There are a substantial number of amendments. The House will not get through the amendments on Report Stage in the short time that is now available which the Ceann Comhairle has already managed to reduce by 15 minutes. I oppose the guillotining of this Bill and the Minister's method of persistently producing new Bills on Committee and Report Stages. We should object to that process.

**The Taoiseach:** More than three and a half hours are devoted to the Bill today. I accept some of the points made by the Deputies. However, this Bill is related to issues in the insurance industry—

**Mr. Howlin:** That is what the Bill started out as.

**The Taoiseach:** — and the Government is anxious to complete the Bill's passage.

**Aengus Ó Snodaigh:** As well as many other issues.

**An Ceann Comhairle:** With regard to the amendments, the office does not impose the deadlines on amendments when a Bill has not finished its previous Stage.

Question put: "That the proposal for dealing with No. 22a be agreed to."

The Dáil divided: Tá, 62; Níl, 48.

Tá

Ahern, Bertie.  
 Ahern, Dermot.  
 Andrews, Barry.  
 Brady, Johnny.  
 Brady, Martin.  
 Brennan, Seamus.  
 Browne, John.  
 Callanan, Joe.  
 Callely, Ivor.  
 Carty, John.  
 Cooper-Flynn, Beverley.  
 Cullen, Martin.  
 Davern, Noel.  
 de Valera, Síle.  
 Dempsey, Noel.  
 Dempsey, Tony.  
 Dennehy, John.  
 Devins, Jimmy.  
 Ellis, John.  
 Finneran, Michael.  
 Fitzpatrick, Dermot.  
 Fleming, Seán.  
 Gallagher, Pat The Cope.  
 Glennon, Jim.  
 Grealish, Noel.

Hanafin, Mary.  
 Haughey, Seán.  
 Hoctor, Máire.  
 Jacob, Joe.  
 Keaveney, Cecilia.  
 Kelly, Peter.  
 Killeen, Tony.  
 Kirk, Seamus.  
 Lenihan, Brian.  
 Lenihan, Conor.  
 McCreevy, Charlie.  
 McGuinness, John.  
 Martin, Micheál.  
 Moloney, John.  
 Moynihan, Donal.  
 Moynihan, Michael.  
 Mulcahy, Michael.  
 Ó Cuív, Éamon.  
 Ó Fearghaíl, Seán.  
 O'Connor, Charlie.  
 O'Donnell, Liz.  
 O'Flynn, Noel.  
 O'Keeffe, Ned.  
 O'Malley, Fiona.  
 O'Malley, Tim.

Tá—*continued*

Parlon, Tom.  
Power, Peter.  
Power, Seán.  
Roche, Dick.  
Sexton, Mae.  
Smith, Brendan.

Smith, Michael.  
Treacy, Noel.  
Wallace, Mary.  
Walsh, Joe.  
Woods, Michael.  
Wright, G.V.

Níl

Boyle, Dan.  
Breen, Pat.  
Broughan, Thomas P.  
Bruton, Richard.  
Burton, Joan.  
Costello, Joe.  
Cowley, Jerry.  
Crawford, Seymour.  
Crowe, Seán.  
Cuffe, Ciarán.  
Deenihan, Jimmy.  
Durkan, Bernard J.  
English, Damien.  
Enright, Olwyn.  
Ferris, Martin.  
Gogarty, Paul.  
Gregory, Tony.  
Healy, Seamus.  
Higgins, Joe.  
Howlin, Brendan.  
Kehoe, Paul.  
Kenny, Enda.  
Lynch, Kathleen.  
McGrath, Finian.

McGrath, Paul.  
McHugh, Paddy.  
McManus, Liz.  
Mitchell, Olivia.  
Moynihan-Cronin, Breeda.  
Naughten, Denis.  
Neville, Dan.  
Ó Caoláin, Caoimhghín.  
O'Dowd, Fergus.  
O'Keeffe, Jim.  
O'Shea, Brian.  
O'Sullivan, Jan.  
Perry, John.  
Rabbitte, Pat.  
Ring, Michael.  
Ryan, Eamon.  
Sargent, Trevor.  
Shortall, Róisín.  
Stagg, Emmet.  
Stanton, David.  
Timmins, Billy.  
Twomey, Liam.  
Upton, Mary.  
Wall, Jack.

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

Question declared carried.

**Mr. Kenny:** Can the Taoiseach say when we can expect to see the legislation arising from the citizenship referendum Bill? When is it likely to be published?

**The Taoiseach:** The Minister is working on it and we expect the legislation in the autumn.

**Mr. Kenny:** I hope when it is published there will be sufficient time, as the Taoiseach said there would be, for a real debate on immigration and all the aspects of the Bill. I trust there will be no time limit imposed on the debate so that we can deal with the issues properly.

**Mr. Rabbitte:** Is the Taoiseach familiar with a document issued on 25 January last by the Chief Whip, Deputy Hanafin? The document states: "Disability Bill top of legislative agenda as Chief Whip announces programme for next Dáil session."

**Ms Hanafin:** It still is.

**Mr. Rabbitte:** The document goes on to state in regard to work on the disability Bill that "this will be published shortly."

**Ms Hanafin:** It will. I do not lie.

**Mr. Rabbitte:** What has happened since then? When is it expected the Bill will be published?

**The Taoiseach:** For many months, we have been in discussions with the disability groups in an attempt to draft legislation which would win broad acceptance.

**A Deputy:** It has been years.

**The Taoiseach:** The Government has moved as far as it can. We have made many changes to the Bill and a large input was also accorded to the disability groups in regard to the other Bill and the frameworks. That work is practically finished and I hope to be able to publish the whole package. The disability Bill itself is very close to final drafting although some work remains to be done on the frameworks, of which I think there are four. We told the disability groups we would publish all the legislation together and I hope we can.

**Mr. Rabbitte:** When will it be published?

**The Taoiseach:** Perhaps towards the end of August or early September. However, it will certainly be published in good time for the next session.

**Mr. Rabbitte:** Thank you.

**Mr. Sargent:** The Taoiseach may be aware of the pressure on small to medium size businesses at present. With regard to the Department of Enterprise, Trade and Employment, the consolidation of company law is being dealt with in the context of legislation such as the co-operative Bill, the companies Bill and the employee information and consultation Bill. Is there awareness in Government of the need to consolidate legislation that pertains to employers? There is now so much regulation that many employers find they must search for much of the information they need. Does the promised legislation in this area indicate an awareness and willingness to consolidate information that employers need?

**The Taoiseach:** The Statute Law (Restatement) Act was passed in 2002, the main purpose of which is that when new Acts are passed, the consolidation of the legislation is automatically moved. This should happen over time with all Bills. On which Bill did the Deputy ask?

**Mr. Sargent:** The companies Bill.

**The Taoiseach:** The companies Bill is enormous, containing well over 1,000 heads. It consolidates all of the Companies Acts and regulations and implements the first report of company law. The heads of the Bill are expected towards the end of this year. While drafting the Bill is an enormous job, the heads will be ready this year.

**Mr. Kehoe:** When will the Driver Testing and Standards Authority Bill be debated in the House?

**The Taoiseach:** It will be in the autumn session.

**Mr. Howlin:** The Government established an enterprise strategy review group which is due to report today. Has the report been considered by Government and do any legislative proposals emanate from it? What arrangements have been made to brief Opposition spokespersons on its content in the context of a debate in the House?

**The Taoiseach:** As the Tánaiste is absent on IDA business, I will have to check that with the Department.

**Dr. Cowley:** With regard to equality legislation in Ireland, Europe or elsewhere, I highlight the situation of a man with cancer who has been waiting since last December for a urology appointment. I also point to the position of those on waiting lists since 1996.

**An Ceann Comhairle:** I suggest the Deputy raise the matter with the appropriate Minister on the Adjournment.

**Mr. Deenihan:** The pharmacy Bill has been promised since 1997, some would say since 1980. When is it expected?

**The Taoiseach:** Work is under way on drafting the heads of the Bill, which are expected during 2004. This is to consolidate and modernise the framework for pharmacies.

**Mr. Kenny:** I have with me a list of 20 occasions on which the disability Bill was raised in the Dáil. Is there a date for its publication?

**An Ceann Comhairle:** This has already been dealt with.

**The Taoiseach:** It will be published before the next session.

**Ms Lynch:** The Minister of State at the Department of Enterprise, Trade and Employment, Deputy Fahey, came before the Committee on Enterprise and Small Business in regard to the Safety, Health and Welfare at Work Bill. The Bill was supposed to deal with the issue of corporate manslaughter. When the Minister came before the committee, he stated it was not possible to deal with the issue in the context of the Bill and that separate legislation was required. He stated this would be produced as quickly as possible. When is it proposed to bring before the House the Bill dealing with corporate manslaughter?

**The Taoiseach:** The Safety, Health and Welfare at Work Bill has been published and is ordered for Second Stage. I do not know what the Deputy requires in regard to the Bill but it will be before the House in the next session.

**Ms Lynch:** I know that. I attended the committee when the matter was discussed with the Minister. However, he stated clearly that the legislation necessary to bring a charge of corporate manslaughter, which would specifically deal with dangerous workplaces and resulting fatalities, would need separate legislation. When will this happen? It is important legislation and key to health and safety at work.

**An Ceann Comhairle:** Is legislation promised?

**The Taoiseach:** I do not know. I will have to raise the question with the Minister of State as no such Bill is listed.

**Ms Lynch:** It is abandoned.

**Mr. Crawford:** I was in another house in this city yesterday where many people with wigs were smiling because they are getting a great deal of money as a result of—

**An Ceann Comhairle:** Has the Deputy a question on legislation? A number of Deputies are offering. I hope to finish shortly and would like to facilitate them.

**Mr. Crawford:** An autistic child won rights through the courts. A health Bill might have dealt with Monaghan General Hospital. When will it be dealt with and how long will it take?

**The Taoiseach:** The health Bill is due later this year.

**Mr. Stanton:** The Taoiseach has been very supportive of victims of child abuse, and commendably so. I draw his attention to the fact that the vaccine trials division of the Commission to Inquire into Child Abuse has been put into abeyance because of a recent court order whereby the relevant ministerial order was struck down. Will the Taoiseach consider this to ascertain whether it is possible to bring forward legislation to rectify the matter?

**The Taoiseach:** Is this to do with the register?

**Mr. Stanton:** No, it concerns the Commission to Inquire into Child Abuse Act 2001 (Additional Functions) Order 2001 (SI 280 of 2001) regarding the vaccine trials.

**The Taoiseach:** While there is legislation governing child abuse, I will have to look into the matter as I do not have information on particular legislation.

**Mr. Boyle:** The report of the constituency review committee requires legislation which the Government said will come before the House. Will that legislation come before the order laid before the House today comes into effect because there are 41 Dáil constituencies at present and the new Bill will allow for 42?

**The Taoiseach:** It will not be before it. As I said, it takes regard of the number of constituencies but is not a precise formulation.

**Mr. Costello:** The Residential Institutions Redress Act was passed in 2002. At the time a limited number of institutions were referred to in the legislation. Virtually all the Protestant institutions, such as Bethany Home, were not included. When the legislation was going through the Houses, the Minister for Education and Science promised that a new Schedule would be brought forward shortly. However, that was two years ago and the Minister has made the same promise every time the matter has been raised in this House.

**An Ceann Comhairle:** The Deputy has made his point.

**Mr. Costello:** The people who were abused are getting older. Will the Taoiseach bring forward the new Schedule? It is amending legislation.

**The Taoiseach:** Both the Minister for Health and Children and the Minister for Education and

Science have been looking at the institutions that should possibly be included in the Schedule. The number on the existing Schedule is substantial rather than limited but the matter is being examined by the Ministers.

**Mr. Durkan:** In view of the serious allegations made by each of the Government parties against each other and to protect both the accusers and the accused, will the Taoiseach indicate when he will rush in the defamation Bill?

**The Taoiseach:** It will be next year. There is no rush.

**Mr. Durkan:** There will be plenty of water under the bridge in the meantime.

**Mr. J. O’Keeffe:** It is more urgent than that.

**Mr. Ring:** I wish to ask about two Bills. When will the Curragh of Kildare Bill be brought before the House? We have been waiting a long time for it. It will mean another job for somebody and I am not saying it will be the Minister for Finance. That is a matter for the Taoiseach.

The Minister for the Environment, Heritage and Local Government, Deputy Cullen, brought legislation through the House relating to the dual mandate. Will new legislation be required given that a Member of this House is a Minister, an MEP and a TD? How can he hold the three jobs?

**The Taoiseach:** The Curragh Bill will be introduced next year. The other issue has long been dealt with. A Member ceases to be a Minister of State on election to another institution.

#### **Enforcement of Court Orders Bill 2004: First Stage.**

**Mr. J. O’Keeffe:** I move:

That leave be granted to introduce a Bill entitled an Act to provide for the making of attachment of earnings orders, attachment of welfare orders, and instalment orders by the courts to facilitate the enforcement of undischarged court orders, fines and other debts and to provide for related matters.

**An Ceann Comhairle:** Is the Bill opposed?

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

Question put and agreed to.

**An Ceann Comhairle:** Since this is a Private Members’ Bill, Second Stage must, under Standing Orders, be taken in Private Members’ time.

**Mr. J. O’Keeffe:** I move: “That the Bill be taken in Private Members’ time.”

Question put and agreed to.

### Electoral Act 1997: Motion.

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

That Dáil Éireann approves the Electoral Act 1997 (section 53) Order 2004 and the Presidential Election (Reimbursement of Expenses) Regulations 2004 copies of which, in draft, were laid before Dáil Éireann on 6 July 2004.

Question put and declared carried.

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

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** I move: "That Report Stage be taken now."

Question put and agreed to.

### Maritime Security Bill 2004 [*Seanad*]: Report Stage.

**Mr. Broughan:** I move amendment No. 1:

In page 4, to delete lines 1 to 3.

I am delighted to see the Minister of State, Deputy Browne, again. I hope when the inevitable considerations are made about the Cabinet later this year the mighty efforts of the Minister of State, Deputy Browne, in his Department will be fully recognised.

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** Say that to the Taoiseach.

**Mr. Broughan:** Unfortunately, I have no influence with that man.

This amendment seeks to delete lines 1 to 3 in the definition and interpretation section on page 4, which excludes a warship or a ship owned or operated by a state when being used as a naval auxiliary or for customs or police purposes. Initially, I put down this amendment to extend the remit of the convention. Obviously, if we made fundamental changes to lessen the impact of the convention and the protocol, it would render our legislation ludicrous. However, there is nothing preventing us from increasing the powers under these two international measures.

New measures will be developed through the Coast guard and the marine safety directorate and ships operating under that aegis should have the full protection of these protocols. We could extend it to this area if we wish. If the vessels belong to a democratic state and are defending their territorial waters and the state, an act of terrorism against them obviously would be an attack on the democracy of that country. The Minister should consider the amendment.

**Mr. Browne:** This amendment is opposed. The 1988 maritime security convention, to which the Bill gives effect, specifically excludes warships and any ship owned or operated by a state when used as a naval auxiliary or for customs or police purposes from its scope as it is concerned with the protection of commercial shipping, including Government-owned commercial vessels and non-commercial vessels not in state ownership. The Bill, which is strictly confined to implementing the 1988 convention and the 1988 protocol thereto also contains a definition of "ship" in section 1 which mirrors Article 2.1 of the convention.

The convention is an international instrument, signed and ratified by a large number of states, and to ensure consistency in the application of the regime put in place by the convention in international law, it is essential to keep implementation within the agreed framework. The provisions in the Bill and in the convention apply not only to Irish ships but also to ships of other nationalities. It is essential to maintain consistency between Irish and international law. That is not to say there are no statutory provisions that penalise unlawful acts against Irish State-owned or operated naval, customs or police ships. The Criminal Justice Acts, for example, and the Criminal Damage Act 1991 already contain such provisions. Any offence involving acts on an Irish ship, whether in private or State ownership, anywhere in the world is within Irish jurisdiction and an offence is covered by Irish law.

**Mr. Broughan:** The point I made stands but to expedite the business of the House and given the general tenor of the Bill, I will withdraw the amendment.

Amendment, by leave, withdrawn.

**Mr. Ferris:** I move amendment No. 2:

In page 5, between lines 12 and 13, to insert the following:

"(3) No person engaged in a peaceful protest on board a ship or fixed platform, or directed at a ship or fixed platform, and not engaged in an action that constitutes a scheduled offence under the Offences against the State Act, shall be deemed to be guilty of an offence under section 2."

Section 2 is ambiguous in so far as it outlines what are believed to be offences. In drafting this section no consideration was given to history, particularly that of the oil industry. Oil platforms and rigs are located off coasts throughout the world. I can speak personally on this issue from my experience of working on an oil platform in the Porcupine in the late 1970s and early 1980s. Were it not for the trade union movement upholding the rights and protections of workers, the conditions under which they would have had to work and live and the threatening abuse by

[Mr. Ferris.]

unscrupulous individuals employed in the oil industry would have amounted to Irish workers being treated as cattle.

I worked on the *Ocean Ranger* which was the largest oil platform in the world at the time. She was built primarily for what a person from Louisiana who was assistant rig manager at the time termed “niggers”. That is the word that was used by the person who held the most senior position on the rig at that time. In the accommodation area, which was underneath the platform floor just above the sea, there was a speaker in every single sleeping accommodation from which people could hear an announcement every 15 minutes of the weight and velocity of the mud. This made it impossible for anybody to sleep. When I was on that rig we organised under the Irish Transport and General Workers’ Union, now SIPTU, and took on the management. The management threatened to run us off the rig and stated it had an arsenal at its disposal with which to do this. Fortunately, the strength of workers organised in a trade union movement, with the support of the trade union movement on land in Dublin acting in our interests, was able to prevent that rig management from doing what it wanted to do.

Oil companies and rig management have won out in Irish waters because nobody working on Irish rigs off the Irish coast during recent years has union recognition. This is the result of a deal negotiated with the oil companies. They were not taking on Irish labour. For Irish people to work on the rigs on Irish waters, they had first to go and work on the North Sea or elsewhere and come in through the back door. They were also required to give an undertaking not to be part of a union. That is a possibility for which this section allows. Effectively, it will be deemed unlawful in the eyes of management for workers to organise themselves on a rig. If workers take a militant approach and attempt to close down the rig, that will be deemed a navigational hazard placing the safety of the rig in jeopardy. Under this section, anybody who places the safety of a rig in jeopardy can be convicted and sentenced to imprisonment for life.

I have asked at all stages that an amendment be made to protect the rights of workers working on fixed platforms or on ships to organise in the interests of workers. The fact that this is not included leaves the legislation wide open to interpretation by an individual who can determine what is lawful and what is unlawful on board a rig or ship, or what is a navigational safety factor on any rig or vessel. The legislation will be wide open to abuse.

We need only look back to what happened in 1913 when William Martin Murphy tried to destroy the unions and people who went onto the streets were beaten off the streets and imprisoned. This is the same type of legislation. It will undermine the rights of workers. A person guilty

of an offence under this section is liable on conviction on indictment to imprisonment for life. I ask the Minister to accept this amendment and strengthen the Bill in the interests of workers everywhere.

**Mr. Broughan:** I support the amendment. There has been concern from the outset about the Bill within the trade union movement and particularly within the International Transport Workers’ Federation. Workers, trade union leaders, and shop stewards who work in this difficult area have long experience of legislation, passed for the best of purposes, being used viciously against workers in the context of fundamental and basic issues of pay and conditions.

The general secretary of the Irish Congress of Trade Unions submitted a number of concerns to me in late May. They related mainly to the apparent lack of protection for seafarers and other workers engaged in trade union activities and industrial action. He suggested that perhaps the Attorney General was not sufficiently forthcoming in advising the Minister as to the apparent dangers. That is why the general secretary, Mr. Begg, believes the Bill needs to be amended to insure against any possibility that current rights, immunities and protections afforded to seafarers, workers and trade union officials could be undermined. Of particular concern are the rights of workers on fixed platforms in the oil and gas industry. This is an industry which is and will be of interest and concern to Ireland in future decades.

This amendment, and a further amendment in the name of Deputy Ferris, seeks to remove the remit of this Bill from the industrial relations mechanisms of the State. The offences are set out in detail in section 2. They include seizing or exercising control over a ship or fixed platform by force or threat of force, performing an act of violence against a person on board a ship or fixed platform, destroying a ship, causing damage to a ship or fixed platform, placing or causing to be placed any device or substance which could destroy the ship or fixed platform, destroying or seriously damaging maritime navigational facilities, endangering the safe navigation of a ship by communication of information which the person knows to be false, or injuring or killing any person with aim of compelling person to do or not to do something. These are serious crimes and are certainly worthy of the most severe punishment. However, the history of the maritime industry is such that there are genuine concerns that this could in future be used against a group of men and women engaged in a lawful and peaceful form of protest in pursuit of improved conditions.

This is linked to an issue I have raised throughout debates in this House on these matters, namely, flags of convenience and the administration of international maritime economic conditions. Approximately 48% of new vessels operate under flags of convenience. We can take it for granted that the conditions and wages of sea-

farers will be under severe pressure. That is why, with the doubling of our register in recent months, I have asked the Minister of State and his colleague, the Minister for Communications, Marine and Natural Resources, Deputy Dermot Ahern, to monitor the situation closely to ensure that Ireland is in no way associated with vessels which fly the tricolour and treat workers disgracefully or intimidate them. Given what we know of the existence of this, and I have much literature from my trade union colleagues, Mr. Tony Ayton and others, regarding the operation of flag of convenience vessels and fixed platforms, the concerns are genuine. This amendment would be an important saving grace to ensure that this legislation is not at some stage used against a genuine appeal for better conditions by a workforce, particularly on a fixed platform. I urge the Minister to accept this amendment.

**Mr. Kehoe:** I also ask the Minister to support the amendment. I will not repeat what Deputies Ferris and Broughan have said, but the protection of workers' rights on fixed platforms is of the utmost importance.

**Mr. Browne:** I have carefully considered the concerns the Deputies raised in the select committee, as well as those of the general secretary of the Irish Congress of Trade Unions and Mr. Tony Ayton, from whom I received correspondence. Having taken further legal advice on the matter, I confirm that no refinement of the Bill is necessary in that regard. As already explained, the only activities falling within the scope of the Bill are very serious criminal offences involving a threat or likelihood of personal injury, death, damage or the destruction of property. Any modification of the application of the convention or protocol in question would not be acceptable to the other contracting states, of which there are already 70. Any employer or other person who attempted to use the law for a purpose not intended would be open to court proceedings for wrongful action. It is the courts which ultimately decide the issue in any individual case.

I fully share the concerns regarding proper conditions applying on ships generally, and I expect that workers' representatives will keep in close touch with the maritime safety directorate of my Department, the European Commission, the International Maritime Organisation and other relevant international bodies with a view to making progress on international measures to that end. On 17 and 30 June I exchanged correspondence with Mr. Tony Ayton. I also corresponded with Mr. David Begg regarding letters sent to me. I referred the correspondence from them to the Attorney General before sending back a comprehensive reply to both. They seemed reasonably satisfied.

I share the views that Mr. Ayton expressed to me, not only in this context, about flags of convenience and improper working conditions. I hope through efforts at international level and

our own work during our tenure of the European Presidency we will see changes in that area. There are already signs that flags of convenience are becoming less and less available to irresponsible operators.

Regarding people working on rigs, last year I met Mr. Dowling of the union, with whom I went through several issues, particularly at the time of the Seven Heads development off Kinsale. There was a view that the company involved should employ Irish people on board, and I understand that has happened to a certain extent. Mr. Dowling has kept in close touch with my Department and is involved in a departmental committee on that area. We have engaged in very strong correspondence. At this stage in the Bill, I see no need for change, particularly given the legal advice we have received.

**Mr. Ferris:** I beg to differ completely from the legal advice the Minister has been given. It is quite clear from the description of exercising control over a ship or fixed platform using force or the threat of force or by any other form of intimidation, that unscrupulous employers would take a strike as a form of intimidation. The oil industry is well known for such employers, since control is the basis of power. We need only think of events within the past 18 months to see the power of the oil companies and what is done in their interest, not merely nationally but world-wide. To me, it is wide open.

On a non-union ship, rig or platform, the workers may decide to go on strike for the sake of working conditions, better pay or safety reasons. I was on the *Ocean Ranger*, where we threatened to go on strike. We outlined all the issues regarding the dangers on board that rig, which was the largest in the world at the time. Within 12 months of the rig leaving Irish waters, she sank off the east coast of Canada with the loss of 84 people. That rig was designed for low-paid workers from the southern United States with no union rights whatsoever. If they challenged the management, they were treated like animals and shuttered off, their wages being withheld. Some of the people working on that rig could not go back to their own areas because of what they had done to the workers.

It is very little different in many parts of the world today, where oil management treat workers as numbers to facilitate their objective of maximising profits at the expense of labour. I have asked the Minister to reconsider, but he will obviously not do so. I will have to call a vote on this. I will also respond to him regarding his meeting with Michael Dowling on the Seven Heads and having Irish labour on board. I am part of the offshore oil workers' committee, and we have had a terrible time trying to deal with the oil companies in that regard. They have a very sneaky way of doing things. They claim someone who comes in through the backdoor, working on the rigs in the North Sea is coming into Ireland, as part of Irish labour. However, they are coming in



[Mr. Ferris.]  
under UK rules for UK wages and without being unionised.

There is a substantial job to do, and I hope we can get it right. The industry is large and can offer a great deal of employment both on and offshore. That must all be examined and addressed. I would welcome the opportunity to work with the Minister and the trade union movement in that regard, but I must oppose this, since it is wide open and does a terrible disservice to the trades union movement and workers not just here but throughout the world.

**Mr. Broughan:** This is the type of amendment the Minister might have considered. It is difficult when one is dealing with international legislation, as I said in my first contribution on the first amendment. Obviously, some of this goes back to 1989, and it is a fairly lengthy process getting countries to sign up. That is the difficult background. Having said that, my colleague has spoken of the very vulnerable position in which seafarers and maritime workers are placed. One need only listen to the stories of our colleagues who represent workers in the trades union movement to know the great difficulties they have speaking to workers and visiting ships or platforms. Even to determine conditions, they must effectively sneak on to vessels and they feel

intimidated since given the long history in this area, vessels are like little states.

Looking back on the history of maritime law one knows terrible things were done in the past. This type of amendment is necessary, and perhaps the Minister and the Attorney General could have examined the wording in Deputy Ferris's name to see how it might best have been shaped. However one looks at it, we need a safeguard along those lines given what we know about the industry and how workers have been treated in every decade of its history. I urge the Minister once more to consider the amendment.

**Mr. Browne:** I have given it a great deal of consideration and sought legal advice on the matter on two, if not three, occasions. While I share concerns about the conditions of those working on ships flying flags of convenience, this is not the legislation to deal with it. The Safety, Health and Welfare (Offshore Installations) Act 1987 deals with some of the concerns of the Deputies opposite. The Health and Safety Authority is there to investigate, and we also have the maritime safety directorate of my Department. There is the European Commission and the International Maritime Organisation, so several bodies are there already to deal with some of the Deputies' concerns. Therefore I cannot accept the amendment.

Amendment put.

The Dáil divided: Tá, 43; Níl, 60.

Tá

Boyle, Dan.  
Breen, Pat.  
Broughan, Thomas P.  
Bruton, Richard.  
Burton, Joan.  
Cowley, Jerry.  
Crawford, Seymour.  
Crowe, Seán.  
Cuffe, Ciarán.  
Durkan, Bernard J.  
English, Damien.  
Enright, Olwyn.  
Ferris, Martin.  
Hayes, Tom.  
Healy, Seamus.  
Howlin, Brendan.  
Kehoe, Paul.  
Lowry, Michael.  
Lynch, Kathleen.  
McGrath, Finian.  
McGrath, Paul.  
McManus, Liz.

Mitchell, Olivia.  
Moynihan-Cronin, Breeda.  
Naughten, Denis.  
Neville, Dan.  
O'Dowd, Fergus.  
O'Keeffe, Jim.  
O'Shea, Brian.  
O'Sullivan, Jan.  
Pattison, Seamus.  
Perry, John.  
Rabbitte, Pat.  
Ring, Michael.  
Ryan, Eamon.  
Sargent, Trevor.  
Shortall, Róisín.  
Stagg, Emmet.  
Stanton, David.  
Timmins, Billy.  
Twomey, Liam.  
Upton, Mary.  
Wall, Jack.

Níl

Ahern, Dermot.  
Ahern, Noel.  
Andrews, Barry.  
Brady, Johnny.  
Brady, Martin.  
Browne, John.  
Callanan, Joe.  
Callely, Ivor.

Carey, Pat.  
Carty, John.  
Cooper-Flynn, Beverley.  
Cullen, Martin.  
Curran, John.  
Dempsey, Noel.  
Dempsey, Tony.  
Dennehy, John.

Níl—*continued*

Devins, Jimmy.  
Ellis, John.  
Finneran, Michael.  
Fitzpatrick, Dermot.  
Gallagher, Pat The Cope.  
Glennon, Jim.  
Grealish, Noel.  
Hanafin, Mary.  
Haughey, Seán.  
Hoctor, Máire.  
Jacob, Joe.  
Keaveney, Cecilia.  
Kelly, Peter.  
Killeen, Tony.  
Kirk, Seamus.  
Lenihan, Conor.  
McCreevy, Charlie.  
McGuinness, John.  
Martin, Micheál.  
Moloney, John.  
Moynihan, Donal.  
Moynihan, Michael.

Mulcahy, Michael.  
Ó Cuív, Éamon.  
Ó Fearghaíl, Seán.  
Ó'Connor, Charlie.  
O'Dea, Willie.  
O'Donnell, Liz.  
O'Keeffe, Batt.  
O'Keeffe, Ned.  
O'Malley, Fiona.  
O'Malley, Tim.  
Parlon, Tom.  
Power, Peter.  
Power, Seán.  
Roche, Dick.  
Sexton, Mae.  
Smith, Brendan.  
Smith, Michael.  
Treacy, Noel.  
Wallace, Mary.  
Walsh, Joe.  
Woods, Michael.  
Wright, G. V.

Tellers: Tá, Deputies Ferris and Broughan; Níl, Deputies Hanafin and McGuinness.

Amendment declared lost.

**Acting Chairman (Dr. Cowley):** Amendments Nos. 3 and 4 are related and may be taken together.

**Mr. Browne:** I move amendment No. 3:

In page 5, to delete lines 25 to 29 and substitute the following:

“(3) In this section—

‘fixed platform’ and ‘ship’ mean a fixed platform and ship which are outside the State;

outside the State’ means—

(a) in relation to a fixed platform, outside an area designated under section 2 of the Continental Shelf Act 1968, and

(b) in relation to a ship, outside the territorial seas of the State.”.

This amendment is designed to put beyond doubt the required extra-territorial jurisdiction of section 3 by covering clearly and specifically ships and fixed platforms which are outside the State. It was drawn up in response to an amendment tabled on Committee Stage by Deputy Broughan who put forward a strong argument to support his case. I am pleased to be able to take his suggestion on board.

**Mr. Broughan:** I welcome the Minister of State's comments. The amendment will clarify the position as regards section 3(3). We originally highlighted this issue in respect of extra-territorial jurisdiction. Amendment No. 4 in my name, which suggests that “fixed platform” and “ship” mean “such a platform or ship wherever situated”, is also an attempt to deal with the matter. The Minister of State has moved a long way

towards our position in amendment No. 3 and I welcome that.

Amendment agreed to.

Amendment No. 4 not moved.

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

In page 6, to delete line 9 and substitute the following:

“(5) A person arrested by or delivered to a member of the Defence Forces under this section”.

The purpose of this amendment to section 4(5) which was also drawn up in response to concerns raised on Committee Stage is to close the procedural loophole where a suspected offender is arrested directly by a member of the Defence Forces. It requires the arrested person to be delivered to a member of the Garda Síochána as soon as practicable for necessary action. Section 4(3) already requires such delivery where a suspected offender is delivered to a member of the Defence Forces by a master of a ship or by a person for the time being in charge of a fixed platform.

**Mr. Broughan:** This amendment appears to clarify the original intention in section 4(5) and, in that regard, it is acceptable.

Amendment agreed to.

**Mr. Ferris:** I move amendment No. 6:

In page 9, between lines 23 and 24, to insert the following:

“(2) All actions covered by the Industrial Relations Act 1990; the Merchant Shipping

[Mr. Ferris.]

(Minimum Standards) Convention 1976 (No. 147); the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention 1976; the Freedom of Association and Protection of the Right to Organize Convention 1948 (No. 87); and the Right to Organize and Collective Bargaining Convention 1949 (No. 98) shall be excluded from this Act.”

This amendment again relates to criminal procedures and attempts to safeguard the rights of people involved in industrial relations and people’s right to organise, whether it be on a rig or a ship. The argument in respect of it is similar to that I made in respect of my earlier amendment. I want to protect the rights of workers and enshrine in the Bill an exclusion for people involved in the type of activity to which I refer.

**Mr. Broughan:** I support the amendment, which is similar to the earlier amendment dealing with peaceful protest. We are concerned about the issue of workers’ rights. I accept that we are entering into a wide-ranging area in terms of the application of law. The Minister of State referred earlier to existing legislation which offered a measure of protection to workers.

Presumably all of these important Acts were considered in the formulation of that legislation. The industry is unique although there is evidently a background of protection. We have had some interesting discussions on the legislation. Departmental officials brought some points to our attention this year and matters were also raised during discussions in committee.

When one looks at some of the events that have taken place, even in far distant territories in the south Asia seas, for example, or in the Caribbean and various other places, it is understandable that trade union officials, specifically those in the International Transport Federation which is affiliated to SIPTU, our largest union, would have some concerns. They believe it is necessary to have a system of exclusions to ensure that fundamental basic rights gained by workers over many decades will not be whittled away. In that context, it is understandable that the right to organise, have collective bargaining and the minimum standard rights which are articulated in the amendment could be excluded to ensure no rogue or criminal employer could use this very draconian and necessarily tough legislation against a workforce and trade union representatives because in the past every opportunity was taken to attack workers’ rights.

We are a maritime nation with a vast expanse of sea that is ten times the size of our land mass. We are responsible for the marine environment and for everything that happens within it in terms of the conditions of workers. This matter could provide a useful subject for debate in future if we were to return to it to examine it in more detail. While we cannot police the seas of the world, we have to ensure trade union rights and the basic

civil and working rights of workers are respected on our seas and in our ports. In the past, they have not been, which is the problem the amendment seeks to address.

**Mr. Browne:** We already had a lengthy debate on this issue when we discussed the amendments tabled by the Deputies to section 2. The Bill, and the 1988 maritime convention and protocol to which it gives effect, addresses serious criminal acts that do not apply to normal activities, including industrial relations matters on board a ship or offshore fixed platform. The Industrial Relations Act 1990 does not provide immunity from prosecution for any terrorist act. It would clearly be inappropriate to amend the Bill so as to modify the application of the convention or protocol to exclude trade unions.

The essential feature of both the convention and protocol is their standard international application, in that they are applicable to foreign as well as Irish ships and offshore fixed platforms. Ireland could not act unilaterally. As I explained, there is no need for the amendment suggested to cover non-criminal acts. As I said previously, from meeting trade unions and workers on ships, I have some concerns in regard to flags of convenience. Perhaps we can take up Deputy Broughan’s suggestion that in the new session we would undertake to have a meaningful examination and discussion of how ships operate, especially in Irish waters, in regard to compliance with standards.

**Mr. Ferris:** I am disappointed the Minister of State is not accepting the amendment, although his response was a foregone conclusion when the previous amendment was not accepted. It is regrettable that he has not accepted the two amendments tabled to enshrine the established rights of workers in the Bill and to protect workers from unscrupulous and criminal elements that are involved in the types of industry we have debated.

It would have been a welcome development for Irish and international workers if the Government had accepted the amendments for which I am sure there would have been all-party support. Unfortunately, the Minister of State has not accepted the amendments. It would have been a strong statement to workers worldwide if this House had shown support for them by incorporating the amendments in the Bill. I regret he has not accepted the amendment and will, accordingly, be opposing the Bill.

Amendment put and declared lost.

Bill, as amended, received for final consideration.

Question proposed: “That the Bill do now pass.”

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** I thank Deputies for their contributions and support for the Maritime Security Bill. We accepted a number of amendments since the initiation of the Bill in the Seanad. I thank Deputies Kehoe, Broughan and Ferris for their contributions and for encouraging me to make some changes along the way.

Question put and declared carried.

**Acting Chairman:** As the Bill is considered by virtue of Article 20.2.2° of the Constitution to be a Bill initiated in the Dáil, it will be sent to the Seanad.

**Dumping at Sea (Amendment) Bill 2000**  
[Seanad]: Order for Report Stage.

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** I move: "That Report Stage be taken now."

Question put and agreed to.

**Dumping at Sea (Amendment) Bill 2000**  
[Seanad]: Report Stage.

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** I move amendment No. 1:

In page 3, line 6 to delete "AND FOR RELATED PURPOSES".

The Long Title of the Bill should reflect the fact that the Bill only provides for amendment and extension to the Dumping at Sea Act 1996 and nothing more. The Parliamentary Counsel has confirmed that the words "and for related purposes" are redundant and should be deleted.

**Mr. Broughan:** I welcome the Minister of State at the Department of Communications, Marine and Natural Resources, Deputy Browne, who is taking the second Bill in a row. I accept the Bill is a brief one, although my Fine Gael colleague is seeking to make a major amendment to the principal Act. It is regrettable that we are only now, four years later, dealing with legislation dating from 2000. I believe one of the amendments changes "2001" to "2004". It is regrettable that important legislation such as this on dredging and the dumping materials at sea has been given such low priority.

There was considerable debate on Second Stage in which all parties participated. The wide-ranging discussion on the maintenance of the marine environment included issues such as Sellafield. It is regrettable that the Government, which has been in office from 2000 to the present, did not make it a priority to have the legislation passed as a number of issues were highlighted in the media.

Debate adjourned.

*Sitting suspended at 1.30 p.m. and resumed at 2.30 p.m.*

**Ceisteanna — Questions (Resumed).**

**Priority Questions.**

**Road Network.**

34. **Mr. Naughten** asked the Minister for Transport the action he intends to take to ensure that the NDP roads programme is delivered on time and within budget. [20800/04]

35. **Ms Shortall** asked the Minister for Transport the steps he will take to ensure better value for money in view of the findings of the Comptroller and Auditor General of the serious cost overruns in the national roads programme; and if he will make a statement on the matter. [20787/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 34 and 35 together.

Investment in the roads programme at €1.28 billion in 2004 is at its highest level ever and the beneficial impact of this investment is increasingly evident throughout the country. Virtually all projects under construction, particularly those being constructed under design and build contracts, are on budget and ahead of schedule, including the Monasterevin bypass and the Cashel bypass, both of which address key bottlenecks in the road network. Recent examples of major roads projects completed on time and within budget include the M1 at Cloghran, Lissenhall and Balbriggan and the Drogheda bypass, the Kildare bypass, Hurlers Cross and Shannon on the N18-N19 and the Youghal bypass on the N25.

In considering the national roads programme and its development and management in recent years it is important to bear in mind the major expansion in the scale of the programme over the period since 2000. Initial preliminary costing of the programme of work proved difficult due to the limited information available from the smaller preceding programme and the preliminary scheme outlines available as a basis for costing. In general, a comparison of outturn with tender costs, as opposed to initial unrefined scheme estimates, provides the most reliable guide to project and programme management performance.

To provide greater certainty about resources, which facilitates more cost effective implementation of the programme, I have secured the agreement of the Minister for Finance to the introduction of a multi-annual funding framework for national road investment. It provides for total national road development investment of more than €8 billion, of which €6.9 billion is

[Mr. Brennan.]

Exchequer funding and €1.1 billion will be invested by the private sector in PPPs over the period from 2004 to 2008. I have asked the NRA to submit a five-year plan to ensure that the resources being made available under the capital envelope are utilised to best effect. The envelope will be underpinned by an agreement between my Department and the Department of Finance, which will incorporate provisions relating, *inter alia*, to the annual funding levels, contractual commitments and reporting and monitoring arrangements.

I have consistently highlighted to the National Roads Authority the importance of strengthening cost estimation, control systems and procedures on the management and implementation of the national roads programme. In recent years, the NRA has implemented a range of measures to improve cost estimation and control. These include the greater use of design and build lump sum fixed price contracts offering cost efficiencies, greater certainty of outturn costs and reduced scope for claims; standardisation of economic designs for high cost items such as bridges and other structures; securing greater involvement by foreign contractors; buy-out of price variation clause and risk where this gives good value; further attention to improving quality of site investigations and acceptance of such investigations by contractors as the agreed basis for pricing; and greater use of PPPs which leverage private sector investment in the programme, incentivise private sector innovation and limit the risk exposure of the Exchequer by transferring risk, including construction risk, to the private sector.

Since publication of the NDP in 1999 the cost of the national roads programme mandated in the NDP has increased substantially from €6.96 billion, which reflected early 1999 prices at preliminary design stage, to €16.4 billion based on end 2003 prices and more refined estimates. The reasons for this increase from initial estimates drawn up in advance of detailed scheme design to the more refined scheme estimates now available have been examined in some detail by the Comptroller and Auditor General and major independent evaluations of the national roads programme by Fitzpatrick Associates in 2002 and Indecon in 2003.

The main reasons for the increase in costs are construction cost inflation, which accounts for 40% of the increase — since 2001 construction cost inflation has moderated from an annual average of 12% to less than 5%; more reliable estimates as schemes were refined as the design process proceeded; changes in scope of projects including upgrading of routes and higher road standards; and additional cost of land acquisition. The various measures taken to date are acknowledged in the report of the Comptroller and Auditor General and the other evaluations of the roads programme both of which acknowledged

that the national roads investment programme is, in general, well managed and, in particular, as regards factors within the control of the NRA.

As part of the continuing effort by the NRA to improve management of the programme a major consultancy assignment on arrangements for the implementation of the programme, including cost estimation and control, has recently been completed. Its recommendations are being given detailed consideration and I will be anxious to ensure that those relating particularly to programme management and cost control will be implemented as a matter of priority.

**Mr. Naughten:** Does the Minister agree that the cost of the project which is now €9 billion in excess of the original estimation gives rise to serious concern? It is now costing €16 million per mile to construct our roads programme. No comment has been made by the National Roads Authority and the absence of a comment from the Minister until today is a damning indictment of this massive cost overrun. Money has been thrown away and it is robbing from key infrastructure required in many parts of the country, especially the west, which is underdeveloped.

While the Minister made the comment regarding the cost overrun, he did not mention that 25% of the cost overrun was due to underestimation in prices. While the Minister makes the point that this was the pre-2000 case, is it not true that these concerns and the inadequacies in cost estimation were known as far back as 1998? Is it not also true that the cost overruns in 2002 were still at 9%? Does the Minister not agree that is a damning indictment of the Department of Transport, which is supposed to be supervising the NRA? It is my understanding that fixed price contracts cannot extend beyond an 11-month duration. Is that still the case or have those regulations been amended?

**Mr. Brennan:** The Comptroller and Auditor General identified the main reasons for the increases in the cost of the national primary route programme to be 40% due to construction inflation, 16% due to failure to accurately cost elements at the planning stage, 20% due to changes in the scope of projects and 24% due to project specific increases, such as, some of the motorway schemes and elements of the port tunnel. In the past two years I made two important changes to ensure that projects come in on time and on budget. One was to agree a multi-annual programme with the Minister for Finance which allows for better management of the system by getting rid of the stop-go method we had before that. The second was to ask the NRA to introduce a fixed price system. I will check out the query about the 11 months but my understanding is that fixed pricing can go well beyond a period of 11 months.

I have stated publicly on a number of occasions that I strongly believe the figure for national roads in the 1999 National Development Plan was

totally unrealistic. It did not include a range of projects, a list of which is available, which are now being done. It was envisaged that many of the inter-urban routes to Cork and Galway and so on would be a single carriageway, when, in fact, we decided to build motorways. Another factor, and this happens all the time — I even do it myself — is that when somebody looks at a capital project, he produces a ballpark figure. However, the only relevant figure is the figure in the actual estimate to which one says “yes” or “no” with regard to the cost of carrying out the work. The only sensible comparison is between the price on the day one signed that contract, including the price variation clause and the outturn. It is good politics to compare the original ballpark figure with the final outturn, but it is not accurate to do that.

**Mr. Naughten:** The Government provided the figures.

**Ms Shortall:** Figures may be used to prove anything. The Minister has suggested that 40% of the increased cost is due to inflation. The Comptroller and Auditor General stated that a quarter of that figure was due to under estimation of the prices. My question is what systems have been put in place to ensure that estimates are accurate? A further 16% of the increase was due to a systematic failure to cost certain elements of schemes and a further 20% was due to changes in the scope of projects and new works. It is not possible to deliver a programme when there is such lack of certainty from the very start and such weak systems in place. I acknowledge that the NRA has taken some steps to improve the situation.

I am concerned at the Minister’s assertion about fixed price contracts and public private partnerships delivering certainty of cost outturn. While they may do that, what steps is the Minister taking to ensure the public is getting value for money? Has the Minister considered the system that increasingly is being used in Britain and which some members of the Transport Committee had explained to them in detail on a recent visit to the British Department of Transport. They have a system of “preferred prime contractor” based on best value criteria. I think this is the critical issue. We must know what value we are getting for money. There must be a benchmark against which prices and estimates may be measured. Does the Minister intend to move towards such a system and has he inquired about the system in Britain? What can we learn from that?

Two other critical areas that impact significantly on the escalating cost of the road programme, is the cost of property acquisition and professional fees. Promises have been made for a new national roads authority Bill, or a critical infrastructure Bill or other such names. There is an urgent need to introduce legislation to control this area. What stage is it at and when can we

expect to see the Bill? We have an archaic system whereby consultant engineers are paid a fee based on 4% of the contract price. They have no incentive to keep costs down. For example, if the cost of a project escalates by 200%, the consultant engineers get an increase of 200% in their fees. Could we have a fixed fee for consultant engineer or some type of incentive built into the project to keep costs under some level of control?

**Mr. Brennan:** I agree with the Deputy on many of the points she raised. The Minister for Finance decided recently that consultant fees on all projects would change from a proportional fee to a negotiated figure that was settled upon. Obviously that cannot apply to existing projects but it will apply to new projects. I agree entirely with the Deputy that professionals must be paid for the job as opposed to being paid a percentage of the cost of the job to give them an incentive to finish early.

I have asked the National Roads Authority to supply a costing of the cost per kilometre of identical roads in the United Kingdom, Germany and France and I hope to have that information very shortly. The Deputies may be aware that we carried out a similar exercise in regard to Luas, where we compared the cost of building a kilometre of light rail in other member states, which came out at €30 million per kilometre and we benchmarked that against the cost of a kilometre of Luas, which was there or thereabouts. It would be useful to benchmark a kilometre of road.

In my travels around the country when I would open these projects, I inquired on site, having compared the figures, which ranged from €7 million to €17 million per kilometre, the reason for the cost variation of a kilometre of road. I was taken to the section of road and shown that it had four overpasses and 16 viaducts which explained the difference. When the documentation was provided, the argument stacked up. I will try to do more benchmarking exercises, so that we can ensure that the work is carried out at a comparable cost to similar work in other member states. At the end of the day, the real test is to be able to build a kilometre of motorway at approximately the same cost as in nine or ten other countries. I will draw a comparison with international experiences.

I reassure the House that virtually all the projects are coming in on schedule. The changes I have made on fixed price contracting and multi-annual budgeting has ensured that is the case. I will keep the pressure on.

**Ms Shortall:** On the proposed legislation on critical infrastructure.

**Mr. Brennan:** The Minister for the Environment, Heritage and Local Government is preparing legislation on that. It is no secret that it is running into serious constitutional type problems

[Mr. Brennan.]  
with the cost of land, who owns it and how much one pays for it.

### Road Traffic Offences.

36. **Mr. Connolly** asked the Minister for Transport if he has had discussions with the Northern authorities regarding the integration of the penalty points system North and South; and if he will make a statement on the matter. [20581/04]

**Mr. Brennan:** Penalty points are being applied to the driving licence records of those convicted of speeding, seat belt wearing, insurance and careless driving offences, and to those who pay a fixed charge to the Garda in the case of speeding and seat belt wearing offences to prevent the instigation of court proceedings. The full application of the penalty points system will be achieved when the relevant information technology systems being developed by the Department of Justice, Equality and Law Reform and the Garda Síochána are completed.

Penalty point systems now operate in this country, Northern Ireland and Great Britain. The authorities in both jurisdictions are considering the introduction of a scheme to provide for the mutual recognition of penalty points between the United Kingdom and Ireland. This consideration is being pursued under the auspices of the British-Irish Council. One of the first matters that needs to be addressed before full mutual recognition can be realised will be the introduction of bilateral recognition of the separate penalty points systems operating in Great Britain and Northern Ireland.

**Mr. Connolly:** I thank the Minister for his answer. I live in the Border area and would be familiar with driver patterns in Northern Ireland. Drivers in Northern Ireland in particular are law-abiding. Will the Minister explain why these same drivers tend to lose all respect for the law when they come south of the Border and their driving behaviour differs dramatically in this jurisdiction? Drivers in the Republic quite often tend to follow the flow. Does the Minister believe non-harmonisation of penalties for Northern Ireland drivers with those levied in this jurisdiction might be responsible for the fact that of the five out of the nine national blackspots for accidents, five are located in the North Eastern Health Board area which is bordered by northern counties. Some 25% of all fatal accidents occur within the North Eastern Health Board area.

It should also be borne in mind that in my own county, Monaghan, there is the main north-south Derry-Dublin access and the east-west Belfast-west of Ireland access. In spite of this there is no accident and emergency department in Monaghan General Hospital. That is one of the dangers there.

What factors inhibit harmonisation of the two systems and when is the likely date for implementation? Will the Government negotiate bilateral

agreements with its EU partners for mutual recognition of penalty points throughout the different jurisdictions? This is especially important given that we have many more foreign cars on our roads now on a semi-permanent basis. It would make sense if drivers break the same laws that they should suffer the same penalties throughout the EU.

**Mr. Brennan:** I share the Deputy's concern and I have approached the Northern Ireland and the UK authorities about speeding up the process of mutual recognition. Both jurisdictions agree in principle that this should be done and we are now working on the logistics of how this should happen. I have seen the statistics and am also aware of the road fatality toll in the north-eastern part of the country, in particular Louth and Meath. The figures are a cause for concern and I am especially conscious of that. The Deputy is right to raise the matter again.

The construction of the M1 motorway has, I suppose, become an attractive speedway for an increasing number of Northern drivers. We will have to sort out the reciprocal penalty points system and we are working on it. I have asked for a meeting with the Northern Ireland Secretary of State in the coming weeks to discuss a range of infrastructural issues, including cross-Border roads. I specifically propose to raise this issue with him to see if more progress can be made.

### Rail Network.

37. **Mr. Naughten** asked the Minister for Transport the progress to date with regard to the reopening of the western rail corridor; the maximum cost figure his Department will consider as reasonable for State funding to be invested in such a project; the financial evaluation his Department has carried out on the project; if economic and social considerations such as the growth in tourism will be factored into the financing of the project; if the same consideration given to the financing of Luas and other praiseworthy roadwork initiatives in the greater Dublin area will be applied to the evaluation of the western rail corridor, albeit on a much smaller scale; if he will guarantee that the project will not be delayed by the setting up of more review committees; and if he will make a statement on the matter. [20587/04]

**Mr. Brennan:** I visited the western rail corridor, WRC, line and location for a full day recently to see for myself the possibilities. I am anxious to provide the proponents of the western rail corridor with the opportunity to put forward their case as comprehensively as possible and to facilitate a thoroughgoing examination of the proposal. Accordingly, I have recently established an expert working group to carry out a full examination of the WRC proposal and to examine the potential for reopening the line.

The working group held its inaugural meeting in Galway, which I attended and addressed, on 14

June under the chairmanship of Mr. Pat McCann, chief executive of JurysDoyle Hotels. The group comprises county managers, directors of the regional authorities, representatives of city and county development boards, the Western Development Commission, West-on-Track, the inter-county rail committee, Iarnród Éireann, the Railway Procurement Agency, RPA, and the Department of Transport.

The working group will examine and evaluate all aspects of the western rail corridor plan, including its costs and benefits, the travel demand that gives rise to the proposal, how such a project might be funded, where the corridor stands in the context of the findings of the national spatial strategy, the strategic rail review, regional planning guidelines, relevant county and city development and land use plans, the submissions put forward as regards the proposal and the current and proposed road investment programmes. In keeping with the criteria governing cost-benefit analyses, the full economic, social and environmental benefits of the proposal, including tourism, will be taken into account in any evaluation of the WRC by the working group.

Before decisions are made to proceed with the funding of any particular transport project, irrespective of its location, it must be evaluated on the basis of the costs and benefits that are likely to accrue from it. By and large, if the benefits outweigh the costs over the life of the project, it is considered worth proceeding with. Whether it is proceeded with, however, and its timescale for completion depends on the availability of funding and the project's degree of prioritisation *vis-à-vis* other competing demands for funding from the resources available at any one time. The WRC will be evaluated in the same way and I await the working group's findings. It is an opportunity for the proponents to demonstrate that this western vision can be turned into reality.

**Mr. Naughten:** If ever I heard a statement indicating that something was going to be long-fingered and shelved, that must be it. I must take a copy of it for some future date. Will the Minister agree that the expert working group was just a long-fingering initiative to tide the Government over the local elections? Another group will probably be set up prior to the general election. The Minister set out a number of criteria as regards the spatial strategy and the roads programme, but he appears to have left one gaping hole, namely EU proposals regarding the "motorway of the sea", which is critically important for many businesses along the western and south-western seaboard as regards development and access to European markets. Why was that not considered as a critical element? I believe it is and should be taken into consideration as regards the western rail corridor.

Are we going to have another chicken and egg situation where the western rail corridor will not be developed until the population is in place and the corridor itself will not be viable without the

population? It is going to be the same again. The investment will not be put in without the population and the population will not be there without the investment.

**Mr. Brennan:** That is one of the dilemmas facing all major infrastructural projects. Should it be built and wait for the population to arrive or should we have the population in place first and then build it? That dilemma exists regardless of what major project one examines. I have made it clear through the tactical composition of the expert group the way it is to be handled in this case. I have spoken to the county managers and so on at the group's inaugural meeting. They cannot say that they want to reopen the railway line and then, at their county council meetings, zone land away from it or locate their settlement patterns away from the line. If rail lines are to be reopened, then the audit strategies in the hands of local authorities must be complementary. They must indicate in their plans where the populations will be. We cannot have the luxury of the line in one place and the population and facilities in another. There must be land use complementarity because, with that, we can get progress.

I recently announced the reopening of the Middleton railway line at a cost of €90 million. I want to compliment the people of that area and the agencies. They produced approximately €40 million of the money themselves from local industry and investment. It is to their great credit. The Cork county manager, who was instrumental in making that happen, spoke to the western rail corridor expert group at my request on 14 June. I attended the meeting, at which the county manager explained to the group how the project may be pursued. It is not a question of rushing out to build a few hundred miles of track and keeping one's fingers crossed, but of financing, zoning and an integrated plan, which takes population into account. The whole thing should be brought together in an orderly and phased way.

**Mr. Naughten:** I find it humorous to hear the Minister talking about land use because there does not seem to be any land use strategy in Dublin. When one travels by train from the west of Ireland to Dublin, one continues to see vast tracts of land that have not been developed until one is almost in the city centre. There has been investment in Dublin despite the fact that there has not been a land use strategy. The Minister is saying that there has to be such a strategy in the west. I agree with the Minister that the population should be focused in the areas in question, but we also need to get a commitment from him that he is prepared to support the project if the thing stacks up. He has not yet made such a commitment.

**Mr. Brennan:** I will make such a commitment now. I will support the project if it stacks up. I remind the Deputy that the strategic rail review,



[Mr. Brennan.]  
which examined the future of Irish railways over the next 20 years, recommended against reopening the western——

**Mr. Naughten:** The study included the line between Limerick and Cork, which is not part of the western rail corridor.

**Mr. Brennan:** It recommended against it, but I overturned that. I proceeded to examine it despite the recommendation.

#### **Rail Freight.**

38. **Dr. Twomey** asked the Minister for Transport if his attention has been drawn to the policy changes by Iarnród Éireann to reduce the number of powerful locomotives which may have an adverse effect on the future of freight travel on the Irish rail system, especially the seasonal haulage of sugar beet. [20586/04]

**Mr. Brennan:** The allocation and deployment of locomotives and other rolling stock is strictly a matter for Iarnród Éireann. The company has assured me that it has sufficient numbers of suitable locomotives in its fleet to provide for the future demands of the freight business, including the seasonal haulage of sugar beet.

**Dr. Twomey:** I have raised this issue because there has been a dramatic change in the type of rolling stock being used by Iarnród Éireann. The rolling stock used on the line between Rosslare and Dublin has recently been replaced. The company has replaced the locomotives which were being used and put in place a basic commuter service instead, using trains of limited capacity. Much of the capacity is for standing passengers. I believe that large locomotives have been replaced by commuter-type trains in other parts of the country. The freight service has been practically taken off the railway lines in Northern Ireland. I am aware that Iarnród Éireann has invested in some locomotives, but their use is mainly being restricted to the inter-city service. There does not seem to be ongoing investment in the big locomotives about which I am talking, which are used for hauling sugar beet and other freight.

The Minister has said that Iarnród Éireann has the power to decide on its own policies, but decisions which are made now will have effects down the line, for example on the transport of sugar beet. It was said at one time that the railway line between Waterford and Limerick was to be closed, which would have affected the transport of beet. If locomotives are taken off the line and are not available when we reach a crisis because stock has been run down, it will be the responsibility of the Minister rather than Iarnród Éireann. We are seeing a change in passenger services in that smaller trains, which are not as powerful and do not have the same capacity because they cannot be expanded, are being used. We could have a crisis in this regard in five or ten years time.

The Minister should know about this issue rather than saying that it is a matter of Iarnród Éireann policy.

**Mr. Brennan:** I appreciate the Deputy's concern and I will bring his comments to the attention of Iarnród Éireann. The company has recently gone to tender for a major overhaul of its fleet of large locomotives and has reduced its number of smaller locomotives, many of which had expired. Deputies are aware that the transport of beet by rail was severely disrupted last year when a viaduct collapsed near Cahir. The usual rail transport arrangements will be restored when this year's beet season commences, with services operating from Wellington Bridge in south Wexford to Limerick Junction and on to Mallow.

Iarnród Éireann has informed me that it is reshaping its freight business to focus more on the business best suited to rail. It will concentrate on long-haul heavy goods rather than short journeys which are time-sensitive. As a result of the actions it has taken over the past 18 months, Iarnród Éireann has started to reduce its freight losses and has won back some business, for example from Coillte. I will pass Deputy Twomey's comments and concerns on to the company.

#### **Other Questions.**

##### **Metro Project.**

39. **Mr. Stagg** asked the Minister for Transport the position with regard to his plans to bring forward to Cabinet proposals for the construction of a metro system in Dublin; and if he will make a statement on the matter. [20435/04]

41. **Ms Enright** asked the Minister for Transport the projected cost of the airport metro; if he has received Cabinet approval for the project; and if he will make a statement on the matter. [20298/04]

50. **Mr. Sargent** asked the Minister for Transport when the Cabinet will make a decision with regard to the first phase of the Dublin metro project; and the number of years it would take before such a service came into operation in view of the approval in the summer of 2004 of the outline proposal prepared by the RPA. [20556/04]

65. **Mr. Timmins** asked the Minister for Transport if he has satisfied himself that he can deliver the Dublin metro by 2007; and if he will make a statement on the matter. [20319/04]

77. **Mr. Sherlock** asked the Minister for Transport his views on the report of the consultants engaged by the Joint Committee on Transport on the review of all information and data relating to the proposed Dublin metro; when he expects to bring specific proposals to Government on this

issue; and if he will make a statement on the matter. [20433/04]

131. **Mr. Gormley** asked the Minister for Transport if his attention has been drawn to the technical reasons for the two Luas lines not being connected via an overground line between Westmoreland Street, College Green and Dawson Street; the most likely location for the proposed underground city centre metro to resurface and connect to the former Harcourt Street rail line; and if an overground city centre Luas extension from O'Connell Street to St. Stephen's Green or Harcourt Street will lead to increased patronage on the Luas line from Tallaght even if not fully connected into the former Harcourt Street line due to the introduction of a metro. [20555/04]

**Mr. Brennan:** I propose to take Questions Nos. 39, 41, 50, 65, 77 and 131 together.

The programme for Government contains a commitment to develop a metro with a link to Dublin Airport. I have received from the Railway Procurement Agency the revised outline business case for line 1 of the metro, which involves a line from the airport to the city centre. The total estimated direct capital cost of construction in 2002 prices is €1.2 billion.

Integration of public transport services in the greater Dublin area is being pursued within the broad policy framework of the Dublin Transportation Office's Platform for Change. In this regard, the possibility of a connection with the Tallaght and Sandyford Luas lines is being considered in the context of the first phase of the metro project from the city centre to the airport. The timescale, precise cost and route, number and location of stations and arrangements for connections with the Luas lines will depend on a number of factors including the final Government decision, geo-technical surveys, negotiations with bidders and railway order processes including a public inquiry. The merits of all alternative solutions and routes will be considered in the preparation of a submission for the Government on the matter.

I welcome the Joint Committee on Transport's recent report on the proposal for a Dublin metro system, which was a valuable contribution to the debate on this issue. In particular, I welcome the recommendation in favour of a metro system with a connection to the airport. I am finalising my proposals on the metro in the context of the wider transport needs of the greater Dublin area. I expect the Government to finalise proposals on the metro in the near future.

**Ms Shortall:** The Minister has been using the phrase "in the near future" in this regard for the past year or so. One would not want to be holding one's breath. In a reply to Deputy Naughten during his last Question Time on 27 May last, the Minister said he would bring proposals to the Cabinet before the summer.

**Mr. Naughten:** I believe the Minister used the phrase "shortly".

**Ms Shortall:** Does he still expect to bring proposals to the Cabinet before the summer? What can we read into the Taoiseach's comment last week that the metro, as proposed by the Minister, is not seen as a priority for Government spending? Where are we going in that regard? Although there has been a great deal of talk and many reports and various committees have met to discuss the project, it is hard to know whether it is going anywhere. Will the Minister tell the House when he intends to bring a proposal to Cabinet? What did the Taoiseach mean by his comments last week?

**Mr. Brennan:** This issue has been discussed by the Cabinet and various committees over the past year, on and off. I discussed it bilaterally with the Taoiseach and many Ministers during that period. We asked the RPA to reconsider the matter after it had given its original estimations. It came back to us with a direct capital cost estimation of €1.2 billion. The programme for Government commits the Government to developing a metro from the airport to the city centre.

**Mr. Naughten:** By 2007.

**Mr. Brennan:** It is a Government commitment. We are in the final phases of seeing how best we can finance the project, service the financing and move the project forward without too much delay. I agree with the Taoiseach's comments about the prospect of immediately starting to build the entire metro system, as proposed by the DTO. The project would last 20 or 30 years and would cost many billions. One can pick any number — it might cost €15 billion, €20 billion or €30 billion. We will not do that because we cannot afford it. The Taoiseach and I do not envisage the immediate construction of the entire city-wide metro system, but we envisage living up to the commitment in the programme for Government.

The RPA, which has done a substantial amount of work in this regard, has selected the recommended route. They originally had three routes but have narrowed it down to one recommendation. They have whittled down their estimates from over €2 billion to €1.2 billion and they are now in a position to allow us to take some final decisions.

**Ms Shortall:** When will the Minister bring it to Cabinet?

**Mr. Brennan:** It would have been wrong of me to take a decision on this a year ago with the level of pricing being put to me at that time. That is the reason I decided to put them back through the hoops to see if we could get a different price on it. The Cabinet will discuss the matter again in its next few meetings—

**Ms Shortall:** When will the Minister bring a proposal to Cabinet?

**Mr. Brennan:** —and a Cabinet committee on infrastructure will discuss it.

**Ms Shortall:** When will the Minister bring a proposal to Cabinet?

**Mr. Brennan:** I cannot give the Deputy a definite date on that but the Cabinet will discuss it shortly.

**Ms Shortall:** Is the Minister still planning to bring it to Cabinet before the summer break?

**Mr. Brennan:** The Cabinet usually meets right up to the end of July and it meets very early in September.

**Ms Shortall:** Does the Minister still intend to bring it to Cabinet before the summer break? The Minister knows what I mean.

**Mr. Brennan:** From time to time it meets in August if it has to—

**Ms Shortall:** Will the Minister bring it to Cabinet before the summer break?

**Mr. Brennan:** In the course of the next few Cabinet meetings this matter will be discussed again by the Cabinet. When it is right to take a final decision and we are satisfied with the pricing, the routes and the repayment systems we will then—

**Ms Shortall:** Does the Minister have the proposal on it?

**Mr. Brennan:** I have accepted the Railway Procurement Agency's proposal to me and I am now satisfied with it, but I was not a year ago. I have discussed it with Cabinet colleagues — the Taoiseach, the Tánaiste, the Minister for Finance and other Ministers — in committee. We are in a position now to finalise matters.

**Mr. Naughten:** Will the Minister define the difference between “the near future” and “shortly”? He appears to rotate those terms when referring to the timescale for the presentation to Cabinet. The Minister has been using them for the past 12 or 18 months but it is like a broken record at this stage. Will the Minister define those terms and outline the timescale involved? When will a decision be made on this matter?

In light of the fact that the Minister is now standing over the RPA figures, does he not believe it is inadequate of the RPA to cost figures based on the fact that they will adversely affect potential customers of the metro? Does he not agree that the reduction in the number of stations, escalators and ticketing machines will reduce the number of people who may use the metro and generate an income?

The Minister stated on a number of occasions in the past that the metro to Dublin Airport from the city centre is not a stand-alone project but the first step in a larger metro project. In light of his comments earlier, and the Taoiseach's comments this morning that the project to the airport is enormously costly and that the Cabinet would not consider an extension to the entire Dublin area, does the Minister stand over his comments on the metro from the city centre to the airport as a stand-alone project? Has he done a U-turn on that? Has the Irish Rail plan been taken off the table or is it ongoing?

**Mr. Brennan:** I fully stand over my statement that the metro from the city centre to the airport — my preference would be that it would go on to Swords — would form the first part of a city and county-wide system. What the Taoiseach and I are saying is that we cannot undertake the city and county-wide system now but it is sensible that what we do here forms the first leg of an overall city and county plan, which is in the DTO platform for change. That is totally consistent.

In regard to the Irish Rail project, the DTO also recommends that an interconnector be developed as well as other similar proposals. They are also necessary and it is a matter of deciding which of these we get to first. These are multi-billion euro projects and I am determined that the first project we will do, before the Irish Rail project, will be the metro project because it is necessary to link the Luas—

**Mr. Naughten:** What about the proposal to the airport?

**Mr. Brennan:** It is necessary to link the two Luas lines and the metro project from Swords, hopefully, or from the airport to St. Stephen's Green, which will turn that Luas line into a metro line from Swords to Sandyford. That would be a fantastic addition to the city. I have told the Taoiseach, the Cabinet and my colleagues that I am fully committed to finalising the funding arrangements to bring that into being. I am not deliberately delaying on this in any way; I just want to get it right, and as soon as it is right I will push the button, but not before.

**Mr. Eamon Ryan:** I accept the Minister now sees the sense in the RPA proposal but the problem, as we saw this morning, is that the Taoiseach does not believe in it. He was asked specifically for his opinion of the Dublin metro plan and all he could say was that it was very expensive and how could we possibly pay for it, which means that it is dead in the water, so to speak, in Cabinet. In those circumstances, would the Minister not be better off getting a decision from the Cabinet? His Government colleagues would then have to face the reality of the other options we might have to pursue including, as the Minister said, linking the current Luas line in St. Stephen's Green?

Does the Minister believe that the alternative to a metro would be reversion to the original Luas proposal, which would see the two lines connecting and a third line heading north from O'Connell Street towards the airport? Given that in the past the Minister said that the Irish Rail option of a spur from the DART line is not feasible, will he agree that the next best option, if we cannot afford the metro, is that original Luas proposal?

The Minister prevaricated on this issue for a year. He said he had to "put them back through the hoops" on the figures but the reality is that those figures were confirmed a year ago. He has sat on them for a year and in that time 70,000 houses have been built. The longer we put off this decision, the more houses will be built alongside roadways instead of public transport lines, on which we do not know if the Government has a view. A planning issue arises here and every week the Minister waits is an extra thousand houses built in the wrong place. That is the real cost of the Minister's indecision on this issue over the past year.

**An Leas-Cheann Comhairle:** I remind the House again of the one minute time limit.

**Mr. Brennan:** First, I did not sit on it for a year. The work that was going on in the RPA only concluded recently when I received the answers to the final queries I made. I was not satisfied to proceed on the basis of what was presented to me and I continued to make the queries until I got the answers. Now that I have the answers I am satisfied to go ahead.

Second, I think what the Taoiseach was referring to is that there is a perception that Dublin gets everything — the M50, Luas, the metro and so on. There is a need to explain to the rest of the country that every time another €1 billion project is proposed for Dublin our citizens in Cork, Galway and throughout the country can have access to it and avail of its services. I think the Taoiseach was referring to that type of thinking when he talked about not doing the entire €15 billion, €20 billion or €30 billion project tomorrow.

In short, the Department of Transport and myself are strongly committed to this metro project. We finally got the answers we pushed hard for over some time. If the Deputy looks at the figures we are now operating on he will see it was worth the wait. A route is selected and it is now a matter for my Cabinet colleagues and myself to bring finality to this, which I am determined to do.

**Mr. Eamon Ryan:** If the Minister cannot afford the metro line to the airport we should revert to the original Luas proposal, which was to connect the two lines over-ground in the city centre and build a third Luas line north to the airport.

**Mr. Brennan:** I would prefer to do it properly.

**Mr. Eamon Ryan:** If the Minister is not able to do it properly, would he revert to that option?

**Mr. Brennan:** I do not accept that I am not doing the metro. I am determined in that regard.

**Mr. Eamon Ryan:** When will the Minister decide on it?

**Mr. Naughten:** A week before the next general election.

**Mr. Crowe:** We all accept that the metro is needed. The Minister accepts that also. The difficulty is the delay. Will the Minister accept that the longer we delay, the more it will cost the State?

I was interested to hear the Minister say that the Taoiseach is concerned about a perception that Dublin is getting priority over the rest of the country. Is any other area in the country experiencing traffic problems such as those in Dublin?

**Mr. Brennan:** There are places and the Deputy should ask his party's county councillors about them.

**Mr. Crowe:** Commentators often overlook the amount of taxes paid by people in Dublin in contrast to the quality of life experienced in many Dublin areas. The Minister referred to the metro line going to Dublin Airport from the city centre. Is the delay due to the proposed location of the metro terminal at the airport? Is the delay caused by private developers building the terminal?

**Mr. Brennan:** People pay taxes outside Dublin city.

**Mr. Crowe:** We pay much more than anyone else due to population size.

**Mr. Naughten:** It is nice to have roads to go down to the country.

**Mr. Brennan:** I do not want to cause a fight between Deputy Crowe and his country cousins because everyone pays their taxes. The terminal is not an issue in the design of the metro. It is early days as the detailed physical terminal points have not been finally settled.

**Ms Shortall:** There is a need for joined-up thinking in the Department of Transport and at Cabinet. The Minister spoke of the need for a western rail corridor and raised the argument as to whether the infrastructure should come first or after development. However, he does not accept that principle because there is no proven demand for the western rail corridor.

**Mr. Brennan:** I never said that.

**Ms Shortall:** The Minister did when he spoke about the eternal argument about whether infrastructure should come first or whether one should

[Ms Shortall.]  
wait for development. It makes sense to put the infrastructure in place first. The Minister had no difficulty spending billions of euro on roads in the greater Dublin area. As Deputy Eamon Ryan pointed out, development has occurred along those roads leading to morning and evening traffic chaos. This is due to the lack of linkage between housing development and transport policies. An agency is needed to plan for housing development and transport together rather than separately as it is now.

Regarding the proposed metro, is the Minister taking on board the Committee on Transport's recommendation on the necessity of identifying an agency with a proven track record of delivering projects on time and within budget?

**Mr. Naughten:** It will be hard to find such an agency.

**Ms Shortall:** The clear implication of this recommendation is that the Rail Procurement Agency is not the one to deliver a metro. The Taoiseach is correct in describing the cost as astronomical. Ways of managing it must be found. Half the cost of the metro could be provided through development levies on sites between Swords and Dublin city centre with no charge on the Exchequer. Is the Minister exploring that option?

**Mr. Brennan:** I will study further the recommendations of the Committee on Transport on the metro. However, the Rail Procurement Agency is the best agency equipped to build a metro. The Dublin Transportation Office and the local authorities' planning guidelines contain integrated considerations for land use and transport and housing needs. I am in favour of levies for development on the metro line.

**Ms Shortall:** No greenfield sites will be left at the rate the Minister is proceeding.

**Mr. Naughten:** Now that the Minister for Transport has confidence in the Rail Procurement Agency, is there any point in building a metro if people are not prepared to use it? Will people use it if they have to climb up and down staircases because the Rail Procurement Agency cut back on the number of escalators? What about the reduction in the number of stations? To extend the metro from three carriages to four will require a boring machine to be brought back. The cost has been reduced to €1.2 billion because the Rail Procurement Agency has downgraded the specification for the proposed metro. It is important that people use the service when it is up and running and that the customer is looked after. Since the Rail Procurement Agency has already ignored this, it should not be the agency with responsibility for it.

**Mr. Brennan:** The Deputy is very concerned about escalators. I will bring this to the attention of the designers.

**Mr. Naughten:** The Minister should read the Committee on Transport report on the proposed metro.

**Ms Shortall:** Will the Minister respond to the report?

**Mr. Brennan:** I will.

**Mr. Eamon Ryan:** I share the Minister's confidence in the Rail Procurement Agency as it did an excellent job in delivering the Luas, given the mess made by the Government causing a three year delay in its completion. Given that the other proposed metro lines will be scrapped, why should the Department of Transport not ask the Dublin Transportation Office to review its platform for change? Will the Minister review the regional planning guidelines which allow for housing to grow along the new roads that are planned, taking no cognisance of previous plans that proposed concentration back towards the centre along public transport lines? Now that the broader metro project has been reduced, the Minister must review housing and transport planning.

**Mr. Brennan:** The metro is not scrapped. The broad city and countywide scheme is still part of the Dublin Transportation Office's plans. However, the Taoiseach and I have said that the broader scheme cannot be constructed now. I have asked the Dublin Transportation Office to review its platform for change programme constantly but that is not a fixed—

**Ms Shortall:** What does that mean?

**Mr. Brennan:** —settled document. The Dublin Transportation Office is a good organisation with highly professional planners. On a day-to-day basis it continues to update its plans and programmes and bring them to the Government's attention.

**Mr. Naughten:** It is time to get off the merry-go-round. The Minister has been on it for the last two years.

**Mr. Brennan:** I might do another two years.

**Mr. Naughten:** It is not looking good at the moment.

#### **Rail Services.**

40. **Mr. O'Dowd** asked the Minister for Transport further to Question No. 229 of 22 June 2004 if the examination has been completed; and if he will make a statement on the matter. [20292/04]

60. **Mr. O'Dowd** asked the Minister for Transport further to Question No. 229 of 22 June 2004,

if he will report on the progress to date on the examination; and if he will make a statement on the matter. [20291/04]

**Mr. Brennan:** I propose to take Questions Nos. 40 and 60 together.

While the performance of rolling stock within its fleet is a day-to-day matter for Iarnród Éireann, the company has informed me that the examination referred to has been completed and that certain modifications are being made to improve performance.

**Mr. O'Dowd:** Will these modifications include health and safety provisions? On a recent train to Drogheda, the air conditioning failed in three carriages and six people fainted and one lady had an asthma attack, as reported in the *Drogheda Independent*. Is it Iarnród Éireann's judgment that this train to Drogheda was overcrowded? Many passengers believe that, owing to the failure of an earlier train, more people were forced to take this one. It was a shameful and disgraceful incident. What steps will the Minister take to insist that Iarnród Éireann looks after the health and safety of its passengers?

**Mr. Brennan:** I share the Deputy's concerns about this incident. The delayed departure of the train was caused by a points failure occurring at Connolly Station. In addition, a technical problem occurred with the air conditioning units on some of the individual carriages on the train which compounded the discomfort experienced by Iarnród Éireann's customers on that hot day. Iarnród Éireann is conducting a full examination of all of its newly-acquired diesel rail cars to ensure no recurrence of the problem. Iarnród Éireann apologised to the customers for the delays that evening and is working to ensure such occurrences are avoided.

**Mr. O'Dowd:** What specific changes will Iarnród Éireann make? When three carriages fail such as these, should the train have been postponed due to the danger it posed to customers? Are there panels in the cab to make the driver aware of an air conditioning failure in the carriages on one of the hottest days of the year?

**Mr. Brennan:** I do not know if he was aware. Such a warning system should be in place and I will draw Iarnród Éireann's attention to the Deputy's comment. It has apologised for the incident and is working to ensure there is no recurrence. What happened was not acceptable to me and I join in the apology to the customers affected.

**Mr. O'Dowd:** While no one doubts the sincerity of the Minister's apology, he cannot tell me what changes Iarnród Éireann is making to the carriages. He does not know. It is not good enough that his Department cannot provide him with the facts. Could the Minister find out what

the cost of the changes will be and if they will have to be made to all the new trains purchased by Iarnród Éireann ?

**Mr. Brennan:** I will get the information for the Deputy. He must appreciate that it is an operational matter for the company which operates the trains.

**Mr. O'Dowd:** That may well be but this could be a life and death situation for those travelling on these trains. People were in extreme distress.

**Mr. Brennan:** I will draw that to the attention of the board and ask it to supply the Deputy with the information requested.

**Mr. Naughten:** Regarding the Minister's comment that this is an operational matter for the company, is it the case that in this instance there was a serious threat to the safety of passengers on the train? Is it also the case that the Minister dragged his heels for the past 14 months? He has not arranged Committee or Report Stages of the railway safety commission Bill which could set down standards and guidelines and enforce them on that service and every other rail service in the country? When will we see the railway safety commission legislation enacted? The Minister should not simply tell us he has an interim commissioner in place. When will we see the legislation to back that up? The previous Minister said this was critical legislation because the current legislation did not allow for adequate investigating powers. The current Minister has dragged his heels on the issue.

**Mr. Brennan:** It is not fair to attempt to draw a connection between the legislation before the House with regard to safety matters and what happened in this particular case. The rolling stock, track, equipment and so on involved in that case would have gone through the normal safety procedures. We have a very strong safety regime in place, albeit not on a statutory basis. Senior civil servants were charged with overseeing safety. I am fairly sure the necessary equipment in all these areas was signed off on by the relevant safety personnel.

**Mr. Naughten:** The officials have a problem. They have no backup. They are the ones who have been calling for these changes.

**Mr. Brennan:** It is not fair to suggest in this particular case, if one knows the facts, that the commission in office, as distinct from the commissioner in office, albeit without statutory support, would have made any difference in this case.

**Mr. Naughten:** Is it the case that one of the issues being discussed on Report Stage of this Bill is whether the commissioner should have a role regarding maximum capacity on these carriages? Had there not been overcrowding one would not

[Mr. Naughten.]  
have had the difficulty. For the Minister to distance himself from it is wrong.

**Mr. Brennan:** The overcrowding issue is before the company for a long time. It is the responsibility of the people operating those trains at the time to ensure there is no overcrowding. They are not allowed to overcrowd trains.

**Mr. O'Dowd:** They do so. The train was seriously overcrowded.

**Mr. Brennan:** They should not overcrowd trains beyond a safe level. That is the clear instruction from the safety officer.

**Mr. O'Dowd:** What are the protocols?

**Mr. Naughten:** There are none.

**Mr. O'Dowd:** That is the point. One must have these safety protocols in place. They must be absolute and apply in all these conditions. The Minister could identify with the help of Iarnród Éireann the number of staff on duty on the platform on that day to make sure that train was not overcrowded. I understand that on the 5.13 p.m. train from Pearse Station to Drogheda there were hundreds of people pushing into those carriages. I have never seen uniformed and clearly identifiable Iarnród Éireann staff ensuring that people can get safely onto their trains. What criteria will the Minister insist are used by Iarnród Éireann in future when people are being packed into trains like sardines?

**Mr. Naughten:** It is the same with the trains to the west. They are like cattle trains at the weekends.

**Mr. Brennan:** The Deputy might support some of my reforms in that area when I introduce them. CIE staff are instructed by safety officials not to permit overcrowding of trains beyond a safe point.

**Mr. O'Dowd:** There is nobody to stop them.

**Mr. Naughten:** There is no legislation.

**Mr. Brennan:** They are clearly instructed by safety officials to do that.

**Mr. O'Dowd:** How do they know?

**Mr. Naughten:** There is no legislation backing that up.

**Mr. O'Dowd:** They do not know.

**Mr. Brennan:** Is the Deputy saying they deliberately flout the safety instructions?

**Mr. O'Dowd:** That train was clearly overcrowded. People fainted. One lady had an asthma

attack. People could not breathe. They were wiping their faces with their clothes. That happened because there was no one on duty to stop the overcrowding. It is the responsibility of the Minister.

**Mr. Brennan:** I agree, but I do not stand at every station checking the trains. No train should be overcrowded because CIE officials are instructed not to permit overcrowding on trains.

**Mr. Naughten:** There is no legislative backup for that.

**Mr. O'Dowd:** Will the Minister travel on the trains?

**Mr. Brennan:** I will investigate the matter further because I know the incident caused personal trauma to a number of individuals.

#### **Air Services.**

42. **Mr. P. Breen** asked the Minister for Transport the current position regarding the bilateral talks between the US and Ireland. [20275/04]

52. **Ms O'Sullivan** asked the Minister for Transport the position in regard to the Shannon stopover; the decisions that were reached on this issue at the meeting of EU Transport Ministers on 10 and 11 June 2004; the discussions he has had with US officials on the subject; and if he will make a statement on the matter. [20403/04]

**Mr. Brennan:** I propose to take Questions Nos. 42 and 52 together.

EU Transport Ministers discussed this issue at the Transport Council held on 11 June 2004. At that time there was a proposed air transport agreement between the EU and the US on the table which would have included open skies between the EU and US. Transport Ministers felt that the deal on offer was unbalanced in favour of the US and asked the European Commission to continue urgent negotiations with the US, particularly in view of the then upcoming EU-US summit on 26 June 2004.

Despite those last minute efforts by the Commission, it was not possible to bridge the gap in time for the EU-US summit. Accordingly, the negotiations are now paused for the summer. I understand that contacts between the EU and US sides will recommence possibly in September with full negotiations commencing possibly by the end of this year on the few items that are left to be agreed.

During the discussions at the Transport Council, Ireland once again made it clear that while we are in favour of reaching an EU agreement with the US, Ireland's agreement is contingent on an acceptable arrangement on Shannon Airport being agreed between Ireland and the US, and that deal being reflected in the EU-US agreement.

On 4 and 5 May 2004, my officials travelled to Washington to discuss this issue with the US. I

also spoke to the US Transportation Secretary, Norman Mineta, about this issue when I met him at various meetings on a number of occasions in the months leading up to the Transport Council. No agreement was reached at any of these meetings. However, I am satisfied that had an EU-US deal emerged from the Transport Council, an arrangement for Shannon Airport would have been reached between Ireland and the US in the run-up to the signing of the EU-US deal at the summit.

Currently, there are no EU-US negotiations taking place. However, that does not mean that Ireland or the EU can stand still. There is no doubt that an EU-US agreement is inevitable once the difficult issue of market access for both EU and US carriers is solved. I am therefore maintaining contact with the US side.

**Mr. P. Breen:** Does the Minister think that a ten-year lead-in period for change in the current bilateral agreement would be better than the much shorter period he is proposing? Deputy Naughten noted that the Minister is long-fingered development of the western rail track, but he is certainly fast-tracking his airport policy. A ten-year lead-in period would ensure that the infrastructure, such as the rail and road links and so on, is in place which would give Shannon a chance to get new business. The Minister knows that satisfactory talks were held with US officials in Dromoland Castle and he could negotiate a ten-year agreement. It is important.

Regarding the proposed sale of Aer Lingus, if the Government becomes a minority shareholder, will the current bilateral agreement be null and void?

**Mr. Brennan:** It is not up to the Irish Government. The bilateral situation cannot continue indefinitely. I know that the Signal group in Shannon has put a figure of ten years on it, and I would be happy to get as many years as possible. It is a matter for negotiation in the sense that access to the US by Aer Lingus, for example, is important. I am told that up to 20 cities in the United States have indicated to Aer Lingus that it could have access if it had the aircraft to fly into them. It currently flies into five cities in the United States. I am told that up to 20 cities have approached Aer Lingus to indicate they would like services. While that is not to say Aer Lingus will operate from those cities or has the aircraft to do so, the indication is there.

When the EU-US talks recommence, particularly when the United States election is out of the way, there will be fairly quick agreement and we will get open skies. My job is to ensure, in the context of open skies between the United States and Europe, that we get a deal for Shannon that gives it time and space to put plans in place and to further develop the airport. I am totally opposed to any sudden shocks for Shannon in this area and totally supportive of getting the most appropriate and maximum space for it in the con-

text of the open skies policy generally, which in the long term will be of benefit to Shannon as well as to the country. I am determined I can deliver for Shannon the best possible deal and assure the House I am on Shannon's side in this debate.

**Ms Shortall:** The Minister keeps saying he is on Shannon's side and wants to see the west develop, which is fine. However, let us hear what he is actually trying to achieve. The Minister says he wants to ensure an acceptable arrangement for Shannon. What, in his view, is an acceptable arrangement in terms of the phasing out of the dual gateway policy? Would the Minister not accept that whatever the critics of the stopover say, it has been the only meaningful instrument used by Government over many years to achieve some kind of balance in regional development? If the Minister is on the side of Shannon, has he any proposals for when the stopover is completely phased out in terms of improving access to the airport so that passengers can reach it more easily than they can currently gain access to Dublin Airport, and ensuring the achievement of other spin-offs? What does the Minister regard as an acceptable arrangement in terms of phasing? How will he compensate for the loss of business due to the ending of the stopover?

**Mr. Brennan:** Much is going on in the Shannon region. A significant amount of money is being invested in infrastructure, Ennis has been bypassed, the motorway to Galway has been privatised to create access to the airport and a study of the rail link from Ennis to the airport has been sanctioned. In addition, the Irish Aviation Authority and Enterprise Ireland are being moved to Shannon. The investment in the infrastructure of the region shows that the Government is fully committed to it.

On the aviation side, I will accept the best number of years I can get to allow the Shannon Airport Authority to attract other airlines and United States cities, and more direct business from the United States, the UK, the EU and generally. I am sure that whatever package we can put together will be acceptable to the people of Shannon as a practical road forward. I will work day and night to bring about that acceptable deal.

**Mr. P. Breen:** Is it not a fact that the European Commission has no problem with any internal arrangements Ireland has with the US and that the senior aviation official in the European Union is on record as saying this? If Aer Lingus is sold or the Government becomes a minority shareholder, is it not the case that the current bilateral agreement becomes null and void?

**Mr. Brennan:** The bilateral agreement has nothing to do with Aer Lingus as such. It applies to all airlines. Whoever owns the airline — Americans, Chinese or otherwise — airlines coming



[Mr. Brennan.]  
from the United States have to abide by the bilateral agreement.

**Mr. P. Breen:** We might have to rely on the Chinese.

**Mr. Brennan:** It does not matter whether it is Aer Lingus, Delta or Continental — they must all adhere to the agreement. The answer to the Deputy's question is that the agreement is not affected.

*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 Finneran — the need for the Minister to review upwards the reference prices compiled by the Department of Agriculture and Food on the live valuation for suckler cows under the disease eradication scheme; (2) Deputy Michael Moynihan — the need for an update from the Department of the Environment, Heritage and Local Government on the progress of the application of a housing association (details supplied) for funding under the capital assistance scheme; (3) Deputy Mulcahy — the need for the Minister to take urgent action to ensure that fully accessible buses are provided by Dublin Bus for mobility impaired customers; (4) Deputy Healy — the urgent need for the Minister to intervene to arrange for the admission of a very seriously ill infant (details supplied) to a national paediatric centre; (5) Deputy Boyle — that the Minister instigate immediate action to have removed large amounts of polluting materials being retained on Haulbowline Island, County Cork; (6) Deputy Eamon Ryan — whether an application has been made for the funding of a new pool in a centre (details supplied); (7) Deputy Gogarty — the need for the Government to protect the Clondalkin round tower by purchasing the site; (8) Deputy Costello — the need for the Minister to take all necessary steps to ensure that the unauthorised development at 1/2 Millbourne Avenue, Dublin 9, the former home of James Joyce, is stopped forthwith; (9) Deputy Neville — the reduction in the percentage allocation of the mental health services from 10.7% in 1990 to 6.69% in 2004; (10) Deputy Cowley — to ask the Minister if he is considering reform of the BCI and whether he agrees that steps should be taken to ensure a proper appeal system is in place to BCI decisions; (11) Deputy Upton — the need for legislation to ensure that high-tech packaging aimed at extending the shelf-life of food products does not pose a health risk to consumers; (12) Deputy Durkan — the failure of the Minister to provide the necessary funding to enable Naas, James Connolly and Peamount hospitals to pro-

vide the services needed and intended in the community; (13) Deputy Pat Breen — why Kiltrush, County Clare has not been identified in the first round of towns under the broadband action plan for 2005.

The matters raised by Deputies Upton, Finneran, Cowley and Durkan have been selected for discussion.

### **Dumping at Sea (Amendment) Bill 2000** **[Seanad]: Report Stage (Resumed) and Final Stage.**

Debate resumed on amendment No. 1:

In page 3, line 6 to delete “AND FOR RELATED PURPOSES”.

—(Minister of State at the Department of Communications, Marine and Natural Resources).

**Mr. Broughan:** According to the explanatory memorandum, the aim of the Bill is the reform of the main section of the earlier legislation, which is why I responded to the amendment's removal of this phrase. Why is it to be removed? As it stood, the Title covered a wide range of issues which I and my colleagues in the Green Party and Fine Gael tried to address on Committee Stage. We were conscious of the need to push the legislation out.

It is to be regretted that important legislation from 2000 is still being dealt with on the last day of the major session of 2004. The Department and Chief Whip should ensure that important legislation is not put on the back burner as this has been. While I accept there are many different territories, we need to carry out our business more efficiently.

### **Minister of State at the Department of Communications, Marine and Natural Resources**

**(Mr. Browne):** I accept that 2000 is some time ago but Ministers must get in the queue with regard to legislation. While I do not know why the Bill was not dealt with in 2000 or 2001, from 2002 my Department has pushed as much legislation as possible, first through Cabinet and then through the House. We must wait our turn but the Department has brought forward a substantial amount of legislation, particularly in the past year. I take the point made by the Deputy about the delay but there is little we can do about it at present.

**Mr. Broughan:** Why change the title? What is the import of this amendment?

**Mr. Browne:** The Parliamentary Counsel has stated it is irrelevant and, therefore, there is no point in including the phrase.

Amendment agreed to.

**An Leas-Cheann Comhairle:** We move to amendment No. 2. Amendment No. 3 is related and the amendments may be taken together, by agreement. Is that agreed? Agreed.

**Mr. Eamon Ryan:** I move amendment No. 2:

In page 5, lines 12 and 13, to delete all words from and including "cause" in line 12 down to and including "means" in line 13 and substitute the following:

"also cause the register to be published by electronic means. The electronic record of allocations and registered permits should be updated within 14 days of each application being made and notice of the Minister's decision should be published electronically at the same time as the applicants are notified of the decision."

I am proud to see my humble little amendment grouped with Deputy Kehoe's lengthy one. I hope mine has the same import as the longer amendment.

I thank the Minister for arranging for certain Opposition Deputies to be briefed by civil servants in the period between Committee and Report Stages. I found it beneficial and useful and I appreciate the help of both the Minister and the officials in that regard. I also appreciate the manner in which the Minister has brought various Bills through the House. He facilitated proper debate and discussion and accepted amendments where appropriate. That was most welcome. It makes the job of Members on this side of the House more rewarding if one believes the valid points one raises are being heard.

The point made in this amendment is relatively simple and relates to the rapid posting on the website of details of the allocation of registered permits. It also requires that the Minister's decision be published electronically at the same time as the applicants are notified of the decision. While it will require a certain amount of exactness within the Civil Service to update on a regular basis, that is appropriate in an age when more communications are conducted via the web and electronic communications media. We should legislate for that and set high standards as to when notices are posted by electronic means. I hope the Minister will accept the amendment.

**Mr. Kehoe:** Section 4 makes a number of substantive and intricate amendments to section 5 of the principal Act. In addition, there are a number of Government amendments to this section. As a parliamentarian, I have access to the Oireachtas Library and to the Internet but I had difficulty trying to piece the amendments into their proper place. What chance would a member of the public have to understand the effect of section 4?

My amendment is simple. It sets out section 5 of the principal Act as amended by section 4 of the Bill. This is good drafting practice and will

greatly assist the reader, lay person and the politician.

**Mr. Broughan:** I support my colleagues' amendments. I agree that the Minister has been forthcoming, unlike his colleague, the Minister for Transport, at the transport committee last week, who would not accept any reasonable amendments. The Minister of State, Deputy Browne, however, has been forthcoming when dealing with a number of legislative measures.

Full use of the electronic media, particularly the Internet, is critical for interested citizens and people who are concerned about the marine environment. It will enable them to track events as they occur. A number of later amendments are similar to Deputy Ryan's and relate to the time frame within which interested citizens can make submissions. Members of the House have experience of dealing with planning procedures, An Bord Pleanála and so forth and our major concern is that we must work at frantic, breakneck speed when trying to make submissions. I welcome the amendment.

I tried earlier to work out the import of the amendment Bill for the principal Act so I can understand what Deputy Kehoe is trying to achieve. The provision should be as simple as possible so citizens can understand their rights with regard to the critical matter of protecting the environment. I commend Deputy Kehoe and Deputy Ryan on these amendments.

**Mr. Browne:** The amendment is opposed as being unnecessary. A copy of each application for a dumping at sea permit is posted on the Department's website on receipt and may be accessed immediately by any interested person. The Department must also register dumping at sea permits issued, which is the decision on successful applications. Section 5 and amendment No. 22 deal with applications being posted on the Department's website but section 4 refers to permits granted being posted on the website. When we reach section 5, we will have dealt with a number of the issues raised by the Deputies.

**Mr. Eamon Ryan:** While it might be the habit to post notice of applications on the site at present, is there anything to compel the Department to do that? This is, in essence, a voluntary system whereby such notices are posted. Is there not a case for firming that up in legislation?

**Mr. Browne:** Section 5 requires the Department to do it.

**Mr. Eamon Ryan:** Does section 5 require the Department to do it by electronic means within a specific period?

**Mr. Browne:** It requires the Department to do it but not within a specific period.

**Mr. Eamon Ryan:** That is the point. While it requires a certain exactness within the Department or a rigour or discipline which might be difficult to apply, it is appropriate that it be applied. People who might have an interest in a certain application or decision would like that decision to be made available as quickly as possible.

**Mr. Kehoe:** I agree with Deputy Ryan. Deputy Broughan referred to planning applications and the like. People should have a right to see the applications.

**Mr. Browne:** Section 5 states:

The Minister shall cause to be published by electronic means—

(a) all applications received for permits on or after 1 January, 2001, and

(b) all submissions or observations under subsection (3) in relation to such applications.

It would be the Department's intention that they would be posted on the website immediately.

**Mr. Eamon Ryan:** The timing of the posting of such notices has an effect on people's ability to make submissions with regard to decisions or applications. Does the Minister not agree that time is of the essence in some of these cases?

**An Leas-Cheann Comhairle:** Does the Minister have any comment on amendment No. 3 which is also being discussed?

**Mr. Browne:** Amendment No. 3 is opposed as being unnecessary. It was opposed on Committee Stage for the same reason. The drafting by the Parliamentary Counsel of section 4 which makes a number of amendments to section 5 of the Dumping at Sea Act 1996, is in accordance with current best practice and is clear as to its purpose. It is noted that the Deputy has not proposed any change of substance. The restatement of the extensive remainder of section 5 of the Dumping at Sea Act 1996, which is unaffected by the Bill, would be disproportionate in a short and clearly focused Bill.

**Mr. Eamon Ryan:** Given that the Minister opposed the amendment on Committee Stage and continues to do so on this Stage, I will not press it.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

**An Leas-Cheann Comhairle:** Amendments Nos. 5, 6, 12 to 17, inclusive, and 21 are related to amendment No. 4 and amendments Nos. 13 to 17, inclusive, are alternatives to amendment No. 12. Is it agreed that amendments Nos. 4, 5, 6, 12

to 17, inclusive, and 21 be discussed together? Agreed.

**Mr. Eamon Ryan:** I move amendment No. 4:

In page 5, line 17, to delete "21" and substitute "14".

This amendment is a continuation of the same point made in the earlier amendment in terms of the length of time for which the developer or person seeking a licence is required to put a notice of that in a local newspaper. The argument has been made both on Committee Stage and, separately, by the officials that it is necessary to give companies a certain period of time to arrange this. However, the nature of the permits being sought mean they are rarely for small scale emergency operations but require a good deal of forethought and organisation.

In such circumstances it should be possible for someone seeking a permit to advertise in a relevant newspaper within 14 days. Time is sometimes of the essence. It is difficult for the public to be aware of what is threatening or affecting the environment. We should therefore do everything possible to support the public in raising concerns. Swift advertising of the notice in this case would be a step in the right direction.

Amendments Nos. 5 and 6 relate to types of permit. We had some debate on this on Committee Stage. The nature of the permit sought is relevant, particularly in estuary areas where different newspapers are read on either side of the estuary. Typically, on one side of an estuary an advertisement regarding a dredging development might be carried in a local newspaper which appeals to a community which does not have a particular interest in the dredging development, whereas the community on the other side of the estuary which has a keen interest in such a development would not see the advertisement because it has not appeared in their local newspaper.

The intent of amendment No. 6 is to recognise that possibility and ensure that advertisements are placed in a number of different newspapers in an area, or in any local newspaper which is circulated close to the area in respect of which the permit sought. That would not be hugely expensive. It would be a fraction of the cost of the works involved, a minute expenditure. It would not constitute a major administrative burden. Once an advertisement is placed in a newspaper it can quite easily be replicated elsewhere. It would ensure that the public is informed about these often very significant developments which they would not otherwise know about until they saw a dredger in an estuary or bay. These are small but significant amendments aimed at achieving public involvement in the process and which I hope the Minister of State would support.

**Mr. Broughan:** I will speak on amendments Nos. 5, 16 and 17 in my name. I support the comments made by my colleague. The Minister of

State has moved an amendment similar to amendment No. 5 which provides for publication in a newspaper circulating nationally. The point has been very well made by Deputy Eamon Ryan that different sides of a bay or a large coastal area may constitute different regions in terms of newspaper circulation. That is a fundamental reason for ensuring national publication of such matters.

There is increasing interest in the marine environment. A number of specialised groups, such as the UCC group, CoCoNet, and various other groups are interested in monitoring dredging and other issues of dumping at sea around our coastline. It is important that such interested parties should have relevant information which would not otherwise be available to people unless they were residents of or regular visitors to an area. That is what I am seeking in amendment No. 5. I support amendment No. 4 and the principle of amendment No. 6 for the same reason, namely, that people should be given the earliest warning of dredging or discharge into the marine environment.

Like most people, my experience has been in dealing with ordinary planning applications, appeals, oral hearings and so on with An Bord Pleanála. I am therefore conscious of the importance of giving interested parties the maximum amount of time in which to respond to and make submissions. That is why, in amendment No. 16, I sought to extend the time provided for in the new section 5A of the principal Act from 21 days to 30 days. From my experience of ordinary planning, I am conscious of how short a time 35 days is in which to respond. It usually takes a couple of weeks to study the impact a development might have in one's constituency. There is very little time in which to respond. I deplore this in ordinary planning. Similarly, in the context of the marine environment, I wanted to allow more scope for submissions. In amendment No. 17, I seek to increase the time allowed from one month to 42 days to allow the maximum amount of time for interested parties to make submissions.

It is difficult to track developments. The Minister of State has already tabled a number of amendments that relate to the timeframe for making submissions and for the publication of information. However, there is still scope for the greatest possible democratic practice and the greatest possible transparency. I represent a constituency in which a new city is being built and where monumental developments are planned. A public representative has very little time or resources to monitor these and put up the best case on behalf of citizens. Conscious of that, I ask the Minister of State to provide the greatest possible leeway in policing the marine environment. I urge him to accept my amendments and those of Deputy Eamon Ryan.

**Mr. Kehoe:** Amendment No. 12 seeks to delete lines 40 to 52 and substitute the following:

”(3) A person may, in writing, within—

(a) in the case of proposed dredging, over a period of not more than 12 months, for the maintenance of navigable depths, 21 days, or

(b) in any other case, 1 month,

after the date on which a notice under subsection (1) is published, make a submission or observations to the Minister about the proposal.

(4) A person may not make a submission under subsection (3) in a case of dredging which, in the opinion of the Minister, is urgently required for the purposes of navigational safety and is specified in a notice under subsection (1) to be of an urgent nature.”.

Subsection (3) of the new section 5A as inserted by the Bill is unusual in that it sets out the exception first and then the rule. That seems contrary to logic. It would surely make more sense to alert people to the rule before setting out exceptions to it. I hope the Minister of State will accept my amendment. If he examines it carefully, he will see that I have altered the form and not the substance of the subsection. I concur with Deputies Eamon Ryan and Broughan regarding their amendments to which I will return later.

**Mr. Browne:** This amendment is opposed. The period of 21 days specified in the Bill allows applicants sufficient time to arrange to place the required public notice in a local newspaper and to arrange with the Garda Síochána for the deposit of documentation for public viewing in Garda stations. It also allows the Department time to assess whether there are any substantial errors or omissions in the application which should be rectified prior to its being put forward formally for public consultation. Fourteen days would not be sufficient for these purposes. Details of all applications for dumping at sea are posted on the Department of Communications, Marine and Natural Resources website on receipt and are therefore immediately accessible to interested persons.

As on Committee Stage, I am opposing amendment No. 5 as it is not considered necessary for notice of every permit application to be published in a national as well as a local newspaper, which is the primary medium. Moreover, apart from giving rise to unnecessary expense, such a requirement ignores the immediate posting of details of the application on the Department's website, which will ensure that any interested person anywhere can access that information immediately.

Regarding a test case, departmental officials met representatives of the Shannon Foynes Port Company in February 2004 to discuss various technical issues regarding the port company's proposed application to dispose of material from maintenance dredging from 2004 to 2008. At that meeting, it was agreed that the Shannon Foynes Port Company's application should be used as a test case for the new requirements regarding pub-

[Mr. Browne.]

lic notices. The decision to publish a notice in the *Irish Independent* on 15 March 2004, a national rather than a local newspaper, was taken owing to the fact that dredging would take place in both Limerick Port and Foynes.

One of the issues raised on Committee Stage was how the dredging of Foynes might impact on local business and the marine environment in County Clare, as Deputy Broughan has said. It was also to allow for the widest possible notice to access its impact.

It should also be noted that the public notice allows for a period of one calendar month for comments from members of the public, as specified in the Bill. The cost of publishing the notice was approximately €4,800. However, it is likely that other such notices in a local newspaper only will be less expensive. Drogheda Port Company published a similar notice in a local newspaper for a proposed capital dredging project at Tom Roes Point. The national newspaper was used in one area at a cost of €4,800. The local newspaper in Drogheda was also used, since it dealt specifically with that town. I do not have the figure but I know that the cost was substantially less.

**Mr. Eamon Ryan:** I apologise for not realising that amendments Nos. 12 to 17, inclusive, were being taken together. Deputy Kehoe raised the point regarding the new section 5A(3) of the principal Act as inserted by the Bill that we are allowing for the exception and then allowing for the rule. The purpose of my amendment was to standardise the whole process so there would not be such exceptions. I will be interested to hear the Minister's view on why section 5A(3) is set out in the manner described by Deputy Kehoe.

**Mr. Browne:** That section is designed to highlight urgent cases and the need to deal with them in a specific manner.

Amendment, by leave, withdrawn.

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

In page 5, line 19, before "newspaper" to insert "national newspaper and a".

Amendment put and declared lost.

**Mr. Eamon Ryan:** I move amendment No. 6:

In page 5, line 23, to delete "a newspaper" and substitute "the newspapers".

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

Amendment declared lost.

**An Ceann Comhairle:** Amendments Nos. 7 to 11, inclusive, are related and may be taken together. Is that agreed? Agreed.

**Mr. Browne:** I move amendment No. 7:

In page 5, line 32, to delete "brief details of" and substitute "a brief sketch map showing".

I have carefully reviewed section 5 which contains the most important provisions of the Bill, in light of concerns expressed by Deputies on Committee Stage. I subsequently had very useful discussions with officials from my Department. I am glad to be able to respond with the amendments which I have tabled for approval in the spirit of securing improvements in the preparation and consideration of applications for dumping at sea permits.

These amendments are proposed to the new section 5A(2) as inserted by section 5 of the Bill to require public notices of permit applications also to include a brief, user-friendly sketch map of the site concerned and details of the dredging and dumping methods proposed. Those requirements would more transparently and readily help advise interested parties of the locations and nature of proposed dredging and dumping operations, thus focusing attention on the relevant issues and allaying fears generated by a lack of relevant information.

**Mr. Eamon Ryan:** I thank the Minister of State once again. I commend him on his actions in listening to some of the arguments coming from this side of the House on Committee Stage and in meetings with his officials, setting out very sensible amendments, which, though seemingly minor, could make a significant difference to the manner in which we allow for public consultation. In particular, providing for a sketch map of the site will make those advertisements about which we were talking far more effective at making what is being proposed immediately apparent to the average member of the public. The series of amendments supersedes the need for amendment No. 8 in my name and I commend the Minister of State and his officials on their action in that regard.

**Mr. Broughan:** I share Deputy Ryan's sentiments and commend him on bringing forward the thrust of these amendments on Second and Committee Stages. It is very valuable that we are to get a map showing the relationship with positions on land, with the general location very clearly set out for everyone to see, along with the methods of the proposed dredging and dumping. Once again, I commend the Minister of State on being so forthcoming in listening to the Opposition on important amendments.

Amendment agreed to.

Amendment No. 8 not moved.

**Mr. Browne:** I move amendment No. 9:

In page 5, line 33, to delete "or sites," and substitute "or sites and the approximate distance therefrom to a specified place on the mainland and brief details of".

Amendment agreed to.

**Mr. Browne:** I move amendment No. 10:

In page 5, line 34, to delete “and” and substitute “,”.

Amendment agreed to.

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

In page 5, line 36, after “involved” to insert “and the method of the proposed dredging or dumping as the case may be”.

Amendment agreed to.

**Mr. Kehoe:** I move amendment No. 12:

In page 5, to delete lines 40 to 52, and substitute the following:

”(3) A person may, in writing, within——

(a) in the case of proposed dredging, over a period of not more than 12 months, for the maintenance of navigable depths, 21 days, or

(b) in any other case, 1 month,

after the date on which a notice under subsection (1) is published, make a submission or observations to the Minister about the proposal.

(4) A person may not make a submission under subsection (3) in a case of dredging which, in the opinion of the Minister, is urgently required for the purposes of navigational safety and is specified in a notice under subsection (1) to be of an urgent nature.”.

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

Amendment declared lost.

Amendment No. 13 not moved.

**Mr. Browne:** I move amendment No. 14:

In page 5, line 43, after “subsection (1)” to insert “, which is published in a newspaper circulating nationally,”.

Amendment agreed to.

**Mr. Browne:** I move amendment No. 15:

In page 5, line 44, after “nature” to insert “for the reason or reasons stated in the notice”.

Amendment agreed to.

**Mr. Broughan:** I move amendment No. 16:

In page 5, line 48, to delete “21” and substitute “30”.

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

Amendment declared lost.

**Mr. Broughan:** I move amendment No. 17:

In page 5, line 49, to delete “1 month” and substitute “42 days”.

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

Amendment declared lost.

**An Ceann Comhairle:** Amendments Nos. 19 and 20 are alternatives to amendment No. 18 and the three amendments may be taken together by agreement.

**Mr. Kehoe:** I move amendment No. 18:

In page 6, to delete lines 21 to 38, and substitute the following:

”(6) The Minister shall not consider an application referred to in subsection (1) until after——

(a) the period specified in subsection (3) in respect of the proposed dredging, after publication of the notice, and

(b) the period of 21 days after a copy of any submission or observations has been given to the applicant under subsection (5) or, if the applicant responds to the Minister on the submission or observations before the end of that period, the date the Minister receives the response.

(7) The provisions of subsection (6) shall not apply in a case of dredging which, in the opinion of the Minister, is urgently required for the purposes of navigational safety and is specified in a notice under subsection (1) to be of an urgent nature.”.

I am glad the Minister of State has agreed to take amendments Nos. 18 to 20, inclusive, together. I propose this amendment on the same basis as my previous one referring to the new section 5A and, in this instance, to subsection (6) setting out the exception and the rule. I have re-ordered my amendment and fully incorporated the exact text of the Government amendment. Once again I thank the Minister of State for taking these amendments together.

**Mr. Browne:** This amendment is opposed as being unnecessary for the same reason as when Deputy Coveney proposed it on Committee Stage. The drafting by the Parliamentary Counsel of the new section 5A(6) is in accordance with best practice and it is clear as to its purpose. The Deputy has not proposed any change of substance.

Amendments Nos. 14, 15, 19 and 20 are a response to issues raised by Deputies on Commit-

[Mr. Browne.]  
tee Stage. They are proposed to section 5A(3) and 5A(6) to require publication in a national newspaper of notice of urgent dredging required for purposes of navigational safety and to require in that notice to give a reason or reasons for the urgency advanced. This would help port companies, for example, to identify and address quickly, within a day if necessary, and publicise genuinely urgent dredging requirements if they should arise. The amendment would allay suspicion that, for example, port companies would hold off until the last moment to identify a publicised urgent dredging requirement to bypass general public consultation requirements connected with dumping at sea permit applications.

Question, "That the words down to and including 'subsection (1)' in line 24 stand", put and declared carried.

Amendment declared lost.

**Mr. Browne:** I move amendment No. 19:

In page 6, line 24, after "subsection (1)" to insert " , which is published in a newspaper circulating nationally, ".

Amendment agreed to.

**Mr. Browne:** I move amendment No. 20:

In page 6, line 25, after "nature" to insert "for the reason or reasons stated in the notice".

Amendment agreed to.

**Mr. Browne:** I move amendment No. 21:

In page 6, to delete line 42 and substitute the following:

"or after 1 August 2004, together with a copy of the notice published under subsection (1) in relation thereto,".

Amendment agreed to.

**An Ceann Comhairle:** Amendment No. 23 is an alternative to amendment No. 22 and both amendments may be taken together.

**Mr. Browne:** I move amendment No. 22:

In page 6, line 45, to delete "applications." and substitute the following:

"applications, together with any comments of the applicants thereon under subsection (5) on or after 1 August 2004, and

(c) all decisions made on or after 1 January 2004 on applications for permits or to amend or revoke a permit.'".

This amendment and amendment No. 21 are proposed to the new section 5A(7) to ensure that the

Department's website also contains a copy of the required public notice of all permit applications as and from 1 August 2004 and applicants' comments on observations or submissions from the public as and from 1 August 2004 as well as details of decisions on permit applications or to amend or revoke permits as and from 1 January 2004.

This copperfastens transparency arrangements by clearly linking permit applications and decisions, and recording any amendments to revocations of permits so that interested parties are kept *au fait* with these procedures. Details of permits granted are available on the Department website as part of an accessible statutory register. The operative date of 1 August 2004 is necessarily prospective for detailed notice and other requirements which would not have a statutory basis — the Bill as passed by the Seanad in 2000 prospectively legislated for 2001 *et seq.* — until the Bill is enacted. There is no difficulty in website publication of permitting decisions as and from 1 January 2004 as this has already been done.

**Mr. Eamon Ryan:** The Minister of State referred to amendment No. 21 regarding page 6, line 42, which has been agreed. I take it, therefore, that we are dealing only with amendment No. 22 here. In that regard I hoped that my amendment No. 23 would complement rather than contradict the Minister of State's amendment. I commend him on this amendment because it is an improvement and will lead to the greater openness that I mentioned previously, namely, the ability to track the various submissions lodged throughout an application. That is a very important principle.

Does this amendment guarantee that a notice would be posted before a decision is made on the application, which is the intent of my amendment No. 23? If all this information is to be posted on a website it would be better done prior to a decision being made so the public may see the full case made for both sides. That would be more transparent and also provides a good check on the system because it allows developers at all times to see the submissions and who is saying what. It strengthens everyone's position when there is full clarity on the various applications made. Will the Minister of State reassure me that such notices would be posted prior to a final decision? If that is the case I am happy to accept the Minister of State's amendment without a further amendment. Otherwise, I will press my amendment, if I may.

**Mr. Broughan:** I support Deputy Ryan's amendment. Will the Minister of State explain the operation of the new section 5A? I presume some of the submissions, other than urgent dredging matters, will be accompanied by a major environmental impact statement. Are the submissions proposed by the developers similar to those made in the ordinary planning process? Would a situation arise whereby part of the pro-

cess measures the environmental impact fairly precisely? The legislation makes some reference to this. The fundamental impact of whatever is proposed on the local marine environment must be taken into account by the Department.

**Mr. Browne:** With regard to Deputy Eamon Ryan's point, barring problems, applications are placed on the website as they are received. However, this would not in any way affect the decision-making process and a decision would have to be made within the relevant period.

In respect of Deputy Broughan's query, an applicant would have to meet the criteria laid down by the Department. In many instances, particularly if substantial developments are involved, an environmental impact statement would have to be available with the application.

**Mr. Eamon Ryan:** Does the Minister of State agree that account would often be taken of additional comments that might be offered or that the content of other submissions that were made might be noted and that this might affect the decision-making process in terms of what was considered? Would it not be fair and proper that any such comments and submissions would be publicly available in order that applicants or people with an interest in particular cases would have a clear idea of what was proposed prior to a decision being made? These people could then possibly make a further submission on the issue if they did so within the timeframe set out in the legislation.

**Mr. Browne:** Under the legislation, applicants must receive copies of submissions made by third parties or other parties.

**Mr. Eamon Ryan:** I am seeking similar rights for those who might question an application. By posting everything on the web on an immediate basis the Minister of State is, in essence, providing them with the same service as the applicants.

**An Ceann Comhairle:** The Deputy has already made two contributions and must conclude.

**Mr. Browne:** The fact that information will be posted on the website means that it will be available for most people, particularly those with an interest in a particular case. I do not believe that anyone should have two bites at the cherry.

Amendment agreed to.

Amendment No. 23 not moved.

**Mr. Eamon Ryan:** I move amendment No. 24:

In page 7, after line 22, to insert the following:

"12.—Parties who have made an application for a permit or a submission to the Minister with regard to the application shall be able to

appeal the decision of the Minister to An Bord Pleanála in accordance with their appeals procedure set out in the Local Government (Planning and Development) Act 1976."

Regardless of the procedures we put in place and the open way in which we go about our business, there may be certain applications that are approved in respect of which there should be a facility of appeal. Members of the public or others who have a concerned interest in respect of a particular application should have access to some appeals procedure that allows them to have a decision reviewed. Given the lack of any other appeals procedure, I put forward this amendment which suggests that An Bord Pleanála, in accordance with the existing legislation that governs its actions, would be a suitable body to conduct any such appeal.

In debates about An Bord Pleanála, the Taoiseach recently stated that attempts are being made to reduce the length of time appeals take and that massive investment will be made in the planning appeals system so that there will not be delays. In that light, I do not believe that what is suggested in the amendment would cause major delays for those making applications. We are discussing what can sometimes be significant decisions involving millions of tonnes of material which can have a profound effect on the environment and there is a requirement for some appeals procedure regarding the applications that are made.

**Mr. Broughan:** I support the thrust of the amendment. In a procedure under which members of the public have made submissions and decisions have been made, there should be one last opportunity to make appeals. I do not completely share Deputy Eamon Ryan's confidence in An Bord Pleanála and I refer in this regard to a number of decisions that have been made in respect of the northern fringe. As regards the latter, I do not believe that the views of public representatives were taken into account to any great degree. However, I do not know what other route one would take in terms of putting in place an appeals mechanism. What this matter comes down to is ministerial diktat or power and I am glad the Minister for Justice, Equality and Law Reform is present to hear my comments in that regard. Some mechanism should be put in place under which people could make appeals.

**Mr. Kehoe:** I support the amendment and I concur with the comments made by Deputies Eamon Ryan and Broughan. An appeals system should be put in place. Such systems apply in respect of all other applications people are obliged to make and the position should be no different in respect of this area. The Department should explore the possibility of putting in place an appeals mechanism to facilitate those who make applications and are refused.



**Mr. Ferris:** I also support the amendment. In my view, it would strengthen the Bill and I ask the Minister of State to take it on board. The putting in place of an appeals mechanism is to be commended.

**Mr. Browne:** I accept what the Deputies are saying but I do not believe An Bord Pleanála would be an appropriate body to oversee an appeals system in this regard. The remit of An Bord Pleanála is set out in the Planning and Development Act 2000. The question of appeals arrangements in respect of the marine coastal zone will be considered in detail in the context of the new legislation on integrated coastal zone management. Deputy Broughan is forever criticising us for the delays in introducing that legislation. It would be appropriate to consider the introduction of an appeals mechanism in the context of the legislation.

**Mr. Broughan:** We have waited seven painful years for that legislation.

**Mr. Browne:** I would not oppose an appeals mechanism. The Government will decide its priority legislative programme for 2004-05 and our Department will push for the introduction of the integrated coastal zone management legislation.

Any permit granted under the Dumping at Sea Act 1996 is subject to review by the Minister at any time. In instances where problems might arise, I am sure the Minister would not hesitate to amend or revoke a permit if he should have cause to do so. It would seem more appropriate to include an appeals mechanism in the integrated coastal zone management legislation.

**Mr. Broughan:** Is that a promise?

**Mr. Browne:** Yes.

**Mr. Eamon Ryan:** I am glad the Minister of State agrees that we need an appeals mechanism for these procedures. However, having the Minister review his own decisions would not provide the best form of such a mechanism. Deputies Broughan and Sargent have been referring to the integrated coastal zone management legislation for a long period. It is on the verge of gaining mythical status in the near future.

**Mr. Broughan:** Some of the coasts will have disappeared by the time it is introduced.

**Mr. Eamon Ryan:** Would it not be appropriate to use an appeal mechanism that is already in place? In that context, An Bord Pleanála is the best available statutory body to which appeals can be made. On some occasions I disagree with its decisions, while on others I find myself in agreement. That may be a sign that it is truly independent. In light of the Minister of State's agreement that some appeals system is necessary,

would it not be appropriate, on an interim basis, to use the An Bord Pleanála appeals mechanism? We could easily amend matters in the coastal zone management legislation. Would An Bord Pleanála not be able to provide an interim solution while the legislation to which I refer is being drafted?

**Mr. Browne:** Not really. We have given a commitment to consider the possibility of an appeals mechanism in the context of the coastal zone management legislation. That is the instrument we should use to deal with this matter.

Amendment put and declared lost.

**Mr. Eamon Ryan:** I move amendment No. 25:

In page 7, after line 22, to insert the following:

“13.—(a) The Minister shall publish a report setting out the conditions which would require an authority, an individual or a company to apply for a dumping permit. Such conditions may be reviewed by the Minister on a regular basis.

(b) In cases where an appropriate dumping permit has not been applied for the Minister shall have authority to instruct the responsible companies to treat hazardous spoil in a manner which ensures it does not threaten the marine environment within a port, coastal or estuary area.”.

This amendment suggests that the Minister would be obliged to publish a report setting out the conditions which would require an authority or an individual to apply for a dumping permit. The second part of the amendment seeks to ensure that the Minister, where a dumping permit has been applied for, would have real powers in terms of directing companies on how to treat the hazardous spoil that would result from dumping. The Department may well have such conditions. I was looking at it in terms of publishing a report as to when a permit is needed. I was also looking for it to be made on a much more public basis and to ensure the Minister has the power to instruct the companies responsible to treat hazardous spoil in a certain manner.

**Mr. Browne:** The amendment is opposed. There are detailed guidelines on the Department's website for the benefit of applicants for dumping at sea permits and for the public generally. These guidelines reflect best scientific and technical advice available and will be updated in line with scientific and other relevant developments etc. as soon as possible after the Bill is passed.

The Deputy will appreciate that there is a range of statutory provisions to prohibit litter and dispose of unacceptable material in the marine environment. I fully support him in ensuring there is no environmental degradation from

dumping. The Waste Management Acts, administered by the local authorities and the EPA, are also relevant to his concerns.

Amendment put and declared lost.

Bill, as amended, received for final consideration.

Question proposed: "That the Bill do now pass."

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne):** I thank Opposition spokespersons and Deputies from all sides for their contributions and for putting forward amendments, some of which we accepted, that improve the Bill as initiated.

**Mr. Broughan:** I thank the Minister of State for so expeditiously piloting these two Bills through the House. I also thank the staff of the Department who have been very helpful in all of these matters.

**Mr. Kehoe:** I wish to be associated with Deputy Broughan's sentiments. I thank the Minister of State for bringing the two Bills through the House. As Deputy Broughan said, it has taken a long time for the Bill to come through the House. The Minister of State should consult his officials to make sure this does not happen again. This Bill has been waiting to be dealt with for many months.

**Mr. Eamon Ryan:** I also thank the Minister of State and his officials for the manner in which they brought the Bill through the House. While it does not receive a great deal of public attention, the Bill will have a significant material effect on what we do to our environment. The work we have done will be very useful and valid.

**Mr. Ferris:** I thank the Minister of State, his staff and officials. I want to be associated with all the comments of Opposition spokespeople regarding the Bill.

Question put and agreed to.

**Civil Liability and Courts Bill 2004 [Seanad]:  
Order for Report Stage.**

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

Question put and agreed to.

**Civil Liability and Courts Bill 2004 [Seanad]:  
Report Stage.**

**An Ceann Comhairle:** Amendments Nos. 1, 2, 55 and 57 are related and will be discussed together by agreement.

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I move amendment No. 1:

In page 5, line 38, after "Act" to insert " , other than the provisions specified in subsection(3),".

I indicated on Committee Stage that I proposed to amend the commencement section to allow for certain provisions to come into operation immediately. The provisions concerned are sections 2 to 4, sections 31 and 32, Chapter 1 of Part 3 and sections 49 and 56. The other sections will be commenced by a commencement order made in the usual way.

The purpose of two of the later amendments is to subtract special commencement provisions which will be made redundant by earlier amendments.

**Mr. J. O'Keeffe:** I am quite happy with the Minister's proposal. It would appear to be a sensible approach if he could commence some of the provisions straight away. It would be helpful if he could give some indication to the House as to when he would expect the other provisions to become operable. I am sure practitioners would be interested to know when the full thrust of the Bill, as it were, would be in operation.

I recall when I was a student, one provision in the Civil Liability Act 1961 was to be made operable by ministerial order. I think it had to do with the difference between misfeasance and nonfeasance. If the council dug up a hole in the road and somebody fell into it, a claim could be made but if the hole wore away through time or otherwise, one could not claim. I have some vague recollection that the difference was to be abolished by ministerial order but I do not recollect that order ever having been made. Perhaps the Minister would give us some idea as to when he would expect the outstanding provisions to come into operation.

**Mr. McDowell:** I recall the relevant provision in the Civil Liability Act 1961. It was never commenced.

**Mr. J. O'Keeffe:** That is what I thought.

**Mr. McDowell:** Eventually a Roads Act swept it away and got rid of it. The House will be interested to know that various hopeful lawyers who thought it would be a good idea if it were commenced at one stage were so desperate that they resorted to attempting to *mandamus* the Minister to commence it. The courts said that was entirely within the Minister's say so and that he was entitled to refuse to do so.

Some of these provisions will require some time for preparation. Part 2 in regard to civil liability is clearly one area which, in some cases, will require advance notice to litigants and the like because of the use of new summonses, new procedures and so on. I cannot give an exact time as to when they will come into effect but the very

[Mr. McDowell.]

fact that I moved to get this done now rather than later indicates that I very much want to get this new procedure into effect as soon as possible. I will confer with the Courts Service as soon as I can to get the bulk of the provisions of the Bill into operation as soon as possible.

Chapter 1 of Part 3 will come into effect immediately. The amendment of the provisions of the Personal Injuries Assessment Board Act will also come into effect immediately. All I can say is that I will get on with it as soon as I can. It is a matter of urgency for me that it should have full effect. The Deputy will be interested to know that I attend regular meetings of a three Minister sub-group within Government of which the Tánaiste and the Minister for Transport are also members and if I do not keep the pressure up on this I will be sent home with my tail between my legs.

**Mr. J. O’Keeffe:** That would never do.

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 2:

In page 5, after line 41, to insert the following:

“(3) Sections 2 to 4, 31 and 32, Chapter 1 of Part 3 and sections 49 and 56 shall come into operation upon the passing of this Act.”.

Amendment agreed to.

**An Ceann Comhairle:** Amendments Nos. 3 and 4 are related and will be discussed together by agreement.

**Aengus Ó Snodaigh:** I move amendment No. 3:

In page 8, to delete lines 13 to 18 and substitute the following:

“(a) the addition, at the end of subsection (1) of section 3 of ‘, where the cause of action is one arising out of the provision of any health service to a person, the carrying out of a medical or surgical procedure in relation to a person or the provision of any medical advice or treatment to a person, and after the expiration of two years from the date on which the cause of action accrued or the date of knowledge (if later) of the person injured in all other actions claiming damages in respect of personal injuries’,

(b) the addition, after ‘three years’ in subsection (1) of section 4 of ‘, where the cause of action is one arising out of the provision of any health service to a person, the carrying out of a medical or surgical procedure in relation to a person or the provision of any medical advice or treatment to a person, and after the expiration of two years from the date on which the cause of action accrued or

the date of knowledge (if later) of the person injured in all other actions claiming damages in respect of personal injuries’,

(c) the addition, after ‘whichever event first occurred’ in subsection (1) of section 5 of ‘, where the cause of action is one arising out of the provision of any health service to a person, the carrying out of a medical or surgical procedure in relation to a person or the provision of any medical advice or treatment to a person, and before the expiration of two years from the date when he or she ceased to be under a disability or died, whichever event first occurred, in all other actions claiming damages in respect of personal injuries’,”.

It is a pity we are rushing this legislation. I have not had time to collect my thoughts or properly study the amendments since Committee Stage was only taken yesterday. During Committee Stage the Bills office rang me looking for Report Stage amendments even though Committee Stage had not been completed.

I wish to press this amendment and argue strongly that medical cases should be treated differently to other cases. The Minister has suggested a two-year limitation. I suggest it should either be left as it is or we should consider a system similar to the British one. When I raised this matter on Committee Stage, I did not hear what the Minister had to say on the different British system for medical negligence cases, which is basically the subject of this amendment.

Anybody who has been through medical negligence cases will attest that delays occur. Reports are often not forthcoming for various reasons, sometimes due to misguided loyalty between doctors or because they have not had time to prepare the reports. People may seek medical reports even when not intending to take legal action or seek compensation. They do so to find out what went wrong, or what is wrong with them or their relatives. They basically seek total disclosure, which can take a long time, after which medical experts must look at the reports to determine whether there is a possible case of negligence. It is then necessary to find a solicitor to determine what charge can be brought against the hospital, doctor or even dentist. That all takes time and two years is a limited time in medical terms.

We have received submissions from various groups and individuals, including one today from a woman in Cork who highlighted the length of time taken in the case of her son. If a two-year deadline had existed, she would not have been ready within that time. Patient Focus made a submission. Some individuals and solicitors raised specific questions on this aspect. The Law Society made a substantial submission on the Bill pointing out that in complex cases it may not be feasible to obtain expert reports within 24 months, as provided for in the Bill, and that this could place a solicitor in an invidious position of “having to

issue proceedings in order to protect the client's interest, but potentially in a manner contrary to the judicial pronouncements as to best practice". Basically a solicitor might have to opt for a half-baked case rather than waiting until the details, reports and expert opinion have been gleaned. In those circumstances the extra 12 months should be allowed, but only in this specific instance.

On Committee Stage, I gave the example of a rape victim deciding to initiate civil proceedings. It can take a victim months or years to come to terms with such a traumatic event and some might never do so. In those cases time would be running out under the Statute of Limitations. In such cases, waiting for the Director of Public Prosecutions to take criminal proceedings impacts on the Statute of Limitations. At the very least the time taken by the DPP to consider taking a criminal case should not be taken out of the two years within which a person can take a civil case. Otherwise as the Minister said, everybody who has been wronged will both expect the State to take a criminal prosecution in cases of rape or serious assault and, at the same time, their solicitors will recommend initiating civil proceedings, which would result in the court system getting clogged up and could mean two cases running concurrently.

The Minister should accept the amendment. At the very least the Statute of Limitations in medical cases should be three years. Especially in the case of those who have lost loved ones, this would allow time to get over their grief, get their heads in order, get the medical reports and study them before having to be rushed into taking a case which they might not want to do. The extra year will allow them to take a decision in an informed manner and allow the solicitors put the case properly. While some cases will go outside that deadline, most cases will be able to be progressed properly within those three years by solicitors and the individuals who have been wronged.

**Mr. J. O'Keefe:** We are discussing one of the remaining controversial points left in the Bill. Most would agree that the proposal to reduce the three-year limitation period for personal injury claims in general was sensible. The Minister's initial proposal was to reduce it to one year. While groups such as the Alliance for Insurance Reform would have been very happy with one year, I felt that was too tight. Two years is a reasonable compromise and I am glad the Minister was prepared to accept our compromise proposal in the Seanad, which is where the Bill now stands.

One issue remains outstanding, which is the claims for medical negligence. While I have no desire to focus particularly on doctors, medical negligence claims are peculiar in nature. A strong case can be made for treating medical negligence claims in a different category to ordinary claims for personal injury. Even the Alliance for Insurance Reform has accepted the distinction between medical negligence actions and other

actions for personal injury. Having agreed on two years as the normal limitation period beyond which personal injury actions should not be brought, should we make special provision for medical negligence claims? I believe there is a strong case for doing so, which is why I tabled the amendment to allow three years for such claims and the amendments in the names of my colleagues in the House are along the same lines.

A precedent exists in the Personal Injury Assessment Board Bill, where it is accepted that medical negligence claims cannot go before the

PIAB because medical cases are in a separate category. It is clear and common case that such claims are far more complex and difficult. They are difficult from the point of view of the patient who becomes the claimant, the date of knowledge, but the Minister could make a counter argument that it would provide extra time, but that is a grey area sometimes. The main difficulty in regard to such claims — I say this as somebody who practised law for many years — is the reluctance of other doctors to provide evidence against colleagues, which is understandable. There is a difficulty in obtaining hospital records — in some instances it could involve a number of hospitals and there is a difficulty in ascertaining what doctor may have been involved in the negligence. There could be a series of doctors involved in treating a particular medical or surgical condition. There are significant difficulties in compiling the evidence, in getting the records, and that can cause all sorts of delays.

There are cases before the court which the Supreme Court judges have decided that it was an abuse of the process of the courts to issue proceedings in a situation where the lawyers have not assembled the evidence so that they are satisfied with the grounds for making allegations of negligence. There are a number of cases where that has been so found.

Lawyers may be placed in a very difficult situation where there is inadequate time, where on the one hand, in spite of their best efforts, there are difficulties in gathering and collating the records, information and evidence and, on the other hand, they are bound by judicial stricture not to issue proceeds in a situation until all that work has been completed.

The Minister has been resisting the suggestion to date that there should be a special limitation period for medical negligence. I am not sure that position is sustainable because I think the Minister accepts that such claims fall into a separate category. He merely accepts what everybody else accepts. If they fall into a separate category, should there not be a separate period of time for dealing with them? That is the net issue. The basis for tabling the amendment is to allow the existing time limit to continue to apply to cases in that special category, while at the same time reducing the time limit for all other cases. That is the net point.

[Mr. J. O’Keeffe.]

The Law Society has taken a constructive approach to the Bill. Many of the proposals in the Bill emanate from the Law Society, but it has indicated considerable concerns on this score. These concerns have been articulated and enunciated by bodies such as Patient Focus. This is the last opportunity for debating and arguing the point. I think the case for a special period of limitations for medical negligence claims is well made and I urge the Minister to accept the amendment.

**Mr. Costello:** I support the amendment tabled by Deputies Ó Snodaigh and Jim O’Keeffe. My amendment is on the same lines. The first amendment is very similar to a suggested wording from the Law Society.

Concerns on the shortage of time to deal with cases of medical negligence have been expressed by Patient Focus and individuals, who have contacted us, as well as the legal profession. It is particularly convincing when an individual goes through the detail of the difficulties encountered in dealing with a case of medical negligence. Something that I had not considered before is the tremendous reluctance to breach the patient-doctor relationship and the trust that has been built up. The general practitioner is generally the family doctor and nobody expects the family doctor to be negligent. Nobody expects when he or she goes to hospital that the consultant, the surgeon or aspects of the nursing care might be negligent.

We hear stories of people lying on trolleys, which is an aspect of our hospital and medical system at present. Nobody expects medical negligence in his or her case. It is with great reluctance that patients come to the conclusion that they suffered from medical negligence and they will delay the evil day of dealing with the matter. We are talking about vulnerable ill people who expect nothing but the very best from the medical services. This is different from an accident in the workplace or on the street, where there is an immediate crisis. The cause of the accident is known immediately as well as the person who is culpable. That can be dealt with straight away. It is clear and simple.

However, medical negligence, can cover individual practitioners, general practitioners, a number of hospitals and a number of consultants. It could be a combined case against a general practitioner, a consultant and so on, yet we are expected to accept that in all cases a two-year limit would apply. The more I see it, the more I am convinced that this is a different category and different considerations are being brought to bear in terms of knowledge, when people came to know about the matter and how he or she will deal with it. It is more desirable to provide for an extra year to ensure that one does not end up down the road with further litigation as to whether the statute of limitations was breached. That is what will happen. A number of cases may not be dealt with in the timeframe and the

insurance industry will argue that the statute of limitations has been breached. The defendant in the case will argue the point and in the circumstance may have a deep pocket and will argue the case in so far as he or she can.

I do not think it desirable to put into legislation the conflict that will inevitable come about between the plaintiff and the defendant because of the shortage of time. A claim is regarded as invalid unless there are apparent bone fide valid grounds for proceeding with it and there is existing case law. The legal team must have all the arguments together before beginning the case. Because of the streamlining of the legislation and the procedures, the new personal injuries summons that is being put in place in lieu of a normal claim, there should be specific and detailed information to speed up the process.

That will make it even more difficult in the case of medical negligence where there are complex and technical issues and a number of individuals involved all of whom may well deny any negligence at all. The letter from the lady in Cork says that “eventually, as time went by the outcome of the case was that two general practitioners, one private consultant, one hospital consultant and a hospital all admitted liability”. This resulted in a settlement and so on. It was resisted right up to the end.

It is difficult for a patient who certainly did not expect to take a course of action that would lead to the courts, to put such a case together within a two-year period. To expect that, and for any lawyer to be able to deal with the different agencies and persons within the time frame, is to expect too much. It is to expect too much of particularly vulnerable people such as patients, in those circumstances.

This section stacks the cards unnecessarily against the plaintiff and will lead to expensive litigation that will not be in his or her interests. It will do nothing to improve the personal injuries compensation structure. I had accepted initially that the Minister had come up with a compromise of two years instead of either one or three and that this would be a type of umbrella period to cover all instances and would, perhaps, be the best way to go. I am not so sure now that this is the case. Within this section is a presumption that the real problem is the plaintiff. It is assumed that a bona fide plaintiff can get his or her act together within a certain time frame and that a compensation culture exists which requires a particularly streamlined procedure. It is presumed therefore that the procedure will weed out all of the cases which are not bona fide. That is not the case and the presumption is wrong. As a result it will lead to much suffering, litigation and costs.

It is desirable that the Minister would have a rethink of this, even at this late stage. We are only talking about medical negligence, an area which has been left outside the PIAB, as has already been recognised in the distinction between medical and clinical negligence cases and other per-

sonal injuries. I do not see why it could not be reflected in this legislation as well because of the complexity, the potential abuse of the process and the difficulty of putting cases together, whether it is the general practitioner's records or hospital files, and the totality of people to be dealt with. The Minister should acknowledge that when legislation is passed in this House it is enacted in the interests of the ordinary citizen in the street. I do not believe this legislation will be other than to the detriment of the ordinary citizen, who falls on hard ways and has to take legal action to redress an injustice that was done, in the area of personal injury in medical negligence.

**Mr. McDowell:** This issue has been thoroughly canvassed in both Houses of this Parliament and has been dealt with exhaustively. I set out at considerable length on Committee Stage yesterday the reasons these amendments are mistaken. Perhaps now I can encapsulate them because it should be done on the floor of this House.

First, it should be remembered that the law of civil liability here is not the same as it was when the three-year limit was restated for personal injuries actions in 1961. At that time the rule of discoverability was different, as a matter of law, from the present situation. In the interim the law has been amended as regards limitation on liability by reference to time to provide that the accrual of a cause of action for the purposes of the three-year, or any other, limit, runs from the date of discoverability. That is the later of two dates, either the date on which the wrongful act occurred or alternatively, the date on which the injured party had actual knowledge of the injury done to him or her.

It must be emphasised that as regards medical negligence cases, that radically changed the law in a way which was pro-plaintiff. It meant that if a botched operation was done on a person, the clock was not ticking away at a time when the person had no knowledge of the negligence which led to the operation going wrong. The law was changed to say that the plaintiff had to have actual knowledge of the injury done. That is an objective test, and not entirely subjective, because it is fixed at the point at which a reasonable person would become aware of the negligence affecting him or her. That does not mean that if someone comes out of hospital feeling ill as a result of an illness, an operation or whatever, a treatment or non-treatment, as the case may be, that the clock is ticking away for two years or for three. It is necessary for the plaintiff to be fixed with a type of knowledge that effectively meant there was a basis for making a claim. We have had a number of cases here. However, in the case of someone who comes out of hospital ill, after an operation, and does not realise that a swab or instrument was left inside or that his or her bowel was sutured in a way that involved other organs, it does not mean that the clock is ticking from that day. It is when the plaintiff discovers that is the case, or ought to have discovered it to be the

case, with reasonable care, that the clock starts ticking against him or her.

Let us remember that from 1961 to 2004, a 43-year period, for the great majority of that time the law held that the clock could start ticking against a plaintiff at a time when he or she was unaware that there was a cause of action. Now there is a different situation. The limitation period runs from a different date — a date of discoverability, which is later. That is an important point to take into account.

The second point I made yesterday on Committee Stage, before the Select Committee of Dáil Éireann and I will reiterate it now. As regards actions of this kind there is a deadline of some kind. It is of the nature of a limitation statute that it must be fixed and definite. I could well imagine if it was three years that people would argue it should be five years and there were difficulties which could emerge in the second and third years which would warrant such an extension. It may be argued that any limitation period is, in one sense, arbitrary, but it must be definite.

The third point I made yesterday, which I reiterate today, is that many actions are a combination of medical negligence and personal injuries. I refer, for example, to a person who is run over by a bus and then sues not only the bus company but also the doctor who treated him or her. Such people claim that they have a shortened leg, or whatever, as a result of a combination of both events.

**Mr. Costello:** That is definitely my amendment then.

**Mr. McDowell:** They argue that the doctor treated the case in a negligent manner. It would be wrong if a simple car crash which does not lead to a medical negligence case had a different period of limitation to a car crash which is complicated by the additional question of whether medical negligence was involved. In such circumstances, I do not see how it would be correct to have a different period of limitation.

What limitation period should apply in the case of a person who makes a joint claim against a motorist and a doctor, arising from the manner in which a set of injuries was inflicted and treated? Should one be able to make a claim against the motorist outside the two-year period because one has also made a claim for medical negligence against the doctor for the manner in which one's injury was treated in hospital?

Should the period in which the motorist is open to a claim be extended from two to three years because the doctor ill-treated the victim of the motorist's negligence? Is that a sensible way in which to proceed? I do not think it is. I do not think it is a good idea to have such a twilight zone whereby one has an additional year in which to make a personal injuries claim if one includes medical negligence in the claim.

An alternative view of the law is that one should commence two separate sets of pro-

[Mr. McDowell.]  
 ceedings arising from the same injury — against the motorist within two years and against the doctor within three years. I do not think that is a good way to construct our law. There should be a common period. The only issue should be whether we should provide for two or three years in which claims can be made. I accepted amendments in the Seanad based on the submissions that were made by Senators on the propriety of a two-year or three-year period. I believe that two years is the apt period for this purpose.

I wish to discuss the propositions which will involve a fundamental change in the civil liability law when we introduce the discoverability test. The test applies particularly to medical negligence claims. One knows when one has been run down, but one may not know that one has been badly or negligently treated until somebody tells one how the way in which one was treated departs from ordinary standards of care.

Quite apart from such considerations, one also has to bear in mind another aspect of civil liability law. Subject to the ordinary law of delay, a person who is acting under a disability, particularly a person aged 18 or less, has far greater latitude in when he or she can bring a claim. Similarly, victims of sexual violence and abuse are entitled to an extension of the limitation period, by reference to an inability to commence proceedings due to psychological or emotional trauma resulting from the injury itself. Such people are given additional time.

A great deal of statutory changes have been made to our law, many of which are pro-plaintiff. In this context, the balance has been struck rightly. As a matter of principle, it is generally right to keep the same period for medical negligence cases and personal injuries cases. We should retain a single period for both types of personal injury. It is true that medical negligence is more difficult to tee up and that it is frequently discovered later than industrial accidents, car crashes or cases of a person falling down the stairs. It is blindingly obvious to the plaintiff in most such cases that he or she has suffered injuries and that liability may lie with somebody else who acted negligently. As the discoverability issue looms large in all of this, it is appropriate to have one statutory period for both types of action.

Although medical negligence cases are serious, they cut both ways. Defensive medicine, which is practised because of people's increasing propensity to make claims of negligence against doctors, is not an unalloyed positive feature in the practice of medicine. Doctors should be careful and should comply with proper medical standards. Practitioners of defensive medicine refuse to do the common sense thing because they feel there is a risk that they may be sued afterwards. It is a serious enough matter. During the debate on the Bill in the Seanad, Senator Henry agreed with me that it is by no means pleasant for doctors to have

a long period of limitation hanging over them after initial letters are sent.

It has been correctly suggested in this House that it is sometimes difficult to identify precisely a doctor who was involved in a complex series of medical steps and who may or may not have been guilty of negligence. The emergence of enterprise liability as it is now being operated means, in effect, that hospitals are taking responsibility for all the treatment afforded to those receiving care from them. The difficulty mentioned by Deputies — ascertaining precisely which intern performed a medical function and whether he or she has emigrated since then — is receding as a result. It is not as significant as it used to be because an enterprise liability approach is being taken to defending such claims.

Although I have considered the arguments made in the Seanad, the Dáil and the committee, I have not changed my opinion. As a matter of principle, the same period should be provided for all personal injuries actions, regardless of whether they are medical negligence cases. If that were not the case, the amendments that have been tabled today would need to be radically altered to provide for the limitation period that would apply to mixed claims. That would create serious anomalies in itself. The balance that was struck when I accepted Senator Terry's amendment, which took medical negligence cases into account and was based on the argument I have made, is the correct balance. If I may say so, the approach taken in the Seanad was correct. This House should abide by the wisdom of the reflective Senators who wisely chose to table the amendment in question.

**Aengus Ó Snodaigh:** It is not long since the Minister believed that one year would be the proper period for making claims. Such a period was originally provided for in the legislation. Perhaps we are not as reflective as the Senators mentioned by the Minister and cannot, therefore, persuade him to accept that a period of three years should be provided for.

**Mr. McDowell:** If we keep going, we will get to five years.

**Aengus Ó Snodaigh:** I have not heard anyone on this side of the House making the case for a period of five years. Three years would be reasonable. If a solicitor is unable to put together a case within three years, he or she must be trying to argue a complex and substantial case. One need only examine the Neary and Army deafness cases to appreciate that it takes many years to put cases together, especially if a number of hospitals and doctors are involved. People do not set out to seek compensation. They try to find out what went wrong. It is often only when they come up against an obstacle or hospitals which delay the release of reports that they get frustrated, decide not to accept that and take a case against the hospital or doctor involved. Now that hospitals

are covered by enterprise liability, doctors should not practise defensive medicine because the hospital is giving them full cover to practice medicine properly. Doctors who avoid taking proper decisions leave hospitals open to medical negligence claims because they did not take the correct procedure at the time.

The aspect I raised concerned the Lord Woolf reforms in the United Kingdom which provide specific rules for courts to deal with medical negligence cases. It is a module of civil procedure rules designed to deal specifically with medical negligence claims. Given the similarities between our two judicial codes, why can we not introduce a similar module in the Irish context? The Minister cited the cases involving car accidents and so on, but in the majority of cases medical negligence claims can be set to one side and dealt with separately.

**Mr. J. O’Keeffe:** The Minister admits that medical negligence claims are more difficult to tee up, to use his own expression. The onus is on him to justify reducing the time limit for medical negligence claims from its current limit of three years. The Minister has made a case for a reduction by one year in respect of general personal injuries claims. I felt, having discussed it with my colleague, Senator Terry, when she tabled amendment in the Seanad, that two years was a reasonable compromise and that a case had been made to reduce it to what I thought was a fair time limit of two years. The Minister has not justified reducing the time limit for medical negligence claims and the onus is on him in that regard.

The date of knowledge provision will not add any significant time to the limitation period as far as such claims are concerned. In general, the complexities do not arise from the date of knowledge. That can be the case on occasions but they arise from the situation I outlined earlier on obtaining the data, reports and so on. I accept there must be a time limit on medical negligence claims but if the onus has not been discharged for reducing it, we should leave it as it is.

The Minister made a point about mixed claims, and he is well able to argue a point. The same issue arises in respect of the Personal Injuries Assessment Board. The distinction was drawn between the bus company and the doctor. The two year limit applies to the bus company and the three years applies to the doctor. I do not see that as a problem.

The Minister said it is not pleasant for doctors to have such claims hanging over them. I accept that. It is not pleasant for anybody, particularly someone in a professional position who is rendering services, to have such claims hanging over them. As to whether that will lead to defensive medicine or that the reduction in the time limit will make any difference, I do not believe so because that case has not been proved.

The core point is that these claims fall into a separate category. The case for a reduction in

respect of personal injury claims generally has been well made and we have accepted that. The case for a reduction in the time limit for medical negligence claims has not been made. On that basis, the current three-year time limit should stand and the amendment should be accepted by the Minister.

**Mr. Costello:** I wonder if we are approaching some of these issues in the right way. I recently came across a newspaper report on a “Prime Time” programme broadcast by RTE in February entitled *Bad Medicine* in which it was suggested that 14,000 people were injured or killed in Irish hospitals by medical error but that only about 4% of these incidences resulted in claims. The programme’s conclusion was that, with less time, there would be even fewer claims. That is an incredible statistic highlighted by the RTE “Prime Time” programme. Obviously a huge number of medical negligence issues never reach the courts and are not resolved one way or another, as well as the other personal injuries issues that are not resolved. We are probably only seeing the tip of the iceberg in many cases because it is a difficult matter to gather evidence, get proof and argue the case.

It should be remembered that one must be specific in a personal injuries summons. One has to give full particulars of all items of special damage, the wrongful acts of the defendant, the circumstances of the wrong and each incidence of negligence. All of those must be included in the particulars and one must be quite sharp and conclusive with the information one has and have the case substantially put together, if not comprehensively, by the time the personal injuries summons is issued.

I wish to quote from the Law Society of Ireland’s summing up of its argument. It states: “A reduction in the limitation period to two years, as proposed by the Minister, will result in defendants arguing that cases are statute-barred in most, if not all, medical negligence cases.” That is an extraordinary conclusion. It further states:

As a consequence, the litigation will be considerably prolonged and legal costs will be greatly increased. There will be trials within a trial involving exceptionally complex legal arguments under section 3 of 1991 Act centering around the concept of “date of knowledge” i.e. when did the patient know or ought to have known or had a real suspicion that he/she was injured as a result of the negligence of his/her doctor? This question will necessarily involve enquiries into what the patient could have learned had he/she had the benefit of expert legal and medical advice. Precisely when was it reasonable for the patient to seek such advice? When ought the patient have realised that his/her illness/injuries were not the result of natural illness that brought him/her to the doctor in the first place but rather were the result of improper treatment etc?



[Mr. Costello.]

This is a very complex area which is obviously catastrophic for the patient. If we leave the time limit as tight as the Minister proposes, the legal arguments between the defendants, that is, the insurance companies, and the citizen who is complaining and looking for relief will probably be the end result.

**Mr. McDowell:** I have said everything I have to say.

**Mr. J. O’Keeffe:** A net point is being made here.

**Aengus Ó Snodaigh:** If we proceed with a two-year time limit as opposed to the existing three-year limit, there will be many more precautionary claims from solicitors who have been contacted by individuals who believe they have been wronged. To ensure they remain within the Statute of Limitations while they do their research, access doctors’ reports and so on, they should encourage their clients to proceed with claims.

An increase in claims will lead to an increase in hospital costs because hospitals will have to defend themselves. I agree that many claims will fall and be withdrawn. However, many will be initiated with the available material the solicitor has rather than waiting the extra time to come up with the full facts and medical reports. The proposed timeframe is reasonable considering medical claims are highly complex and detailed and dependent on doctors’ opinions and reports.

Another factor depends on the patient’s recovery. Some illnesses may fade with time, making a claimant more willing to withdraw a claim. As the saying goes, time is a great healer. In this instance, a solicitor on meeting a client will immediately initiate a precautionary claim. The judgment in the High Court case of *Reidy v. National Maternity Hospital* stated: “It is irresponsible and an abuse of the process of the court to launch a professional negligence action against institutions such as hospitals and professional personnel without first ascertaining that there are reasonable grounds for so doing.”

That judgment and the subsequent Supreme Court judgment in the *Cooke v. Cronin* and *Neary* case would prevent a solicitor from protecting his or her client’s interests, even if the full documentation was not available. Three years is a reasonable time in which to expect a solicitor to receive all papers from doctors and hospitals, who sometimes can purposefully delay their release. The three year period would also allow for proper contemplation of the case. By abandoning the three year proposal, the court system will be overloaded and it will cost hospitals and medical practitioners more money in the long run.

**Mr. J. O’Keeffe:** The case seems unacceptable to the Minister but as he has the vote——

**An Leas-Cheann Comhairle:** The Deputy has already used up his entitlement to speak.

**Mr. J. O’Keeffe:** I was suggesting that we move on.

**An Leas-Cheann Comhairle:** I understand that Deputy Ó Snodaigh proposed the amendment.

**Mr. J. O’Keeffe:** It is also my amendment. We should move on.

**An Leas-Cheann Comhairle:** We have no option but to move on.

**Mr. J. O’Keeffe:** The Minister has the vote to defeat the amendment. If he does not have the wit to accept our logic, a voice vote will be appropriate and we can move on to the other amendments.

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

Amendment declared lost.

**Mr. Costello:** I move amendment No. 4:

In page 8, between lines 35 and 36, to insert the following:

“(2) The amendment effected by this section shall not apply to actions for personal injuries arising from medical negligence or other actions falling outside the jurisdiction of the Personal Injuries Assessment Board, or to actions for personal injuries which are so serious as significantly to impair the plaintiff’s capacity to institute proceedings within 2 years from the date of the incident concerned.”.

Amendment put and declared lost.

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

In page 8, line 38, to delete “2” and substitute “3”.

As the process will be streamlined, this amendment is an extension of the last one. I propose that to get the process up and running, the period for an initial letter of claim should be raised from two months to three months. The claimant is expected not to make an invalid or non-bona fide claim but a substantial one. Two months is extremely short and can be unrealistic in the majority of cases, considering the complexity of certain personal injury claims, the difficulty in getting files and knowing for sure that a personal injury can be acted on. While an initial letter of claim is not the same as a personal injury summons, a three-month period would seem to be realistic.

One danger of the two-month timeframe is that when a plaintiff is recovering from his or her injuries, he or she might not be in a position to lodge a statement of claim. It seems reasonable

to give a more realistic period for this process. Another danger is of a plaintiff simply panicking and heading straight to a lawyer to get a statement of claim in anyway. Whereas it cannot be done properly in a two-month period, a three-month period would give a more reasoned time for issuing an initial letter of claim in a significant and measured fashion. As the rest of the procedures are to be speeded up and the personal injury summons will contain all the details, the initial claim period should be reasonable so a claimant can properly and realistically initiate a claim.

**Mr. McDowell:** On a point of order, the text I am using omits an amendment to the Bill made on Committee Stage yesterday. The phrase “as soon as practical thereafter” seems to have fallen through the floorboards.

**Mr. J. O’Keeffe:** It is in the updated version of the Bill.

**Mr. McDowell:** The explanation lies in the proof version I am using.

**Mr. J. O’Keeffe:** On Committee Stage yesterday, an amendment was tabled to provide for two months, or as soon as practicable thereafter, which improved the Bill and I was glad it was acceptable. The two basic principles to this amendment are whether there should be a requirement for a letter of claim and the period in which it should be served. A letter of claim is a good idea as inferences could be drawn if one is not issued. One complaint I often receive from employers and the insurance industry is that as they are often hit by an out-of-the-blue claim ages after the incident, they have no opportunity of properly investigating the claim.

What period should be prescribed for such letters of claim? Two months is rather tight. The Bill is improved by the amendment where the court will be allowed to say that two months was not practicable in cases where the claimant, not realising the seriousness of the injury, had not seen any great urgency in going to a solicitor. That improves the situation but it could be further improved by the three month period. It is not a do or die situation but the two month period is a little tight. Accordingly I support the amendment.

**Aengus Ó Snodaigh:** I support my two colleagues on this matter. The situation can be further improved by means of the three month period. The fact that the Minister had the wrong copy of the Bill shows the rushed nature of this debate. It is a pity it has been rushed and that nearly half the amendments on Report Stage come from the Minister. That indicates haste, and such situations will continue if the Minister continues to redraft Bills on Committee Stage and redraft them again on Report Stage. Of the 55 or 56 amendments we have today, 26 are tabled by

the Minister. That indicates he is trying to correct mistakes. They may be technical but they should have been spotted before the Bill was presented on Committee Stage.

**Mr. McDowell:** I disagree with that proposition. The fact that I have tabled amendments shows that I am listening to what is going on and taking on board the points made. If I suggested no changes, I could imagine an equally strong speech being made to suggest that while we go through days of debate, the Minister never tables any amendments. Regarding the wrong Bill, I was holding a proof in my hand rather than the finished item.

The amendment I accepted yesterday and which we drew up on Committee Stage changes the tone of this section. It suggests that if someone goes to a solicitor outside the period in question, the duty on the solicitor to ensure that the plaintiff complies with the requirement to give early notice to the defendant of the likelihood of a claim is extended to whatever time is practicable. That is a reasonable amendment and in those circumstances it would not send the right signal to extend it from two months to three months.

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

Amendment declared lost.

*Notice taken that 20 Members were not present; House counted and 20 Members being present,*

**Mr. Costello:** I move amendment No. 6:

In page 9, lines 1 to 6, to delete all words from and including “require—” in line 1 down to and including “appropriate” in line 6 and substitute the following:

“deduct from any costs payable to the plaintiff such amount, if any, of additional costs as in the opinion of the court has been incurred by the late service or non-service of a letter of claim”.

This amendment is tabled to make the deterrent penalty more realistic in terms of cost. It is quite unrealistic to suggest that a plaintiff should not be entitled to any costs simply because he or she failed to issue a letter of claim on time or at all. It would be a much more realistic provision that the person should be at risk of losing any additional amounts of costs that were incurred because of the late service of the letter of claim.

The Minister is presenting it as a black or white matter but it would be better if there were an assessment of the amount that the plaintiff would be entitled to and that this assessment would not be the entire cost or would not be inferred as such in all cases, but that it would be assessed with regard to what the additional costs or losses might be. That would be more realistic.

**Mr. McDowell:** Let us be clear about what is required here. If somebody without reasonable cause fails to deliver this letter within two months, or as soon as reasonably practicable thereafter, the court can, where the interests of justice so require — a high hurdle — either make no order as to costs for the plaintiff or deduct some amount from the plaintiff's costs. I do not see how this is a black and white situation. It means that there would have to be an unreasonable failure to carry it out not merely within the two month period but within such a longer period as is reasonably practicable. The court would then have to conclude that the interests of justice required it to penalise the plaintiff in costs, after which the court would be in a position to choose either to make no order as to costs in favour of the plaintiff or, alternatively, to take away some amount of the plaintiff's costs.

I do not see how this is black or white, or draconian. First, the court has to be compelled to the view that the interests of justice require it to make deduction of costs. If it is not so convinced, the measure does not come into effect. Second, the court can do anything it considers appropriate, from taking 1 cent off the plaintiff's costs to disallowing the whole of the plaintiff's cost.

This is not a black or white arrangement. It gives the court wide latitude. I find it difficult to imagine circumstances where the interests of justice would require the total disallowance of the plaintiff's costs. However, there could be a case where a plaintiff's solicitor wilfully decided to inconvenience the defendant or allow the defendant, for example, to destroy or make unavailable evidence, or circumstances where there was sheer badmindedness and a lack of professionalism. In such circumstances, the Bill states that the court could disallow all of the plaintiff's costs.

However, the plaintiff's decree for damages would be unaffected by this. It would apply only where the interests of justice required that the plaintiff's costs be reduced or disallowed. It is not a black or white situation and I am not arguing for such. I am saying a full spectrum is available, from doing nothing to disallowing costs in their entirety. However, this spectrum is only available to a court which decides that the interests of justice require some action of that kind to be taken and then only in certain circumstances where there was a departure from a fairly liberally phrased duty without reasonable cause. If I water this down any further, it will cease to mean anything.

**Mr. Costello:** I do not understand the Minister's logic. My amendment suggests that the court would "deduct from any costs payable to the plaintiff such amount, if any, of additional costs as in the opinion of the court has been incurred by the late service or non-service of a letter of claim". People have a period of two months in which to lodge a claim. It is only when

that period has been exceeded and the claim has not arrived that the meter should begin to run.

**Mr. McDowell:** That is not the real issue. To take an example, a solicitor may be acting for a plaintiff in a case and may allow one year and 11 months before notifying the defendant of a pending claim, without any reasonable cause. If, during that period, the defendant does not, for example, get an engineer's report or changes a factory machine or the layout of a premises or otherwise, and the solicitor for the plaintiff allows all this to happen, the court can award the defendant damages. This is because, while the court agrees the defendant was injured as claimed, it was the solicitor, through his or her misbehaviour, who put the defendant at a total disadvantage in fighting the claim. By failing to give the defendant any notice in time, the solicitor allowed the defendant effectively to alter the premises, discard evidence or prejudice himself or herself in a number of ways.

This is not just a matter of what extra cost the defendant was put to but that the plaintiff should be punished for acting in a way that puts the defendant at an unfair disadvantage by reason of the plaintiff's failure to give adequate notice in advance. The amendment is predicated on the notion that extra costs are being disallowed by reason of delay, which is not the case. It is that the defendant's capacity to fight the case fairly could be prejudiced by the plaintiff simply giving no notice until a considerable time had elapsed.

**Mr. J. O'Keeffe:** The present formulation of the Bill is preferable. If we are talking about the interests of justice and trying to weigh the balance between claimants and defendants, in this case the interests of justice require some form of penalty for plaintiffs who unreasonably do not carry out their legal requirements. The Bill is better phrased as it is.

**Mr. Costello:** The previous amendment I put forward proposed to extend the period from two to three months, which would be a reasonable period. The Minister now comes the heavy on somebody who does not serve notice within that period and says that the court may decide to give that person nothing in regard to costs. I believe this should be proportionate to the degree a plaintiff could argue a case. Arguments could be put forward in regard to a case and, if the meter does start running when the two months have elapsed, this would be the appropriate time because the deterrent is very much a sledgehammer in this instance. However, I will not press the amendment.

Amendment, by leave, withdrawn.

**Mr. Costello:** I move amendment No. 7:

In page 9, between lines 12 and 13, to insert the following:

“(3) Where a plaintiff or proposed plaintiff serves a letter of claim on a defendant or proposed defendant, the defendant or proposed defendant shall, not later than two months after service of the letter of claim, serve a letter of response setting out whether the defendant or proposed defendant accepts that a wrong has been committed by him or her.”.

We debated this amendment at some length on Committee Stage. As I pointed out, the thrust of the amendment is to some extent to redress the imbalance in the Bill against the plaintiff. The presumption in the Bill is that the plaintiff is at fault in not following procedures and may well be questionable in regard to his or her bona fides in the context of the compensation culture. If we are to impose strictures on the plaintiff to produce documentation and a letter of claim within two months, we should have some imposition on the defendant to respond.

The Minister responds to this by saying we cannot do this to the defendant because the defendant cannot know how he or she will react to the case and may need more time to assess it. However, are we really streamlining the process if the letter of claim has set out the content of the claim, yet no response is required from the defendant and there is no time limit for the defendant to produce his or her response? Will the defendant accept that there is a case to answer or will he or she not have to respond at any stage until the case comes to court? If we want to streamline the procedure, we should impose some parameters on both sides — plaintiff and defendant — regarding each other, and, within two months, require some response from the defendant as to whether he or she will contest the case. Balance requires this approach.

**Mr. McDowell:** This is false symmetry. A defendant is not in a position to make such decisions. The purpose of the Bill is not to further disadvantage defendants in proceedings but to make the conduct of personal injuries actions fairer and more reasonable and to exclude the compensation culture. This would simply foot trip defendants in an unreasonable way.

**Mr. J. O’Keeffe:** The case was well made by Deputy Costello on Committee Stage yesterday and I listened carefully to his argument. On balance, however, it probably would not be fair to require defendants to admit within two months that they accept liability. The case could be complex and the defendants might have to get engineers’ and other reports before they could come to a conclusion.

On balance, it probably would not lead to a more expeditious delivery of justice and it could conceivably lead to injustice to the defendants. Even though insurance companies can be seen as easy targets, they have a job to do in running a business. It should also be borne in mind that some of these claims can be against people who

have no insurance. We must be careful to get the balance right between both sides. In this case, the amendment would tip the balance unfairly against the defendants.

**Mr. Costello:** The length of time would not concern me unduly but it is unfair to impose an onerous requirement on the plaintiff and have no corresponding requirement, good, bad or indifferent, on the defendant. That tilts the balance in favour of the defendant or, effectively, the insurance industry. The defendant is not required to respond in a meaningful fashion within any time limit whereas the plaintiff is required to have his or her act together in a specific form very quickly.

Amendment put and declared lost.

**Acting Chairman (Mr. Carey):** Amendments Nos. 8 and 9 are related and may be discussed together.

**Mr. McDowell:** I move amendment No. 8:

In page 9, to delete lines 35 to 39 and substitute the following:

“(4) Nothing in this Act shall be construed as limiting or reducing the power of an authority, having (for the time being) power to make rules regulating the practice and procedure of a court, to—

(a) make such rules in relation to personal injuries actions provided such rules do not derogate from, and are not inconsistent with, any provision of this Act, or

(b) make such rules in relation to proceedings or actions other than personal injuries actions.

(5) In *subsections (1) and (2)* a reference to the courts or the court includes a reference to the Master of the High Court and a county registrar.”.

As we are making specific provision for personal injuries actions, this amendment makes it clear that nothing in the Bill should be interpreted as limiting or reducing the power of rule making authorities to make rules relating to, first, personal injuries actions which are not inconsistent with the provisions of the legislation or, second, proceedings other than personal injuries actions. The proposed subsection (5) makes it clear that the function of the courts referred to in subsections (1) and (2) also applies to the Master of the High Court and a county registrar in the Circuit Court.

**Mr. Costello:** Under the new provision in this Bill a personal injuries summons will contain all the information that is currently contained in the statement of claim. The Bill, therefore, should make it clear that a statement of claim is unnecessary. A statement of claim is necessary at

[Mr. Costello.] present in the High Court but since the personal injuries statement will contain all the specifics, there is no need to provide the statement of claim that would normally be prescribed. We are introducing new procedures.

**Mr. J. O’Keeffe:** The Minister’s amendment appears to be technical and, presumably, the result of advice from officials. I see no grounds for opposing it. Deputy Costello’s proposal provides for the delivery of a defence within 21 days. That is the normal procedure, as I understand it, and if they do not comply, there is usually an extension of time given by the court or a motion for judgment against them. It is a procedural issue.

**Mr. McDowell:** I oppose Deputy Costello’s amendment. My amendment is a technical amendment.

Amendment agreed to.

**Mr. Costello:** I move amendment No. 9:

In page 10, between lines 17 and 18, to insert the following:

“(3) Rules of court regarding proceedings in the High Court shall provide that a Statement of Claim shall not be required in a personal injuries action and that a defendant shall join issue on a personal injuries summons by delivering a defence thereto within twenty one days from the service of the personal injuries summons.”.

Amendment put and declared lost.

**Mr. Costello:** I move amendment No. 10:

In page 10, line 34, after “with” to insert “the following information so far as it is reasonably available to him or her”.

This relates to the statement of information that would be provided to the defendant in a personal injuries action. I am introducing the phrase: “the following information so far as it is reasonably available to him or her”. It would be useful to include that in the preamble to the list of specifics mentioned in the section.

**Mr. McDowell:** I do not accept the amendment.

**Mr. J. O’Keeffe:** Will the Minister elaborate?

**Mr. McDowell:** I will elaborate, although I did so on Committee Stage yesterday. It is not necessary to have this section. There is power to make rules of court, as we have just confirmed, and these things are already dealt with in Rules of Court. There is no need to have a statutory provision to the same effect. No purpose is served by making this a statutory matter.

**Mr. Costello:** We are discussing amendment No. 10.

**Mr. McDowell:** I am sorry. I responded to that already, too. I do not believe one can be obliged to give information one does not have.

**Mr. J. O’Keeffe:** Deputy Costello’s amendment is reasonable. It specifically provides that the plaintiff should provide information but only in so far as it is reasonably available to him whereas the present formulation imposes a requirement on the plaintiff to provide information without any such qualification. The Minister could consider the amendment reasonable, at least. It is not hugely important but it is reasonable.

**Mr. Costello:** The amendment relates to seeking the information that is specified in so far as it is reasonably available to the plaintiff. When one considers the amount of information that is required, one can see how difficult it is to have that information in its entirety. Section 11 provides that:

...the plaintiff shall provide the defendant with—

(a) particulars of any personal injuries action brought by the plaintiff in which a court made an award of damages,

(b) particulars of any personal injuries action brought by the plaintiff which was withdrawn or settled,

(c) particulars of any injuries sustained or treatment administered to the plaintiff that would have a bearing on the personal injuries to which the personal injuries action relates, and

(d) the name of any persons from whom the plaintiff received such medical treatment.

What is the situation if some information from the prescribed list is omitted? How is it dealt with? It is not just a request for further information but a demand for it. If there is not some degree of qualification, such as, that it be reasonably available or reasonable for the person to have and supply it, an injustice could be done in the case.

**Mr. McDowell:** I draw the Deputy’s attention to the sanctions available under subsection (3). Where a plaintiff fails to comply with a request under subsection (1), the court can direct that the personal injuries action can be effectively stayed until the plaintiff complies or, where it considers that the interests of justice so require, dismiss the plaintiff’s action. In addition, the court shall take into account such failure when making an order as to the payment of the costs of the action. No negative consequences would apply to somebody who could argue that the information sought was not reasonably available to them. I do not believe

a court could penalise somebody in those circumstances.

**Mr. Costello:** Should the legislation not reflect that? The end result is that it would be a legal argument and the law would be quoted but there is no qualification within the law. Such qualifications are normally included as far as is practicable and reasonable. Where there is compulsion to produce information, some of which might not be reasonably available to the person, there should be a qualification in the law which would give direction to the court.

**Mr. McDowell:** That would water down the effect of the legislation. Clear obligations are being imposed on the plaintiff. However, they are subject to the implication that nobody can be asked to do what would be impossible. The purpose of this is to make it clear to plaintiffs that they are expected as a matter of course to give particulars of previous actions for personal injuries which were withdrawn or settled, particulars of injuries which might have a bearing on the personal injuries to which the case relates, and the names of people from whom they received treatment. If I were to say this would not apply if the information were not reasonably available, people would argue about what the term "reasonably available" means. I would much prefer to leave this in its present form.

Amendment put and declared lost.

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

In page 11, between lines 1 and 2, to insert the following:

"(2) Upon the request of a plaintiff in a personal injuries action, the defendant shall provide the plaintiff with full particulars of any matter alleged in the defence of the defendant and such other information as may reasonably be requested by the plaintiff within the knowledge of the defendant including full particulars of the plaintiff's earnings where such earnings were paid by the defendant, during such period as may be specified by the plaintiff."

We debated this previously. Its thrust is the same as that of my previous amendments which is that there is an imbalance between what is required of the plaintiff and what is required of the defendant. We discussed the particulars a plaintiff must deliver in a personal injuries action upon request by a defendant. It appears that one party to an action is entitled to everything, all the information, the timescale and the procedures, but there is no corresponding onus on the defendant to provide the plaintiff with anything. The defendant is often an employer against whom an employee has taken an action for negligence, and there might well be information which would be of value to the plaintiff if it could be obtained from the defendant. Such information might

relate to the defendant's behaviour, earnings, payments and so on. There is no onus on the defendant to produce such information. This amendment seeks to provide that upon the request of a plaintiff in a personal injuries action the defendant shall provide the plaintiff with full particulars.

It seems the framers of the legislation did not envisage imposing responsibilities on defendants but sought to deal with the problem of fraud. The assumption is that the plaintiff is always a fraudster and the defendant, generally the insurance company, is the good agent. That features very strongly in this legislation and permeates it through to the end. The industry is very well served by this legislation. However, I am not so sure that the ordinary individual who has a case, whether for medical negligence or some other type of negligence, is getting a fair crack of the whip.

**Mr. J. O'Keeffe:** My approach to this Bill has been to support any reasonable case for change but to ensure at all times that we keep a fair balance between plaintiffs and defendants. In opposing the "compo" culture it is possible to allow the pendulum to swing too far. It might be unfair to plaintiffs to have provisions in legislation which presuppose they are guilty of fraud before they even make a claim. In my experience most claimants are fair and reasonable and seek only their legal entitlement.

This section introduces a new provision whereby the defendant can go on a trawling expedition and seek further information about other claims to effectively isolate somebody who is a professional claimant. That is not a bad idea and I support it. We do not want people making fraudulent claims in our courts.

On the other hand, however, the defendant might be a rogue builder who has had many claims against him because he puts up crippled scaffolding and does not comply with procedures and regulations. A person who may have been badly injured in the course of his employment may be at a disadvantage in proving his case. The record of that employer in terms of breaches of health and safety regulations, breaches of statute in other respects, or regarding previous claims might be relevant in trying to secure a fair and just outcome. An action might involve a labourer with no great resources or education against a fairly substantial builder or employer.

The kind of information to which Deputy Costello referred could be relevant to the claim. The proposed amendment refers to "such other information as may be reasonably requested by the plaintiff". If it is reasonable that the defendant should seek the claims record of a plaintiff with a view to proving that this is a professional claimant who must be dealt with with great circumspection, there is a case for providing that a defendant should provide information to a plaintiff where there is a reasonable suspicion that the defendant has a history of non-compliance with

[Mr. J. O’Keeffe.]  
health and safety standards and has had claims brought against him for good reason.

**Mr. McDowell:** I understand such questions are frequently put and are dealt with under the existing rules of court. I do not, therefore, believe the amendment is necessary. I am trying to deal with areas where there is controversy regarding what information should or should not be made available. Frequently plaintiffs bridle at being asked to give their previous claims record, details of their previous medical condition, or of the people who previously treated them, and the defendant is left wondering whether this is the first time they sought medical attention for their condition, whether this is the first instance of back pain, whether they were treated for back pain 20 or 30 years previously and whether they suffer from chronic back pain. There is no need to provide in this Bill for procedures which are currently dealt with under the rules of court. I am trying to introduce only new material that I believe necessary to redress the current imbalance between parties’ rights. If a solicitor for the plaintiff wrote to the defendant asking for details of earnings for the past six months and the defendant refused, that person would be very seriously penalised regarding costs.

**Mr. Costello:** If the Minister is saying that the effects of my amendment are already included in the rules of court, why is he so specific with the plaintiff’s duties? The plaintiff has very specific duties regarding the defendant that are laid out in the legislation. Surely under the rules of court one can similarly ask questions of the plaintiff without that being inserted in the legislation. It has been inserted in the legislation for a specific purpose. That the responsibilities of the defendant are left out of the legislation must equally be for a specific purpose. I have no problem with any of the obligations.

The provision states that on the request of a defendant, the plaintiff shall provide the defendant with documents. That is not a request but an obligation. It would cover any past records or history of claims. There might very well be documents regarding the Revenue or the Minister for Social and Family Affairs which are very relevant to what the plaintiff might want to know about the defendant and his or her activities. No matter what way we look at it, it seems that very little attempt has been made to hold the defendant accountable under the law in any similar or corresponding way and that is a pity. It could easily be incorporated in the Bill.

**Mr. McDowell:** I am trying to amplify the rights of parties who already largely have the rights to which Deputy Costello refers. However, I have seen people sending out letters to the plaintiff asking whether he or she has been involved in previous road traffic accidents or has any cognate injuries, and receiving replies telling them that it

is none of their business. That is not the right way to deal with claims. It is arguable——

**Mr. Costello:** I agree with the Minister.

**Mr. McDowell:** All one is currently entitled to is particulars regarding the proceedings before one. The plaintiff can say that someone ran him or her down leading to injury. If one asks whether he or she has ever been run down before on that road or fallen over the pothole in question, perhaps for the tenth time, the reply from the defendant is that it is not relevant to the claim and that the issue is whether he or she did or did not trip over the pothole. One is not entitled to particulars about other cases or events. The purpose of this section is that defendants are entitled to inquire into related events. At the moment, many plaintiffs simply refuse to answer such questions, saying that it is not relevant to their claim whether they made a similar one three years before. One can wonder about it and hire a detective if one believes that, but the plaintiffs refuse to answer the letter. That is the situation in which we find ourselves.

**Mr. J. O’Keeffe:** I am very happy that the plaintiff should provide that information, but will the Minister give us an absolute assurance that, without any change in the legislation, a defendant would have to answer reasonable questions regarding the bad safety record that could be relevant to a plaintiff or other employees?

**Mr. McDowell:** If, for instance, the allegation is that there is an unsafe system of work, I believe that one would be able to seek particulars and discovery of instances where it had existed before the incident in which one was involved.

**Mr. J. O’Keeffe:** Would it have to be the same? What about a generally bad safety record?

**Mr. McDowell:** A generally bad safety record would not become relevant. For instance, if a CIE bus driver claims that he tripped on the stairs in the bus, it is not relevant to his claim that there are 3,000 or 8,000 claims outstanding against CIE. If we go down that road, we will be opening every case up into a general inquiry into the defendant’s character. Bearing in mind the realities of our system of litigation, we must keep a narrow focus. However, it is directly relevant to many cases whether a plaintiff has tripped over potholes before. It is not really relevant for the plaintiff to ask Dublin Corporation how many potholes there are in the city.

A false symmetry is being argued for here. As a plaintiff’s solicitor, one can say that the streets of Dublin are in a disgraceful state and write letters to the city council asking it to disclose all the claims made against it right across Dublin in the previous three years by people who fell into potholes. One could say that it looks symmetrical to the right of the defendant to ask how many pot-

holes he or she has fallen into. However, they are not the same issue, and it is a false symmetry to say that the defendant may ask roughly the same kinds of questions of the plaintiff as the plaintiff of the defendant.

**Mr. Costello:** The Minister may well have opened a Pandora's box. It might be very relevant to ask how many potholes in the local authority's jurisdiction citizens have fallen into. As the Chair and those of us who have recently been members of such authorities will know, the maintenance of pavements, closing potholes and so on, sometimes leaves much to be desired. If there is a track record in the local authority of very poor maintenance, it could be very relevant to the plaintiff, being contributory negligence. The Minister has imposed no corresponding onus of care on the part of the defendant to justify himself or herself or provide documentation that might well be relevant to the plaintiff. However, the poor plaintiff must disclose all particulars of any past or anything that might be relevant, and that leads to a degree of imbalance in the case. I entirely agree with requesting and demanding those particulars from the plaintiff, but there should also be a corresponding demand elsewhere.

**Mr. J. O'Keeffe:** May I make a point?

**Acting Chairman:** Very briefly, as every Member has had the required number of interventions.

**Mr. J. O'Keeffe:** Perhaps the Minister will clarify what, under the existing rules of court, a plaintiff may require from the defendant by way of information. I accept the point regarding CIE or Bus Éireann that one cannot seek details of 8,000 claims being made against them for the past eight years. However, if someone is injured while working for a builder, the number of other employees who have been injured in similar circumstances over the past five years, perhaps by machinery operated by the builder or because of the type of scaffolding used, particularly if the builder denies liability, could be relevant. If that information is considered relevant, is it currently obtainable by the plaintiff under the existing rules of court? If so, that is a complete answer to this case since there would be no need for the amendment.

**Mr. McDowell:** This is what goes on every day where people make application for discovery, and the courts are always trying to focus on the issue, saying that one cannot simply ask for everything.

Let us focus on the issue in this case. How is it reasonable to ask CIE to trawl through its claims files to help one's claim? That is decided mainly on applications for particulars or on applications for discovery by the Judiciary. My section covers a slightly different type of question, namely, "has this ever happened to you before?" to which the "get lost" answer is not acceptable.

Amendment put and declared lost.

**Mr. Costello:** I move amendment No. 12:

In page 11, line 42, after "alleges" to insert "and full particulars of the acts of the plaintiff constituting any alleged negligence or contributory negligence".

This is an extension of the principle that underpins all these amendments, namely, a reference to section 12(1)(d) which states: "where the defendant alleges that some or all of the personal injuries suffered by the plaintiff were occasioned in whole or in part by the plaintiff's own acts, the grounds upon which he or she so alleges". I wish to add "and full particulars of the acts of the plaintiff constituting any alleged negligence or contributory negligence". It is reasonable that the defendant should give particulars too. The requirements of a defence are considerably more limited in this Bill than the requirements of the personal injuries summons. The least one might expect is that the defence would give the particulars of contributory negligence.

I refer the Minister to page 12, subsection (2)(e) where the reference to a counter-claim calls for "full particulars of each instance of negligence by the plaintiff". Why can there not be full particulars "where the defendant alleges that some or all of the personal injuries" were caused by the contributory negligence of the plaintiff? All that is required is "the grounds upon which he or she so alleges". Let us have the full particulars. What is sauce for the goose is sauce for the gander. If the plaintiff must furnish full particulars of any claim he or she makes, why should the defendant not supply full particulars of his or her allegation that the "personal injuries suffered by the plaintiff were occasioned in whole or in part by the plaintiff's own acts"?

**Mr. McDowell:** This is the celebrated case of *Goose v. Gander*. It does not deal with people in like circumstances. In every court case the onus of proof is on the plaintiff. The defendant is entitled to win every case, unless the plaintiff proves as a matter of probability the correctness of the plaintiff's propositions. The defendant is not obliged to prove anything in general terms in any proceeding. That is the first point of difference.

The second is that if, for instance, one owns a pub with a set of stairs leading to basement toilets and a customer falls on these breaking his or her arm, one can legitimately say in defence that as the stairs are safe the customer's fall was due to his or her negligence. If the stairs were wet the customer should have noticed that, or whatever. In most proceedings, however, the defendant is not in a position to give particulars of how the plaintiff fell down the stairs, or landed on the ground, and cannot be asked to do so. The defendant was probably not there and can only surmise how the plaintiff was injured. If a defendant says that the accident took place as a result of the plaintiff's negligence it is often impractical



[Mr. McDowell.]

to ask for all the particulars of the negligence alleged against the plaintiff.

The section revolutionises proceedings from the defendant's point of view because hitherto a defendant had only to deny everything, say there was no accident, no stairs, no injury, no negligence, and that was the defence. The new section 12 provides that defendants must differentiate between the things of which he or she does or does not require proof, instead of saying "I deny everything". That was the old approach to pleadings, as I learned when I entered the Law Library, and it was carried even to the ridiculous extreme of virtually denying that the defendant was a limited liability company. Instead, this new type of pleading requires the defendant to ask what parts in the plaintiff's claim must be proved, for example, that the plaintiff fell down the stairs. If one requires proof that there are stairs in the premises the court may take a strong view of such a pleading.

Section 12(1)(b) states: "the allegations specified, or matters pleaded in the personal injuries summons of which he or she requires proof" and paragraph (c) states: "the grounds upon which the defendant claims that he or she is not liable for any injuries suffered by the plaintiff". Instead of denying everything the plaintiff says the defendant must deny that he or she was negligent. The defendant may accept the plaintiff fell down the stairs but may deny he or she was negligent in the matter, saying the stairs were perfectly safe, there was nothing inherently wrong with them, or if they were defective, the defect was not the cause of the fall.

Section 12(1)(d) states: "where the defendant alleges that some or all of the personal injuries suffered by the plaintiff were occasioned in whole or in part by the plaintiff's own acts, the grounds upon which he or she so alleges". This requires the defendant to explain his or her perception of the plaintiff's negligence so that eventually he or she will say that the stairs were perfectly safe or the plaintiff was drunk when going down the stairs to the toilet, or whatever. The defendant must set out his or her defence fairly and squarely. This is a major advance. If we go too far and insist that the defendant give particulars of matters about which he or she could have no knowledge we create difficulties because it asks the defendant to do the impossible. The plaintiff should be in a position to provide particulars of the defendant's negligence, but the defendant is frequently absent from the scene and does not know how the accident happened and cannot give particulars.

The same applies to counter-claims where the obligations are stringent. Subsection (3) obliges the defendant to comply, and the same sanctions for non-compliance with the previous section, to which Deputy Costello referred, apply. Failure to provide information, answer questions or set out a proper case in one's claim or counter-claim can

give rise to inferences being drawn against the defendant. This significantly balances the issue. I do not want arguments about how drunk the plaintiff was when he or she fell down the stairs etc., which the defendant cannot answer. He or she does not know whether the plaintiff was mildly drunk or heavily drunk, where the plaintiff got the drink or whether the defendant or some other publican made him or her drunk. This is the type of question which a defendant cannot answer.

Amendment, by leave, withdrawn.

**Acting Chairman:** Amendments Nos. 13 and 14 are related and may be taken together.

**Mr. J. O'Keeffe:** I move amendment No. 13:

In page 12, to delete lines 36 to 44.

We discussed this issue at some length on Committee Stage. It arises in the context of pleadings and the requirement in the Bill to lodge the pleadings in the relevant court offices after they have been served. This will lead to unjustifiable expense for both parties, plaintiff and defendant. The system in the High Court requires lodgement of proceedings after they are set down for trial, which works perfectly well. There could also be significant administrative difficulties for the court officers in resuming an old procedure whereby pleadings were filed at the same time as they were served on the other side. For that reason, I suggest that we could do without subsections (3), (4) and (5).

Amendment No. 14 relates to section 14, which provides that a verifying affidavit must be lodged in court not later than 21 days after the service of the pleading by the other party. The amendment suggests that the provision be changed to ensure that the affidavit would not have to be filed in the court office within that time. Part of the thinking in this regard is that many of these claims may not necessarily go to trial in the first instance. The requirements in these sections could give rise to a danger that the system will become clogged up with paper. From a purely practical point of view, is it a wise approach and will it cause unnecessary trouble and expense? Given that we are trying to encourage people to use less paper, would it be possible to dispense with the requirements to which I refer? I accept, however, that there may be a need to return to the old system. The Minister indicated on Committee Stage that he would consider this issue overnight.

**Mr. McDowell:** I indicated that I would consider it overnight. The Deputy is correct in one respect, namely, this is a regression to a filed pleading system. The exchange of pleading system has been the norm. This system is administratively far more convenient from the point of view of the Courts Service and reduces costs to some extent. The other side of the coin, however, is that I do not want a situation to arise where

people will exchange false pleadings or make false claims and then depart the stage, abandoning a case or not proceeding with it at a late stage either out of fright or because they might be detected. I also do not want it to be the case that records of such proceedings would disappear into shredders in various solicitors' offices and would no longer be available for later investigation.

I am especially anxious to stop people "trying it on" or "having a go" on the assumption that they can tell a lie and then walk away from it by simply never exchanging pleadings and setting the case down for trial. I want plaintiffs who are fraudulent to know that a precondition to making a claim and proceeding with it to any extent will be that there will be a permanent record of what they said and did. These people should not be in a position to contact their solicitors and merely state, at a late stage, that they have reconsidered the case and that it should be dropped because they believe they may or may not be the subject of investigation by a private detective. I do not want it to be the case that they can get cold feet and walk away and that there would be no permanent trace of what they have done.

A second point of relevance in respect of serial claimants using different solicitors on different occasions against different defendants is that it would be desirable, particularly in view of the register that is provided for later in the Bill, that there would be a permanent record of the proceedings relating to a case. If insurance company A is to be given the right to consult, through its lawyers, a register which indicates whether plaintiff B has claimed against companies C, D or E in the past, it would be useful if the nature of any previous claims would be somewhere preserved on a permanent basis. The insurance company would not, therefore, be obliged to consult various solicitors in an attempt to reconstitute a claim to discover what was involved.

I reflected on this matter overnight and am attracted, from the point of view of administrative convenience, to the arguments Deputy Jim O'Keeffe made. Nonetheless, I am of the opinion that there are two dangers involved. First, the concept of the register of personal injuries would be undermined if one could not at some stage discover the nature of a claim, even if one was not involved in the proceedings. Second, "have a go" type claimants would largely be able to avoid leaving a permanent trace of what they did — which would be available for third parties or the Garda at a later stage, with a view to proving fraudulent behaviour — if documents relating to proceedings could be shredded by the parties after a case was abandoned.

For those reasons, on balance and with some degree of reluctance because I do not like to impose additional responsibilities on the Courts Service, I must adhere to the original plan of campaign. To go a different route would require mak-

ing a good deal of alternative provision which I do not at this stage have the time to do.

**Mr. Costello:** It would be cheaper.

**Mr. McDowell:** Expense is not everything.

**Mr. J. O'Keeffe:** The Minister summed up the position with his final point. This is legislation is non-political in nature and we are all trying to obtain the best outcome possible while trying to preserve fair balance between the different parties. In normal circumstances, we would probably come up with a better system than that which is proposed here. I accept that the Minister has given thought to my proposal and that he cannot immediately accept it. However, there is no time to seek an alternative approach. The situation with which we will be presented will be black and white. We are going to lumber the Courts Service with mountains of paper for the sake of achieving what, I accept, is a reasonable objective. One approach would be not to lumber the Courts Service with these files, but then we might not be able to achieve the stated objective. However, there are other ways of proceeding.

Would it not make sense, for example, to deal with verifying affidavits in a different way. The Minister referred to documents in solicitors' offices being shredded when proceedings are finished. The latter is not done immediately and takes a considerable amount of time. I do not believe that defendants would be rushing to shred documents, particularly if they were representing an insurance company which would be seeking a full report.

What the Minister is doing is, in procedural terms, very cumbersome and, as he stated, it is a regression. I do not honestly believe it is proper to lumber the Courts Service with responsibility for filing and storing all the pleadings that will be made from the time the legislation comes into operation. The latter will be difficult, troublesome, cumbersome and expensive. Perhaps this highlights the difference between barristers and solicitors but when I was in practice in a legal office, I witnessed the cost and expense involved in employing staff and the importance of filing and storing documents. However, there are major costs involved in such filing and storing and we are now going to lumber a State service — which we are asking to become more efficient and cost-effective — with a system that dates from the last century.

I do not intend to press the amendments. However, I am of the opinion that the Minister is taking the wrong course of action. There are better ways of achieving his objective without imposing this burden on the Courts Service or imposing unnecessary costs on the different parties involved in proceedings. At this stage, however, there is no time to devise a better system.

7 o'clock

**Mr. Costello:** Is there any good reason for not adhering to the current procedure, particularly if there is a real danger of having major——

**Acting Chairman:** As it is now 7 p.m., we must proceed to Private Members' business.

Debate adjourned.

#### Message from Seanad.

**Acting Chairman:** Seanad Éireann has passed the Commissions of Investigation Bill 2003 and the National Monuments (Amendment) Bill 2004, without amendment.

#### Private Members' Business.

##### Sustainable Communities Bill 2004: Second Stage (Resumed).

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

**Mr. Crawford:** I wish to share time with my colleague, Deputy Hayes.

**Acting Chairman:** Is that agreed? Agreed.

**Mr. Crawford:** I welcome the opportunity to speak on the Bill introduced by my Green Party colleague, Deputy Sargent. From my early days in Macra na Feirme and farming organisations I have been involved in community activities. In the early 1960s, I was involved as secretary of the Aghabog pilot area development committee at a time when our parish had been devastated by the demise of the flax and linen industry which meant people had to go elsewhere for jobs. With a little financial help and, above all, good leadership from the late Mr. Hugh McKearney as our parish agent or agricultural adviser, the parish recovered and has prospered ever since. Many who had emigrated have since returned with their families.

Sustainable development means people have the right to build their own homes and are encouraged to work in their own areas rather than being forced to migrate to the nearest big town or, as more often happens, to Dublin and other cities causing congestion among other problems.

The Minister of State, Deputy Gallagher, stated he was glad to have the opportunity to respond to the Bill and then he went on to rubbish it. I would not mind if he had made a genuine effort. The Green Party introduced the Bill to generate some realistic discussion. It is evident the Government has learnt nothing from last month's European and local elections when people made clear their feeling that in spite of all the strategies made and promises given, things have not been delivered.

All parties in the House supported better local government and structures were put in place with some community involvement. Benchmarking

was agreed yet the Government failed to provide the funding for this which resulted in local councils having to use stealth taxes instead of increasing services.

I agree with Deputy Sargent that there is a need to involve local government in sustainable development. However, as one who served in local government for 30 years, unless proper funding and structures are provided as well as means of raising funds, it will not be possible to achieve this.

The Government has done everything to remove power from local government and done nothing to provide the funding it requires. At present, many local authorities do not even have sufficient funding for disabled person's grants, let alone funding for development.

The Minister of State, Deputy Gallagher, listed the various strategies, guidelines, tax reliefs and plans put in place by the Government in recent years. The initial urban renewal scheme was beneficial. My county town of Monaghan, among others, benefited from that. However, the more recent tax relief schemes have not worked because of the amount of red tape and the problems associated with that.

Many development groups, especially in rural Ireland, have done great work in conjunction with FÁS, yet the Government has cut back on the availability of personnel for community employment schemes. Such groups did much good work and they enjoyed working and helping their communities. Government cutbacks have resulted in some of these groups ceasing to operate while others operate in a reduced capacity. Much cross-Border funding was invested in the Patrick Kavanagh visitor centre which depends on community work schemes to maintain it. There are many people aged 55 and over who could work in such schemes if the rules were changed. People with disabilities could also work on these schemes.

Recently, somebody came to my office who was forced into employment with an advice group. It was clear that while he is capable of working in a community group, he is not capable of holding down a full-time job but, under the new rules, he is obliged to do so. A major improvement could be brought about if changes were made.

The national spatial strategy was announced with great fanfare. Certain towns were awarded gateway and hub status. An integrated structure was promised to ensure roads and other forms of infrastructure would be put in place. However, when the budget was announced, the national spatial strategy was simply forgotten about. Towns were selected for decentralisation with no reference to the spatial strategy that had been announced only a short time previously. It is difficult to understand how the Government can work in that manner. It is no wonder the public was disenchanted, to put it mildly. The Minister of State, Deputy Parlon, claimed to be delivering for

his own area and signs were evident with directions to "Parlon country".

**Mr. Hayes:** I sorted that out last week.

**Mr. Crawford:** If the people who received those promises were excited by them, why did they not deliver in votes in the local elections? We must put in place a long-term strategy if we are to have a proper spatial strategy and sustainable development as is sought in the Bill. It should not be a case of, as the Minister of State, Deputy Parlon, made clear, it being his decision to decide the night before the budget what each town should get.

I am delighted my home town of Monaghan is classified as a hub and that there is some progress on the M2 roadway going through the area. Although little progress has been made in regard to broadband, I hope that will come in time. Other towns that did not have hub status were chosen for significant decentralisation. I am not complaining that my area has not benefited from decentralisation, rather I am complaining from the point of view of planning about the decentralisation decisions taken. How can they be justified?

The Minister of State, Deputy Gallagher, referred to the importance of tidy town and tidy village groups. They have been brilliant, have improved the appearance and brought about a new community involvement not only in towns and villages but also, importantly, in housing estates.

Rural housing was announced by the Taoiseach as an issue of major importance. It was then mentioned by the Minister for the Environment, Heritage and Local Government, Deputy Cullen. The bottom line is that nothing has yet happened. Those who thought they would be guaranteed a rural house no longer have that option. There is no point in talking about these issues. If we do not have sustainable building for single houses in parishes like mine in Aghabog, no sustainable rural development will take place anywhere in the country to provide the football teams, the people for the churches and schools that are already in place, and save us having to build others.

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

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Mr. Hayes:** I commend the Green Party on introducing the Bill. When speaking about rural communities, we must ask what has been done for them in the past. In Dublin we can see Luas and other developments around the city. What is happening in rural Ireland? People are leaving in droves. Rural housing is an impossibility. As mentioned earlier, the Taoiseach highlighted rural housing as one of the biggest issues affecting

those in rural communities and he was 100% right. However, since then nothing has happened.

The Government's White Paper on Rural Development promised a huge amount but nothing came of it. The White Paper is a shambles when it comes to tackling the problems of rural Ireland. In all counties rural schools are closing down due to dwindling numbers in our rural communities and still the Government sits idly by. This is why I commend the Green Party on introducing this Bill to bring to the attention of the Houses of the Oireachtas the importance of rural communities and the importance of considering where rural communities should be located. As Deputy Batt O'Keeffe knows, the Government has reneged on rural communities.

**Mr. Deenihan:** The Government has run out of colour.

**Mr. Hayes:** The White Paper on Rural Development is a shambles, as the Government knows from campaigning during the local elections. In many areas of the country the Government parties got their answers. The Government should listen to what is being said in the dying hours of this Dáil session. I challenge the Government to come back in October and face the reality by tabling a motion and allowing time to discuss the flight from rural areas.

**Mr. Deenihan:** As stated in the explanatory memorandum, the Bill takes a bottom up rather than a top down approach. I was involved in a project in a village in north Kerry, Ballylongford, which showed how this could be put into action. Kerry County Council established an integrated services committee that comprised officials from the county council, local elected representatives and the local community. We considered the four aspects mentioned in the Bill. In the area of local environmental protection, already the derelict sites have been cleaned out in the village. On recycling, we introduced bottle banks and bring banks and we are considering a different treatment system using the local environment. On local services and jobs, there is now a chance of an enterprise unit being built in the town. The local authority came together with local people and elected representatives. I believe the Ballylongford project should form a blueprint for other communities across the country.

I say to Deputy Batt O'Keeffe, who is a great defender of Government policy, that communities throughout the country are falling apart. He should knock on the doors in villages in Kerry like Brosna and Knocknagoshel, which are only one third full. While those on the Government benches are all good friends of mine, the Government has no policy on rural Ireland. A White Paper was initiated before we left office in 1997.

**An Leas-Cheann Comhairle:** The Deputy should conclude.

**Mr. Deenihan:** The last Government introduced a Bill and it had one reading in this House. The Minister read it after which I responded for about five minutes and it was——

**Mr. Hayes:** Guillotined.

**Mr. Deenihan:** No, it was not guillotined, it was forgotten about.

**An Leas-Cheann Comhairle:** The Deputy should conclude.

**Mr. Deenihan:** While I look forward to listening to what the Government Deputies will say, the Government has failed rural Ireland.

**Mr. Curran:** Will Deputy Deenihan not wait for the reply? Deputy O’Keeffe will speak in a moment.

**Mr. Deenihan:** As a good urban Deputy, Deputy Curran would know all about rural Ireland.

**Mr. B. O’Keeffe:** I will call to north County Kerry during the summer.

**Mr. Curran:** I wish to share time with Deputies Batt O’Keeffe, Andrews and O’Connor, and the Minister of State, Deputy Noel Ahern.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Mr. Kitt:** It will be a very balanced contribution.

**Mr. Curran:** It is a pity Deputy Deenihan disappeared so quickly. I listened to his contribution during which he referred to the Ballylongford experience. He had a positive story, which he attributed primarily to the local authority. That project was carried out without the necessity for this Bill, with the legislation that is in place and the will, expertise and policy of the members of that local authority. While we are often critical of what is not done, it is important to note what can be done.

I had to read this Bill twice because when I read it the first time, I did not know what it meant and I had to think about it twice.

**Mr. Boyle:** We are not superficial.

**Mr. Curran:** I want to comment on the Bill in its own right and on sustainable development in more general terms. Having read the Bill, I oppose it. It offers nothing more than the potential to create many talking shops, reports etc. Section 2 of the Bill requires the Government to consult all local authorities; Comhar, the National Sustainable Development Partnership; the inter-departmental steering group on sustainable development indicators; environmental non-governmental organisations; county enterprise

boards; SPCs; EU funding agencies; and others. Section 3 refers to the input from local authorities. This seemed like a substantial amount of work, which was fine up to a point.

As elected representatives we have daily dealings with councils and councillors. Section 4 states that local authorities “may implement——

**Mr. Boyle:** It is a Private Members’ Bill. We cannot impose a charge on the State.

**Mr. Curran:** The section states that a local authority “may implement the strategy as regards its area and set targets which it will seek to achieve”. As Deputy Boyle rightly said, that is weak to say the least.

**Mr. Boyle:** We cannot make it any stronger.

**Mr. Eamon Ryan:** The House can amend it.

**An Leas-Cheann Comhairle:** The Deputies will have a chance to reply in due course.

**Mr. Eamon Ryan:** On a point of information——

**Mr. Curran:** Section 4 is aspirational and is particularly weak. It is at the discretion of the local authority. What went before it in sections 2 and 3 was weak.

In his contribution, Deputy Sargent recognised that there were a range of global issues that needed to be addressed. If the Deputy is suggesting, as the Bill states, that the arbitrary setting of local targets will be sufficient to address those issues, which a local council may or may not implement, I do not think that is the case.

**Mr. Sargent:** I never said that.

**Mr. Curran:** We on this side support sustainable development but——

**Mr. Sargent:** Where is the evidence?

**Mr. Curran:**——I am unsure if it can be incorporated in a single Bill. Sustainable development would encompass the planning and development Acts, spatial strategy, regional planning guidelines, development plans, local plans, the various urban renewal schemes, other programmes and so on. It is not a single issue and I do not know if anybody on this side of the House or on the Opposition benches can incorporate in legislation what the Deputy is endeavouring to do.

I listened to part of the contribution by Deputy Gogarty last night, in which he stated that many of the planning decisions in the past have now been shown to be unsustainable. He is right. He referred loosely to his constituency and the part where he resides in the Lucan area and that part of west Dublin which is growing rapidly. Major housing developments have been built but now the council is struggling to provide all the other

services to make it work. I agree with him on that issue.

Where I fundamentally disagreed with Deputy Gogarty was when we had an opportunity to create a balanced development in Adamstown. Before Deputy Gogarty or I were elected, the lands in Adamstown were zoned residential, so the option facing Deputy Gogarty and me as local councillors at that time, was whether we would do more of what we did wrong in the past or whether we chose a better way forward. The better way was to consider individual planning applications in a strategic manner and in the context the entirety of the scheme, to carry them out in a phased way and to provide the infrastructure such as roads, schools and public transport.

**Mr. Eamon Ryan:** Why was that not done? The problem is that it was not done. They have no targets.

**Mr. Curran:** The point is that we have specific targets for Adamstown, the first of its type in the country. It is exactly what the Deputy asked for. We have very specific targets and it is laid out in specific detail where schools will be built—

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

**Mr. Curran:** —and at what stage along the way, and where public transport will be provided along the way to address the deficits which the Deputy so rightly identified. I was disappointed that the members of the Green Party, who subscribe to sustainable development, would not support this initiative when it was a better way of going forward. The Adamstown development was a new way forward supported by every major party except the Green Party. It may not be perfect, there may be individual issues but the options were to go with a strategic development zone or with more of the same. I regret to say that the Green Party would not support a new way forward and that flies in the face of the Bill before us.

**Mr. B. O’Keeffe:** I thank the Green Party for introducing this Bill. We now have an opportunity to see the lack of policy that is part and parcel of the Green Party.

**Mr. Boyle:** What are Deputy Batt O’Keeffe’s policies?

**Mr. B. O’Keeffe:** I fundamentally agree with the Green Party that at the core of this debate is a significant difference between policy and approach and between taking action which makes a difference in politics and the empty gestures of having a Bill that does nothing and means nothing.

**Mr. Sargent:** The Deputy should wait until he is in Opposition.

**Mr. B. O’Keeffe:** Let us contrast that with what the Minister has done. He has worked to ensure that Ireland has the highest rate of home building in Europe, produced the first ever spatial strategy—

**Mr. Boyle:** And which has been ignored.

**Mr. Eamon Ryan:** It has been thrown out the window.

**Mr. B. O’Keeffe:** The Minister has ensured that local democracy has become much more transparent and accountable than ever before. There has been a dramatic increase in recycling facilities in all local authority areas. This has ensured that we reduce domestic waste production.

**Mr. Boyle:** The largest amount of waste produced in Europe.

**Mr. B. O’Keeffe:** The fight against Sellafield has been taken to the next level, which is a promise brought to fruition. We have done all this in spite of the cynical, opportunistic and fundamentally flawed stance of the Green Party.

**Mr. Boyle:** The Government has done sweet damn all.

**Mr. Sargent:** Deputy Batt O’Keeffe should look to the facts.

**Mr. B. O’Keeffe:** Let us contrast what the Green Party and the Minister are trying to do. The Green Party has demonstrated again with this Bill that it does not believe that it has a responsibility to set out credible policy options. It does not believe for instance that it must make a reasoned contribution to any debate on this issue. Most of all it does not believe it must make choices. What else would we expect from the Green Party? It is not by accident that the Green Party has become the laughing stock of Europe. Look at the European Green movement. We see the Irish Green Party members waving sunflowers. They continue to refuse to make any constructive contribution to the debate. Sanctimony, double standards and conspiracy theories form part of the core of their approach.

**Mr. Boyle:** What has this to do with the Bill?

**Mr. B. O’Keeffe:** Deputy Boyle is a decent and genuine man. How would the Green Party react if it was found out that one of the investment policies held by a member of the Fianna Fáil Party was the same as that held by Deputy Cuffe? Can one imagine the deputy leader of the Fianna Fáil Party saying what the deputy leader of the Green Party stated, namely, in order to have major economic recession in this country, one would have to stop road development? This is what the deputy leader of the Green Party said.

**Mr. Boyle:** That is mythical.

**Mr. B. O’Keeffe:** I agree with the Green Party that it does not operate to the standards of everybody else. Of course, it does not. Its members are more cynical and opportunistic than those of all the other parties.

**Mr. Sargent:** What about the tribunals?

**Mr. B. O’Keeffe:** That is not surprising because they sit comfortably in a group that contains people who make approaches that undermine our environment and they do not apologise for it. They sit beside Deputy Joe Higgins who I remember saying when he was in jail that he waited until he was sitting snugly in the cell to take time to read anything about waste policy. The Green Party sits with Sinn Féin, a party with a one size fits all approach to issues. Whatever it is, it is against it. It is natural that the Green Party sits comfortably with this. I congratulate the party’s Deputies for sharing their opposition to illegal dumping, except it involves substances that we would not know much about.

**Mr. Boyle:** What about incineration?

**Mr. B. O’Keeffe:** Since taking office, the Minister has made waste management a high priority. The policy does not have 40 shades of green. There are 40 shades of green in the Green Party policy, many of them unfortunately sickly shades.

**Mr. Boyle:** The Minister wants to burn it in the Deputy’s constituency.

**Mr. B. O’Keeffe:** The end result is a complete mismatch which means nothing to anybody.

**Mr. Boyle:** Will the Deputy vote against the Minister?

**Mr. B. O’Keeffe:** Not even the Green Party itself understands what the policy is for and, unfortunately, the party has joined that green band of people who stand for nothing, mean nothing and are going nowhere.

**Mr. Sargent:** Not like Fianna Fáil.

**Mr. Andrews:** With reference to what Deputy Curran was saying, we had a similar problem in Dún Laoghaire with the Green Party’s approach to the practice of sustainability, on the one hand, and the theory, on the other, which we have before the House this evening. It is worthwhile having the debate and fair play to the Green Party for introducing Private Members’ Bills. However, in practice, the business must be done. There was an example in the centre of Dún Laoghaire of a rezoning application in connection with an 18-hole golf course. In terms of sustainability, it could not have been a better example of where to rezone for housing. There

could not have been a more obvious example of sustainability. The Green Party gives lectures about reducing car journeys, ensuring we have schools and infrastructure and all the necessary bells and whistles before we start building houses.

**Mr. Eamon Ryan:** It was not so grand in Dún Laoghaire, in Shankill, Kiltiernan etc.

**An Leas-Cheann Comhairle:** The Green Party will have the opportunity to speak.

**Mr. Andrews:** That is quite a different issue to which Deputy Eamon Ryan refers. I only have a short time and the point I am making is this. The Green Party opposed the sustainable development of Dún Laoghaire when it had an opportunity. Deputy Eamon Ryan referred to a single issue. There will never be perfection in decisions taken by a local authority or a Government. We can only do our best. There was an opportunity in Dún Laoghaire to do the necessary rezoning and I am sad to say that the Green Party took the cheap and easy option, the one aimed towards electoral dividends——

**Mr. B. O’Keeffe:** That is surprising.

**Mr. Andrews:** ——and opposed the rezoning of that land which is ideal——

**Mr. Eamon Ryan:** Why did Fianna Fáil rezone Kiltiernan and Shankill?

**Mr. Andrews:** It is all very well for Deputy Eamon Ryan to compare it to something completely different, but that is a fact. The same happened in Adamstown. It happened in Dún Laoghaire. It is all very well coming in here with these specific theories of sustainability, but if the Green Party cannot deliver on the ground, what this demonstrates is towering hypocrisy across the board.

**Mr. Eamon Ryan:** The Deputy is talking about planning in Dún Laoghaire.

**Mr. Andrews:** Like Deputy Curran, I was somewhat confused as to what this Bill was about. Sometimes we legislate when we do not really need to and when there is enough legislation already. The basic criteria for the adjudication of planning permission is proper planning and sustainable development. That is the single guiding principle to determine a planning application. The term “sustainable development” has been in and out of the courts for the past four years, since the new Planning and Development Act. The guidelines also lay down that it must be proper planning and sustainable development of an area. We already have a strong statutory basis for sustainable development and the courts have constantly told us what the criteria should be, including the phrase, “the common good”.

To get back to Dún Laoghaire, there was an opportunity to develop what was an 18-hole golf course and the Green Party claimed a green lung for the borough as though it were the Amazon forest. The plan was to turn it into two public parks, 1,000 housing units, crèches, shops, light industrial development to provide sustainability, and all within the vicinity of quality bus corridors, the DART and schools. The Green Party rejected that opportunity. There is sufficient legislation to ensure sustainable development. All that stands in the way of it is weak decisions by local councillors and a lack of courage, at times, to take the tough decisions. The presence of Comhar, the national sustainable development partnership, along with the county and city development boards provides enough forums already for these issues to be debated. This Private Members' Bill will only add another layer of bureaucracy that is unnecessary at this time.

**Mr. O'Connor:** I am only going to take about four and a half minutes, so I would appreciate if the Green Party would let me give my speech and heckle me on another day. I am especially pleased to have the opportunity to speak on this matter and I compliment Deputy Sargent and his colleagues. I do so because I was listening to the debate last night and most of the Opposition Members who claimed they would vote for the Bill actually opposed it in their speeches. I am trying to be helpful and am aware of Green Party sensitivities in that regard. Like Deputy Curran, I am sorry Deputy Gogarty is not here. I hope the party has given him time off for his honeymoon because he certainly deserves it.

Reference has been made by colleagues to their constituencies. We often talk about Tallaght and sustainable development. When I moved there first, with an employer, in 1969, it was still a village. For many years we talked about Tallaght, as it developed, having the population of a city but still retaining the status of a village. Happily, many years later it is a city in its own right. It has its own town centre, civic headquarters, hospital and all the facilities one might expect in what is the country's third largest population centre. At the end of August the Luas will come to town at last and we will be delighted to use it. I use that as an example, to show where I am coming from as far as these issues are concerned. It is important to support the concept of sustainable development.

Like other colleagues, I remind the House that sustainable development is best described as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Sustainable development concepts and objectives are not always straightforward either to grasp or communicate and we can easily lose the public support that is essential for achieving practical results, whether in areas of environment, waste, housing or the community.

In the past decade sustainable development has moved from pioneering aspiration to the centre of political debate. That is good and it is true both throughout Europe and here at home. No one questions our continuing need for growth and social progress. More importantly, no one takes the view that these needs override our responsibility to protect the natural environment and the natural resource space of the future. Every morning I leave the house I am able to look up towards the mountains. I can be at the Blessington lakes within a few minutes. I am clear about the need to protect the environment for the good of people living in built-up communities. In that regard, striking the right balance between environmental, economic and social areas of development will be a core concern for us all for many years.

On an issue such as this, there is much to be said. However, I am conscious of the time and I am particularly anxious that the Minister of State, Deputy Noel Ahern, should have the opportunity to say a few words. I look forward to voting on the Bill and wish the Green Party well.

**Minister of State at the Department of the Environment, Heritage and Local Government**

**(Mr. N. Ahern):** On behalf of the Government and having heard the case put forward by the Green Party in support of its proposal, we remain unconvinced that this Bill would contribute to the promotion of sustainable development at either local or community levels. On reading the Bill, the original impression was that it would achieve nothing. The contributions in the debate have done nothing to change that impression.

My colleague, the Minister of State at the Department of the Environment, Heritage and Local Government, Deputy Gallagher, said that this Bill was bureaucratic and devoid of purpose and would provide no added value to the promotion of sustainable development at any level. There is no legal impediment to sustainable development and this Bill is not necessary despite the supposed case put forward. In addition, a number of comments were made regarding the Government's policy on environmental protection, especially with regard to climate change. I would like to comment briefly on both.

The Green Party may not be aware, but the Environmental Protection Agency published its third state of the environment report a mere two months ago.

**Mr. Sargent:** We have read it.

**Mr. N. Ahern:** Good. I am delighted to hear that. The Deputy should have taken some notice of it.

**Mr. Sargent:** I did.

**Mr. N. Ahern:** Perhaps the report is too positive for the Green Party to acknowledge. Its headline conclusion is that Ireland's environment



[Mr. N. Ahern.]  
remains of good quality, generally, and represents one of our most essential assets.

**Mr. Sargent:** That is all right then.

**Mr. N. Ahern:** It is an independent endorsement of Government policy.

**Mr. Sargent:** There are negative aspects to the report too.

**Mr. N. Ahern:** I hope the Green Party Members were not in their usual selective mood. I hope they read the right stuff.

**Mr. Sargent:** It had interesting things to say about acidification, greenhouse gases and eutrophication.

**Mr. N. Ahern:** The report endorses the Government's legislation and environmental investment. It states that our approach is effective and that Ireland is keeping pace with the increased needs of environmental protection. The Government believes in progress and sustainable development, which are not mutually exclusive. The proof that we have the balance right is there for all to see in terms of economic growth, jobs, social development and a high quality environment. Life is about getting the balance right. The most recent EPA report on national emissions found that greenhouse gas emissions have decreased for the first time in a decade.

**Mr. Eamon Ryan:** That is because IFI closed down.

**Mr. N. Ahern:** The level of emissions in 2002 was 29% higher than the level in 1990, whereas the level in 2001 was 31% higher than the 1990 level.

**Mr. Eamon Ryan:** That is because IFI closed down.

**Mr. N. Ahern:** The decrease has resulted from the increased use of renewable energy, improved efficiency in power generation and measures in other sectors as well as some closures. Given the high levels of economic growth over the past decade, it is clear that Ireland has improved the greenhouse gas emissions intensity of its economy more than any other EU member state. National emission levels have largely been stabilised for the rest of the decade on the basis of measures that have already been put in place. They will be reduced further as the implementation of the national climate change strategy is intensified.

**Mr. Boyle:** They have not been reduced.

**Mr. N. Ahern:** An important element of the strategy is participation in emissions trading. I am pleased that the Commission today unconditionally approved the Irish national allocation

plan. Irish industry has a target level of reduction in emissions between 2005 and 2007 — the run-up to the Kyoto deadline — and a means to achieve the target in the most cost-effective manner. Environmental targets and the protection of competitiveness are balanced by the use of this instrument. Emissions trading for industry and Government purchases of Kyoto credits for the non-emissions trading sector are part of a coherent programme to ensure that Ireland meets its Kyoto target. The other key element is the implementation of domestic reduction strategies, as set out in the Government's national climate change strategy. We will vigorously pursue the implementation of further key elements of the national strategy. The Minister, Deputy Cullen, is bringing forward a review of the strategy to ensure that all cost-effective measures to reduce emissions are implemented.

As Minister of State with responsibility for housing, I wish to speak about the importance of sustainability in the housing sector. My colleague, Deputy Andrews, said that some parties and some politicians are very good at talking about theory but have great difficulties in putting their ideas into practice.

While I thank the Green Party for proposing this Bill, it suffers from a lack of real purpose and the party's Members have failed to convince us during the debate that it has a purpose.

**Mr. Sargent:** The Minister of State does not want to be convinced.

**Mr. N. Ahern:** Perhaps its Members are happy to have given other Deputies the opportunity to discuss and debate this issue.

**Mr. Boyle:** That was our intention.

**Mr. N. Ahern:** The Green Party's failure is an endorsement of the Government's approach to the promotion and pursuit of sustainable development at local and community level.

**Mr. Sargent:** Self-praise is no praise.

**Mr. N. Ahern:** I appreciate and thank the Green Party for bringing forward the Bill, but its Deputies should have thought it out a bit more because we are quite happy with the progress we are making.

**Mr. Sargent:** I think the word is "smug".

**Mr. N. Ahern:** We are quite happy that we have the balance right.

**Mr. Boyle:** Nobody else thinks so.

**Mr. N. Ahern:** These theoretical little bits of Bills do not mean anything.

**Mr. O'Shea:** Ba mhaith liom mo chuid ama a roinnt leis na Teachtaí McManus agus Morgan.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Mr. O'Shea:** Fáiltím go ghinearálta an Bhille um Pobail Inchothaithe 2004. Molaim an Comhaontas Glas as ucht an Bhille a thabhairt ós comhair na Dála agus deis a thabhairt dúinn an díospóireacht seo a chuir ar siúl.

I welcome the Sustainable Communities Bill 2004, generally speaking, and I thank the Green Party for introducing it. One of the problems with the legislation, which is worthy if a little threadbare, is its failure to define precisely what the Green Party means when it refers to sustainable communities. Building sustainable communities involves a significant number of factors and embraces many different issues. We all aspire to be more eco-friendly, we all want the quality of our natural environment to be maintained or improved and we all want more people to play a more active role in local communities. If that is to happen, as some speakers said during the debate, we must give local representatives and the councils and authorities on which they sit more power to make the necessary changes to transform our environment.

During the local government election campaign which concluded some weeks ago, the Labour Party sought to initiate a debate on the purpose and role of local government. We produced an extensive policy document advocating the most radical reform of local government in this country for more than a century. As soon as we took up office in towns, cities and counties throughout Ireland, we began to attempt to put our policies into action. For example, we took part in negotiations and reached agreement on the democratic charter for change in Dublin, which we made a priority before we reached consensus with Fine Gael, the Green Party and a number of other city councillors. The charter speaks of sustainable communities in a different manner to how they have been described by speakers in this debate so far.

The Labour Party was the first party to identify the housing crisis, produce an analysis and policy to solve it, propose affordable housing, propose rights for tenants, argue that there should be a constitutional right to housing and propose controls on the price of building land. Labour Party councillors can be trusted to make decisions in favour of social and affordable housing.

In the charter for change in Dublin we specifically highlighted access to housing as the key to building sustainable communities. It states:

Many young Dubliners cannot afford to buy a home in their own neighbourhood and many have to leave the city to find an affordable home. We will work to improve the quality and affordability of Dublin housing. We will strive to provide more social and affordable homes

for those left out of the housing market. We will work to eliminate homelessness and we will establish local structures to prevent homelessness at its source. We will seek to protect those in rented accommodation.

The policies being adopted in Dublin will be pursued in Cork, Galway, Waterford or any other part of the country. If we are to talk about creating sustainable communities, Members of the House must agree that access to adequate and affordable housing is a key issue. The Government has steadfastly refused to act on the price of building land. Private developers continue to hoard land banks which contributes to an escalation in house prices that is almost unmatched anywhere else.

Housing is one of the many issues that need to be addressed. Despite the growth and prosperity that is visible throughout Ireland, a lack of adequate planning has given rise to sprawling development, creating increasingly isolated communities and neighbourhoods and immense and unmanageable traffic jams. This version of Ireland is unrecognisable from the type of society the Department of the Environment, Heritage and Local Government wants to produce, according to its strategy on sustainable development, Making Ireland's Development Sustainable. The priorities emphasised in the strategy document are worthy and cannot be faulted. From seeking to break the link between economic growth and damage to the environment to working for the closure of the Sellafield nuclear plant, a list of honourable and worthwhile targets are set out to marry economic progress with environmental protection.

However, when we review the record of this Government over recent years it is clear that this document is not grounded in reality. Investment in public transport, for example, has been so badly managed that it has created chaos in our towns and cities, especially in Dublin. New transport systems are delivered way over budget and existing ones are badly integrated. Accident and emergency departments are under strain, classrooms are overcrowded and neighbourhoods are inadequately policed. Many housing estates are tortured by anti-social activity. So-called joyriding continues to present a major threat to law-abiding citizens. Elderly people live in fear. Drug abuse is rife. To deal adequately with vandalism, additional resources are required in this area of crime where convictions are most difficult to obtain.

Local stakeholders must be given more of a say in the way their communities function. That is the key to creating more sustainable communities. To achieve that, local councils and authorities must also be overhauled to allow public representatives lead their communities imaginatively.

[Mr. O'Shea.]

As such, the aim of the Bill presented by the Green Party is welcome. Giving local authorities the power to draft and implement local sustainable strategies should see the delivery of better services. Protecting the environment, generating a dynamic economy, ensuring nobody suffers poverty and involving as many people as possible in this process are aims to which we should aspire. Introducing legislation to ensure the Department of the Environment, Heritage and Local Government actively promotes better, sustainable communities should be supported. The key to all this, however, must be the empowerment of local government and not just the Department of the Environment, Heritage and Local Government.

We fully recognise that local government, regardless of how well it is equipped, cannot accomplish everything on its own, but Labour wants councillors to be able to give a lead to determine the real priorities and to be in a strong position to advance the cause of their local communities. The Labour Party wants a new and modern allocation of responsibilities to local authorities, redesigned to meet modern needs. That means setting up regional authorities to deal with issues like health and transport with other more local functions being assigned to local councils.

Ireland has the weakest system of local government in the European Union. At best, we have a system of local administration through which unelected managers make the executive decisions for our cities, towns and counties. We all want to influence what happens to our localities and neighbourhoods. Our vision of a sustainable community, therefore, addresses the following issues.

Labour is the only party to publish a fully costed alternative to the Government's failed anti-environment waste policies. That gives the Labour Party the authority to explain how recycling and composting can become a reality, waste can be treated as a new resource, waste management should remain a public service, private waste operators should be regulated and the reason households with low income or little waste should not pay bin charges. The Labour Party stands for public services. That is the reason we will promote public libraries, develop parks, provide public playgrounds and public recreation facilities.

When a choice must be made in council chambers between public amenity and private development, Labour will always choose the public good. We are also the only party to have published a national document on planning, *Visions of Ireland*, which integrates spatial strategy with transport, infrastructure and the protection of the environment. We have contributed to town and county development plans based on the principles of good planning and the needs of local communities. These are but a few of the issues we see as

informing sustainable communities. Traffic management, poverty and health care are other examples.

The public wants an influence over its local environment, the way neighbourhoods are planned and developed, the amenities that make local communities work, the schools which can teach children, the hospital and local health services, transport and traffic matters, policing and care of the young and the elderly. These are the everyday issues that shape the quality of our lives. Any legislation that allows local communities to have more of a say in shaping their local areas merits the support of all the parties in the House.

**Ms McManus:** I welcome the opportunity to speak on this Bill and thank the Green Party for tabling it. The concept of sustainability is a relatively new one and is largely seen as relating to protection of the natural environment. I prefer the holistic definition that encompasses social as well as environmental sustainability.

Many speakers in the debate spoke about the need to support disadvantaged communities, and I agree with them. Too many people are suffering from the effects of Government policies that are designed to serve commercial interests rather than the interests of communities. Inequality has now become the hallmark of this Government.

Against that background, setting out a framework to create a community-based response to the environmental challenge, as this Bill does, makes sense, as does making local authorities central to that process. One of the most disturbing features of a dominance for so long of the agenda of Fianna Fáil and the Progressive Democrats is the general run-down of local democracy and local services. The position in regard to waste management is a case in point. Powers are being removed from local representatives rather than returned to them and local authorities are becoming less relevant, particularly with the creeping privatisation of services and the loss of local control.

Nowhere is this more evident than in the area of health care. One only has to look at the record. To develop a good quality, accessible health service it is vital that accountability is guaranteed by law. We have a Government that talks about health reform but all that has changed so far is that local accountability has effectively been dismantled. With the abolition of the health boards we have seen the biggest grab for executive power in the history of local administration.

It is interesting to note that where such an experiment at centralisation was tried elsewhere, as in New Zealand, it failed. That country is now making amends by setting up more health boards than ever before to bring its health service into line with the needs of local communities.

Here we have a Government that talks about decentralisation while planning to centralise

health services to an extraordinary and unhealthy degree. The good health of individuals and communities is at the core of sustainability, yet in Ireland we do not have a healthy society. We come top or near the top of too many leagues. Cardiovascular disease and lung diseases are two cases in point. We have the highest death rate from lung diseases in Europe, higher even than the old Soviet republic of Uzbekistan. The cost of treating these diseases is phenomenal. Estimates indicate that respiratory diseases cost Europe nearly €102 billion per year. That is apart from the human cost which is inestimable. Smoking, environmental factors, climate and poverty are all blamed for this high death rate.

Sustainability is the key to much more than simply recycling our waste. It is about creating the kind of environment whereby our population no longer suffers, for example, a level of lung disease that is more than twice the EU average and that ensures health promotion is an essential part of health care.

Raising environmental standards is an important measure but there is a clear class dimension to disease and ill-health that we ignore at our peril. People living in poverty tend to be sicker and die younger than the affluent. When it comes to tackling this health challenge, what is most telling is that factual research shows us that in countries where the gap between rich and poor is small, the overall health of the community is best. That presents us with a challenge that transcends health reform *per se*.

This is about social and economic change and narrowing the gap that has opened up in society between the wealthy and the poor. Ireland is now one of the most unequal societies in the world and the health of our people is suffering as a consequence.

In tackling this unhealthy state we need to listen to communities and their needs and empower those without power. However, Government policy is directed to exacerbating the problem. This Bill, small as it is, will ameliorate the effects of social and environmental factors that harm rather than heal.

**Mr. Morgan:** I support this Bill that seeks to promote local sustainable development. Such development has not yet happened in this State. Housing schemes are designed without safe pathways or cycle-ways to schools or even shops and little or no green areas or playgrounds are provided. Development has occurred with no thought for the welfare of communities, much less for sustainable communities. Local authorities are allowed to get away with carelessness when each official should be clued in to what is really needed. There is the mess of waste management. Token bottle banks scattered around communities to create an illusion of action by a Government that pays nothing more than lip service to

waste management. On average, only 50% of the waste management plans created five years ago have been achieved.

This will not change until real consultative structures are put in place. The main plank of consultation at local authority level is the strategic policy committee. A majority of Members will have served on these while on local authorities. My experience of the committees is of a chair and officials struggling to simply get through the meeting. Rarely have I seen a strategic policy committee examine an issue critically, let alone set objectives and devise a strategy to achieve them. Yet this is what these key bodies were established to achieve five years ago. They have failed because in the minds of some local authority officials, it is seen as interference by civil society in their domain. These officials are not solely to blame for this elitist attitude as the Government, if it has not encouraged them, has allowed them to develop it. The introduction of the strategic policy committees was a typical move by this Government in bringing forward commendable legislation but simply not implementing it. Again, it has created an illusion of movement.

Though I support the provision for consultation in local areas, it should be broadened. Local fora can be established at a tier below that of local councillors. Though success would depend on the efforts of specific individuals, it would go some way in reinvigorating local communities. An integrated and participatory approach must be built since many communities were turned off the political system by the legacy of local authority corruption in the 1970s and 1980s. The cross-Border element of the Bill is most welcome and essential for local sustainable development.

The bottom line rests with real reform of local government as the current structure cannot deliver the local sustainable strategy referred to in the Bill. Local government needs to be empowered and accountable. If a county manager is wayward, a local authority representative cannot raise the issue. Even Members cannot raise such a matter in the House as the Minister for the Environment, Heritage and Local Government is not accountable for a county manager's actions. Adequately financed local government is another key element to ensuring sustainable development. Only then will people expect adequate services from their local authorities.

**Mr. Connolly:** I wish to share my time with Deputies Healy, Gormley, Eamon Ryan and Boyle.

**An Ceann Comhairle:** Is that agreed? Agreed.

**Mr. Connolly:** The search for a sustainable and humane model of development has gathered

[Mr. Connolly.]

momentum. This search means attaining economic prosperity, social justice and ecological health with the highest possible quality of life in the best possible environment. This Bill is to be welcomed as it aims to enable local people and communities to achieve such a sustainable community.

Local Agenda 21, the global action plan agreed at the 1992 UN conference on the environment and development stressed the enabling role of local authorities in transforming unsustainable patterns of development and empowering local communities. Toward the close of the last millennium, Ireland has woken up to the challenges inherent in this agenda. Only now have we detected an undercurrent of change driven by EU legislation and the demand for goods and services produced with equity and environmental impact in mind. The response of numerous local authorities to Local Agenda 21 varied. In some cases, they merely engaged in a repackaging of existing environmental responsibilities. To address the most important elements of sustainability, local communities must strive for efficient use of resources, waste minimisation, limitation of pollution to manageable levels, valuing the diversity of nature and local needs to be met locally. Local communities must also strive to ensure that people live without fear of violence and crime or persecution of race, beliefs, gender or sexuality. All sections of the community must be empowered to participate in decision-making processes.

How far has Ireland progressed in achieving these laudable aims? The report card will indicate "a little done, a lot more to do or could do better". The development of a sustainable community would entail the establishment of a core group of enthusiastic volunteers and organisations as a steering committee to help the community and environment. This core group would be open to the public, meeting regularly and forming task forces to develop and implement specific projects. This Bill is the first real attempt to empower local government and its citizens to develop sustainable community strategies.

**Mr. Healy:** I welcome the opportunity to speak on this Bill. Sustainability covers social and quality of life issues as well as environmental protection. Those very issues have not been properly addressed by the Government. For sustainability to succeed it is important that local services are provided. The Government's proposals for the administrative and hospital levels of the health service are an attempt to take resources, such as accident and emergency, maternity and paediatric services, from local communities. This is also detrimental to their sustainability. Local authority and working class housing estates have been built without proper open areas, playing fields, community centres or Garda protection for local

people. Serious incidents of anti-social activity now occur throughout the country. The Government has abandoned many estates and left them without the services of community gardaí.

Regarding rural communities, the trend in recent years has been one of closure of local post offices, Garda stations, banks and co-op branches, along with the decimation by the Government of the local community employment schemes which look after playing fields, parishes, the tidy towns projects and a host of local matters. These issues are important in the sustainability debate. I welcome this Bill as an opening to the discussions.

**Mr. Gormley:** Sustainability is something we often discuss but rarely if ever define or put into practice. It first came to prominence in Rio de Janeiro and subsequently in Johannesburg where I attended the summit on sustainable development. We all need to define sustainability and put it in perspective. The Bruntland report defined sustainable development as development which meets the needs of the present generation without compromising those of future generations. It is about defining quality of life rather than standard of living. This Government may be quite good in terms of maintaining standards of living as we define them but its record on quality of life is not good. We have seen that. Quality of life has deteriorated during this Government's reign.

In the area of holistic and joined-up thinking, the Government is remiss. The Green Party has a "join the dots" campaign to promote joined-up thinking. When it comes to public transport for example it is clear the Government has not got its act together. When we talk of sustainable communities, we are talking of joined-up thinking, of local communities having schools and facilities, and of walking and cycling to school. That is becoming rarer. I recently pointed out in a letter to *The Irish Times* that there are now more girls being driven to secondary school than cycling there. That is depressing and the situation needs to be tackled quickly.

Local communities do not have any input. This is what agenda 21 was all about. It wanted local communities and representatives to have an input into sustainable communities. This is happening to an increasingly lesser degree. Within my constituency, Terenure has recently drawn up a sustainable plan for the area which includes underground recycling. This is done in Holland and works well there. It means that one can locate recycling banks in the centre of an area without people objecting on the grounds of unsightliness and noise. One can then get a lorry to remove the materials. Dublin City Council's response however is that hiring the lorry is too expensive. That is short-term thinking because, if we do not take such an approach we will not get the level of recycling which we all want. Local community

representatives went to Sintra in Portugal to find out how it could be done, so they have expertise developed at local level.

Instead of local government, what we have is local administration. During the period this Government has ruled, an increasing number of powers have been taken from local representatives. There was a time when there were reserved functions in the environment area. They included the making of management plans for air and water quality and waste along with the making of a development plan. All this has been diluted over a period. One can look in particular at the powers taken away with regard to waste. Despite that an increasing number of councillors are opposed to waste incineration and have put forward plans for zero waste, they are not being listened to. Incinerators are being imposed on local communities.

Councillors have an input into the development plan and can make zoning decisions, but in many cases their input is ignored by city managers. I will give a pertinent example in my constituency. As far back as the early 1980s, Dublin Corporation clearly wanted to develop Scully's Field, a green space in the middle of my constituency. In 1998, Dublin City Council in its draft development plan recommended that the land at Scully's Field be rezoned to Z1 status. That would have allowed for residential development. The councillors in the area and all the residents were opposed to this. They objected, and the lands were zoned back to Z9 status. That status is the one which applies to St. Stephen's Green and Merrion Square, green open spaces which are what we require in the city if it is to be fit not only for children to play in but also for adults. It is about quality of life, not about making a quick buck on a five-storey development. Unfortunately this has been ignored.

I have asked the Minister for the Environment, Heritage and Local Government to consider this serious problem because it is now quite clear that the Dublin City Council manager has made yet another proposal to build accommodation on the site in question. That is unacceptable. On 11 March 2002 a presentation was made by the campaign committee which received unanimous support from the councillors. It is quite clear that all this has been ignored. If one has a situation in which councillors, local representatives and all the residents of an area are asking that it would be zoned in a certain way and that request is ignored, it means we do not have sustainable development. That is something the Government needs to examine.

**Mr. Eamon Ryan:** If the Fianna Fáil Deputies from the boroughs of Dún Laoghaire and Dublin Mid-West were present I would tend to respond to them. Their discussion of planning issues in those areas is remarkable, but throwing dirt at

another party with regard to planning and zoning in those two areas was an interesting tactic to which we might return another day.

I have been trying to think of examples of targets or measurements we could use when looking to assess sustainability on a local level. I prefer the most local means, if possible at parish or street level. That is when targets really hit home. I recall as a child in Dublin seeing in a monthly parish newsletter the amounts being given by the different city parishes to the general diocesan collection. It has a strange effect. One was always measuring one's own parish to see how it was doing in comparison with others. We have seen other targets and measures recently, not all positive or beneficial. We now have an example in our education system whereby we are shown the lists of schools feeding students to the various universities, as if that is an accurate measure. It nevertheless has a major effect. The newspapers would not be giving it such coverage if people were not paying such attention to it, although I fundamentally disagree with that particular measure as a narrow reduction of what education should be.

Regarding local authorities and local council areas, there are a few areas where we can specifically target development and measure how we are doing. Waste management and measurement is a topical issue. We know we will move to this system which will target waste almost down to household level. We will measure the weight and how much is recycled, and use this to work out how much we must pay for waste. While on Dublin City Council I came across a slightly different approach which may provide a solution. Bin lorries, which fill up with the waste of two or three streets, would be weighed before and after filling up. This would make it easy to measure how much waste is coming from each two or three streets. It would also be easy to measure the waste management and recycling in those streets just by carrying out a random sample test.

In this regard, the quality of what goes into the green bins is more important than the quantity, and there is nothing worse than trying to take glass out of paper packing. If we set street by street performance measurement as a target, I am sure, due to our collective spirit to work together to achieve targets, every green bin would be out on the streets and roads at the right time, full of recycled materials. There would be community spirit and a sustainability target behind it. Such a street level example could then be used on a broader basis.

Deputy Gormley referred to school transport. There is a concept known as "safe routes to schools" through which very easy targets can be set, such as to find how many children are walking or cycling to school or where safety problems such as a lack of bus services may occur. It is very easy on a yearly basis to measure these and to

[Mr. Eamon Ryan.]

aggregate the figures into a collective figure for an area or county.

Targets are possible and they help. They make us concentrate on what exactly is sustainability. It can be difficult to understand because it is a word that has been so abused it is hard to fully appreciate. However, it is not getting easier to appreciate as examples of its abuse become more flagrant.

One example comes from the new regional planning guidelines for the greater Dublin area. Goal five of the guidelines was that we would have sustainable infrastructure corridors, which I initially welcomed. However, the definition of this in the report is: "The organisation of settlements and new economic developments within a system of transport corridors may provide a basic pattern which infrastructure will find a sound basis for long-term planning of economically viable primary infrastructure systems." It is a difficult sentence but having read it perhaps a dozen times, I translate it to mean that if we can plan so that development pays for toll roads, it will be sustainable. It is an economic view only, which is too narrow a definition. We need to move beyond that.

**Mr. Boyle:** Among the abuses of the definition of sustainability is that the word is commonly used in public discourse to mean it is somehow about sustaining our current level of progress. It is the basis on which the current partnership agreement exists. That definition of the word "sustaining" is not in any way related to the term "sustainability", which, as my colleagues have described, is about meeting the needs of the present without compromising the needs of the future.

It is interesting that today has seen the release of the enterprise strategy statement. The Bill seeks to discuss sustainability in its widest sense, economic as well as environmental and in terms of social inclusion and local democracy. The centrepiece of the enterprise strategy statement is for a sustainable economy into the future. We must build upon, foster and generate an indigenous local economy and support locally owned industries. This is something the Green Party has said for many years and has taken abuse from the other side of the House for doing so. Foreign direct investment was and is welcome. However, in the long term, it is not sustainable in a globalised economy when that investment can go to another country in the blink of an eye.

Today's statement is at least an indication of how sustainability should be built into future economic policy. I hope the Government takes this lesson on board because we have many other ideas we would like to share with it. What the Green Party says will eventually be adopted not only by the Government but by other political parties — that has been our history. The philos-

ophy we believe in has already brought about significant changes in public policy and we are proud of that role. We look to presently having the opportunity in government to implement what we believe to be sustainable Government policies.

International definitions of sustainability were agreed at the Rio de Janeiro conference on economic and environmental development in 1992, at which the Government as a signatory promised to set up Local Agenda 21 groups but did precisely nothing. The conference was followed by a similar conference in Johannesburg where such groups were meant to become local groups, yet the Government did precisely nothing. This is because the political culture in this country is top down rather than bottom up.

The nature of the Bill is to introduce a bottom up culture. It seeks to put in place means by which consultation becomes real — not the definition of consultation which has come from the Government and many State agencies, where people are told what will happen before it happens, yet it happens anyway, regardless of what they think or how they can contribute to the process. A sustainable society uses as its resource the people themselves.

The nature of the contribution made by the Minister of State at the Department of the Environment, Heritage and Local Government, Deputy Gallagher, was sad in its emptiness. He talked about infrastructure and tax concessions but made no reference whatsoever to people or local communities. I noted particularly the reference he made to tax incentives which applied to urban development. Deputy Gallagher made his contribution following that of Deputy Cowley, who talked about the need for sustainability in rural communities. Deputy Cowley was right to say that many urban settlements are unsustainable. The existence of urban sprawl creates an environment where people live in impersonal settings that are recipes for social strife. On the other hand, the Government has no policy in regard to the sustainability of rural communities, to make sure that populations are maintained in towns and villages that protect the existing infrastructure and that there are no closures of schools, post offices and Garda stations. In a sense, settlements, whether urban or rural, are critical mass. Despite this, the Government twists and turns and chooses to make its own definition in this area.

The contributions of many Fianna Fáil Members were nothing other than abuse. They did not address the nature of the Bill in any way. I am disappointed that even though two of the members of the Progressive Democrats are present, the Ministers, Deputies McDowell and Tim O'Malley, that party has chosen not to say anything in this debate on sustainability. However, we know that the Progressive Democrats' philosophy is that the needs of society and

communities can be met by the market. They argue the alternative is to have those needs met by the State. This is wrong. Neither the State nor the market can define the needs or provide the resources for those needs to be met. Ultimately, it is local communities which will define their needs.

However, a political system and approach that can be adopted exists through legislation such as this. It has been moved in other Parliaments and has been put into practice in other jurisdictions, and we would like to put it in place here. We regard the Bill as a cornerstone of any legislative programme the Green Party would be involved in. The likelihood is that, following the sneers and derision, a time will come when the Progressive Democrats and Governments think the same way because the options will have run out. The emptiness of the Progressive Democrats' approach in

regard to the sustainability of future generations will be found wanting, as it already is in terms of the type of society being created, particularly in terms of social inclusion.

Ultimately, after economics, environmental protection and social inclusion, we are talking about the fourth cornerstone of local democracy. It is opportune to introduce this Bill now given that local elections have been held recently. It is worth noting that those elections saw the first increase in turnout in local elections in over 50 years. We believe this is an opportunity to engage with people rather than to continue the top down system of governing that has alienated so many in our society. This Bill, flawed as it is, is a mechanism or vehicle which, if it passed Committee and Remaining Stages, would assist many communities in improving the lives of people where they live.

Question put.

The Dáil divided: Tá, 49; Níl, 61.

Tá

Boyle, Dan.  
Breen, Pat.  
Broughan, Thomas P.  
Bruton, Richard.  
Burton, Joan.  
Connolly, Paudge.  
Costello, Joe.  
Cowley, Jerry.  
Crawford, Seymour.  
Cuffe, Ciarán.  
Deenihan, Jimmy.  
Durkan, Bernard J.  
English, Damien.  
Enright, Olwyn.  
Ferris, Martin.  
Gogarty, Paul.  
Gormley, John.  
Hayes, Tom.  
Healy, Seamus.  
Hogan, Phil.  
Howlin, Brendan.  
Kenny, Enda.  
Lynch, Kathleen.  
McGrath, Finian.  
McGrath, Paul.

Mitchell, Gay.  
Mitchell, Olivia.  
Morgan, Arthur.  
Moynihan-Cronin, Breeda.  
Naughten, Denis.  
Neville, Dan.  
Ó Caoláin, Caoimhghín.  
Ó Snodaigh, Aengus.  
O'Keeffe, Jim.  
O'Shea, Brian.  
O'Sullivan, Jan.  
Pattison, Seamus.  
Penrose, Willie.  
Perry, John.  
Rabbitte, Pat.  
Ring, Michael.  
Ryan, Eamon.  
Ryan, Seán.  
Sargent, Trevor.  
Shortall, Róisín.  
Stagg, Emmet.  
Stanton, David.  
Timmins, Billy.  
Upton, Mary.

Níl

Ahern, Dermot.  
Ahern, Michael.  
Ahern, Noel.  
Andrews, Barry.  
Brady, Johnny.  
Brady, Martin.  
Brennan, Seamus.  
Callanan, Joe.  
Callely, Ivor.  
Carey, Pat.  
Carty, John.  
Collins, Michael.  
Cooper-Flynn, Beverley.  
Coughlan, Mary.  
Curran, John.  
de Valera, Sile.  
Dempsey, Noel.  
Dempsey, Tony.

Dennehy, John.  
Devins, Jimmy.  
Ellis, John.  
Finneran, Michael.  
Fitzpatrick, Dermot.  
Fleming, Seán.  
Glennon, Jim.  
Grealish, Noel.  
Hanafin, Mary.  
Haughey, Seán.  
Hoctor, Máire.  
Jacob, Joe.  
Keaveney, Cecilia.  
Kelly, Peter.  
Killeen, Tony.  
Kirk, Seamus.  
Kitt, Tom.  
Lenihan, Brian.



Níl—continued

Lenihan, Conor.  
McCreevy, Charlie.  
McDowell, Michael.  
McGuinness, John.  
Martin, Micheál.  
Moloney, John.  
Moynihan, Donal.  
Moynihan, Michael.  
Mulcahy, Michael.  
Ó Fearghaíl, Seán.  
O'Connor, Charlie.  
O'Dea, Willie.  
O'Donnell, Liz.

O'Keeffe, Ned.  
O'Malley, Fiona.  
O'Malley, Tim.  
Power, Peter.  
Power, Seán.  
Roche, Dick.  
Sexton, Mae.  
Smith, Brendan.  
Smith, Michael.  
Wallace, Mary.  
Walsh, Joe.  
Wright, G.V.

Tellers: Tá, Deputies Boyle and Durkan; Níl, Deputies Hanafin and McGuinness.

Question declared lost.

**Civil Liability and Courts Bill 2004 [Seanad]:  
Report Stage (Resumed) and Final Stage.**

Debate resumed on amendment No. 13:

In page 12, to delete lines 36 to 44.

— (Deputy J. O'Keeffe).

**Mr. Costello:** This amendment seems desirable because it would reduce administration and costs. I would have thought an amendment of that nature would be very attractive to the Minister. Why should the Courts Service have a new tier of administrative filing of documents if that can be avoided? Currently all the pleadings will now be lodged in the central office at the High Court, the Circuit Court office for the county in which the action is brought and the District Court office for the district in which the action is brought. There will be a significant scattering of pleadings filed all over the place. Could we not wait until the proceedings are set down for trial as is currently done and retain the current system which I understand works perfectly well? If that is the wish of the practitioners and the Courts Service, who will be directly affected, some consideration should be given to their views.

**Mr. J. O'Keeffe:** I have been considering how we could deal with the situation. It is accepted that my proposed amendment is sensible, that it is cost effective, that it will avoid a cumbersome accumulation of paper in court offices, that it is supported by the legal profession and is to the advantage of plaintiffs and defendants, and that it is of particular advantage to the Courts Service.

What the Minister has in mind is that evidence should be available in case of an allegation of perjury against a plaintiff. This could also apply to a defendant. Is it possible that if we retain the provision whereby an affidavit must be filed in the court office, the Minister would ensure that the original document on which a charge under the section would be based would be available, but

that court offices would not be encumbered with all the paperwork involved in the pleadings?

Is the Minister prepared to operate on that basis and effectively agree to my amendment to delete sections 13(3), (4) and (5)? That would remove the requirement to file the pleadings on delivery. The situation regarding pleadings could then be covered by the rules of court and the pleadings would be filed if the action were set down. At the same time we could continue to provide in section 14 for an affidavit to be lodged in court. The original evidence, the sworn affidavit, would be available if required for subsequent proceedings. It is the only shortcut I can find in the time available to us.

If the Minister and his officials believe it could resolve the problem, it would save the Courts Service enormous sums of money. It would also save the Courts Service a fair amount of staffing and enable the Minister to achieve the objectives of having the original primary document, the sworn affidavit, available if required for proceedings. It is the best I can do to provide an answer at this stage in light of the fact that we have not enough time to devise any other solution. If that were agreeable to the Minister, I would be prepared to ask him to accept my amendment to section 13 and withdraw my amendment to section 14.

**Aengus Ó Snodaigh:** I support what Deputies Jim O'Keeffe and Costello have said so far on this. If this is to remain, as they have stated, it will be an additional cost on the Courts Service. Usually, when we table amendments, we are not allowed to impose a cost on the Exchequer. I do not know whether the Minister for Finance, Deputy McCreevy, knows whether the Minister is imposing an additional cost on the Courts Service in the extra work that it will have to do in dealing with the extra caseload at the various courts. Perhaps the Courts Service will come looking for an extra grant from the Minister to deal with this.

The proposal is essentially that we delete everything from line 36 to line 44. That would allow for the rules of the court to decide how such pleadings are lodged and enable the rules to be

changed if the system were not working, were overburdened or required tweaking. It is much easier to change or tweak the rules of the court regarding certain circumstances than, if the place is inundated and the system is breaking down, to have to return here with additional legislation because we have tied the hands of the Courts Service by saying that things must be done in a certain way. The Courts Service would prefer the system to be left as it currently stands and that it could regulate or change it through the rules of court in future.

**Mr. McDowell:** There is no doubt that Deputy Jim O’Keeffe is persistent. He has persuaded me that I should get rid of section 13(3) to (5), inclusive. I intend that the rules of court will specify that the affidavit to be lodged under section 14 have annexed to it or exhibited in it the pleading being verified.

**Mr. J. O’Keeffe:** That would cover it. That solves the problem. On that basis, I ask the House to accept my amendment to section 13, and I will withdraw amendment No. 14.

Amendment agreed to.

Amendment No. 14 not moved.

**Mr. Costello:** I move amendment No. 15:

In page 14, line 3, after “where” to insert “a plaintiff decides to swear such an affidavit or”.

We discussed this on Committee Stage. This is to make provision where a plaintiff could decide to swear an affidavit voluntarily. It relates to personal injuries actions. Anywhere there is scope for voluntary action, it should be availed of. It might be thought that it is not likely, but it should be invited in the legislation.

**Mr. McDowell:** People can swear affidavits all they like, but I am not providing for what they do with them when they swear them or what their consequences are. I would prefer to leave it so that the mandatory affidavit is the one dealt with in the Act. If people wish to swear other affidavits, that is their business, and I will not stop them doing so. I want section 14 to operate simply so I am not accepting the amendment.

Amendment, by leave, withdrawn.

**Mr. Costello:** I am not moving amendment No. 16 as the Minister has accepted an amendment which covers its intent.

Amendments Nos. 16 and 17 not moved.

**An Ceann Comhairle:** Amendments Nos. 18, 20 to 22, inclusive, and 24 are cognate and may be discussed together, by agreement.

**Mr. McDowell:** I move amendment No. 18:

In page 15, line 34, to delete “final” and substitute “formal”.

I said yesterday that I proposed to delete the word “final” and substitute the word “formal”. That should be done since I do not want anyone to suggest that it marks the end of the whole process. I would therefore prefer to do that on this occasion.

Amendment agreed to.

**Mr. McDowell:** I signalled last night that I would table amendments. I move oral amendment No. 18a:

In page 15, line 41, after the word “action” to insert the words “have regard to”.

Amendment agreed to.

**Mr. McDowell:** I move oral amendment No. 18b:

In page 15, line 42, to delete the words “have regard to”.

This is because “have regard to” has been inserted in paragraph (a) when it should have been distributed over paragraphs (a) and (b).

**Mr. J. O’Keeffe:** The two oral amendments make sense as it is obviously better drafting to have the words “have regard to” covering paragraphs (a) and (b). The change from “final” to “formal” also makes a great deal of sense in that it leaves the door open for further discussion.

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 19:

In page 15, line 35, to delete “court” and substitute “the office of the court”.

This amendment is to substitute the words “the office of the court” for the word “court” in line 35 on page 15. It is to obviate the possibility that the offer might go to the court itself before it reached its decision. It was suggested by the County Registrars Association, which did not want those offers being waved around in court under a judge’s nose. Even if he did not look at the terms of the offer, people might draw conclusions from the fact of its happening.

**Mr. J. O’Keeffe:** I understand the Minister’s thinking but has he thought the change through?

When we spoke about pleadings we referred to filing pleadings in court.

If the Minister looks at the reference to the affidavit in section 14(4) the requirement is that it “shall be lodged in court”. That expression is commonly used for the purpose of filing documents in the court office. When we talk about making a lodgement on behalf of the defence we make a lodgement in court. There is

9 o'clock

[Mr. J. O’Keeffe.]

a slight problem about changing the terminology in this case because there is an old rule to the effect that when there is express mention of certain things, anything not mentioned is excluded. It could cause problems because if we change it here and refer to lodging in an office in the court we are not so providing in all the other parts of the Bill. Anything else is merely being lodged in court as in the example of section 14(4). From a technical point of view this change could cause problems.

**Mr. McDowell:** I have consulted on the matter and will withdraw the amendment. Having regard to the language in section 14(4), which I am not going to revise, Deputy O’Keeffe’s point may be right.

Amendment, by leave, withdrawn.

**Mr. McDowell:** I move amendment No. 20:

In page 15, line 37, to delete “final” and substitute “formal”.

Amendment agreed to.

**An Ceann Comhairle:** Amendments Nos. 20a and 20b are oral amendments in the name of the Minister.

**Mr. McDowell:** I move amendment No. 20a:

In page 15, line 41, after “action” to insert “have regard to”.

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 20b:

In page 15, line 42, to delete “have regard to”.

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 21:

In page 15, line 42, to delete “final” and substitute “formal”.

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 22:

In page 15, line 44, to delete “final” and substitute “formal”.

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 23:

In page 16, line 3, after “action” to insert “or the making of an offer of tender of payment to the other party or parties to an action”.

This amendment is designed to cover the situation where money is not actually paid into court in satisfaction but “an offer of tender of payment to the other party or parties to an action” is made. There are some categories of defendant who are authorised to make an offer rather than to lodge and this is to take their special status into account.

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 24:

In page 16, line 5, to delete “final” and substitute “formal”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 25 and 26 are cognate and may be taken together.

**Mr. Costello:** I move amendment No. 25:

In page 16, line 9, to delete “order of the Minister” and substitute “rules of court”.

In a sense this amendment relates to Deputy O’Keeffe’s remark that the normal location for lodging pleadings is not the office of the court but the court itself. This goes a step further because here the Minister is taking unto himself the authority to determine when pleadings will be lodged and proceedings commenced, rather than leave the determination to the courts which is the normal procedure.

The courts committee deals with matters of this nature. While I understand the Minister’s desire to take all power unto himself it would be cumbersome and impractical for the Minister to be able to prescribe the appropriate times, dates and periods. Why has he decided to do this? Does he feel that the rules of court system is inefficient and impractical, and is not doing its job, or that he is in a position to streamline the process by deciding the prescribed date and period?

**Mr. McDowell:** As we provided under a previous amendment, nothing in this Act prevents the rules of court committee making a decision which is consistent with the Act with regard to a personal injuries action. Therefore, if I do not make any such order the rules committee at the relevant court can do so if it so wishes. I want to be in a position to ensure that this goes through.

As I explained on Committee Stage last night, the Minister is in a peculiar position in respect of most rules of court which are decided autonomously by a rules committee, and the Minister’s function is to say “Yes” or “No”. He or she does not have the power of initiative. I cannot direct a rules committee to propose a rule I think sensible. Giving me this power, however, does not prevent the rules committee from making a similar proposal were I never to commence the section or exercise the power, as long as that pro-

posal was consistent with the Act. It is intended to give me the right to ensure it does happen rather than that it is put on the long finger.

**Mr. J. O’Keeffe:** The Minister does not have much faith in those who draw up the rules of court if he does not think they can come to a sensible conclusion on this issue.

**Mr. Costello:** I know what the Minister is saying but is that reflected in the legislation? Section 17(7) states:

“prescribed date” means such date before the date of the commencement of the trial of the personal injuries action concerned as is prescribed by order of the Minister;

This does not refer at all to the rules of court or to a committee set up to deal with the matter, which would be the normal procedure. There is a rules making committee but this specifically excludes it, or states categorically that the Minister makes the order. It says nothing about the present system whereby the rules of court prescribe and the Minister approves. If that was intended it should say so. This is not a Humpty Dumpty situation in which words mean what one wants them to mean. It is either prescribed by order of the Minister or not. If not, it should state that it follows the normal procedure of the rules of court.

**Mr. McDowell:** I remain of the view that it is desirable I should have the right to prescribe a date. If I do not exercise this power or commence this section, or whatever, the rules committee can do so, if it thinks it is a good idea. I do not want this provision to depend entirely on the making of rules because it is an important section regarding a matter of ministerial policy that it should be commenced and have effect.

**Mr. J. O’Keeffe:** What does the Minister have in mind from the point of view of a prescribed date?

**Mr. McDowell:** Much will depend on the court but the date will be fixed by reference to the trial of an action, depending on the advice I receive, and I will confer with the Courts Service on this issue. The decision may be that someone must make a final offer within ten, 14 or 21 days before the trial of an action, or within some period proximate to it. This will depend on a number of factors, including the degree of case management the courts undertake. Case management in the District Court and case management in the High Court are different propositions. However, I envisage that the pre-trial conferences provided for under the legislation will take place and that the parties will not be in a position to follow what has been the classical habit in Irish personal injuries litigation, namely, trial by ambush with nobody knowing what witnesses will be called by the other side or what issues will be involved.

I expect the Judiciary to take these pre-trial conferences seriously to the extent that it is reasonable to do so. If a case in the District Court involved an argument over €300, a pre-trial conference might be a complete waste of time. However, if it is a substantial case involving, for example, medical negligence, I expect that the Judiciary would, under the legislation, hold a conference well in advance of such a case being tried. It would be made clear to both sides at such a conference the witnesses to be called and the sequence of events to be followed. In addition, there would be a discussion as to whether all pre-trial procedures have been complied with, whether both sides are in a position to proceed, the evidence that is agreed and the evidence on affidavit that will be accepted under the provisions of the legislation. If a case is managed to that extent, it would be reasonable to say to the parties that they must make their final offers to each other 14 days prior to the date fixed for trial.

**Mr. J. O’Keeffe:** Is the Minister——

**An Leas-Cheann Comhairle:** Deputy Jim O’Keeffe has already spoken on two occasions.

**Mr. J. O’Keeffe:** May I pose a question?

**An Leas-Cheann Comhairle:** It should be a brief question.

**Mr. J. O’Keeffe:** Is the Minister taking into account the vagaries that apply in respect of trial dates and the fact that such dates will not exactly be fixed because of adjournments and the unavailability of judges?

**An Leas-Cheann Comhairle:** The Deputy is going beyond asking a brief question.

**Mr. McDowell:** What happens in the courts at present cannot continue indefinitely. We cannot have boards of witnesses hanging around for three days in the hope that cases will be called. We cannot have a system where doctors and specialists are required to stand around in court hallways waiting to give evidence. It cannot continue to be the case that people are informed that a case may proceed on a particular day or three days later and that they should hang around to see what happens.

I hope my colleagues in the Law Library and the solicitors’ profession will not be too upset to hear me say that the new regime, which will involve case management, working out in advance the shape of a trial, bringing in evidence on affidavit, permitting people to testify effectively by affidavit and resolving conflicts of testimony between expert witnesses by means of the courts appointing their own experts who might swear affidavits and bring matters to a conclusion, will bring about an entirely new culture in the disposal of civil litigation.

[Mr. McDowell.]

I accept the implication made by Deputy Jim O’Keeffe that if the current system continues to obtain, final offers might not be final offers because people would continue to be unsure as to when their cases would be taken. I am optimistic enough to believe that, when the Bill becomes law, the Judiciary will be in a position to structure the entire trial process in a way which will give rise to the setting of definite dates on which trials will commence.

**Mr. Costello:** Everyone would agree with what the Minister said. We would like to see a situation where the courts would become more structured and where procedures would become more streamlined. I refer here not only to civil but also to criminal cases. However, I cannot see how the prescription he is laying down will improve matters. The Minister appears to be saying that the current rules of court system is not efficient or effective, that trial dates are not met and that no one is in charge of the way proceedings are dealt with. He also indicated that he wants to put an end to this. Under the legislation, the Minister will be able to decide, by order, the date of commencement of any proceedings.

**Mr. McDowell:** That is not what I am saying.

**Mr. Costello:** Is he then going to make prescriptions in respect of every case that comes before the courts?

**Mr. McDowell:** No.

**Mr. Costello:** The rules of court committee would normally deal with trials in civil liability cases. However, the Minister is assuming this responsibility and he will deal with it by order. How often will he intervene in cases? If, for example, a case of medical negligence comes before the courts and a formal final offer is made—

**Mr. McDowell:** There is a total misunderstanding here.

**An Leas-Cheann Comhairle:** The Minister has already spoken on three occasions on the amendment, which is out of order. He cannot speak a fourth time. Deputy Costello has replied to the debate on the amendment.

**Mr. Costello:** The Minister wants to clarify a matter for me.

**An Leas-Cheann Comhairle:** This is not Committee Stage.

**Mr. J. O’Keeffe:** We are making good progress.

Amendment, by leave, withdrawn.

Amendment No. 26 not moved.

**An Leas-Cheann Comhairle:** Amendments Nos. 28 and 29 are alternatives to amendment No. 27 and the three may be taken together by agreement.

**Aengus Ó Snodaigh:** I move amendment No. 27:

In page 21, to delete lines 28 to 39.

When we discussed this matter on Committee Stage, the Minister stated that he would contemplate whether details of the register should be placed on the Internet and come back to us on it. While we understand the need for a register, making it available on the Internet would seem to imply that those who have taken or are bringing personal injuries actions are somehow acting improperly or fraudulently. I accept that fraudulent claims have been made and it is my view that the names of those who are found guilty of making such claims should be placed on a register that is available to all. However, the majority of personal injury claims are brought for legitimate reasons. On some occasions these claims fail, while on others they are successful. The implication in section 30 is that people are engaging in something improper by taking personal injury claims. People should be allowed to take such actions without fear of any damage to their reputations.

The Internet gives rise to a major problem in that it is available to all and sundry. As stated on Committee Stage, the name, address and occupation of a person taking a claim will be listed on the Internet and they might then receive all types of spam and unsolicited mail. I am not an expert in computers but I am aware that the term “Intranet” usually refers to an internal network. If such a network could be made available only to those who operate within the courts system and if a company wished to check whether someone had made numerous claims, they could do so through their solicitors or barristers. That might be a way to make the material listed in the section available to those who are legal practitioners rather than to the general public.

If awards are made in cases, they become public knowledge. That is not the position in this instance, however, because the details of those who have made claims of any sort, regardless of whether they were successful, withdrawn or whatever, will be listed on the register. That would be regrettable.

**Mr. McDowell:** Perhaps I can shorten the matter by indicating that I will accept Deputy Costello’s amendments Nos. 28 and 29.

**Mr. J. O’Keeffe:** Does that mean allowing the name and address of the solicitor and that the register will be made available to such persons?

**Mr. McDowell:** When reference to the Internet is removed.

**Mr. J. O’Keeffe:** That is the important one. How do we remove the reference to the Internet?

**Mr. McDowell:** By means of amendment No. 29.

**Mr. J. O’Keeffe:** I am happy if the reference to the Internet goes. As far as I am concerned, that is where the problem lies. In any event, the inclusion of the Internet conflicts with data protection legislation. I am happy with Deputy Costello’s resolution of the matter.

**Mr. Costello:** I am delighted the Minister accepts the amendment because there is merit in having a register. I am glad the register will also extend to the solicitor for each party to the personal injuries action.

Regarding amendment No. 29, I am content as long as the register is available to such persons as establish to the satisfaction of the Courts Service a sufficient interest in seeking access to it and that the reference to publication on the Internet, which is virtually a global publication, is deleted. It is a considerable improvement and I thank the Minister for it.

Amendment, by leave, withdrawn.

**Mr. Costello:** I move amendment No. 28:

In page 21, between lines 31 and 32, to insert the following:

“(a) the name and address of the solicitor for each party to a personal injuries action,”.

Amendment agreed to.

**Mr. Costello:** I move amendment No. 29:

In page 21, to delete lines 36 to 39 and substitute the following:

“(3) The register shall be made available to such persons as establish to the satisfaction of the Courts Service a sufficient interest in seeking access to it.”.

Amendment agreed to.

**Aengus Ó Snodaigh:** I move amendment No. 30:

In page 22, line 9, to delete “requirement.” and substitute the following:

“requirement.

(3) Nothing in this section shall apply to require the disclosure by a solicitor of records, documents or information which—

(a) would place the solicitor in breach of his professional and legal duty to keep confidential

all matters coming within the solicitor/client relationship, or

(b) would normally be subject to legal professional privilege.”.

This is another issue which we dealt with in some depth on Committee Stage. The purpose of the amendment is to ensure client confidentiality, which is a basic principle of law recognised by the Irish courts. It is also part of European Community law and the European Convention on Human Rights. In addition, it is a long established principle of common law. The principle is justified because it ensures clients are able to consult solicitors without fear that their communication will be disclosed to third parties or used as evidence in court. It is vital that nothing compromises client confidentiality. There is a danger that pressure would be brought to bear on clients and their solicitors to disclose information, which up to now would not have been required, in the way the legislation is currently drafted. The amendment would ensure solicitors would not be in breach of their professional duties to keep the relationship between solicitors and clients private.

**Mr. J. O’Keeffe:** What we are talking about here is a requirement by certain persons to provide information to the new PIAB. We discussed this at length on Committee Stage and I had hoped the Minister would consider the points raised. There are serious problems with the requirement to furnish information which might breach solicitor and client confidentiality. To a large degree, our system has been based on such confidentiality, going back to the first establishment of attorneys some 100 years ago. Client confidentiality is recognised in the Irish courts and the law of the European Community. It would also contravene the European Convention on Human Rights. However, I accept that the matter is subject to all the requirements of justice. If there were matters of a criminal nature, perhaps confidentiality would be capable of being breached but in normal civil matters it has been recognised at all times that a solicitor has a professional duty to keep confidential all matters coming within the solicitor and client relationship.

To require solicitors to disclose records of documents to the PIAB would be a significant encroachment on the principle of client confidentiality. We should not do so without examining the proposal with great care. Solicitor and client confidentiality should not be breached except by order of a court or by a tribunal. The notion that a board could, of its own volition, require the production of documents or information from solicitors, which could lead to an encroachment on the principle of solicitor and client confidentiality, is something I find very difficult to accept.

[Mr. J. O’Keeffe.]

Although I am a non-practising member of the legal profession I am not here to defend the interests of the legal profession. The intention is to seek to defend the interests of those who rely on the legal profession. I am seeking to defend the client’s interest. This could lead to unwelcome consequences. I urge the Minister to reflect on the background to this and accept that this principle should not be breached in this fashion. Client confidentiality could probably be regarded as a constitutional right. A person should be able to have confidence in his or her relationship with a lawyer. Article 8 of the European Convention on Human Rights relates to the right to privacy. I feel very strongly that this fundamental change should not be introduced in this fashion.

**Mr. Costello:** I understood the Minister had agreed to reflect on the matter overnight. Something of this nature should not be put into legislation. The principle of client-lawyer confidentiality is contained within existing legislation. It is a bit like the confessional where anybody going to priests in the confessional can disclose information, or be asked to disclose it, but the exchange is conducted in a confidential and private fashion.

Section 54A requires:

The Board may require any person (including a Minister of the Government or a body established by or under any enactment) to provide it with such records, documents or information as it may reasonably require for the purposes of the performance of its functions.

If the board can require the client to provide all the documents it requires for the purpose of the performance of its function it does not need to interfere with the client-lawyer relationship. Any documents that are relevant can be got from the other source. I do not see why the legislation should intrude on that particular confidentiality and privacy. This provision will cause considerable difficulties among the legal profession in terms of its code of conduct. It should not come as any surprise to the Minister that the Law Society is not happy with the provision. The Law Society’s guide to professional conduct for solicitors states that a solicitor has a professional duty to keep confidential all matters coming within the solicitor-client relationship, including the existence of that relationship. All of that would be breached straight away by this provision. The guidelines also state that these matters can only be disclosed with the consent of the client or by direction of a court. If we put this provision in legislation it would be difficult to maintain it on a constitutional basis and in terms of the European Convention on Human Rights. It is not worth going down that road for the difficulty it would

cause in terms of being questioned by the legal profession and civil liberty bodies.

**Mr. McDowell:** Deputies Jim O’Keeffe and Costello have put their fingers on the matter. The legal professional privilege is a constitutional matter. Confidentiality in these matters is probably guaranteed under the European Convention on Human Rights. This has two consequences, first, any statute must be construed in a constitutional manner and, second, as a matter of statute law, this Bill, when it becomes law, must be interpreted in a manner consistent with the European Convention on Human Rights.

It is worth considering the purposes for which this information may be sought. The new section 54A states: “The Board [the Personal Injuries Assessment Board] may require any person (including a Minister of the Government or a body established by or under any enactment) to provide it with such records, documents or information as it may reasonably [the word “reasonably” must also be put into the balance] require for the purposes of the performance of its functions under section 54(1)(c).” Section 54 of the Personal Injuries Assessment Board Act 2003 sets out the principal functions of the PIAB. Section 54(1)(c) states that one of the principal functions shall be “to cause a cost benefit analysis to be made of the legal procedures and the associated processes (including those provided for by this Act) that are currently employed in the State for the purpose of awarding compensation for personal injuries”. This means the PIAB has power to require persons to give it records from time to time to calculate the cost benefit analysis of one system versus another.

In that context, I can say as a matter of certainty, as a matter of constitutional construction, that it could not possibly be used as an attempt to breach lawyer-client privilege. This is because it would have to be reasonably required for a cost benefit analysis and I cannot imagine any circumstance in which in any individual case the information exchange between a solicitor and his client under privilege would be required.

In addition, in any event this section must be constitutionally construed. I agree with Deputies Jim O’Keeffe and Costello that this measure is one which cannot trench on a constitutional right and therefore it could not be applied in a circumstance which would seem to authorise a breach of a constitutional right. Even if somebody were disposed to baldly interpret it in that way and ignore the Constitution, which I reject as a hypothesis, it would have to be reasonably done. In those circumstances, clearly, a solicitor who refused access to a privileged confidential file on the basis that it could not possibly be reasonably necessary for a cost benefit analysis of the State’s personal injuries system could claim in any event on a reasonable construction that it would not be

reasonable to breach privilege for that purpose. On all those grounds the notion that the constitutional right could be infringed by a statute in these circumstances is misguided.

The other problem I have in accepting the amendment would be that it would be too particular. Earlier Deputy Jim O’Keeffe referred to “*expressio unius est exclusio alterius*”. Based on that maxim, to say that it does not apply to the disclosure by a solicitor of records, which would fall into either of those categories, would tend to imply that it would apply to virtually everybody else. It would apply to plaintiffs who had documents in their possession, doctors’ medical records of their patients and insurance companies that might have copies of these files in filing cabinets, which is not what this is about.

I again refer to the original section in the Personal Injuries Assessment Board Act, in which the PIAB is given powers to conduct these cost benefit analyses. The purpose of this section is to require people to assist it in carrying out those investigations by producing records in their possession. For instance, it would apply to the Master of the High Court, who, as an officeholder, is not in a position to refuse to show documents in his possession to the PIAB on the basis that it is not entitled to know what happens in his court. It is no application for documents which are secret any more than the Master of the High Court could direct somebody to hand up a privileged opinion. The same applies to the PIAB. It cannot request solicitors to hand over privileged documentation. On any rule or cannon of construction of a statute, it could not be interpreted as authorising the PIAB to breach lawyer-client confidentiality because that is constitutionally guaranteed.

In the circumstances the Deputies might ask why I would not accept the amendment if this is the case. If I were to accept it, it would imply that it was necessary to accept it and that this kind of document or person must be protected from this measure. If I accept that, I am stuck with the problem that it does not even refer to barristers, insurance companies, claims managers, loss adjusters, doctors, psychiatrists and many others who could not reasonably be required by the PIAB to hand over personal confidential material to it in these circumstances.

There may be a problem in introducing a reference in a Bill to another Act, on which most of us are not focused. This section is solely concerned with cost benefit analyses of our system of law. It has nothing to do with arguing about whether an individual case was rightly or wrongly decided or whether the plaintiff got €3,000 or €4,000 in any individual case. It is to do with the broader question of information flows, which should be made available to the PIAB so that it can carry out cost benefit analyses of the present system of personal injuries compensation law.

Having thought about it overnight, I believe it would be retrograde to accept the amendment as it would imply that, but for the amendment, this power could have had the effect of allowing the PIAB to attempt to breach lawyer-client privilege, which is not the case. This section could not be construed in that way because to allow it to be construed in that way or to admit that otherwise it could be construed in that way would suggest that it could be construed in a manner which is unconstitutional, and I cannot accept that.

**Mr. J. O’Keeffe:** The Minister has taken a rather odd approach in that he accepts our concerns on behalf of the legal profession that any such direction to or requirement on a solicitor would probably be unconstitutional and in breach of the European convention. The problem is that the Law Society is exercised and concerned about this matter.

**Mr. McDowell:** The Deputy’s profession is not very keen on the PIAB.

**Mr. J. O’Keeffe:** I thought it was the barristers who were more concerned about the PIAB. People must go to their solicitors anyhow but they may not have to avail of the expensive services of some barristers.

**Mr. McDowell:** The PIAB has more than one fan club.

**Mr. J. O’Keeffe:** The Minister is correct, we are really dealing with another Act altogether. Having this type of debate in the context of another Act is difficult for a start. What the PIAB would do under section 54 (1) (c) would be a cost benefit analysis of legal procedures and surely there would be no better place to start than in solicitors’ offices looking for files to see how effective the system is. The intent may be right, the approach may be not in any way to invade the privacy of individual clients but, in effect, that would be the consequence.

The second point of the Minister, of including one and excluding another is possibly a stronger argument. If we had time for more considered debate on the issue, I would like to see that section amended in a way that would exclude any documents or records held on a confidential basis by anybody. That obviously would include people, such as doctors and so on.

I am concerned about the issue. For the Minister to merely say that there is an implication that it would be unconstitutional and in breach of the European Convention to require documentation from solicitors is not a very strong answer to the case made.

**Aengus Ó Snodaigh:** If there is a chance that the privilege aspect will be breached under this



[Aengus Ó Snodaigh.]

section, we should accept the amendment. If a solicitor or a body refuses to comply with this requirement, what is the penalty? None, as far as I can see, is mentioned in the legislation, which makes the requirement seem strange. A question has been raised. I know we can all say certain matters will be subject to a constitutional challenge, but in this case professional confidentiality is a long-standing tradition and has been upheld by the European Court of Human Rights to be part of the rights of privacy. Client confidentiality is part of common law for the past 150 years and we should ensure that remains the case. A major crisis or events as mentioned by Deputy O’Keeffe might persuade a solicitor to break that confidentiality, but if client-solicitor confidentiality was breached it would bring a solicitor’s professional standing into question. Will the Minister respond to the question of penalties, if there are penalties?

**Mr. Costello:** It is a strange power the Minister is giving to the PIAB that documents, records and information must be disclosed even though it is within the ambit of section 54 (1)(c). The purpose of a cost benefit analysis is one matter but the substance of the information, documents and records is another matter. While they may provide information in regard to a cost benefit analysis, they might also provide information on other confidential matters. One will not necessarily get unadulterated cost benefit documentation that has no relation to the lawyer-client relationship. I do not know of any other situation where a private firm can be compelled to give details of its business operations.

The ESRI and NESCA operates on material that is voluntarily provided by the business sector on their audits and end of term published documents on their business. This provision seems to be a trawl of each individual firm or individuals as the case may be to provide documents. What will happen to the documents? How will they know what documents will be provided? As Deputy Ó Snodaigh asked, what penalties will apply, will there be officers, similar to glimmer men checking to see whether the exact document was supplied? Rather than delving into the internal documents of professional people, in this case lawyers and clients, would it not be better to establish a mechanism for an end of year statement that would be part of a code of conduct rather than a statutory requirement?

I think the Minister will run into difficult issues on confidentiality and privacy because one cannot separate documents in a clear-cut black and white fashion. It may be simpler to accept what is being proposed by Deputies Ó Snodaigh and Jim O’Keeffe, if disclosure will be unconstitutional if the documents are in breach of privi-

lege. That is what is stated in the amendment and it would be a clear statement of intent.

**Mr. J. O’Keeffe:** May I suggest an alternative proposal?

**An Leas-Cheann Comhairle:** The Deputy has spoken twice.

**Mr. J. O’Keeffe:** I know, but it is an alternative proposal, on the point of including one group with privilege. Under subsection (2) a person of whom a requirement is made under subsection (1) shall comply with that requirement. Would it be possible to add to the end of subsection (2) “unless to do so would breach professional privilege”? That would cover all professions and would make it explicit and clear that it is not envisaged that professional privilege would be breached by anybody. Will the Minister have a word with his officials on whether that would be a resolution to the problem and it would solve the problem for the Law Society and for everybody else as well.

**Mr. McDowell:** I reiterate that it cannot be interpreted so as to breach professional privilege. That cannot be interpreted that way because it is a constitutional right. If one interprets it as saying that the PIAB can invade the constitutional rights of people, the Deputy is missing the point. The PIAB will be entitled to get records relating to taxation of costs.

As Deputy Jim O’Keeffe knows well, a Bill of taxation does not contain legal professional privilege matters. It might be something which, in the ordinary course of events, a solicitor would be obliged by professional rules to keep confidential. However, I want to make it clear that it is not necessary to provide in respect of the exercise of any statutory power that it cannot be done in an unconstitutional manner. There is a fundamental rule of construction that no statute of this House may be interpreted in a way which apparently authorises an unconstitutional act. The provisions of every Bill passed, when they become law, must be construed in a manner that is compatible with the Constitution. I am quite happy that it is not necessary to provide this measure and it would tend to suggest, if such a provision were not made, that the Personal Injuries Assessment Board could behave in an unconstitutional manner. I am unhappy with that whole vista.

Amendment put and declared lost.

**Mr. McDowell:** I move amendment No. 31:

In page 22, between lines 9 and 10, to insert the following:

“32.—(1) For the avoidance of doubt, the reference in the definition of ‘proceedings’ in section 4(1) of the Act of 2003 to ‘proceedings

in court' includes, and shall be deemed to have always included, a reference to—

(a) proceedings by way of a counterclaim, and

(b) proceedings by way of the service of a third party notice (other than a third party notice claiming only an indemnity or a contribution).

(2) Section 30(4) of the Act of 2003 is amended by the insertion after 'subsection (3)' of 'or is one relating to a proposed action for damages under section 48 of the Act of 1961'.

Amendment No. 31 proposes to insert other amendments to the Act of 2003, the PIAB Act and they are quite technical. They extend the reference to "proceedings" to include, and deem them always to have included, a reference to proceedings by way of counterclaim and "proceedings by way of service of a third party notice (other than a third party notice claiming only an indemnity or a contribution)".

The second change is that Section 30(4) of the Act of 2003 is amended by the insertion after "subsection (3)" of "or is one relating to a proposed action for damages under section 48 of the Act of 1961".

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 32 and 33 are related and will be taken together. Is that agreed? Agreed.

**Mr. McDowell:** I move amendment No. 32:

In page 25, line 21, to delete "39.—(1) For" and substitute the following:

"39.—(1) In this section 'court' includes the Master of the High Court.

(2) For".

These are technical matters. In amendment No. 32 the term "court" is extended to cover the Master of the High Court. Amendment No. 33 is to include section 7 of the Maintenance Act 1994 between lines 32 and 33 on page 25.

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 33:

In page 25, between lines 32 and 33, to insert the following:

"(g) section 7 of the Maintenance Act 1994;".

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 34 to 37, inclusive, and 39, 43, 46 and 49 are related and will be taken together. Is that agreed? Agreed.

**Mr. J. O'Keeffe:** I will adopt an unusual procedure in that amendment No. 34 is the first in a block of amendments dealing with the issue arising from *in camera* hearings and how they should be dealt with. Members have had much public representation on this and there has been much controversy. The Minister indicated that he had accepted there was need for change. Perhaps the Minister could outline his thinking from the point of view of his amendments. We might be able to come to a resolution on the issue quickly.

Bill recommitted in respect of amendments Nos. 34 to 37, inclusive, and amendments Nos. 39, 43, 46 and 49.

**Mr. J. O'Keeffe:** I move amendment No. 34:

In page 26, between lines 2 and 3, to insert the following:

"(a) the disclosure or publication of data or results of research conducted relating to proceedings, or".

**Mr. McDowell:** I am grateful to the Leas-Cheann Comhairle because recommitment to Committee Stage makes it easier to range across the series of amendments tabled. Amendment No. 34 in the name of Deputy Jim O'Keeffe is not really necessary as regards the *in camera* rule because there is nothing in that which affects the publication of aggregate data. For example the Courts Service publishes the numbers of various orders sought, the numbers granted and the like in family law matters which are *in camera*. The *in camera* rule is not seen to prevent aggregate data of that nature from being published, as matters stand.

Another feature of the Deputy's amendment is that if it was to be inserted as a new subparagraph (a) in subsection (2), the proviso would not quite make sense because it would talk about "the disclosure or publication of data or results of research conducted relating to proceedings" and then one would say, "provided that the report or judgment does not contain any information which would enable the parties to the proceedings, or any child to which the proceedings relate, to be identified". There would be a technical problem, even if it was necessary to have an authorisation for aggregate research data of that kind to be put in place.

Regarding the amendments in my name, it is unclear from the section as it stands who may attend and report these proceedings. Amendment No. 35 in my name provides that it is to be either a barrister or a solicitor, and I am not trying to create a monopoly for lawyers, "or a person falling within any other class of persons specified in regulations made by the Minister". What I have in mind is that having consulted with the Courts Service and interested parties, I would be in a position to identify by class types of people who

[Mr. McDowell.]

should be entitled to carry out this function of preparing reports or recording judgments which are appropriate and sustainable. I do not feel this should be confined to practising or even non-practising lawyers. It should be capable of being extended to other categories in the community, but I do not at this stage have an explicit list in my head that I can commit to. Therefore I believe it is better to leave it to be decided by regulations which I would have to table before this House.

Amendment No. 36 provides that rules of court are to be made to regulate the reporting process. It inserts the term, “in accordance with the rules of court”. To go back to the point Deputy Costello was making about me arrogating powers to myself, I believe on this occasion that it is appropriate for the Judiciary, which runs courts, to operate in accordance with the rules of court established by rules committees. Anybody who exercises the function of attending at and reporting on family law cases should in that capacity be capable of being made subject to rules of court. It is not satisfactory that people should decide in favour of that function being carried out in a manner that is not capable of being regulated.

Amendment No. 37 provides that a person of the class referred to in paragraph (a), a solicitor or barrister or a person of the class specified in regulations can attend the court for the purpose of reporting. The amendment also gives the court a measure of control over the attendance of the reporter at the proceedings. I do not want to get into too much detail about this, but I can imagine, for instance, very intimate details of a sexual relationship being discussed in the context of a matrimonial case. It might well be that the presiding judge would decide that it was not acceptable in such circumstances for somebody to be present, listening to the proceedings and seriously inhibiting or embarrassing the parties involved. That is just an example. In cases of great privacy, the presiding judge should be given some leeway to ensure that witnesses can give evidence without undue intrusion from others.

The acceptance of amendment No. 39, in the name of Deputy Ó Snodaigh, would make the process of reporting subject to a great deal of bureaucracy, such as ministerial regulations and accreditation by the Courts Service. My approach, which has roughly the same aim, achieves the desired result in a slightly more flexible manner. I am opposed to giving “bona fide academic researchers”, as they are called in the amendment, access to court files on the basis that anything published would not contain information that would identify people, as the amendment suggests. It is proposed that the identity of the parties would be known to so-called bona fide

researchers but they would not be allowed to publish the details.

Frankly, private information can be a problem. For example, the intimate details of the private life of a well-known celebrity — a politician or somebody else — and his or her spouse may be written down in documentary form. It is no great comfort to somebody in such circumstances to know that researchers can rifle through the relevant documents but cannot publish anything that identifies him or her.

If researchers are writing a biography of the well-known person, they can use the material indirectly to influence the picture the public has of him or her. It is possible that the permitted access to such documents would be abused in that way. I do not favour giving “bona fide academic researchers” access to *in camera* proceedings *per se*. Instead, we should aim to put in place a system whereby relevant material can be placed in the public domain, allowing all potential users — researchers, students or departmental officials — access to it on the same basis. I do not think people should have a total right to sit on a case because they have branded themselves “bona fide academic researchers”.

I understand the objective of amendment No. 43. The provision proposed in the amendment will be included in the Bill, in effect, if my amendments are accepted. News reports of family cases which identify parties are not permitted at present. Given that family law judgments in the superior courts often appear in law reports with the identities of the parties concealed, it is clear that nothing prohibits such material from appearing in the news media. No such prohibition should exist.

The approach in this section is to permit certain actions which are currently prohibited. If my amendments are accepted, the attendance in court of a barrister, solicitor or member of such class of persons as prescribed in ministerial regulations will be permitted for the purpose of preparing a report. The attendance of other persons such as journalists will not be permitted unless they are prescribed persons. I do not intend to prescribe persons by category. While I understand the thinking behind amendment No. 43, I am of the view that the approach I am adopting will adequately take care of it.

The proposal in amendment No. 46 to prescribe by regulation persons who can publish reports is adequately taken care of in amendment No. 35. If we follow the line I am suggesting, it is probably unnecessary to prescribe the categories of person who may publish reports. If the category of reporters has been established and the relevant grounds rule has been set down, the question of what category of person goes on to publish the material seems to me to be of little importance.

It could be argued that amendment No. 49, in the name of Deputy Ó Snodaigh, proposes a somewhat over-regulatory approach. The Deputy is calling for guidelines to be prescribed “on venues and times for hearings, and the persons permitted to attend”. My amendment takes care of the part of the amendment relating to “the persons permitted to attend”. I am worried that the suggested approach is too heavy-handed and would involve too much preliminary work. If it is adopted, we will never get around to making information available about what is actually happening in the family courts.

The amendment also calls on the Minister to ensure by regulation that “the provisions under this section operate consistently in all family courts established in the State”. I have to say that the Minister could not do that very well. It is not the type of provision we should pursue lightly. We all agree that provisions should be made to allow the use of the material in question in other tribunals. There is no major problem in that regard.

**Mr. J. O’Keeffe:** We have to take the Minister on trust to a certain degree because we have not really had a chance to assess fully the effect of his amendments. We all agree on the common objective of ensuring that we cater for the provision of responsible reports for the purpose of building a body of jurisprudence for appropriate purposes. We are trying to ensure that the sensitivities of family law cases are not subject to day-to-day reporting. They should certainly not be the subject of sensationalism or intrusion of any kind.

The amendment I proposed represented an attempt to achieve a delicate balance. I will bow to the Minister’s comment that he and his officials are trying to achieve the same objective, by taking on board the various representations made and concerns expressed about this area. I hope the new provisions will achieve the balance we are aiming for. On that basis, I am prepared to withdraw my amendment and to agree to the amendments proposed by the Minister.

**Mr. Costello:** I wish to speak on the general thrust of the Minister’s amendments which have given us a great deal to think about. He is proposing to expand the Bill’s original provisions by focusing on various areas, such as how reportage can take place. I did not know that data can be compiled at present and I do not think many people are aware of it. I understand there have been difficulties with the compilation of data by researchers because it had been done on a pilot basis in the family courts, but that has been stopped to some extent.

I am not sure whether a particular process or code of conduct operates in that regard or whether the courts have been feeling their way in that regard, but we need to be clear on that aspect

of it if we are seeking to put in place a corpus of jurisprudence in respect of sensitive court matters, such as family law, domestic violence and rape cases, which have not been reported in any significant way until now. I would like to see a clearer mechanism in respect of the co-operation of the courts in this regard. How will judges respond? How will the Courts Service deal with the matter?

I would have thought a better approach could have been adopted. The Minister is arrogating some areas to himself by way of amendment No. 38 which provides that one of the Minister’s functions will be to prohibit a party to proceedings, “from supplying copies of, or extracts from, orders made in the proceedings”.

The Minister will proscribe the conditions, therefore. In section 36 the Minister will allow the matter to be dealt with in accordance with the rules of court. Would it not be better for a code of conduct in this area to be developed under the auspices of the Courts Service, which the Minister would then approve? There are many elements in this. We are talking about the research and data side, how the reporting will take place and the people who will do the reporting. Will it be academics on the one hand authorised by the Minister or barristers and solicitors on the other, or perhaps the two will be the same in many areas? We are talking also about those who will attend the court, the way people will be accompanied in court and the extent to which the material that is obtained will be used in terms of who can and cannot be identified.

There is need for a broad code of conduct in this area that is wider than the statutory provision determination. It should be the remit of the Courts Service to provide that code of conduct, which the Minister would then approve. That might be changed from time to time because this has not been done before and it is an extraordinarily sensitive area. Whereas it is easy for us to say that individual persons should not be identified in this legislation, we are talking about a very small country. It is difficult to keep matters private in many cases and details may emerge that will enable identification to take place.

From time to time the principles of a code of conduct might need to be changed or indeed the practicalities of it. I am not saying anything against the Minister’s proposal, which is a good one although I see a certain dichotomy in that the Minister is allowing the rules of court to prevail in one instance while arrogating approval to himself in another. It might be better for the Minister to stand back and allow the courts determine the code of procedure and behaviour, which the Minister for Justice, Equality and Law Reform would approve, and that could be changed from time to time as circumstances would require.

We are travelling untilled ground in this respect and we are not sure how these provisions

[Mr. Costello.]

will work in practice. They may work well but they may need to be changed, and that could be more easily done if there was a sufficiently broad provision to allow a mechanism be put in place for doing it.

**Aengus Ó Snodaigh:** Having listened to the Minister I understand some of the problems with the amendments I have submitted. As I said earlier, they were prepared in a rush. If I had the time I would have tidied them up somewhat and they would not be so bureaucratic. The reference to bona fide academic research does not necessarily mean that somebody can declare themselves as such.

The material I have listed in amendment No. 40 must be gathered to allow the judgments, so to speak, to be made on how the system is working and ensure we have proper statistics on that area. It is to allow the profession to extrapolate, collate and make sense of statistics, which we need from the courts system. I am not saying barristers or solicitors cannot do that but sometimes it is done by researchers, statisticians and so on. Perhaps that is covered by the Minister's inclusion of "any other class of persons".

The person who should be mainly responsible for the collating and processing of all this material should be an officer of the court, somebody from the Courts Service. I am not saying a barrister at law or solicitor cannot do it but it should be somebody who is accountable to the Minister or, at the very least, to the Courts Service in light of what other speakers, and the Minister raised in regard to personal details being used or abused in different circumstances.

On the second reading of my amendment No. 49 I admit it is slightly convoluted, so to speak, but the intention was that family courts should sit in courts, not in hotels, backrooms or whatever, and that the same type of facilities should be available in all of them. This is in line with my other amendment but the main point is that the same facilities should be available in every family court. The courts should sit at a time which is conducive to their working properly and we do not have criminal courts sitting for two hours in the morning and then the family courts sitting in the afternoon. A different time should be allocated to family courts. That was the intention behind my amendment.

I welcome the fact that the Minister has accepted in amendment No. 39 that parties to proceedings can make use of the reports, or extracts, for other proceedings only. I welcome the approach of the Minister. For once he is sticking to the programme for Government which stated that changes would be made to the *in camera* rule. That is to be welcomed. Time does not allow us to debate that aspect fully but in general I take the Minister at his word on this one.

**Mr. McDowell:** I have sympathy for the approach Deputy Costello suggested, namely, that I should ask the Courts Service to devise guidelines, consent to them and then they would be effective. My problem is that some of the people who are complaining about the *in camera* rule — I do not want to exaggerate their position — appear to think the Courts Service is against them and that if I simply surrender to the Courts Service all these functions and they did not like the result they would say, "Isn't that typical? We complain about the Courts Service and the Minister asks the Courts Service to address the problem but they do nothing". They then see it as an Establishment conspiracy against which they rage and say we are not doing the right thing.

**Mr. J. O'Keeffe:** They might say that is going out of the frying pan into the fire.

**Mr. McDowell:** Exactly.

**Mr. Costello:** Trust the Minister.

**Mr. J. O'Keeffe:** The Minister is the fire.

**Mr. McDowell:** There is a problem in maintaining the confidence of all the people who are subject to family law. Like many litigants in family law I would love to know the track record of individual judges — is this a judge who always holds for the father or never holds for the father? There is a lot of information that one would, in theory, like to know. Would it be fair, for instance, to say of a particular judge that in 83% of domestic violence cases he had held for the mother? Is that the kind of information we really want to know? At one level many people would say they want it clearly known that a certain judge is pro-wife or whatever. The problem with that kind of evaluation system is that it would give rise to the worst kind of pressures on judges. It would be like school league tables and would give rise to all manner of unintended consequences. Transparency gives rise to considerable pressure on people to conform to public expectations. Do we need to know if a judge, softer than others on a particular aspect of family law, gives out larger shares of a spouse's property to the other in divorce proceedings? Do we want comparative tables in our newspapers stating that judge X is soft while judge Y is as hard as nails? I do not know if that it is a positive development. I need to be convinced that this type of research is positive rather than negative.

This is a first step that may well be revisited by the House. However, we live in a world where, to quote the Minister for Finance, Deputy McCreevy, the goddess OTA — openness, transparency and accountability — is worshipped in many quarters. By the same token, the consumers of family law services, as provided by the

Judiciary as part of the administration of justice, must have a sense of confidence that openness, transparency and accountability will not destroy their lives. While a delicate balance must be achieved, I will concede we are groping in the dark.

The changes made during the passage of the Bill may not be perfect and may create problems in future. However, I do not want an unintended consequence where people lose faith in their capacity to go to court. For example, husbands and wives with matrimonial problems must not feel they cannot go to court because the issue will end up in the public domain. That would be the worst of the outcomes. Bad and all as matrimonial breakdown is, believing that one could not invoke the courts to help out would be ten times worse. I prefer to guarantee the House that this legislation will be revisited in two years' time. There are always courts Bills going through the Oireachtas, such as those to increase the number of judges. If this needs to be fine-tuned in the light of experience, there will be opportunities to do so.

Amendment, by leave, withdrawn.

**Mr. McDowell:** I move amendment No. 35:

In page 26, line 3, after "preparation" to insert the following:

"by a barrister at law or a solicitor or a person falling within any other class of persons specified in regulations made by the Minister".

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 36:

In page 26, line 7, to delete "provided that the report or judgment" and substitute "in accordance with rules of court, provided that the report or decision".

Amendment agreed to.

**Mr. McDowell:** I move amendment No. 37:

In page 26, line 9, after "identified" to insert the following:

"and, accordingly, unless in the special circumstances of the matter the court, for reasons which shall be specified in the direction, otherwise directs, a person referred to in *paragraph (a)* may, for the purposes of preparing such a report, attend the proceedings subject to any directions the court may give in that behalf".

Amendment agreed to.

Bill reported with amendments.

**Mr. McDowell:** Before the guillotine, I wish to make an oral amendment to amendment No. 47 which should now read:

In page 27, between lines 2 and 3, to insert the following:

"(7) This section shall apply to proceedings brought, and decisions of a court made, whether before or after the commencement of this section."

This new arrangement for the *in camera* rule shall apply to proceedings which have already begun and not just for proceedings commenced after the Act. Subsection (2) deals with judgments in the past and subsection (4) deals with the giving of information to certain other bodies. It is important that it is made clear for proceedings that commenced before the commencement of the Act.

**Mr. Costello:** Does that mean ones that commenced beforehand or cases where orders were made beforehand?

**Mr. McDowell:** This section shall apply to proceedings brought and decisions of a court made whether before or after the passing of this Act.

**Mr. J. O'Keeffe:** This will not exclude subsections (2) and (4).

**Mr. McDowell:** I am not excluding subsections (2) and (4).

**Mr. J. O'Keeffe:** It will be more sensible to adopt that approach.

**Mr. McDowell:** It could lead to an injustice.

**Mr. J. O'Keeffe:** It could have unfortunate consequences.

**Mr. Costello:** That would allow orders made prior to this Bill's enactment to be disclosed to third parties.

**Mr. McDowell:** It is better to provide that somebody now, whose case was decided two years ago, should be able to produce an *in camera* judgment to obtain, say, a mortgage in the future.

**Mr. J. O'Keeffe:** That is necessary as it is causing problems in the conveyancing area.

**Mr. Costello:** This is a substantial amendment.

**An Ceann Comhairle:** Is oral amendment agreed? Agreed.

As it is now 10.30 p.m., I am required to put the following question in accordance with an order of the Dáil of this day: "That the amendments set down by the Minister for Justice, Equality and Law Reform and not disposed of are hereby

[An Ceann Comhairle.]  
made to the Bill, Fourth Stage is hereby completed and the Bill is hereby passed.”

Question put and agreed to.

**An Ceann Comhairle:** As the Bill is considered by virtue of Article 20.2.2° of the Constitution to be a Bill initiated in the Dáil, it will be sent to the Seanad.

### Adjournment Debate.

#### Food Safety Standards.

**Dr. Upton:** I thank the Ceann Comhairle for the opportunity to raise this matter on the Adjournment. I welcome the many innovations that have occurred recently in food processing and development, and particularly in packaging. The consumer clearly stands to benefit very significantly from these developments but there is a need for caution in their application.

One must ensure that while valuable information is provided to consumers, they are protected against any potential risk that might arise from the innovations. I speak in particular of what are called active and intelligent packaging developments. These are just two of the innovations. Active packaging allows the release of approved additives into a foodstuff to control the growth of pathogens and of spoilage bacteria. This prolongs the shelf life of the food and makes it safe. However, it also allows one to know the food is safe or spoiled, so that in the latter case the consumer is unlikely to eat it.

Intelligent packaging makes use of specific indicators which will allow consumers to determine, for example, the freshness of a food by means of a colour change in the packaging. Such changes in the packaging would be reversible and would let the consumer know that the product was not suitable for consumption.

The real issue is that the consumer must be assured that the innovative development is also safe. The safety of the indicators, whether they are called active or intelligent packaging or anything else, must be guaranteed. Recent EU regulations allow the use of such systems. This issue is primarily one of food safety and consumer protection. When I put the question to the Minister for Agriculture and Food this week in order to ascertain his views, I was told it was a matter for the Department of Enterprise, Trade and Employment, which is correct. It is, however, an anomalous situation whereby packaging of food, which has implications for consumer safety and food protection, is the responsibility of the Department of Enterprise, Trade and Employment. It is not a trade issue but one of health

and food safety. I am asking that the Food Safety Authority be charged with responsibility for ensuring the safety of food, specifically with regard to active and intelligent packaging. That authority should be given a pro-active role in policing and enforcing that legislation.

The substantial matter is the responsibility for food packaging and it is inappropriate that it rests with the Department of Enterprise, Trade and Employment. We are talking of plastic materials in contact with foodstuffs and the possibility of migration of those materials into the food. The food industry and researchers will clearly have a significant responsibility and will undoubtedly take it seriously in ensuring that any materials in contact with the food are safe for human consumption.

This involves a policing and enforcement issue. The responsibility must change. Plastic materials in contact with food with the possible risk of migration should be rigorously policed. It is illogical and inappropriate that this responsibility now rests with the Department of Enterprise, Trade and Employment. The Department has no role, nor should it have, in food safety responsibility. That should be transferred to the Food Safety Authority which reports to the Department of Health and Children, or alternatively to a Department of food with full responsibility for all food related matters, including food safety.

#### Minister of State at the Department of Enterprise, Trade and Employment (Mr. M. Ahern):

I thank Deputy Upton for raising this important matter. Food contact materials are all materials and articles intended to come into contact with foodstuffs, including packaging materials but also cutlery, dishes, processing machines, containers and so on. All food contact materials can potentially transfer some of their constituents into the food they contact, a phenomenon called migration. To protect consumers' health, food contact materials should be safe and should not transfer their components into the foodstuff in unacceptable quantities. In recognition of this potential risk, the Food Safety Authority of Ireland Act 1998 establishes controls on the use of food contact materials. The Food Safety Authority of Ireland is responsible for enforcement of the legislation.

The potential contamination of food arising from food contact materials is an area where continual industry diligence and official controls are essential to minimise the threat to public health and confidence in the safety of the food we eat. Recent incidents such as the contamination of baby food with substances migrating from packaging materials highlight the potentially serious nature of the problem. The FSAI has requested the European Food Safety Authority to ensure that rigorous toxicological assessments are carried out on substances used to manufacture food

contact materials including consideration of their degradation qualities. The laboratory facilities for testing food contact materials for compliance with this regulation have improved in recent years.

At European level there is an existing Council Directive 89/109/EEC, termed the framework directive, which established general principles relating to materials and articles intended to come into contact with foodstuffs, such as the principle of inertness of the materials. It also established that specific directives would be introduced for certain groups of materials such as plastics, paper and so on.

In November 2003 the European Commission introduced a proposal for a regulation of the European Parliament and Council to replace the framework directive. This new regulation is intended to take account of substantial technological developments in the area of food packaging in the past number of years. The regulation is intended as a general framework for food contact materials and sets out the general principles that should apply to all packaging. The regulation establishes some general rules of traceability for food contact materials in line with similar provisions for food and feed set out in Regulation (EC) No. 178/2002, though there is a two-year delay before these provisions apply.

The regulation also establishes a more detailed, transparent procedure for the safety assessment by the European Food Safety Authority and authorisation by the Commission of substances to be used in the manufacture of food contact materials. The regulation extended the list of materials that could be subject to specific controls, adding active materials and intelligent packaging that can give consumers information on the condition of the food, ionexchange resins, adhesives and printing inks, as well as food contact materials made from recycled materials.

The regulation also seeks to support member states' enforcement of the rules on food contact materials through the Community reference laboratory and the national reference laboratories established by the Regulation (EC) No. 88/2004 on official controls that are performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. The proposal was actively promoted by the Irish EU Presidency and a compromise text reflecting intensive discussions in the early part of this year was approved by the European Parliament on 31 March 2004. It is expected that the regulation will be formally adopted by the Council of Ministers very soon when the text is available in all the official languages of the EU. At that stage it will be published in the *Official Journal of the European Union* and will come into force 20 days later. From then on the measure will apply in all member states.

The main concern over the proposal in the European Parliament and among member states was over the introduction into the scope of the regulation of certain active packaging systems that are designed to release substances such as food additives into packaged food after it has left the food factory. At present this packaging cannot be introduced into the EU because the packaging must be inert. Amendments were agreed to specify some general principles that should apply to active packaging. For example, the food industry must be informed of substances deliberately released from active packaging, and these must be identified on the label as if they were food ingredients. These should ensure that consumers are not misled about either the packaging or the condition of the packaged food they purchase.

Active packaging would only be permitted to release substances already authorised as food additives. Further requirements will be detailed in the specific legislation to be drafted by the Commission. Public health will be a primary concern in this regard.

The new regulation provides for technological developments in regard to manufacturing of food contact materials that have taken place such as the development of active and intelligent packaging. It also introduces traceability requirements in regard to food contact materials. The enhanced role given to EFSA should increase consumer protection and confidence in food safety. It will be necessary to amend the European Communities (Materials and Articles Intended to Come into Contact with Foodstuffs) Regulations, 1991 to 2003. This would be to provide that non-compliance with the new Regulation would be an offence under Irish regulations, and to establish sanctions for non-compliance.

#### **Bovine Disease Levies.**

**Mr. Finneran:** I welcome the Minister for Agriculture and Food, Deputy Walsh. I wish to highlight a situation which has developed in Roscommon but which I am sure is applicable in some other areas where there are outbreaks of brucellosis and TB. The motion is that the Minister review upwards the reference prices compiled by the Department of Agriculture and Food on the live valuation for suckler cows under the disease eradication scheme. Reference prices compiled weekly by the Department of Agriculture and Food and issued to valuers are not reflected in the prices being achieved in the market for quality suckler cows in particular. Farmers having suckler cows removed under the disease eradication scheme are losing between €300 and €400 per head on good quality cows. It could be argued that this is in direct contravention of what was agreed under the PPF in regard to the on-farm valuation scheme. It is important that the spirit of this scheme be honoured in full and that market



[Mr. Finneran.]  
prices are paid for all animals removed under the scheme.

While cattle prices in general have increased since 1 January, the reference price index has not increased. The Minister could and should intervene. In some cases, the value of an inferior suckler cow can be obtained but to replace good quality cows often comes at a cost of €300 to €400 per head to farmers, who should get a realistic market value for their cows.

County Roscommon is unfortunate in that the south part of the county had a major outbreak of brucellosis, particularly in the moor area. Just two weeks ago, a farmer told me that eight of his cows had been removed. He believed he would have to substitute the replacement to the tune of perhaps €2,000 to €2,500, which he could not afford. Farming is important in County Roscommon, which has more than 8,000 farmers and many full-time farmers with suckler cow herds. It is unfortunate that there are two disease outbreaks at present, of brucellosis in one part of the county and TB in another.

There is serious resulting hardship among farmers. I have discussed the matter at length with IFA officials and other farming organisations. They asked me to bring the matter to the House to ascertain whether we could improve the lot of the farmers. Will the Minister look sympathetically at the situation of County Roscommon? While this may also be applicable to other counties, it is a matter of concern to my constituents and the farmers of Roscommon.

**Minister for Agriculture and Food (Mr. Walsh):** By way of background, I should explain that in the context of negotiations leading to the agreement on the Programme for Prosperity and Fairness, it was agreed to introduce an on-farm market valuation scheme for cattle removed under the TB and brucellosis eradication schemes. This was agreed with the farming organisations, including the IFA. In subsequent negotiations with the farming bodies, it was agreed that for the purposes of valuations, "market value" would be the price which might reasonably have been obtained for the animal at the time of determination of compensation from a purchaser in the open market. If there is a problem with on-farm valuation, there is also an appeals system and, if there is a problem with an appeal, there is an arbitration system. There are three tiers to the system in the interests of fairness.

The scheme was phased in during 2001 and was fully rolled out from April 2002 in respect of all reactor cattle disclosed at a test on or after that date. From that date, the flat reactor grant arrangements ceased to apply. However, in addition to the market valuation element, farmers whose herds are affected by these diseases may, subject to certain conditions, also qualify for

assistance under the income supplement, hardship or depopulation grant schemes.

Accordingly, since April 2002, compensation for all reactors disclosed under the TB and brucellosis eradication schemes is determined in accordance with the terms and conditions of the on-farm market valuation scheme as agreed by the IFA and other farming organisations in the Programme for Prosperity and Fairness. All valuations are carried out by a cadre of independent valuers who value animals in accordance with the agreed market price definition. The summary of market prices document is revised each week to take account of available data on market prices. This updated document is sent each week to each valuer to assist them in their valuation work. Farmers who are not satisfied with initial valuations can appeal them and if still not satisfied after the appeal valuation, they can go to arbitration.

The valuation system is working well and there are no plans at present to make any changes to the basis on which it operates. In support of this, I would point out that more than 20,000 separate valuations have been undertaken since April 2002 and there have been very few appeals against first valuations, not to mention those referred to arbitration. For example, during 2003, some 8,585 separate valuations were completed by independent valuers in respect of some 45,000 cattle, with only 1.6% of first valuations appealed and less than 0.2% of valuations going to arbitration. The figures indicate a significant satisfaction level with the way the on-farm market valuation system operates. I will continue to keep the scheme under review but, as indicated, I believe it is working satisfactorily.

#### **Radio Broadcasting.**

**Dr. Cowley:** I am grateful for the opportunity to raise this important matter. It seems extraordinary that North West Radio should have its right to broadcast removed. This decision of the Broadcasting Commission of Ireland seems particularly perverse and unfair considering that North West Radio had possession of its licence for the past 14 years and has given sterling and dedicated service over this time to the general community. Were proof needed of the excellence of North West Radio, it has consistently been seen as one of the top radio stations in Ireland and winning "local radio station of the year" in 2003 speaks volumes for its content and performance. Were proof of its value to virtually every man, woman and child in the area needed, then the out-pouring of grief on its possible demise is akin to the impending death of a highly respected friend or a close relative.

The high standing and global respect that North West Radio commands across the community among all age groups is a result of good

and faithful service to the community. It has given everything one would expect from a true friend and more. What friend would be there to entertain, inform, console and advise at all hours of the day and night? Who else was there to help faithful listeners through the night when calamities, such as storms, raged? Many older people regard North West Radio as their only true friend. It was a constant companion to those who were otherwise alone. It was a lifeline and a bridge from their isolation and loneliness.

The most disturbing aspect of this saga is the manner in which it happened. How could such a decision, which would have such sad and major implications for dedicated staff and avid NWR listeners, be decided almost on a whim? This was a borderline decision of the six BCI members present at a meeting. It was a 3-3 split decision, with the second and deciding vote of the BCI chairman putting an end to an extraordinary public service and epic performance by a gifted and dedicated team. Where were the other members of the BCI when such an important decision was being made? They should have been there.

This is an amazing situation, a borderline decision in favour of an unknown quantity on grounds which are far from convincing. This has totally undermined public confidence in the BCI. Surely a station which holds the broadcasting rights for so many years should have an automatic entitlement to retain that licence to broadcast indefinitely, except in the most exceptional circumstances. Surely this is logical and necessary, given the considerable investment required in blood, sweat and tears as well as hard cash to sustain such a high class and effective radio station. If broadcasters have no certainty about the future of their operation and have to depend on a wing and a prayer as to whether they will be able to continue to broadcast, the result will be lower standards and mediocre radio stations.

The overwhelming feeling is that the BCI has done a gross disservice to the people who listen to North West Radio. There should be a review process with strictly outlined rules. Anything less is arbitrary and unfair. The lack of an appeal system against decisions of the BCI is a travesty of justice. The limitations of any recourse to the legal route are, unfortunately, only too obvious. It is up to public representatives to demand a solution to this situation by seeking changes in the legislation, if that is required.

I am seeking answers from the Minister as to what will be done about the injustice visited on North West Radio, the reform of the BCI and the steps being taken to provide a proper appeal system against BCI decisions. The powers of the Ombudsman should be extended to cover BCI decisions. One stated reason for the loss of the licence is shared programming. These shared programmes are the most popular radio programmes in Ireland. Tommy Marren, Paul Claffey and

Gerry Glennon are bigger stars than Gay Byrne ever was. More people listen to them and one cannot get more local than that. The chairman of the BCI's reason for opting for the other crowd was that they had a vision for the needs of a greater number of listeners in the area over the next ten years. That vision is a case of the blind leading the blind. The reality is that everybody listens to North West Radio.

The system is there, or should be there, to serve the people. If the system is deficient and does not serve the people, it should be scrapped. Justice demands that North West Radio should retain its broadcast licence. What will the Minister do to ensure justice and fair play for North West Radio? The people of the north-west demand that the Minister act on this. I demand it too, as their elected representative.

**Mr. Walsh:** I thank Deputy Cowley for bringing this matter to the attention of the House. The Broadcasting Commission of Ireland is an independent statutory body and the Minister has no role in its licensing decisions.

Last year, the Minister announced his intention to carry out a fundamental review of radio licensing in Ireland. The purpose of the review is to examine all aspects of radio licensing, including what is licensed and the processes through which licences are awarded, and to make recommendations for the future. Within this context, the workings of the commission and issues concerning appeals procedures in radio licensing decisions are being considered. The first stage of the review process was a comprehensive study of radio licensing in Ireland carried out by industry experts. That report is now completed.

The Minister now intends to hold a public consultation process on the full range of issues *vis-à-vis* radio licensing in Ireland. The purpose of this public consultation is to seek the views of stakeholders. The consultants' report will be released as part of the public consultation. The public consultation process will commence within a few days. After completion of this process, the Minister will develop proposals on how the radio licensing regime in Ireland can be improved. Such changes will be considered in the context of proposals to establish the broadcasting authority of Ireland.

The consultants' report examines an extensive range of topics in the context of radio licensing in Ireland. These include the Irish radio broadcasting market, media policy issues, radio broadcasting economics and radio licensing procedures. The consultants also include detail on licensing procedures in other jurisdictions. Drawing on the consultants' report, the public consultation will seek views on all the key issues. These include overall policy objectives for the independent sector, issues around diversity and plurality, the citizen's voice, all aspects of the licensing process,

[Mr. Walsh.]

enforcement of licence conditions, financial returns to the State and the possibilities available from digital radio. All aspects of the licensing process are key topics for consultation. The Minister will seek views on the different components of the licensing process, including the application procedures and the evaluation procedures, and on the options for future appeals procedures.

With regard to the specific issue of appeals, the Minister recognises that at present there is no opportunity for appeal against a decision by the commission to award a licence, other than an appeal through the courts on grounds of process. While the Minister wishes to avoid the creation of a second tier of decision making in the licence award process, he recognises that the importance of the licence award decision may merit some form of appeals outlet. The Minister will seek opinions from interested parties on the options for the development of a suitable appeals process through the public consultation.

It is appropriate to mention at this juncture that a radio licensing appeals process, if developed, would be available to all applicants for radio licences. It would be the case, therefore, that proposed new entrants to radio who did not win licences may be entitled to appeal the granting of a new licence to the incumbent. As such, an appeals process would not be confined to existing licence holders only.

The licensing of local radio services is obviously a sensitive matter. This is particularly so where an existing local radio station fails to win a new licence. The only way to avoid hard decisions and controversy would be to grant licences in perpetuity. While licence holders might welcome this, it would obviously not be in the public interest. It follows that there will inevitably be cases where licensees who have provided a high-quality service will still lose out where there is strong competition for a new licence.

In summary, the Minister intends that the comprehensive review he is undertaking will fully examine both the licensing role of the commission and the options for licensing appeals procedures. The public consultation planned in this regard will allow for a wide range of proposals to be considered. I believe local radio is providing a superb service. It has filled a gap, particularly in rural and peripheral areas, that is not covered by the national broadcasting service. The listenership figures prove that it is providing an essential service. The stations also provide a service for our democracy. It is difficult for people in rural areas to get issues of concern raised and heard through the national broadcasting service but that facility is available through the local radio service. I am a great admirer of the service throughout the country and strongly support the concept that

a formal appeals system be put in place. That is the intention of the Minister.

### Hospital Services.

**Mr. Durkan:** I am grateful for the opportunity to present this case again in the House. It is ironic that the Ceann Comhairle, as a medical practitioner, should be present for this debate as well as the Minister of State with whom I worked for a considerable time on the premier health board in the country at the time, the Eastern Health Board. There we dealt with the same issues that are before the House tonight.

I raise this matter not for political reasons but out of a sense of alarm. It has come to my attention that there appears to be nobody in control at Naas, James Connolly and Peamount hospitals. Let us take the example of Naas General Hospital. A major refurbishment and expansion initiative was undertaken at Naas General Hospital by the former Minister for Health, Deputy Noonan, and subsequently advanced by the present Minister. The Taoiseach said this morning that the Government built the hospitals. In this case the money was provided by the previous Government. It is sad that everything seems to have ended with the expansion. The Minister of State is shaking his head. The original cost was €21 million. The project was delayed for two years by the subsequent Government and costs escalated and are escalating daily. The Government seems to believe that once the building is in place nothing else needs to be done, that there is no need for staff. A state-of-the-art operating theatre is unused. Orthopaedic facilities paid for by the State cannot be provided. Naas hospital is underutilised — 75% of the development plan for Naas hospital has been agreed but the hospital is running at only about 10% efficiency simply because of lack of direction, lack of resources and lack of intent on the part of the Minister.

Let me turn to Peamount Hospital. Some bureaucrat somewhere decided to phase the respiratory and TB section of the hospital. That decision was made by administrators, not clinicians. That decision was wrong. This was subsequently proved when a patient was referred to the hospital from the Mater Hospital to be turned away by administrators. This has happened in other parts of the country as well. It is a disgrace that decisions are being made purely on administrative grounds. It is a dangerous precedent and should not be allowed to happen. The Minister should address the issue and ensure that the respiratory and TB section of Peamount Hospital continues in existence.

There was massive investment by the State in the James Connolly Memorial Hospital in Blanchardstown. It was much needed and was supported by everybody. However, the back-up and ancillary services were not provided. It is a sad day for health services. It seems administrators

now run the service and clinicians have a secondary role. They are required only when there is an emergency or a disaster. We are on a dangerous road and there will be serious consequences if something goes wrong. There have been a number of instances in hospitals in the Minister's constituency already and I do not want to see these repeated all over the country. However, unless a decision is taken to ensure that the three hospitals in question are given a firm footing on which to operate and a clear vision for their operation in the future, the service will collapse.

**Minister of State at the Department of Health and Children (Mr. Callely):** I thank Deputy Durkan for raising this issue. He is aware that the responsibility for the provision of the services at Naas General Hospital and James Connolly Memorial Hospital rests with the Eastern Regional Health Authority.

**Mr. Durkan:** They do not want to hear about it.

**Mr. Callely:** Peamount Hospital is a voluntary hospital and it provides services under an arrangement with the authority. I would be deeply concerned if Deputy Durkan were under the impression that there is nobody in control. If the Deputy can substantiate that, I ask him to do so in writing and I will certainly come back and give him a name. I know the name of the person but rather than announce it in the House I would be happy to ensure that he has the name of the person who is in control.

**Mr. Durkan:** I will.

**Mr. Callely:** I would also be happy to hear from Deputy Durkan, as a man who has his finger on the pulse, that he is satisfied the appropriate mechanisms are in place and are working.

Naas General Hospital, as the Deputy knows better than most, given his interest in Naas and time spent with myself on the EHB—

**Mr. Durkan:** We soldiered together.

**Mr. Callely:** —has a complement of 199 beds. It provides general, medical and surgical services, acute psychiatric services and medical and social assessments for patients aged over 65 years, to more than 180,000 people in the Kildare and west Wicklow catchment area.

Phase 2 of a major development programme commenced at Naas General Hospital in November 1999. I signed that agreement with the Minister for Finance, Deputy McCreevy.

**Mr. Durkan:** The Government rushed in after the event.

**An Ceann Comhairle:** Allow the Minister to continue. The time for this debate is limited.

**Mr. Callely:** My colleague, the Minister for Finance, has demonstrated very constructive and positive support for the development at Naas General Hospital and signed on the dotted line when required to do so. Phase 3A, which includes accommodation and enabling works for future phases 3B and 3C, commenced on site in April 2002. All the departments constructed in phases 2 and 3A are now in operation, and it is a mistake to send out a message that units are built but not in operation.

Additional revenue and staffing are required to fully commission this development and these are the subject of ongoing discussion between the authority and the Department. If Deputy Durkan can suggest any other mechanism for arriving at a satisfactory conclusion that ensures value for money, appropriate placement of skilled personnel and so on without negotiation, he should tell us about it. I am sure he appreciates that negotiation is necessary and that sometimes that is difficult. I have been involved in negotiations regarding a community nursing unit in the Deputy's catchment area. There has been a huge amount of discussion on it and I cannot understand why progress has not been made.

**Mr. Durkan:** I raised the issue on several occasions by way of parliamentary question.

**Mr. Callely:** The Deputy and I would agree on the reasons it should be opened and on the unacceptable reasons it remains idle. However, we will not interfere with due process. I hope we will see that unit opened as quickly as possible. My Department is more than anxious to open these units on which taxpayers' money has been spent so that the communities they serve can benefit fully.

It is anticipated that the remainder of the development at Naas General Hospital, phases 3B and 3C, will commence in late 2004 and be completed in 2007. That will provide an additional 31 beds at the hospital, bringing the total complement up to 230 beds.

**An Ceann Comhairle:** The Minister should conclude.

**Mr. Callely:** Let me deal briefly with James Connolly Memorial Hospital.

**An Ceann Comhairle:** The Minister should be brief. In fairness to the staff of the House, I would prefer if Ministers did not go beyond the time allotted.

**Mr. Callely:** I will take less than two minutes.

The construction of the new hospital was completed in 2003 on target and within budget. A number of the facilities have been moved to the new location. Additional services will also be

[Mr. Callely.]  
transferred to the new hospital. When fully commissioned, the capacity of the hospital will be significantly increased.

Regarding Peamount, I assure the Deputy that respiratory and TB services are to continue. It is part of what the hospital wishes to do regarding the provision of services. There was no reduction of funding from 2003. Additional funding was provided for intellectual and physical disability services. I am pleased to say regarding old age

that there are several new units. There has also been the appointment of a new respiratory physician for the south west who will also provide some sessions to Peamount.

I assure the Deputy that the Government will continue to invest in the development of high-quality, equitable and accessible hospital services so that those availing of the services continue to receive timely and appropriate care.

The Dáil adjourned at 11.10 p.m. until 10.30 a.m. on Thursday, 8 July 2004.

## Written Answers

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

*Questions Nos. 1 to 12, inclusive, answered orally.*

*Questions Nos. 13, 14, 18, 21, 23, 24, 27, 28, 29 and 32 resubmitted.*

*Questions Nos. 34 to 42, inclusive, and Questions Nos. 50, 52, 60, 54, 77 and 131 answered orally.*

### Decentralisation Programme.

15. **Caoimhghín Ó Caoláin** asked the Taoiseach the details of the proposal he announced on 7 June 2004 for a second application stream for Dublin-based posts in the Civil Service in the context of decentralisation as it affects his Department; if posts in his Department will be offered as part of the scheme; and if he will make a statement on the matter. [17603/04]

16. **Mr. Rabbitte** asked the Taoiseach if he has proposals to decentralise any sections of his Department or any public bodies for which his Department has overall responsibility; and if he will make a statement on the matter. [18312/04]

17. **Mr. Sargent** asked the Taoiseach if he will report on the impact of the decentralisation programme on his Department and the bodies for which his Department is responsible; and if he will make a statement on the matter. [18991/04]

19. **Mr. Rabbitte** asked the Taoiseach if the proposed centralisation application system for Dublin based civil servants, announced by him on 7 June 2004 will be available to civil servants in his Department; and if he will make a statement on the matter. [20261/04]

20. **Mr. Rabbitte** asked the Taoiseach the number of civil servants in his Department who have applied for posts in other Departments based outside of Dublin as part of the Government's decentralisation programme; the number of persons in his Department who have applied to transfer to other Departments in Dublin under the proposals for a centralised applications system announced by him on 7 June 2004; and if he will make a statement on the matter. [20262/04]

**The Taoiseach:** I propose to take Questions Nos. 15 to 17, inclusive, 19 and 20 together.

There are no proposals to decentralise my Department or any of the agencies or bodies under its aegis. Since 12 May this year, all staff wishing to decentralise must use the central application facility, CAF, regardless as to whether their name is already on any other existing transfer list, departmental or external.

The CAF will remain open throughout the duration of the decentralisation programme. Those who apply prior to 7 September 2004, will be given priority in the case of locations that are over-subscribed. Information gathered through the CAF, will be analysed by the Civil Service and Local Appointments Commission, which will inform Departments of the numbers of their staff applying for transfer to other organisations. Once I have this information, I will be in a position to respond to requests for information on the numbers of officials from my Department who have applied to relocate.

The report of the decentralisation implementation group, chaired by Mr. Phil Flynn — March 2004 — recommends that a system similar to CAF be developed to facilitate the reassignment of staff remaining in Dublin to other organisations. As information becomes available from the CAF, it will be possible to identify vacancies which will arise in organisations remaining in Dublin, as a result of individuals from those organisations applying for decentralised posts. The Dublin CAF will allow staff being reassigned within Dublin to apply for these vacancies. The modalities of this will be discussed between public service management and staff interests.

*Question No. 18 resubmitted.*

*Questions Nos. 19 and 20 answered with Question No. 15.*

*Question No. 21 resubmitted.*

### Departmental Appointments.

22. **Caoimhghín Ó Caoláin** asked the Taoiseach the names of the persons appointed by him to State boards and agencies since June 2002; and if he will make a statement on the matter. [20250/04]

**The Taoiseach:** The information sought by the Deputy concerning the names of the persons appointed by me to State boards and agencies under my aegis since June 2002 is set out in a schedule, which I am circulating with the official report for the information of the House.

The Boards and Agencies under the aegis of the Department of the Taoiseach are:

- The Information Society Commission;
- The National Statistics Board;
- The Law Reform Commission;
- The National Economic and Social Forum (NESF);
- The National Economic and Social Council (NESC);
- The National Centre for Partnership and Performance (NCPF).

## National Statistics Board Membership.

Name	Organisation	Appointed
Mr. Frank Cunneen	Health & Safety Authority	Feb 2004
Mr. Ciaran Dolan	ICMSA	Feb 2004
Ms. Paula Carey	ICTU	Feb 2004
Ms. Mary Doyle	Department of Taoiseach	Feb 2004
Professor Brendan Walsh	University College Dublin	Feb 2004
Dr. Pat O'Hara	Western Development Commission	Feb 2004
Mr. Derek Moran	Department of Finance	July 2003 Feb 2004

## The National Economic and Social Forum

Construction Industry Federation:  
Kevin Gilna

## National Economic and Social Forum: Independent Appointments Jan/ Feb 2004.

Chambers of Commerce/Tourist Industry/Exporters  
Association:  
Carmel Mulroy

Of the 62 NESF members, 50 are appointed by nominating bodies, 5 members are ex-officio and 5 independent members are appointed by the Government. The 5 NESF independent appointments are: Dr Mary P Corcoran (Senior Lecturer, NUI, Maynooth) Cáit Keane (South Dublin Co Council) Dr Colm Harmon (Director, Institute for the Study of Social Change, UCD) Dr Brian Nolan (Research Professor, ESRI) Mr Paul Tansey (Economist) The Government also appoints the Chair and Deputy Chair.

*Trade Unions:*

Technical Engineering & Electrical Union  
Eamon Devoy

Civil & Public Service Union  
Blair Horan

AMICUS  
Jerry Shanahan

SIPTU  
Manus O'Riordan

ITCU  
Paula Carey

*Agricultural/Farming Organisations:*

Irish Farmers Association:  
Mary McGreal

Irish Creamery Milk Suppliers Association:  
Michael Doody

Irish Co-Operative Organisation Society:  
Mary Johnson

Macra na Feirme:  
Carmel Brennan

Irish Country Women's Association:  
Anne Murray

**Strand (iii) Community and Voluntary Sector***Women's Organisations:*

National Women's Council of Ireland  
Frances Byrne  
Joanna McMinn

*Unemployed:*

INOUE  
June Tinsley

ICTU Centres for the Unemployed  
Patricia Short

*Disadvantaged:*

CORI  
Sr. Brigid Reynolds

Society of St. Vincent de Paul  
John-Mark McCafferty

Pavee Point  
Bríd O'Brien

Anti-Poverty Networks  
Sharon Keane

## Full Membership of the National Economic and Social Forum 2004

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Children's Rights Alliance  
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*Older People:*

National Council for Ageing and Older People/Senior  
Citizen's Parliament/Age Action  
Robin Webster

*Disability:*

Disability Federation of Ireland  
Aisling Walsh

*Others:*

The Carers Association  
Seán Gallagher  
Irish Rural Link  
Seamus Boland  
The Wheel  
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**Strand (iv) Central Government, Local Government and Independents***Central Government:*

Tom Considine, Secretary-General, Department of Finance  
Paul Haran, Secretary-General, Department of Enterprise,  
Trade and Employment

John Hynes, Secretary-General, Department of Social and  
Family Affairs

Gerry Kearney, Secretary-General, Department of  
Community, Rural and Gaeltacht Affairs  
Niall Callan, Secretary-General, Department of the  
Environment, Heritage and Local Government

*Local Government:*

General Council of County Councils:  
Councillor John Egan  
Councillor Patsy Treanor  
Councillor Constance Hanniffy

Association of Municipal Authorities:  
Councillor Patricia McCarthy

County and City Managers Association:  
Donal O'Donoghue

*Independents:*

Institute for the Study of Social Change, UCD  
Dr. Colm Harmon

Department of Sociology, NUI Maynooth  
Dr. Mary P. Corcoran

ESRI  
Dr. Brian Nolan

Tansey, Webster, Stewart & Company Ltd.  
Paul Tansey  
Cáit Keane

## The National Economic and Social Council (NESC)

Name	Occupation	Date of Appointment
Jack O'Connor <i>Business and Employer or Organisation Pillar Nominees</i>	SIPTU	Sep 2003
Aileen O'Donoghue <i>Agricultural and Farming Organisation Pillar Nominees</i>	IBEC	Sep 2003
Deirdre Garvey	The Wheel	Sep 2003
John Mark McCafferty	Saint Vincent de Paul	Sep 2003
John Dolan <i>Government Department Nominees</i>	Disability Federation of Ireland	Sep 2003
Niall Callan	Department of the Environment, Heritage & Local Government	Sep 2003
<i>Independent Nominees</i>		
Colin Hunt	Goodbody Stockbrokers	Sep 2003
Brigid Laffan	UCD	Sep 2003
Eithne McLaughlin	Queens University	Sep 2003
Peter Bacon	Economic Consultant	Sep 2003

## National Centre for Partnership and Performance

Name	Occupation	Date of Appointment
<i>Government Departments</i> Mr. John Walsh, Asst. Secretary	Dept. of Enterprise, Trade & Employment	June 2002
<i>Employers</i> Mr. Morgan Nolan	Industrial Relations Executive, CIF	January 2004
<i>Trade Unions</i> Mr. Fergus Whelan	Industrial Officer, ICTU	October 2003



*Question Nos. 23 and 24 resubmitted.*

**All-Party Committee on the Constitution.**

25. **Mr. Sargent** asked the Taoiseach the progress in the implementation of the recommendations of the Oireachtas Committee on the Constitution; and if he will make a statement on the matter. [18992/04]

26. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on progress in the implementation of the recommendations of the Oireachtas Committee on the Constitution; if referenda are planned during the term of the current Dáil; and if he will make a statement on the matter. [20251/04]

**The Taoiseach:** I propose to take Questions Nos. 25 and 26 together.

The Government has acted on most of the key recommendations which have emanated from the All-Party Committee on the Constitution. In all, this and the previous Government have brought forward 10 referenda. The Government will avail of appropriate opportunities to take forward further recommendations of the all-party committee. The complexities involved in holding a referendum require that careful consideration be given to the frequency with which referenda can realistically be held and the significance of the issues in question. The all-party committee published its ninth progress report on private property on 7 April 2004. All relevant Departments are considering its recommendations, with a view to further consideration by Government in due course. There are no plans at present to hold any referenda during the term of the current Dáil but this matter will be kept under review.

*Questions Nos. 27 to 29, inclusive, resubmitted.*

**Social Partnership.**

30. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on his role in the conclusion of the agreement to succeed Sustaining Progress; and if he will make a statement on the matter. [19282/04]

31. **Mr. Rabbitte** asked the Taoiseach the main features of the new national pay agreement recently concluded with the main social partners; and if he will make a statement on the matter. [19544/04]

**The Taoiseach:** I propose to take Questions Nos. 30 and 31 together.

Agreement was reached on the terms of the core pay element of the review on Friday, 18 June, while the text recording agreement on a number of workplace related issues was finalised early in the following week. The agreement provides for a general round of pay increases in the private sector, totalling 5.5%, over 18 months with an additional half per cent increase for workers earning less than €9 per hour or €351 per week. The same increases will apply to the public

service commencing on 1 June 2005. There is also a commitment to review the national minimum wage and provision for an increase in the weekly ceiling for the calculation of redundancy payments of nearly €100 to €600 with effect from 1 January 2005. At all times during the negotiation process, I remained in contact with my officials and was available, as required, for discussions with the social partners.

Among the workplace related elements covered in the agreement are: an increase in maternity benefit from its current level of 70% of earnings to 80%, over the lifetime of the agreement; co-operation between the parties to the agreement, to address concerns relating to pensions provision, in particular, the need to increase the take-up of pensions across the economy; a recognition of the importance of a balanced approach to public procurement, based on clear and consistent guidelines; the principles governing our approach to policy in relation to public enterprise; the further development of partnership and learning in the workplace; recognition of the objectives of the Lisbon strategy; a continuing focus on inflation and excessive prices; ongoing consultation on the development of workplace legislation and codes; the appointment of four additional labour inspectors; and policies on the training and employment of people with disabilities.

This agreement represents a fair deal for all concerned and I am hopeful that it will be ratified by the parties' respective memberships. If it is ratified, the agreement will serve to underpin our model of social cohesion, facilitate economic growth and maintain the industrial relations stability of recent years.

In reaching this agreement on pay and related matters, both the employer bodies and the trade unions had to overcome the difficulty of reconciling the needs of their members with the needs of our society and an uncertain economy. Such a task is only possible through a willingness on all sides to compromise in search of an agreement.

I believe that the parties have demonstrated this willingness and struck the right balance with regard to our national prosperity. I would like to take this opportunity to express my appreciation of the positive contributions made by those on all sides who worked tirelessly to bring this agreement about. I would also like to take this opportunity to emphasise, with my colleagues, the Government's continued commitment to pursuing our nation's well-being and prosperity, through the process of social dialogue and I look forward to this ongoing dialogue on items of mutual interest.

This completed review of pay and related matters in part two of Sustaining Progress complements the mid-term assessment of the ten special initiatives contained in part one, which is due to be addressed at the next quarterly plenary meeting with the social partners on 13 July 2004. As has been the case in previous years, it is my

intention to attend that meeting along with the Tánaiste and the Minister for Finance.

Formal meetings such as these, complement the meetings which I hold with representatives of the social partners on a regular basis. I will continue to meet with the social partners regularly, and as required, over the remainder of the lifetime of Sustaining Progress.

*Question No. 32 resubmitted.*

#### **Cattle Numbers.**

33. **Mr. Durkan** asked the Taoiseach the number of cattle in the country; the extent to which this represents an increase or decrease on previous years; and if he will make a statement on the matter. [20244/04]

**Minister of State at the Department of the Taoiseach (Ms Hanafin):** Statistics on the number of cattle are collected by the CSO twice per year in June and December. The figures for December 2003 showed an estimated total of 6,223,400 cattle in the State, a decrease of 1.7% on the figure for December 2002. The figures for June 2004 are currently being collected by the CSO and will be published in September. In June 2003, there were 6,966,800 cattle, which was 0.4% lower than in June 2002.

*Questions Nos. 34 to 42, inclusive, answered orally.*

#### **Aer Rianta Break-up.**

43. **Ms Burton** asked the Minister for Transport his views on the future of the Great Southern Hotel group in the context of proposed new arrangements for Aer Rianta; if he has had consultation with tourism interests on this matter; and if he will make a statement on the matter. [20406/04]

53. **Ms Shortall** asked the Minister for Transport the property or land owned and details of its ownership in the Shannon free zone it is proposed to transfer to the new Shannon Airport Authority; the estimate of the value of the property or land to be transferred; and if he will make a statement on the matter. [20401/04]

74. **Mr. Boyle** asked the Minister for Transport the reason he believes the proposed break-up of Aer Rianta carries with it significant financial costs. [18711/04]

95. **Mr. P. Breen** asked the Minister for Transport if he intends putting any board member from Shannon or Cork on the new Dublin Airport Authority. [20276/04]

104. **Mr. Broughan** asked the Minister for Transport if he has received a new business plan from the board of Aer Rianta for the development of the company and its three airports; his views on the plan; and if he will make a statement on the matter. [20404/04]

106. **Caoimhghín Ó Caoláin** asked the Minister for Transport the stage of development that has been reached with respect to the various business plans relating to the Aer Rianta break-up. [20519/04]

128. **Aengus Ó Snodaigh** asked the Minister for Transport the range and approximate value of Aer Rianta assets. [20521/04]

129. **Aengus Ó Snodaigh** asked the Minister for Transport his views on whether it is inappropriate that Aer Rianta be renamed in an Anglicised form; and if the Irish version of the re-named company will be prioritised over the Anglicised version. [20520/04]

132. **Ms Burton** asked the Minister for Transport his views on whether passenger charges are likely to increase at Dublin Airport if plans for the splitting up of Aer Rianta proceed; the extent to which they are likely to increase; and if he will make a statement on the matter. [20405/04]

264. **Dr. Twomey** asked the Minister for Transport if he will make a statement on the future of the Great Southern Hotel group post the break-up of Aer Rianta; and the assurances that can be given to the staff at Great Southern Hotel Rosslare harbour regarding their future. [20711/04]

269. **Mr. Durkan** asked the Minister for Transport the business plan, if it exists, for the running of the country's main airports with a view to illustrating the continued viability and operation of each; and if he will make a statement on the matter. [20836/04]

270. **Mr. Durkan** asked the Minister for Transport the way in which he sees Dublin, Shannon, Cork and the other regional airports operating on a profit making basis independently in the future; and if he will make a statement on the matter. [20837/04]

271. **Mr. Durkan** asked the Minister for Transport his preferred options in respect of the running of national and regional airports in the future after the break-up of Aer Rianta; and if he will make a statement on the matter. [20838/04]

272. **Mr. Durkan** asked the Minister for Transport the extent to which he has examined the potential profitability of each of the airports in the aftermath of the break-up of Aer Rianta; and if he will make a statement on the matter. [20839/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 43, 53, 74, 95, 104, 106, 128, 129, 132, 264, 269, 270, 271 and 272 together.

The work which has been done by my Department's advisers in co-operation with Aer Rianta management and their advisers has underscored the fact that there are some major challenges facing the State airports and these challenges need to be addressed.

[Mr. Brennan.]

In the context of the proposed amending legislation to give effect to the restructuring of Aer Rianta currently before the Dáil, I have had numerous Government discussions informing my Cabinet colleagues on the background issues relating to the restructuring as well as the broad financial projections for each of the airports which were compiled by PricewaterhouseCoopers. I have in the last week received a ten year business plan prepared by Aer Rianta. While there are some differences between the plan and the PricewaterhouseCoopers projections the broad thrust is consistent and it confirms that there are significant pre-existing financial challenges facing the State airports.

My view is that the restructuring offers the best means of addressing these challenges. Under the State Airports Bill, it will be a matter for the new authorities, when established, to prepare and submit for approval detailed business plans for approval by myself and the Minister for Finance. These plans will be a basis for assessing the operational and financial readiness of each airport before any transfer of assets. Issues relating to Aer Rianta's main subsidiaries such as Great Southern Hotels group will be carefully considered in the course of the restructuring process.

The restructuring is designed to strengthen and expand each of three airports and to give both Shannon and Cork a fresh start. Through more focused commercial operation, all three airports can perform better and each can play a greater role in stimulating and supporting regional and national economic activity to the benefit of their customers, both airlines and passengers, and of Irish tourism, trade and industry. It is general policy that the three State airports should be in a position to provide cost competitive and appropriate infrastructure and to operate on a sustainable commercial basis in meeting the current and future needs of users.

I have already announced the board-designate for the Dublin Airport Authority which brings together people of the highest calibre who, in combination, possess considerable international and national aviation expertise and proven financial and business acumen. The Dublin Airport Authority will include worker directors and as such will represent all employees, including those at Cork and Shannon airports in advance of asset and staff transfers.

In the case of Dublin Airport, passenger traffic is forecast to grow to 30 million passengers per annum by around 2020. The Dublin Airport Authority must ensure the provision of adequate and cost effective infrastructure capacity to cater for this growth and make the appropriate case to the independent aviation regulator for the financing of this investment in the context of the next determination of airport charges.

Shannon Development is the State agency charged with regional and economic development in the mid-west region. My colleague, the

Tánaiste and Minister for Enterprise, Trade and Employment, has been in discussions with the chairman and board members of Shannon Development to explore how best Shannon Development and the proposed Shannon Airport Authority can contribute to furthering the interests of the mid-west region. One of the options under consideration is the transfer of the assets of the Shannon Free Zone to the new airport authority. I understand that other options have emerged in the course of the Tánaiste's discussions with the board and that these are also being considered. Accordingly, a final decision on the most appropriate option has not been made as yet. In reaching a decision on this issue, it is the intention to put in place the most sensible and efficient structures and to manage the region's most valuable and strategic assets so as to optimise their benefits to the entire region.

As regards the naming of the new airport authorities, the State Airports Bill names the airport authorities in Irish and English and there is no intention to give the English titles undue priority over the Irish. In practical terms, it is reasonable to expect that the new airport authorities will market themselves internationally using the English title. As I indicated in the Dáil yesterday evening on Report Stage of the State Airports Bill 2004, I will ask the new boards to adopt a bilingual policy when using their respective titles particularly in the vicinity of each airport.

The assets of Aer Rianta comprise the three State airports and its subsidiaries such as Great Southern Hotels and Aer Rianta International. At end 2003, the Aer Rianta annual accounts indicate that the net book value of Aer Rianta's tangible fixed assets amounted to €706.9 million and the value of financial fixed assets was €175.9 million.

As regards the future operation of the State and regional airports, it is the policy of the Government to encourage as wide a range as possible of reliable, regular and competitive air services to and from Ireland. The central tenet of this policy is the belief that a strong, competitive and efficient network of air links are vitally important for developing our trade and tourism sectors, particularly having regard to our island status and peripheral location.

### **Traffic Corps.**

44. **Mr. R. Bruton** asked the Minister for Transport the discussions he has had with the Department of Justice, Equality and Law Reform on the introduction of the dedicated traffic corps; and if he will make a statement on the matter.  
[20303/04]

144. **Mr. J. O'Keeffe** asked the Minister for Transport further to the commitment in the programme for Government to establish a dedicated traffic corps with a ring-fenced budget, the progress which has been made towards implementing this promise; if he will give a firm commitment with respect to when this promise will be deliv-

ered on; and if he will make a statement on the matter. [20593/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 44 and 144 together.

The programme for Government contains a commitment relating to the establishment of a dedicated traffic corps. As I have already indicated in this House, I support the implementation of this proposal through the formation of a corps that will be separately identifiable and visible. A consultation process involving my Department, the Department of Justice, Equality and Law Reform and the Garda Síochána in relation to the establishment of a dedicated traffic corps is being progressed.

Discussions to date have included the question of the relationship that a dedicated traffic corps will have with the gardaí and in particular whether it will be under the overall control of the commissioner. This issue is central to the development of this proposal. The establishment of a dedicated traffic corps which is independent of the gardaí, would require the introduction of legislation, in particular to establish powers and functions of the corps and its accountability.

In addition, the establishment of a corps that is wholly independent of the gardaí would face formidable hurdles. The powers available to members of such an independent force would need very careful consideration and there is the overriding issue of the capacity of such individuals to engage in more general police work. The need for consideration of this issue has also been central to the discussions in relation to this proposal.

A working group has been established to urgently consider the options available in terms of progressing this proposal. This group comprises representatives from the Department of Transport, the Department of Justice, Equality and Law Reform, the Garda Síochána, the Dublin Transportation Office and the Office of the Director of Traffic. I will be chairing a meeting of this group shortly.

#### **Bus Services.**

45. **Mr. Eamon Ryan** asked the Minister for Transport the agencies which will be involved in a review of bus services (details supplied) in the south Dublin area as a result of the introduction of Luas; and the person who has final authority on confirming changes to such routes. [20546/04]

**Minister for Transport (Mr. Brennan):** Any review of the services mentioned, as a result of the introduction of Luas, would be carried out in the first instance by Dublin Bus. Proposals for alterations to existing services or the introduction of new services must be approved by my Department prior to their commencement. However, I have asked Dublin Bus not to amend its existing services for three months, when the impact of Luas can be better assessed.

#### **Port Tunnel.**

46. **Mr. McGinley** asked the Minister for Transport his plans to address the height of the Dublin port tunnel; and if he will make a statement on the matter. [20316/04]

71. **Mr. Stagg** asked the Minister for Transport when a final decision will be made on the height of the Dublin port tunnel; the reason for the long delay in finalising this matter; when he expects that the tunnel will be completed and functioning; and if he will make a statement on the matter. [20436/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 46 and 71 together.

The position in relation to the height of the tunnel is that my Department appointed consultants to review the feasibility, safety implications and cost of raising the height of the Dublin port tunnel. They were requested to review a range of options for increasing the operational height of the tunnel, their feasibility, having regard to the state of implementation of the current design and build contract and the likely additional costs and impact on the project completion date.

Having reviewed the findings of the report, further information was sought from the NRA pertaining to its conclusions in particular in relation to the costs should the tunnel height be increased. As a result the contractors were requested to provide a fixed price cost for the work involved. A quotation has been received from the contractors and is currently under consideration with a view to making a final decision as soon as possible. I will bring this matter to a conclusion by the end of this month and place the relevant documentation in the public arena. I understand from Dublin City Council that the Dublin port tunnel is expected to be completed in third quarter 2005.

#### **Dublin Port Tunnel.**

47. **Mr. Neville** asked the Minister for Transport the action he is taking to address current access to Dublin Port; and if he will make a statement on the matter. [20290/04]

118. **Mr. Coveney** asked the Minister for Transport the discussions he has had with Dublin Port regarding access to Dublin Port; and if he will make a statement on the matter. [20289/04]

122. **Mr. Hogan** asked the Minister for Transport the action he is taking to improve access to Dublin Port; and if he will make a statement on the matter. [20287/04]

124. **Mr. P. McGrath** asked the Minister for Transport the discussions he has had with Dublin Port regarding improved access to Dublin Port; and if he will make a statement on the matter. [20288/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 47, 118, 122, and 124 together.

[Mr. Brennan.]

The Dublin Port tunnel, which I understand from the NRA and Dublin City Council is expected to be completed in the third quarter of 2005, will significantly improve access to Dublin Port in addition to providing relief to the city centre, environmental and safety benefits and relief from congestion for freight distributors and other port-related traffic.

A key mechanism to ensure that the tunnel meets its primary objective of providing easy access to Dublin Port for HGV traffic will be the implementation of a differentiated tolling system applicable to private cars. This tolling regime, under which HGVs will not be liable for tolls, and implementation of a HGV management strategy was always envisaged as part of the overall transport strategy underpinning the construction of the port tunnel in order to ensure that port freight traffic utilises the tunnel to the maximum extent.

Traffic management, including HGV traffic management, in the city centre and in the vicinity of the port is a matter primarily for Dublin City Council. I understand that Dublin City Council propose to address this in a HGV management plan currently being prepared, which will also address non-port related HGV traffic movements. Currently, all truck journeys in and out of Dublin Port pass through the city centre streets and adjacent residential areas.

I understand from Dublin City Council that this plan will have three objectives: to ensure the optimal use by HGV's of the port tunnel; to minimise adverse effects of remaining HGV movements in the city; and to manage the movement of vehicles not within permitted dimensions, for example, through permit systems.

Dublin City Council has published a report on HGV management as a basis for a widespread public consultation exercise. The public consultation period is now concluded and the responses received are being evaluated within Dublin City Council. I am informed by Dublin City Council that the HGV management plan, revised to take account of the submissions received, will be published in the autumn.

In addition, a regional freight of goods distribution study, commissioned by the DTO to determine the origin and destination patterns of HGVs in the greater Dublin area and to forecast future demand, is due to be completed shortly. I understand that it will identify obstacles to general goods distribution and for freight trips to and from Dublin Port, Dún Laoghaire Port and Dublin Airport. It will also review the scope for improved goods distribution strategies. I have not been directly involved in discussions with Dublin Port regarding improved access to the port.

#### **Integrated Ticketing.**

48. **Mr. Murphy** asked the Minister for Transport if he intends to bring forward integrated ticketing and smart card technologies; if money has

been allocated for this purpose in his Department's Estimates for 2004; and if he will make a statement on the matter. [20310/04]

51. **Mr. Gogarty** asked the Minister for Transport if he expects to see the introduction of an integrated ticketing system to allow a common ticket to be used on the DART, the Luas and on buses in Dublin. [20553/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 48 and 51 together.

The Railway Procurement Agency, RPA, has statutory responsibility for the implementation of an integrated ticketing system, based on smart-card technologies, for initial deployment in the Dublin area. The contactless smartcard-based integrated ticketing system will enable a passenger to use a single ticket on one or more public transport services, by road and/or by rail, irrespective of the transport operator involved.

The RPA has set a target date of end 2005 for the launch of the full smartcard-based integrated ticketing system in Dublin. It is currently engaged in an open and competitive procurement process with a view to selecting a supplier and operator of the fully integrated ticketing system. The RPA continues to examine options to expedite the delivery of integrated ticketing with a view to bringing forward the proposed launch date. A first step was the launch in April of this year, in conjunction with the RPA, of a smartcard ticketing system by a private operator, Morton's, on its services. Another important step will be the launch later this year of smartcards on Luas services, followed by Dublin Bus in 2005.

In the meantime, integrated tickets, based on magnet strip technology, are available for travel on Dublin Bus and Irish Rail services, and I understand that the RPA has concluded a similar arrangement with Dublin Bus in respect of Luas services. The allocation for integrated ticketing in the 2004 Estimates for my Department is €9.5 million.

#### **Driving Tests.**

49. **Mr. P. McGrath** asked the Minister for Transport the average pass rate at each driving test centre; the action he is taking to address this variation; the action he has taken to date to implement the Comptroller and Auditor General's recommendations following a review of the driving test system; and if he will make a statement on the matter. [20313/04]

138. **Ms O. Mitchell** asked the Minister for Transport the average pass rate at each driving test centre; the action he is taking to address this variation; and if he will make a statement on the matter. [20312/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 49 and 138 together.

The content of the driving test is set out in accordance with the provisions of the relevant EU directives. As in other EU countries, there

are variations in the pass rate among test centres. The pass rate may be influenced by a number of factors, including the number of lessons taken by the candidate, the standard of instruction available and demographic factors.

In relation to consistency in the standard of the driving test, my Department undertook a comprehensive training programme for all driver testers in 2002 covering procedures for carrying out the test, guidelines to assess faults and training to enhance customer service in the delivery of the driving test. The work of each individual tester is monitored on an ongoing basis by his or her

supervisor and remedial action is taken where this is required.

Following the Comptroller and Auditor General's report a review of the driver testing service was carried out by consultants PricewaterhouseCoopers whose recommendation was that a separate public sector agency be established to deliver the driver testing service. Such an agency would have more flexibility to respond to variations in demand. The Driver Testing and Standards Authority Bill which will establish such an agency was published on 6 July 2004.

The pass rate for 2003 for each driving test centre is set out in the following table.

Test Centre	Pass rate 2003 %	Test Centre	Pass rate 2003 %
<i>North Leinster</i>		<i>South East</i>	
Finglas	48.8	Carlow	49.2
Dundalk	51.6	Clonmel	51.3
Mullingar	57.0	Dungarvan	57.3
Navan	54.4	Kilkenny	55.4
Raheny	49.7	Nenagh	49.8
<i>South Leinster</i>		Port Laoise	50.0
Churchtown-Rathgar	48.3	Thurles	56.3
Gorey	52.6	Tipperary	47.9
Naas	53.6	Waterford	54.8
Tullamore	54.2	Wexford	51.5
Wicklow	47.3	<i>South West</i>	
Tallaght	50.9	Cork	55.5
<i>West</i>		Killarney	60.0
Athlone	57.0	Kilrush	62.3
Birr	65.1	Limerick	62.3
Castlebar	62.1	Mallow	57.8
Clifden	56.0	Newcastle West	60.5
Ennis	65.5	Shannon	66.4
Galway	61.2	Skibbereen	59.5
Loughrea	58.5	Tralee	59.7
Roscommon	60.0		
Tuam	64.2		
<i>North West</i>			
Ballina	61.2		
Buncrana	65.6		
Carrick-on-Shannon	54.4		
Cavan	50.2		
Donegal	57.1		
Letterkenny	60.4		
Longford	55.9		
Monaghan	50.8		
Sligo	63.5		

Note: The pass rate is derived having regard to the outcome of all tests conducted at each driving test centre in 2003.

*Question No. 50 answered with Question No. 39.*

*Question No. 51 answered with Question No. 48.*

*Question No. 52 answered with Question No. 42.*

*Question No. 53 answered with Question No. 43.*

#### **Road Network.**

54. **Mr. English** asked the Minister for Transport the action he is taking to reduce the outturn cost of road projects; and if he will make a statement on the matter. [20284/04]

79. **Mr. Coveney** asked the Minister for Transport the action he is taking to reduce the out turn cost of road projects under the national development plan; and if he will make a statement on the matter. [20285/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 54 and 79 together.

The planning, design and implementation of national road improvement projects, including the outturn costs of individual road projects, is a matter for the National Roads Authority, NRA, and the local authorities concerned.

I am informed by the NRA that since the 1999-2000 period, it has strengthened its cost estimation, control and procurement procedures so as to have more accurate cost estimates from the earliest stages of a project and to ensure greater certainty of outturn costs between tender stage and completion date.

Measures taken include: greater use of design and build lump sum fixed price contracts offering cost efficiencies, greater certainty of outturn costs and reduced scope for claims; standardisation of economic designs for high cost items such as bridges and other structures; securing greater involvement by foreign contractors; buyout of price variation clause and risk — traditional procurement — where this gives good value; and further attention to improving quality of site investigations and acceptance of such investigations by contractors as agreed basis for pricing. These measures are bearing fruit in more accurate initial estimates and less divergence between final outturn costs and costs at tender stage.

#### **Light Rail Project.**

55. **Mr. Morgan** asked the Minister for Transport the provisions that will be put in place to address the needs of commuters living beyond the Square in Tallaght in order to facilitate their access to the Luas. [20514/04]

78. **Mr. Ferris** asked the Minister for Transport if the bus service in Tallaght will be increased or decreased in the aftermath of the launch of the Luas. [20516/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 55 and 78 together.

Bus Átha Cliath currently operates the majority of its Tallaght services beyond the Square to such areas as City West, Jobstown and Blessington. I have been informed by the company that there will be no immediate increase or decrease in their bus services in the area as a result of the introduction of the Luas. However, it will be monitoring the impact of Luas on its services and a detailed analysis will be carried out at that stage including the need to introduce or enhance services to complement Luas. My Department will, of course, have to approve any proposed alterations to the existing services being provided by the company or any new services proposed.

#### **Taxi Regulation.**

56. **Mr. Broughan** asked the Minister for Transport the progress made to date with regard to the implementation of the report of the taxi advisory council on new regulations to be introduced to the taxi industry; and if he will make a statement on the matter. [20427/04]

**Minister for Transport (Mr. Brennan):** By letter dated 24 February 2004 the advisory council to the Commission for Taxi Regulation provided advice to me on a number of matters relevant to small public service vehicles and their drivers. The council recommended the removal of the exemption on the wearing of seat belts by the drivers of small public service vehicles, the early commencement of section 37 of the Taxi Regulation Act 2003 which requires small public service vehicle and drivers licence holders and applicants to hold a current tax clearance certificate, and the introduction of a new identification badge for all drivers of small public service vehicles to replace the existing metal badge. I advised the council on 31 March 2004 that I had accepted its advice on these matters and had asked my Department to proceed with the consideration of the proposals in consultation with the Revenue Commissioners, the Garda authorities and the Department of Justice, Equality and Law Reform.

On 22 May 2004, I made regulations to remove, with effect from 1 July 2004, the exemption whereby the driver of a taxi, hackney or limousine is not required to wear a seat belt while driving such a vehicle. I also signed an order on 1 June 2004 to commence section 37(1) of the Taxi Regulation Act 2003 with effect from 2 August 2004. From that date a taxi, wheelchair accessible taxi, hackney or limousine licence or a licence to drive such vehicles will not be granted or renewed unless the applicant produces to the licensing authority, that is, the local authority or the gardaí as appropriate, a tax clearance certificate issued by the Revenue Commissioners under section 1095 of the Taxes Consolidation Act 1997.

The proposals in relation to driver identification have been the subject of correspondence with the Garda authorities and the Department of Justice, Equality and Law Reform. The question of colour coding according to whether a taxi, hackney or limousine service is being provided, however, raises some wider issues as the present driver licensing system does not differentiate between drivers of different vehicle categories. I have suggested to the council that this aspect merits further consideration by it and, ultimately, by the Commission for Taxi Regulation.

#### **Bus Services.**

57. **Mr. Penrose** asked the Minister for Transport his plans to allow bus lanes on the hard shoulders of motorways; the precise time scale proposed; and if he will make a statement on the matter. [20432/04]

**Minister for Transport (Mr. Brennan):** I am anxious to ensure that as many practical measures as possible are taken to improve the movement of buses on the road network and thereby reduce journey times and congestion. In that regard, my Department is engaged in discussions with Bus Éireann, Dublin Bus, Dublin Transportation Office, the quality bus network project office and the National Roads Authority regarding the use of the hard shoulder on roads for bus lanes, particularly in and around the Dublin area. This will include the introduction of bus lanes on motorways in that area. Necessary changes to traffic signs and parking regulations to support this initiative are being prepared at present.

Separately, the application of a separate speed limit to vehicles using a reserved hard shoulder may be required in certain circumstances and this is not currently provided for in primary legislation. To deal with this, the Road Traffic Bill 2004, published on 11 June, proposes to provide a legal basis for the introduction of a separate special speed limit on a hard shoulder *in lieu* of the speed limit that normally applies to that road. The Bill is currently awaiting a timetable for its passage through the Houses of the Oireachtas. Pending the enactment of the necessary legislation, the NRA and the quality bus network project office are identifying locations and making the necessary preparations at those locations where buses will be permitted to use the hard shoulder. Details will be announced in due course.

#### **Airline Privatisation.**

58. **Ms McManus** asked the Minister for Transport if he is still considering the privatisation of Aer Lingus in view of the fact that the company is expected to record a profit of up to €95 million in 2004; the consultation he has had with the board or unions representing staff regarding the future of the airline; if his attention has been drawn to plans from Aer Lingus to cut staff numbers further to reduce costs; and if he will make a statement on the matter. [20417/04]

**Minister for Transport (Mr. Brennan):** I have previously indicated to the House that last March I advised my Cabinet colleagues of the state of my deliberations concerning the future of Aer Lingus. I also advised that I would be reverting to Government on specific options for the company in the near future. Those deliberations involved consideration of the reports from the chairman of Aer Lingus and an independent corporate finance consultant whom I commissioned to look at the sale options for the company.

However, the House will be aware of recent developments concerning a request from Aer Lingus senior management for permission to develop an investment proposal for the Company. In response to that request, my Department immediately requested that no further activity take place in relation to any proposal until the matter had been considered from a corporate governance, process and policy perspective. Appropriate legal and financial advice was then sought.

My primary concern since then has been to protect the shareholders' interest and to guard against conflicts of interest. In that context, on 3 July last, I announced the appointment of Mr. John Sharman, an existing director, as acting chairman pending the appointment of a replacement for the previous chairman. The acting chairman and company secretary have since sought legal advice on the appropriateness of the current corporate governance arrangements and are acting on that advice. I have also been advised that a board meeting has been arranged for Thursday, 8 July 2004.

The acting chairman and board are, of course, charged with ensuring the ongoing orderly management of the business, particularly in relation to the finalising of the business plan which is critical to the successful implementation of the strategy adopted for the airline. My Department and the Department of Finance, which met the chairman, company secretary and their legal advisors on 5 July 2004, are liaising closely with the chairman so as to ensure that the governance arrangements put in place by the board are robust.

The Government considered the matter at its meeting yesterday and decided: to establish a Cabinet sub-committee, consisting of the Taoiseach, Tánaiste and Ministers' for Finance, Transport and Arts, Sport and Tourism, to examine all of the issues involved and report back to the Government as soon as possible; to advise senior management in Aer Lingus that in the interim there was to be no further activity as regards the request for consent to develop a proposal until such time as the Government has time to consider the matter in detail; and the Government will respond in due course to the request in the context of the Government's ongoing consideration of the ownership issue which has been underway for several months.

The Government will also consider the request in the context of the need for openness and transparency, the avoidance of conflicts of interest, reduction in risk, maximisation of value and consultation with stakeholders. I cannot pre-empt the outcome of the Government's consideration in this matter. However, I assure the Deputy that if the Government decides to embark on a sale of all or part of Aer Lingus, I will be consulting with the appropriate interests, including unions.

In addition, in such an eventuality, I will set out for the House, in accordance with the provisions of the Aer Lingus Act 2004, the general principles of the proposed sale as well as the basis for the Government's decision and the arguments for and against such a sale. I will also set out how the Government proposes to deal with important strategic issues such as slots at Heathrow.

There is no doubt that under the current management, the airline has made enormous progress in the past two years. However, that work must continue in order to ensure the ongoing viability of the company. In that context, it is vital that the new business plan is finalised in the near future and considered by the Aer Lingus board. I, therefore, do not wish to speculate on its contents at this stage. I want to make it clear, however, that the plan is essential, irrespective of any decision



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on ownership, as the challenging and difficult external environment facing the airline remains the same.

### Rail Safety.

59. **Ms O'Sullivan** asked the Minister for Transport when he expects to receive the report of the statutory inquiry established by him on 14 October 2003, into the derailment of a freight train at Cahir viaduct; and if he will make a statement on the matter. [20428/04]

**Minister for Transport (Mr. Brennan):** I directed the chief railway inspecting officer of my Department on 14 October 2003 to carry out a statutory inquiry into the derailment at the Cahir viaduct earlier that month. I mentioned in my response to Parliamentary Question No. 27 of 27 May 2004, that the chief railway inspecting officer was awaiting certain technical information from Iarnród Éireann before completing his report. That information has now been received and is being examined. I understand that the chief railway inspecting officer is now finalising his draft report and will circulate it to affected persons for comment, before submitting his final report to me.

*Question No. 60 answered with Question No. 40.*

### Driving Tests.

61. **Ms Lynch** asked the Minister for Transport the average waiting time for driving tests at each

centre in the State; the steps being taken to reduce the long waiting times; and if he will make a statement on the matter. [20415/04]

85. **Mr. Deasy** asked the Minister for Transport the number of persons awaiting driving tests in each test centre; the waiting time at each centre; and if he will make a statement on the matter. [20311/04]

255. **Mr. Connolly** asked the Minister for Transport his plans for dealing with the driving test backlog; and if he will make a statement on the matter. [20582/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 61, 85 and 255 together.

The average waiting times and numbers waiting for a driving test as at 5 July 2004 are set out in the table below. Driver testers continue to deliver additional tests by working overtime on Saturdays and at lunchtime. I have also asked my officials to explore the possibility of recruiting additional testers. Contracts have been extended for three retired driver testers and my Department is in the process of renewing contracts with another four retired testers.

Following a comprehensive review of the driver testing service, the Government approved the establishment of a driver testing and standards authority to deliver the driver testing service in accordance with pre-set performance standards. The proposed authority will also promote improved driving standards generally. The Driver Testing and Standards Authority Bill 2004, which will provide the statutory basis for the new authority was published on 6 July 2004.

Test Centre	Average Weeks Waiting	Number of Applicants Waiting	Test Centre	Average Weeks Waiting	Number of Applicants Waiting
<i>North Leinster</i>			<i>South East</i>		
Finglas	27	8,837	Carlow	38	2,571
Dundalk	29	2,958	Clonmel	39	2,083
Mullingar	25	1,733	Dungarvan	43	1,617
Navan	35	4,424	Kilkenny	36	2,410
Raheny	44	7,641	Nenagh	37	778
<i>South Leinster</i>			Port Laoise	43	1,607
Churchtown-Rathgar	32	11,721	Thurles	50	1,218
Gorey	35	1,889	Tipperary	51	1,093
Naas	19	6,569	Waterford	51	3,423
Tullamore	38	1,803	Wexford	34	2,460
Wicklow	36	2,152	<i>South West</i>		
Tallaght	38	8,484	Cork	21	6,237
<i>West</i>			Killarney	34	2,097
Athlone	15	1,242	Kilrush	33	507
Birr	18	1,255	Limerick	30	3,706
Castlebar	20	2,228	Mallow	27	2,079
Clifden	11	352	Newcastle West	28	1,708
Ennis	10	984	Shannon	29	1,015
Galway	22	2,689	Skibbereen	30	1,777
Loughrea	13	813	Tralee	22	1,925
Roscommon	24	1,019			
Tuam	23	1,154			

Test Centre	Average Weeks Waiting	Number of Applicants Waiting	Test Centre	Average Weeks Waiting	Number of Applicants Waiting
<i>North West</i>					
Buncrana	24	660	Ballina	31	1,095
Cavan	38	1,846	Carrick-on-Shannon	32	1,153
Letterkenny	30	1,967	Donegal	23	1,136
Monaghan	28	1,335	Longford	27	1,006
			Sligo	22	1,388

Note the average waiting time is derived having regard to waiting times experienced by individual applicants who have undergone a driving test over the previous four week period in the test centre.

### Light Rail Project.

62. **Mr. G. Mitchell** asked the Minister for Transport if he has received a report from the Luas project team on the safety of the Luas lines; and if he will make a statement on the matter. [20305/04]

**Minister for Transport (Mr. Brennan):** I refer the Deputy to my response to his Parliamentary Question No. 58 of 4 May 2004.

The IRSC issued a letter of approval on 28 June 2004 for commencement of passenger services on the St. Stephen's Green to Sandyford Luas line. The letter set out certain conditions for passenger service operations, including a number of standard provisions normal for such a large and complex project.

Passenger services commenced on this line on 30 June 2004 and the system has operated satisfactorily since then. The primary duty of care from a safety perspective lies with the operator, Connex. The IRSC will continue to meet regularly with Connex to review the operation from a safety perspective.

There is also an onus on road users and pedestrians to take due care along the Luas route. The National Safety Council and I have both called on road users and pedestrians in recent days to exercise due care particularly in the early period of the operation of the Luas system.

### Speed Cameras.

63. **Mr. McCormack** asked the Minister for Transport if his attention has been drawn to a UK Department of Transport report which highlights the fact that fixed speed cameras have failed to address speeding; and if he will make a statement on the matter. [20295/04]

125. **Mr. Connaughton** asked the Minister for Transport if his attention has been drawn to a UK Department of Transport report which highlights the fact that some fixed speed cameras locations had seen an increase in fatalities; and if he will make a statement on the matter. [20294/04]

139. **Mr. G. Mitchell** asked the Minister for Transport if his attention has been drawn to a UK Department of Transport report which highlights the fact that fixed speed cameras have failed to reduce accidents; and if he will make a statement on the matter. [20293/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 63, 125 and 139 together.

I am informed that a recently published UK Department for Transport evaluation report on its national safety camera programme has shown that the number of people killed or seriously injured at sites where safety cameras are in use has fallen by 40% which equates to over 100 fewer deaths a year. The independent report evaluates the first three years of the safety camera scheme and also shows that there was a 33% fall in injury accidents — 4,030 fewer per year; a 35% reduction in pedestrians killed or seriously injured; average speeds at new sites fell by around 7% or 2.4 mph and the number of vehicles speeding at new camera sites dropped by 71%. Other notable findings of the report state that some 79% of people asked support the use of cameras to reduce casualties and the benefit to society through casualties saved is about £221 million sterling per year.

### Road Safety.

64. **Mr. Morgan** asked the Minister for Transport if the number of persons injured on roads has risen or decreased despite the numbers of motorists receiving penalty points. [20515/04]

100. **Mr. M. Higgins** asked the Minister for Transport the action he intends to take arising from new figures showing that the number of road deaths to date in 2004 showed a 10% increase over the same period in 2003; and if he will make a statement on the matter. [20410/04]

127. **Mr. Gilmore** asked the Minister for Transport if his attention has been drawn to new figures from the National Roads Authority suggesting that one in six persons can now expect to be involved at some time in a traffic accident in which a person is injured; the steps he intends to take to reduce this unacceptable level of accidents; and if he will make a statement on the matter. [20408/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 64, 100 and 127 together.

Statistics relating to road accidents, based on information provided by the Garda Síochána, are published by the National Roads Authority in their annual road accident facts reports. The most recent report is in respect of 2002 and that report, along with reports relating to previous years, are available in the Oireachtas Library.

The road safety strategy 1998-2002 set a target of a 20% reduction in both road deaths and serious injuries by the end of 2002 based on 1997 figures. This target was achieved in the case of road deaths and significantly surpassed in the case of serious injuries. While the number of road deaths continued to decrease in 2003, figures relating to serious injuries are not yet available for that year. In the 20 month period since penalty points have been in operation, the number of road deaths is 108 fewer than the number of deaths during the preceding 20 months.

At a recent road safety conference organised by the National Safety Council, a speaker representing the National Roads Authority stated that road collisions are rare and that one in six drivers can expect to be involved in an injury accident in their life. This means that almost 85% of drivers can expect never to be involved in a collision.

The number of road deaths at the 5 July 2004 is 19 higher than for the same period last year, representing a 10% increase on the number of road deaths this time last year. While the increase in road deaths so far this year is a cause of immediate concern, it should be looked at against the background of the significant progress achieved, especially over recent years.

The programme for Government states that a three year road safety strategy will be developed and will target speeding, drink-driving, seat-belt wearing and pedestrian safety in order to reduce deaths and injuries. At my request, the high level group on road safety has prepared a draft new strategy for the period 2004-06 and following approval from Government to publish the strategy, arrangements have been put in place to provide for printing and publishing of the document, including its translation into Irish. I hope to publish the new strategy shortly.

The preparation of the new strategy has taken account of the achievements in meeting the targets set out in the road to safety strategy 1998-2002, a comprehensive review of that strategy and further positive trends established in 2003, and the evolving developments in relation to the EU third road safety action plan.

The strategy, which includes a report on progress achieved during the term of the previous strategy, will outline a range of issues that it is intended will be pursued over the period in question. In overall terms, measures will focus on the

areas of education, enforcement, engineering and legislation and will target the key areas of speeding, driving while intoxicated and seat-belt wearing.

The difficult start to 2004 will be given particular consideration by the high level group to ensure that the measures recommended in the new strategy will be implemented as quickly as possible. In addition, the group will monitor the ongoing effects of those measures and recommend adjustment to the focus of the strategy as necessary.

*Question No. 65 answered with Question No. 39.*

#### **Vehicle Height Restrictions.**

66. **Mr. Wall** asked the Minister for Transport when he expects to introduce the promised regulations restricting the height of trucks using roads here; and if he will make a statement on the matter. [20437/04]

**Minister of State at the Department of Transport (Dr. McDaid):** To facilitate and inform the public consultation process on the question of the possible reintroduction of a maximum height for vehicles, I propose to publish shortly draft regulations together with a background consultation paper which will outline the considerations of the various interests involved in this matter.

#### **Penalty Points System.**

67. **Mr. McCormack** asked the Minister for Transport the discussions he has had with the Department of Justice, Equality and Law Reform regarding the computerised penalty points system; and if he will make a statement on the matter. [20307/04]

91. **Mr. M. Higgins** asked the Minister for Transport when the full penalty points system will be in place; and if he will make a statement on the matter. [20411/04]

108. **Mr. Deasy** asked the Minister for Transport the plans he has to review the penalty points system. [20300/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 67, 91 and 108 together.

Penalty points are being applied to the driving licence records of those convicted of speeding, seat belt wearing and insurance offences, and to those who pay a fixed charge to the gardaí in the case of speeding and seat belt wearing offences in order to prevent the instigation of court proceedings.

Penalty points for careless driving were introduced with effect from 4 June 2004. This measure should have a further positive influence on the driving behaviour of those who have little regard

for their own safety and the safety of other road users.

The full application of the penalty points system will be achieved when the relevant IT systems being developed by the Department of Justice, Equality and Law Reform and the Garda are completed. I am assured by my colleague, the Minister for Justice, Equality and Law Reform, that the systems in question will be operational by the end of this year. The question of reviewing the system will be considered against the background of its full operation.

It is now one year and eight months since penalty points were first introduced. At 30 June 2004, more than 153,000 drivers had received penalty points since the introduction of the system in October 2002, including three drivers who have reached the 12 point threshold which leads to automatic disqualification.

#### National Car Test.

68. **Mr. Neville** asked the Minister for Transport the plans he has to review the pass and fail criteria of the NCT; and if he will make a statement on the matter. [20299/04]

**Minister of State at the Department of Transport (Dr. McDaid):** I have no plans to review the criteria for refusal of a NCT certificate. The national car test, NCT, was introduced in order to implement the requirements of EU Directive 96/96/EC relating to the roadworthiness testing of passenger cars. The directive specifies the items to be tested as part of a vehicle test. The NCT reflects both the requirements of the directive and those laid down in national regulations relating to the standards which a vehicle must meet for use on a public road.

#### Port Authority.

69. **Mr. Connaughton** asked the Minister for Transport the discussions he has had with the Waterford port authorities; and if he will make a statement on the matter. [20296/04]

**Minister for Transport (Mr. Brennan):** I understand that the Deputy is referring to an issue regarding a right of way held by CIÉ-Irish Rail on land owned by Waterford port. This issue is a day to day matter for the CIÉ group and Irish Rail, and one in which I have no role. I understand that discussions on this matter are ongoing between Waterford port and CIÉ-Irish Rail.

#### Airline Security.

70. **Ms B. Moynihan-Cronin** asked the Minister for Transport if he has plans to grant permission for armed US sky marshals to fly on transatlantic flights into and from Ireland; if he has received any request from US carriers for sky marshals to be on board flights destined to and emanating out

of Ireland; and if he will make a statement on the matter. [20418/04]

**Minister for Transport (Mr. Brennan):** I refer the Deputy to my reply to Parliamentary Question No. 417 of 24 February 2004 on this particular matter. I have nothing further to add to that reply.

*Question No. 71 answered with Question No. 46.*

#### Regional Airports.

72. **Mr. Kehoe** asked the Minister for Transport the subsidy provided to each regional airport, per passenger, over the past five years; and if he will make a statement on the matter. [20306/04]

84. **Mr. English** asked the Minister for Transport if he will make a statement on the future of the regional airports. [20301/04]

140. **Mr. Ferris** asked the Minister for Transport if he will make a statement on the future of Kerry Airport. [19720/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 72, 84 and 140 together.

The programme for Government provides for the continued support of our six regional airports in Kerry, Waterford, Galway, Knock, Sligo and Donegal. My Department provides a range of financial mechanisms in support of this objective, but it is important to note that the regional airports are not in receipt of state subsidies.

With regard to capital funding, grant-aid of approximately €9 million has already been paid to the regional airports under first round allocations of the regional airports measure of the NDP. The primary objective of this measure is to facilitate continued safe and viable operations at the regional airports. A further round of projects will be considered for funding under the measure later this year.

My Department also administers a grant scheme to assist the regional airports with marketing, safety and security related current expenditure. The total amount provisionally allocated in the Estimates for 2004 is €2.24 million and the individual amounts for each airport will be determined shortly.

My Department provides subvention to contracted regional air carriers for the operation of essential air services under the public service obligation, PSO, regime. EU Council Regulation (EEC) No. 2408/92 allows member states to establish a PSO in respect of scheduled air services to an airport serving a peripheral or development region where such air services are considered essential for the economic development of the regions concerned and where air carriers are not prepared to provide such air services

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on a commercial basis. In accordance with this EU regulation, the Government has established PSOs on routes linking Dublin Airport with the airports in Kerry, Galway, Knock, Sligo, Donegal and Derry.

The total cost of air service subvention to PSO carriers amounts to over €20 million per annum. The subvention level per trip per passenger for the past five years is as follows:

PSO subvention per trip — one way — 1999 to 2003.

	1999	2000	2001	2002	2003
	€	€	€	€	€
Kerry	13.71	12.17	44.27	54.59	55.17
Galway	18.55	18.86	46.57	47.19	51.67
Sligo	41.60	35.75	120.10	101.78	80.49*
Donegal	90.57	77.28	119.80	110.78	80.49*
Knock	—	—	233.17	226.58	224.87
Derry	—	—	113.89	95.10	77.56

\* Subvention level for Sligo-Donegal is based on the subvention and passenger levels on the combined Sligo-Donegal contract, hence it is not possible to distinguish individual levels per route.

Following a recent review of the PSO programme, I am currently exploring ways of restructuring PSO specifications and contractual arrangements to ensure that in the long-term, an appropriate level of air access to the regions can be facilitated on a cost-effective basis, within the annual Estimates provision, while also encouraging maximum commercial initiative on the part of the regional airports and air operators. I intend to bring proposals to Government later this year and to re-launch before the end of the year a revised specification for services on all six routes to commence in mid-July 2005.

The Government's commitment to regional airports will continue. However, the scale of Exchequer assistance to the regional airports will have to be carefully assessed in line with general airport and aviation policy and the availability of Exchequer funds.

### Public Transport Safety.

73. **Mr. Quinn** asked the Minister for Transport the progress made with regard to the review of the location of bus stops announced by him following the serious accident at Wellington Quay, Dublin, on 21 February 2004; and if he will make a statement on the matter. [20420/04]

282. **Mr. Durkan** asked the Minister for Transport if he has satisfied himself that adequate safety standards apply in respect of all rail and road public transport services; and if he will make a statement on the matter. [20849/04]

283. **Mr. Durkan** asked the Minister for Transport if public health and safety requirements are being met at all bus stops and rail stations; and if he will make a statement on the matter. [20850/04]

284. **Mr. Durkan** asked the Minister for Transport if health and safety requirements are a prerequisite in the location and construction of all

bus stops; and if he will make a statement on the matter. [20851/04]

285. **Mr. Durkan** asked the Minister for Transport if he has issued instructions in regard to the location and construction of bus stops in the future arising from the Dublin bus stop tragedy with a view to having primary reference to health and safety requirements; and if he will make a statement on the matter. [20852/04]

286. **Mr. Durkan** asked the Minister for Transport his views in respect of the location and construction of bus stops in the wake of the Dublin bus stop tragedy; and if he will make a statement on the matter. [20853/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 73, 282, 283, 284, 285 and 286 together.

The power to determine the locations for the provision of bus stops is vested in the Garda Commissioner under section 85 of the Road Traffic Act 1961. Under that section, the commissioner may issue a direction to a bus operator identifying the specific location of bus stops in respect of any bus route. I understand that the gardaí engage in a consultation process with both the local authority and the bus service provider before issuing a direction under section 85. The review of the location of bus stops following the Dublin Bus tragedy is ongoing by Dublin Bus and Bus Éireann and any concerns in that regard are raised with the local authorities and Garda Síochána.

In regard to the safety of bus services, all bus operators are required to demonstrate to my Department that all their vehicles are taxed, insured, roadworthy and approved as public service vehicles. Safety on our railway systems is the legal responsibility of the operator. Iarnród Éireann has responsibility for safety on the heavy rail network while Connex Ireland Limited has responsibility for the Sandyford Luas line. The Railway Procurement Agency has responsibility

for safety on the Tallaght Luas line while construction work continues.

Iannród Éireann has assured me that all railway operations on its network operate to strict standards, to ensure the highest level of safety for its customers and staff. The Sandyford Luas line is being managed in accordance with the safety case approved by the interim railway safety commission. The same safety case will apply in respect of the Tallaght line once passenger operations commence.

In addition, the Railway Safety Bill, when enacted, will provide an up to date framework within which railway undertakings must demonstrate safety adequacy and provides for the establishment of a railway safety commission, which will have the necessary powers to monitor and enforce compliance. The Bill also places duties on railway undertakings, their staff and third parties and requires railway undertakings to put in place formal safety management systems and to submit a safety case to the commission for approval.

*Question No. 74 answered with Question No. 43.*

#### **Bus Services.**

75. **Ms Shortall** asked the Minister for Transport the action he intends to take to avert the threatened industrial action by members of the NBRU following his recent decision to issue two new licences for private bus services in Dublin; and if he will make a statement on the matter. [20402/04]

96. **Mr. McGinley** asked the Minister for Transport his plans for bus deregulation; and if he will make a statement on the matter. [20315/04]

136. **Mr. Kenny** asked the Minister for Transport his plans for bus deregulation; and if he will make a statement on the matter. [20320/04]

142. **Mr. O'Shea** asked the Minister for Transport the position with regard to discussions between his Department and trade unions representing workers in CIE on the future of the company; and if he will make a statement on the matter. [20421/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 75, 96, 136 and 142 together.

I set out my policy proposals for public transport reform in statements to the Public Transport Partnership Forum in November 2002 and the Oireachtas Committee on Transport in June 2003. My objectives in proposing reform of the 70 year old legislation which regulates the public transport sector are: to use competition in the provision of bus services to stimulate better performance, improved efficiency and cost effectiveness; to ensure that the taxpayer and the public transport user get better value for money; and to show clearly how funding for public transport is

being spent to deliver service, and to establish a clear link between payments and performance.

The principal elements of my proposals are: the establishment of an independent procurement and regulatory authority for transport, on a national basis; and the introduction of controlled competition into the bus market in the Dublin area in the form of franchising as the primary means of procuring bus services.

I am firmly of the view that creating genuine opportunities for other bus companies to enter the bus market in Dublin is in the best interests of both the taxpayer and the customers of public transport. I am also firmly of the view that these opportunities can be created without adversely impacting on the pay and conditions of existing Dublin Bus employees.

Officials of my Department have held a number of meetings with the CIE unions since February this year. On 12 May, my Department put detailed proposals on reform of the bus market in Dublin to the CIE unions. On 18 May, the CIE unions presented a substantive response paper through the independent chair. This paper included proposals which would have significant implications for the industrial relations structure of the bus industry, and which in turn would have potentially significant ramifications for the wider economy and the general approach to industrial relations in this country. When the discussions resumed on 8 June, my officials gave an initial response to the union paper but advised the unions that, given the implications of these proposals, there was a need for detailed consultations with other Departments and for the issue to be discussed at Cabinet. Unfortunately, despite this need to consider the proposals more fully, the NBRU decided to ballot on industrial action.

I regret the recent announcement by the NBRU that it plans to go ahead with industrial action which will seriously inconvenience the travelling public, have negative impacts on business and tourism and damage the reputation of public transport as a viable alternative to private car commuting. There is no need for this industrial action. The talks, under the skilled chairmanship of Kevin Foley, have been making progress. There has been real engagement in identifying and solving the core issues. I remain personally committed to the current talks process.

As regards the bus licensing issue, my Department issued two licences in early June to enable the provision of morning and evening services for workers in the Citywest Business Park. In processing the licence applications, my Department followed its normal procedure which included an assessment of the public interest as narrowly defined by the Road Transport Act 1932. During the course of its assessment, my Department was advised by Citywest that Dublin Bus had first been requested to provide services into the business campus, but had expressed no interest in doing so. The background to this licensing decision has been fully explained to the trade

[Mr. Brennan.] unions. I have repeatedly made it clear that the Road Transport Act 1932 no longer provides a satisfactory basis for regulating the bus market and that I plan to replace it as part of my regulatory reform programme. The sooner we find a basis in the talks process for moving forward in the reform programme, the sooner the 1932 Act will be replaced.

### Rail Services.

76. **Mr. Boyle** asked the Minister for Transport if he expects the proposed new western rail line to cover all its annual running costs from fare collection. [20547/04]

103. **Mr. Ring** asked the Minister for Transport the plans he has to progress the western rail corridor in view of the strategic rail review; and if he will make a statement on the matter. [20302/04]

137. **Mr. Sherlock** asked the Minister for Transport when he expects to receive the report of the working group evaluating the potential for the phased reopening of the Sligo-Cork rail route; and if he will make a statement on the matter. [20434/04]

**Minister for Transport (Mr. Brennan):** I propose to take Question Nos. 76, 103 and 137 together.

I recently established an expert working group to carry out a through examination of the western rail corridor proposal and to examine the potential for reopening the line. The working group held its inaugural meeting on 14 June last under the chairmanship of Mr. Pat McCann, chief executive of Jurys Doyle Hotel, and it included county managers, directors of the regional authorities and representatives of city and county development boards, the Western Development Commission, West-on-Track, the inter-county rail committee, Iarnród Éireann, the Railway Procurement Agency and my Department.

The working group will examine and evaluate all aspects of the western rail corridor proposal, including the costs and benefits of the proposal; the travel demand that gives rise to the proposal; how such a project might be funded, and where the proposal stands in the context of the findings of the national spatial strategy, the strategic rail review, the regional planning guidelines, relevant county and city development and land use plans, the submissions put forward in relation to the proposal and the current and proposed road investment programmes in the vicinity of the line.

In my address to the group in its inaugural meeting, I specifically made the point that, while I would wish it to conclude its deliberations as quickly as possible, I was not going to put a time limit on how long this might be. This is a matter for the group. As far as the cost for this proposal are concerned, this is an issue that should await the conclusions of the group.

*Question No. 77 answered with Question No. 39.*

*Question No. 78 answered with Question No. 55.*

*Question No. 79 answered with Question No. 54.*

### Decentralisation Programme.

80. **Dr. Upton** asked the Minister for Transport the details of any survey that has been undertaken to establish the number of persons employed in his Department and in boards or agencies operating under the aegis of his Department who are willing to move to the new locations announced by the Minister for Finance in his budget 2004 speech, in regard to proposals for decentralisation; the results of any such survey; and if he will make a statement on the matter. [20424/04]

**Minister for Transport (Mr. Brennan):** My Department has not carried out any survey to ascertain the number of persons willing to move to a location scheduled for decentralisation pending the results of applications under the central applications facility, CAF. At this point it is not possible to state the number of workers in my Department or its agencies who have expressed an interest in relocation through the CAF but I understand initial results are due to be made available shortly.

### Harbour Ownership.

81. **Dr. Twomey** asked the Minister for Transport the steps taken to date by his Department to have legislation enacted regarding the ownership of Rosslare harbour port in County Wexford; and the other steps he intends to take to ensure the future of Rosslare Harbour Port. [19011/04]

**Minister for Transport (Mr. Brennan):** Rosslare port is currently owned by the Fishguard and Rosslare Railways and Harbours Company which is a UK registered statutory company, jointly owned by CIE and Stena Line. The legal status of Rosslare port is governed by various pieces of legislation which date back to 1894. My Department is currently reviewing this legislation with a view to drafting new legislation to give the port a modern legislative framework. This may require legislation in the UK in addition to a Bill to be enacted by the Oireachtas. My Department is currently in discussion with Irish Rail and Stena Line in the matter. This legislation would be designed to secure the further development of the port.

### Road Safety.

82. **Ms Lynch** asked the Minister for Transport the steps he intends to take to improve the safety of cyclists using the road system; his views on the belief of the National Safety Council that children under 12 should not be allowed to cycle in any sort of traffic; and if he will make a statement on the matter. [20414/04]

**Minister for Transport (Mr. Brennan):** A design manual for cycle facilities entitled, Provision of Cycle Facilities — National Manual for Urban Areas, was published in March 1998 by the Dublin Transportation Office, DTO, in association with the Department of the Environment, Heritage and Local Government. The manual comprises a comprehensive set of guidelines for the design and provision of cycle facilities and is intended to be of assistance to local authorities in ensuring that such facilities are implemented to a uniform and high standard.

The safety of cyclists was one of the principle considerations behind the development of the cycle facilities design manual and the regulations covering the use of such facilities. To this end, international practice as applied in the Netherlands and the UK was brought to bear on these developments. This 1998 manual is currently being reviewed by the DTO and the review is expected to be finalised later this year.

The National Safety Council is mandated with responsibility for road safety advertising and education. In carrying out its mandate, the council advises other road users to be aware of their responsibilities with regard to other road users such as cyclists. I understand that the most recent advise issued by the NSC to cyclists is set out in a leaflet entitled, Cycle Safety, and I will forward a copy to the Deputy.

Ultimately, parents should decide whether their child is fit to cycle on public roads. When doing so the parents should be confident that their child possesses the appropriate skills and training so that their child understands and is protected against potential hazards.

#### **Bus Services.**

83. **Mr. O'Shea** asked the Minister for Transport if he has received a consultants report suggesting that plans to franchise out part of the Dublin Bus network will cost approximately €27 million annually to implement but will at best save only €2 million per annum; and if he will make a statement on the matter. [20422/04]

**Minister for Transport (Mr. Brennan):** The report referred to by the Deputy is an internal company report prepared, I understand, for the board of the Dublin Bus. The CIE bus companies are quite naturally undertaking work to respond to my reform proposals and I would expect them to present the case which they see as representing their best interests. I welcome their constructive input to this dialogue, but that does not necessarily mean that I agree with their conclusions.

As I have not seen the Dublin Bus report and as the full details of the arrangements for the introduction of franchising in Dublin have not yet been published, I do not know the basis for the figures quoted by the Deputy but I believe that they are greatly inflated. It remains my intention to proceed with legislation on public transport reform in 2004.

*Question No. 84 answered with Question No. 72.*

*Question No. 85 answered with Question No. 61.*

#### **Light Rail Project.**

86. **Caoimhghín Ó Caoláin** asked the Minister for Transport if he intends applying specific safety measures around high risk areas in which Luas trams will interface with road traffic and pedestrians. [20518/04]

**Minister for Transport (Mr. Brennan):** I refer the Deputy to my response to Parliamentary Question No. 400 yesterday. The position remains the same.

#### **Traffic Management.**

87. **Dr. Upton** asked the Minister for Transport if his attention has been drawn to figures in the annual report of Dublin Bus suggesting that traffic congestion was now costing the company €49 million per annum; the steps he intends to take to combat traffic congestion; and if he will make a statement on the matter. [20423/04]

**Minister for Transport (Mr. Brennan):** I am aware that consultants have estimated the cost of congestion to Dublin Bus as €49 million per annum. The plans to tackle congestion in Dublin are being dealt with at two levels: increasing the supply of public transport, strategic road construction and traffic management, and reducing the growth in travel through complementary land use and other policies which is designed to encourage a transfer of journeys, especially at peak periods, from private car to sustainable modes of transport such as public transport, cycling and walking.

Significant progress has been made in recent years in this regard. There have been major increases in the capacity of the public transport system: the capacity of the DART system has been increased by over 50% since 2000 and further increases are being implemented which will mean that by the end of next year, the capacity of the DART will have increased by over 100% since 2000; 80 new diesel railcars were introduced earlier this year on suburban commuter services and a further 36 are to be delivered next year; the capacity of Dublin Bus has been increased with over 25% increase in capacity at peak times; Bus Éireann has increased its services by around 40% from commuter towns, such as Drogheda Navan and Naas, to the city centre; to facilitate buses, my Department is funding a major programme to expand the quality bus network and improve traffic management at a cost of €40m per annum; the Luas is now in operation on the Sandyford line and services will commence on the Tallaght line at the end of August; and major road improvements are also under way in the greater Dublin area.



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In addition, the Dublin Transportation Office is also working closely with the planning authorities to influence land use policies in the greater Dublin area to favour more sustainable forms of transport at the planning stage. This is being achieved through integrated land use and transportation plans at local level and commenting on major planning applications and appeals which are of strategic transport importance. There is expected to be a sustained increase in the population of the greater Dublin area over the coming years and increasing levels of car ownership. Good progress has been made to date in that public transport-walking-cycling has increased its share of all journeys in the city centre.

I am confident that measures, such as those I have mentioned, together with the opening of the port tunnel and the completion of the M50 in 2005, will go a long way towards addressing Dublin's congestion problems.

#### **Taxi Hardship Panel.**

88. **Mr. S. Ryan** asked the Minister for Transport if he will make a statement on the work to date of the taxi hardship panel. [20426/04]

**Minister for Transport (Mr. Brennan):** The taxi hardship panel was an independent three person panel established in February 2002 to report in general terms on the nature and extent of extreme personal financial hardship that may have been experienced by individual taxi licence holders arising from loss of income as a direct result of the liberalisation of the taxi licensing regime, including an estimate of the numbers of individual licence holders involved, the likely financial implications and the recommended criteria for assessment of extreme personal financial hardship under any subsequent proposed response by Government. Some 2,000 submissions were received by the panel and the panel also met taxi representative groups and some individuals who made submissions before finalising its report.

The report of the panel recommended the establishment of a scheme to provide payments to individual taxi licence holders who fall into one of six categories that the panel assessed as having suffered extreme personal financial hardship arising from taxi liberalisation. The payments range from €3,000 to €15,000 depending on the category of hardship involved. The Government approved the implementation on a phased basis of these recommendations.

Area Development Management Limited, ADM, has been engaged to administer the taxi hardship payments scheme which is implementing the recommendations of the taxi hardship panel report in accordance with the relevant Government decision.

The taxi hardship payments scheme was formally launched in November 2003 with application forms being issued to all persons who made submissions to the taxi hardship panel. In

addition, newspaper advertisements were placed in the national newspapers on 6 November 2003 and 27 February 2004 inviting applications under the scheme from individual taxi licence holders at 21 November 2000 who could demonstrate that they have suffered extreme personal financial hardship following loss of income arising from the liberalisation of the taxi licensing regime, who fall into one of the six categories in which payment was recommended by the taxi hardship panel report, and who are tax compliant. The closing date for receipt of applications under the scheme was 30 April 2004.

A total of 1,860 applications have been received by ADM under the scheme with a significant number, approximately 500, being received in the week immediately prior to the closing date. Hardship payments totalling €9,516,000 have been made to 791 qualifying persons under the scheme to date. To date, 19 applicants have not qualified for a hardship payment. The remaining applications are under consideration. The time taken to process applications and to make payments depends on the completeness of the information and supporting documentation in each individual application.

#### **Airport Development Projects.**

89. **Mr. Costello** asked the Minister for Transport the position with regard to the establishment of a second terminal at Dublin Airport; and if he will make a statement on the matter. [20407/04]

**Minister for Transport (Mr. Brennan):** Passenger traffic through Dublin Airport is expected to grow from last year's level of almost 16 million passengers to 30 million by around 2020. New infrastructure capacity and facilities, both airside and landside, will be needed to cater for this growth including further terminal capacity. With regard to the latter, the programme for Government includes a commitment to examine proposals for a new independent terminal at the airport and to progress such proposals if the evidence suggests that such a terminal will deliver significant benefits.

As the Deputy is aware, the report of last year by the panel of experts chaired by Mr. Paddy Mullarkey concluded that an independent terminal at Dublin Airport would be operationally and technically feasible and that such a terminal is a viable strategic option for the airport. I continue to give urgent attention to the independent terminal concept and I will bring proposals in the matter to the Government in due course.

#### **Driving Tests.**

90. **Mr. Crawford** asked the Minister for Transport the action he is taking to put procedures in place for lost driving licences where there is no record of a licence having been issued; and if he will make a statement on the matter. [20308/04]

**Minister for Transport (Mr. Brennan):** As I indicated in my reply to Question No. 188 of 16

June 2004, the issuing of driving licences is a matter for each licensing authority in accordance with the provisions of the Road Traffic Acts and regulations made thereunder. Records of licences issued are held on the national driver file which is a central record held by the Minister for the Environment, Heritage and Local Government. Computer databases and records of licences issued were held by each licensing authority until they were transferred to the National Driver File two years ago. It remains the responsibility of the licensing authorities to ensure that the licence record is updated when new licences are issued.

A person who has lost a driving licence may apply for a duplicate licence by completing statutory form D 800 which is available at licensing authorities. Where the licensing authority are satisfied that the driving licence has been lost, destroyed or mutilated they may, on payment of a fee of €5 issue a duplicate licence.

A licensing authority may only issue a driving licence if it receives, *inter alia*, a certificate of competency from an individual or proof that that individual was already entitled to a driving licence. In the absence of such documentation, the law precludes the licensing authority from issuing a driving licence or a duplicate driving licence. Where a licensing authority has no record of a person having held a licence, a person may submit to the licensing authority, in support of their application for a further licence, any evidence they might have that they held a driving licence and the vehicle categories in respect of which they held the licence.

*Question No. 91 answered with Question No. 67.*

### Traffic Management.

92. **Mr. Cuffe** asked the Minister for Transport if he has carried out an assessment on the appropriate traffic speeds on roads such as O'Connell Street and College Green in the centre of Dublin; and if the local authorities have the ability to apply a 30 kph speed limit on these roads. [20549/04]

**Minister for Transport (Mr. Brennan):** Under the Road Traffic Acts, a default maximum speed limit of 30 miles per hour applies to roads in urban areas, including Dublin city centre, unless the local authority intervenes by way of making speed limit by-laws to apply a special limit in lieu of this default built up area speed limit. Under the present speed limit structures the speed limit of 30 mph is the lowest maximum value that can be applied on a public road.

A broadly based working group established last year to review speed limit policies, against the backdrop of the adoption of metric values for speed limits, has presented a comprehensive report that incorporates a wide range of recommendations. The report is available on my Department's website and copies have been forwarded to the Oireachtas Library.

The working group recommended that a default speed limit of 50 kph should apply in built up areas — this value is very similar to the current default speed limit of 30 mph in built up areas. In addition, a particular recommendation has been made in relation to the introduction of a special low speed limit of 30 kph for residential areas that meet certain criteria, in particular where appropriate traffic calming measures are provided. The working group envisaged that the application by local authorities of this special low speed limit would be subject to guidelines to be issued by my Department. I have given very careful consideration to the working group's recommendations.

### Road Network.

93. **Mr. Naughten** asked the Minister for Transport when he will announce the results of the NRA review on the future management of road improvement work; and if he will make a statement on the matter. [20283/04]

135. **Mr. Naughten** asked the Minister for Transport when he will publish the NRA report on the future management of road improvement work; and if he will make a statement on the matter. [20282/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 135 and 93 together.

I meet the National Roads Authority on a regular basis to discuss the delivery of the national roads programme. At my request, the NRA was asked to review its arrangements for the implementation of the national roads programme and to make recommendations on the optimisation of these arrangements so as to secure further efficiencies in the implementation of the programme and ensure value for money.

The NRA engaged management consultants, PricewaterhouseCoopers, to carry out this review. The review has been submitted to my Department by the NRA. The contents and recommendations of the review are being given detailed consideration in mine and other relevant Departments. I expect to be in a position to submit detailed proposals in response to the NRA-PWC review to Government shortly.

### Rail Services.

94. **Dr. Twomey** asked the Minister for Transport his views on Iarnród Éireann's plan to replace locomotive hauled diagrams on the Dublin-Rosslare Europort route with 2,700 railcars which have a smaller capacity and may not be suitable for journeys between Wexford and Dublin. [20325/04]

**Minister for Transport (Mr. Brennan):** The deployment of rolling stock by Irish Rail on its network is strictly an operational matter for the company itself to deal with. I am, however, informed by Irish Rail that they propose to replace the Mark 2 loco hauled fleet on the

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Rossclare line, and which is over 30 years old, with modern railcars which will improve service, comfort and reliability for passengers. The current seating capacity of a six carriage locomotive hauled train is 384 seats, while the railcars will have 351 seats. Irish Rail has, however, indicated that the reduction in seating should still be sufficient to meet demand as the services in question normally have ample spare capacity.

*Question No. 95 answered with Question No. 43.*

*Question No. 96 answered with Question No. 75.*

### Road Safety.

97. **Mr. Gilmore** asked the Minister for Transport if his attention has been drawn to new statistics from the National Roads Authority showing that 98% of cars were breaking 30 mph speed limits on main urban roads and that more than 90% of articulated trucks were breaking the speed limits on the same routes; if he has satisfied himself that the current penalty point regime is sufficient to counter this trend; if he intends to take new steps to ensure compliance with speed limits; and if he will make a statement on the matter. [20409/04]

**Minister for Transport (Mr. Brennan):** The National Roads Authority, NRA, has published the results of national speed surveys which have been carried out in 1997, 1999 and 2002. The most recent survey was carried out in 2003, the results of which have not yet been published. Preliminary indications are however that the proportion of cars exceeding the speed limit on urban arterial and residential roads fell sharply between summer 2002 and summer 2003. The fall in the percentage of free speeding cars exceeding the speed limit was most dramatic in urban residential areas. The percentage of cars violating posted 30 mph limits on these roads fell by 25% in 2003. These reductions coincide with the introduction of penalty points for speeding in October 2002. The free speeding — rural — survey also showed sizeable improvements in car speeding rates on dual carriageways and two lane national primary roads.

The figures to which the Deputy refers relate to the percentage of cars and articulate vehicles exceeding the 30 mph speed limit on entering a 30 mph zone. The significant improvements to which I have referred related to speeding rates within the 30 and 40 mph zones. Despite the improvements outlined in the report, the percentage of cars speeding in 30 and 40 mph zones, particularly when entering these zones, is a worrying trend and I will shortly be publishing a new three year road safety strategy which will include measures targeted at the key areas relating to road collisions, including speeding.

The effectiveness of the penalty points system can be judged primarily on the basis of the contribution it has made to road safety since its introduction. In the 20 months since October 2002, the number of deaths as a result of road collisions has fallen by 108 by comparison to the previous 20 month period. Penalty points now operate in respect of speeding, seat belt wearing, driving without insurance and careless driving. Since the introduction of the system over 153,000 drivers have incurred penalty points. In overall terms, the introduction of penalty points has had a very positive effect on road safety and I am confident that the full roll out of the system will further enhance that effect.

### Rural Transport Initiative.

98. **Mr. Hayes** asked the Minister for Transport his plans to introduce new rural transport initiatives; and if he will make a statement on the matter. [20314/04]

**Minister for Transport (Mr. Brennan):** Area Development Management Limited, ADM, which administers the rural transport initiative, RTI, on behalf of my Department, is currently concluding a comprehensive appraisal of the scheme. Among other things, the appraisal will measure the effectiveness of the RTI in addressing the transport needs of rural Ireland and in providing value for money. The appraisal will be completed shortly and I will then consider its findings in relation to the future of the initiative.

### Rail Services.

99. **Mr. Crawford** asked the Minister for Transport the plans he has to reopen a passenger train service to Navan, County Meath, and extend that service to Kingscourt in County Cavan to service the many commuters that live in the Navan area and east Cavan; and if he will make a statement on the matter. [20565/04]

**Minister for Transport (Mr. Brennan):** As I have stated in response to previous questions in regard to the rail line from Navan to Kingscourt, the strategic rail review examined the viability of a railway link to Navan and concluded that there was no economic case for re-opening the line. However, Irish Rail informs me that it is currently examining the feasibility of reopening a short spur from Clonsilla to Dunboyne which could open up park and ride opportunities for car commuters from County Meath.

*Question No. 100 answered with Question No. 64.*

### Air Traffic Management System.

101. **Mr. Penrose** asked the Minister for Transport if he has satisfied himself with the safety and reliability of the new air traffic control system installed at Dublin Airport having regard to the serious problems experienced following its instal-

lation; and if he will make a statement on the matter. [20429/04]

**Minister for Transport (Mr. Brennan):** The Irish Aviation Authority has statutory responsibility for regulating the technical and safety aspects of civil aviation and for the provision of air traffic services. The authority's role as safety regulator includes the approval of all new air traffic control systems and equipment in line with international standards.

I am advised by the authority that a new air traffic management system was installed at Dublin Airport as part of a national air traffic management upgrade programme. This was introduced into operational service, following extensive testing and evaluation, on 22 April 2004 and initially operated in dual operational mode, that is, with both new and old systems operating in parallel. This was in accordance with the transition plan to migrate from the old to the new system, which called for a gradual increase in the use of the new system, with the old system in standby mode.

The authority further advised that on 22 May, the new system was brought into operation in Dublin on a stand-alone basis with its predecessor held in hot standby mode. On 23 May, a software problem developed in one of the 24 main servers providing data to the system. This of itself would not have caused a major difficulty but as a precaution an operational decision was taken to revert to the old system while the server problem was being addressed, as was provided for in the transition plan.

The problem was then identified and a solution found, tested, installed and validated. Operations using the new system recommenced on 26 May and have continued satisfactorily since that date. No other problems of operational significance have occurred. The authority has assured me of its confidence with the safety and reliability of the new air traffic control system.

#### **Traffic Management.**

102. **Mr. J. O'Keefe** asked the Minister for Transport his plans to ban HGV's from Dublin city; and if he will make a statement on the matter. [20321/04]

**Minister for Transport (Mr. Brennan):** Traffic management in Dublin is the responsibility of Dublin City Council. I am informed by the council that it is currently developing a heavy goods vehicle management strategy. A public consultation exercise has already been carried out and the council is currently examining the submissions received, in advance of finalising the strategy.

*Question No. 103 answered with Question No. 76.*

*Question No. 104 answered with Question No. 43.*

#### **Driving Tests.**

105. **Ms McManus** asked the Minister for Transport his proposals for a new driver testing and standards authority; if his attention has been drawn to concerns expressed by trade unions representing administrative staff and driving testers who claim that a new agency is not necessary to reduce waiting lists; and if he will make a statement on the matter. [20416/04]

**Minister for Transport (Mr. Brennan):** The Driver Testing and Standards Authority Bill was published on Tuesday, 6 July 2004. I met the staff associations on 10 March 2004 and I am aware of their concerns in relation to the authority. My Department will be consulting further with staff associations in relation to these concerns. I refer the Deputy to Question No. 61 of today in relation to my proposals to reduce numbers waiting for driving tests.

The Bill will provide a statutory basis for the establishment of a driver testing and standards authority which will be responsible for the delivery of the driver testing service to a pre-set performance standard. The authority will also be responsible for promoting improved driving standards generally. Proposals for the establishment of the authority were drawn up following detailed independent reviews of the driver testing service.

*Question No. 106 answered with Question No. 43.*

#### **Infrastructural Projects.**

107. **Mr. R. Bruton** asked the Minister for Transport the financial mechanisms in place to review infrastructural projects; and if he will make a statement on the matter. [20304/04]

**Minister for Transport (Mr. Brennan):** I refer the Deputy to my response to Parliamentary Questions Nos. 24, 71 and 86 of 27 May and Parliamentary Question No. 57 of 4 May on this subject. The position remains unchanged.

*Question No. 108 answered with Question No. 67.*

#### **Public Transport Safety.**

109. **Ms B. Moynihan-Cronin** asked the Minister for Transport the status and remit of the review of security on State-owned public transport services announced by him in response to the Madrid train bombings; when the review is likely to be completed; if its findings will be made available to the public; and if he will make a statement on the matter. [20419/04]

**Minister for Transport (Mr. Brennan):** As I have stated previously in the House, I requested the chief executives of the three CIE operating companies to arrange for a review of security procedures to be undertaken in conjunction with the relevant agencies, including the Garda Síochána, so that the boards of the companies can satisfy

[Mr. Brennan.] themselves that current arrangements are adequate. I understand that this review will be a continuing process to enable it to react to security threats as they arise. I am sure the Deputy will appreciate that I will not be in a position to discuss this review in any detail.

### Light Rail Project.

110. **Mr. Eamon Ryan** asked the Minister for Transport his views on whether the Luas will be extended from Sandyford to Cherrywood; if so when a decision will be made in this regard; the length of time it will take to have such a service introduced; and the cost of construction. [20545/04]

113. **Mr. Gogarty** asked the Minister for Transport his views on whether the Luas red line will be extended to Lucan; if so, when a decision will be made in this regard; the length of time it will take to have such a service introduced; and the likely construction cost of such a project. [20552/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 110 and 113 together.

I understand from the Railway Procurement Agency that the agency, Dún Laoghaire-Rathdown County Council and Rathdown Light Rail Limited are engaged in discussions on a 7 km light rail extension from Sandyford to Cherrywood.

The RPA has indicated to me that, subject to agreement between the agency, DLRCC and RLRL, it would submit a business plan for the project to my Department, including a cost benefit analysis. I await such a plan and, if approved, it would be followed by a formal application to me for a railway order that would trigger the statutory procedures, including a public inquiry, provided for in the Transport (Railway Infrastructure) Act 2001. In the absence of a business plan it would be premature to comment on the costings of such an extension. It is also premature to speculate on a completion date for the extension.

The Dublin Transportation Office strategy, A Platform for Change, provides for a Luas line to Lucan. The RPA, as part of its forward planning, has reviewed possible alignments, approaches to implementation and projected patronage. It also asked the local authority to make provision for such a line in its county development plan. I understand from the RPA that the planning of the line is not sufficiently advanced to provide either an estimate of cost or a timescale for implementation.

### Public Service Contracts.

111. **Mr. Kehoe** asked the Minister for Transport his plans to introduce public service contracts into the rail service. [20317/04]

**Minister for Transport (Mr. Brennan):** In November 2002 I set out my proposals for public transport reform in a statement to the public transport partnership forum. As outlined in that statement, I intend to establish an independent authority to procure public transport services. I also proposed that all DART and suburban rail services in the greater Dublin area would be provided subject to a multi-annual public service contract negotiated by the independent authority with Iarnród Éireann.

In reply to recent questions I stated that I intend for the independent authority to have a national remit. In this context it is my intention that all rail services provided by Iarnród Éireann will be subject to a public service contract with the new authority.

I intend to proceed with legislation to give effect to these and other public transport reforms during 2004.

### Public Transport.

112. **Mr. J. Bruton** asked the Minister for Transport the status of the promise in the joint programme to establish a greater Dublin land use and transport authority. [20278/04]

**Minister for Transport (Mr. Brennan):** In April 2001 the Government's consultation paper, New Institutional Arrangements for Land-use and Transport in the Greater Dublin Area, was published jointly by the Departments of the Environment and Local Government and Public Enterprise. It proposed the establishment of a new strategic land use and transportation planning authority for the greater Dublin area. Developments since have caused me to review its proposals.

Recently the regional authorities finalised regional planning guidelines under the provisions of the Planning and Development Act 2000. They will provide effective regional land use strategies consistent with the national spatial strategy. The Dublin and Mid-East Regional Authorities have collaborated to produce a single set of guidelines for the greater Dublin area that will be published on 8 July.

The DTO will continue to carry out effective strategic transport planning for the greater Dublin area. I have also concluded that the establishment of an independent national public transport procurement and regulatory body is the most effective way of implementing regulatory reform.

In the light of these developments I believe that the policy objectives of effective land use and transport planning can, for the present, be successfully addressed within existing structures. I do not believe that it is a priority to establish a strategic land use and transportation authority for the area.

*Question No. 113 answered with Question No. 110.*

### Dublin Port Tunnel.

114. **Mr. Durkan** asked the Minister for Transport the position in regard to the port tunnel with particular reference to meeting safety and other requirements. [20524/04]

**Minister for Transport (Mr. Brennan):** The issues raised by the Deputy are a matter for the contractor, Dublin City Council and the National Roads Authority.

I understand from the NRA that a recent safety audit of the project confirms that the Dublin Port tunnel complies, in all respects, with the requirements of the proposed EU directive on safety on road tunnels.

I am also informed by the NRA that the operating system for the tunnel and the ventilation and safety systems have been designed with safety as a paramount parameter. A package of further safety measures includes emergency telephones, lay-bys, pedestrian and vehicular cross passages, continuous CCTV coverage of the tunnels, a 24 hour manned control room, fire detection equipment and incident detection equipment. The ventilation system, along with the safety measures, represents a comprehensive approach to ensuring the safe passage of vehicles through the port tunnel. It is in line with the best international practice.

My Department appointed consultants to review the feasibility, safety implications and cost of raising the height of the Dublin Port tunnel. They were requested to review a range of options for increasing the operational height of the tunnel. They had to take into account the implementation of the current design and build contract and the likely additional costs and impact on the project's completion date.

Having reviewed the findings of the report further information was sought from the NRA pertaining to its conclusions in particular relation to the costs should the tunnel height be increased. As a result the contractors were requested to provide a fixed price cost for the work involved. A quotation was received from the contractors and is under consideration with a view to making a final decision as soon as possible.

### Public Transport.

115. **Mr. Cuffe** asked the Minister for Transport his views on whether the increase in the Dublin Bus fleet of 36 buses in 2004 will be sufficient to cater for the higher service requirements that can be expected on the new quality bus corridors being designed by the quality bus network office. [20548/04]

**Minister for Transport (Mr. Brennan):** Dublin Bus has indicated to me that it proposes to acquire 36 new buses this year. My Department is also in discussion with the company to look at the opportunity for redeploying its existing fleet

to take advantage of improved efficiencies that quality bus corridors introduce. There may also be some scope for redeployment of buses arising from the commencement of Luas services on the Sandyford and Tallaght lines.

### National Car Test.

116. **Mr. Murphy** asked the Minister for Transport his plans to include the inspection of tax and insurance certificates as part of the national car test. [20279/04]

**Minister of State at the Department of Transport (Dr. McDaid):** I have no plans to require National Car Testing Service Limited to include the inspection of motor tax and insurance certificates as part of the national car test. Enforcement of the law in relation to these matters is the responsibility of the Garda Síochána.

### Public Transport.

117. **Mr. Rabbitte** asked the Minister for Transport the basis on which he approved a €4 charge for commuters using park and ride facilities at Luas stations; the efforts he has taken to establish whether this level of charge will discourage commuters from using the system; and if he will make a statement on the matter. [20430/04]

**Minister for Transport (Mr. Brennan):** The RPA made proposals to me about charging for park and ride facilities adjacent to Luas stops, as provided for in the relevant railway orders. The facilities are available at three stops on the red line, Sandyford, Stillorgan and Balally, and at the Red Cow depot on the red line. A private company owns and operates the park and ride facilities at Tallaght Square.

The RPA proposed that the aim of such charges at their sites would be limited to covering the capital cost of providing barrier control and other facilities at the park and ride locations and meeting annual operation, maintenance and insurance costs. I supported the position.

The charges for park and ride facilities will be nominal for people using Luas, up to a maximum of €4 per day, depending on length of stay. The facilities will include barrier control, security, cycle stands, and messaging systems on availability of parking spaces.

*Question No. 118 answered with Question No. 47.*

### Bus Fares.

119. **Mr. Gormley** asked the Minister for Transport his views on whether fare rates should be rounded up or down in a manner that does not affect overall revenue but makes for an easier and quicker fare payment system in view of the fact that Dublin Bus holds €1million in unclaimed excess fares. [20554/04]

**Minister for Transport (Mr. Brennan):** The company has a policy of rounding up and down fares to the nearest 5 cent to be more customer friendly. It also heavily promoted prepaid tickets that now account for over 40% of all ticket sales. Smart card tickets will be introduced next year and the company expects the volume of cash transactions to diminish further.

#### Road Network.

120. **Mr. Hogan** asked the Minister for Transport his timetable for the completion of the NDP roads programme; and the projected cost. [20286/04]

**Minister for Transport (Mr. Brennan):** The planning, design and implementation of national road improvement projects, including the outturn costs of individual road projects, is a matter for the NRA and the local authorities concerned.

The national development plan mid-term target of 30% completion of the major inter-urban routes by the end of 2003 was largely met with 29% of the programme completed on schedule. Since 2000 a total of 41 projects or over 277 kms were completed. Work is in progress on 18 projects or 199 kms and another 12 projects or 88 kms are at tender stage. The estimated cost of delivering the programme was €16.4 billion using prices from the end of 2003.

I understand from the NRA that the current position in relation to the upgrading of the five major inter-urban routes to motorway-high quality dual carriageway standard is that the M1 is expected to be complete by the end of 2006. Work is under way on the following major projects: the N7 Monasterevin bypass, which is expected to be opened later this year; the N8 Cashel bypass; the N4-N6 Kilcock-Kinnegad; the N8 Fermoy bypass; and the Dundalk western bypass. Work is expected to start this year on the Dundalk to Newry road on the M1, the Waterford City bypass and the Naas Road widening. Completion of these projects will eliminate many of the major bottlenecks on these routes.

In addition, it is expected that compulsory purchase orders and environmental impact statements for the remaining projects for these routes will either be approved by or be lodged with An Bord Pleanála by the end of 2004.

In order to provide greater certainty about resources that facilitates a more cost effective implementation of the programme I have secured the agreement of the Minister for Finance for the introduction of a multi-annual funding framework for national road investment. It provides for a total national road development investment of €8.2 billion, of which €6.9 billion is Exchequer funding and €1.3 billion will be invested by the private sector in public private partnerships, over the period 2004-2008. I have asked the NRA to submit a five year plan to ensure that the

resources being made available under the capital envelope are utilised to best effect. The envelope will be underpinned by an agreement between my Department and the Department of Finance. It will incorporate provisions relating to, *inter alia*, the annual funding levels, contractual commitments and reporting and monitoring arrangements.

#### Rail Services.

121. **Mr. Perry** asked the Minister for Transport his plans for the development of Spencer Dock; and if he had discussions with Irish Rail on the issue. [20318/04]

**Minister for Transport (Mr. Brennan):** As I have stated previously in the House, discussions between my Department and Irish Rail are taking place on the development of a new commuter rail station at Spencer Dock. The development of Spencer Dock is part of a wider project to expand the capacity and availability of rail services in and around Dublin.

*Question No. 122 answered with Question No. 47.*

123. **Mr. S. Ryan** asked the Minister for Transport the areas from which staff will be drawn, in regard to proposals to decentralise 200 Bus Éireann staff to Mitchelstown, County Cork, announced in the budget 2004 in view of the fact that there are only between 80 and 90 staff currently employed at the company's head office in Dublin; and if he received a report from Bus Éireann warning of the serious implications for the company. [20425/04]

**Minister for Transport (Mr. Brennan):** To date, in the transport implementation group, over 80 posts that could be transferred from Bus Éireann have been identified. The areas from which these staff will be drawn include the secretariat, business development, finance, information technology and human resources together with various technical and professional posts.

Discussions with the company are continuing. Its chairman was asked to urgently examine the options for meeting the overall target of decentralising 200 staff to Mitchelstown.

All change brings with it an element of risk. I am confident that with good planning and management risks will be reduced to the absolute minimum. It is for this reason that all organisations involved in the decentralisation programme have prepared implementation plans that will be refined and amended as the process moves forward.

*Question No. 124 answered with Question No. 47.*

*Question No. 125 answered with Question No. 63.*

### Road Network.

126. **Mr. Rabbitte** asked the Minister for Transport if he plans to introduce new toll routes to fund completion of motorways linking Dublin with Cork, Galway and the M50 upgrade. [20431/04]

**Minister for Transport (Mr. Brennan):** The NDP provides for significant private sector investment in the national roads development programme. In line with this policy, a number of major road upgrade projects throughout the country are being implemented by the NRA by means of PPPs, with the private sector being remunerated, in part, by user tolls. This will ensure earlier delivery of vital national road infrastructure. Private sector innovation will be harnessed in the areas of scheme design, construction and long-term operation and maintenance through PPPs.

The NRA's current PPP programme comprises ten projects. In selecting them the authority had regard to a number of factors including the following: a geographical spread of tolls across the network; the extent of service improvement to be provided by the improved route; the availability of sufficiently high traffic volumes to ensure commercial viability; and the setting of tolls at an affordable and acceptable level in order to reduce diversion and gain public acceptance. It is clear that there is limited capacity, over and above the projects already identified by the NRA, across the national road network to support viable tolling arrangements.

Nevertheless the increased cost of the national roads programme, combined with the demands of the other sectors that limit the capacity to allocate more Exchequer funding, require that all possibilities for generating additional funding to accelerate the implementation of the national roads programme be considered.

In this context and that of a broader review of the arrangements for the delivery of the programme, the NRA recently identified a number of options for the development of tolling policy to enable it to raise additional funding for the national roads programme. My Department is considering its proposals. Any decisions on the extension of tolling beyond the current PPP programme would be considered by the Government.

*Question No. 127 answered with Question No. 64.*

*Questions Nos. 128 and 129 answered with Question No. 43.*

### Road Traffic Offences.

130. **Mr. J. O'Keeffe** asked the Minister for Transport the steps he proposes to take, as a matter of urgency, to address the inability of a radar gun to produce a record. [16301/04]

145. **Ms Shortall** asked the Minister for Transport the action he intends to take arising from a number of cases in the District Courts in which speeding charges were dismissed because speed guns used by the Garda are not capable of producing a written record of the speed detected. [20413/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 130 and 145 together.

My Department was notified by the Office of the Director of Public Prosecutions of an instance where Cork District Court dismissed a speeding offence case brought against a motorist where the prosecution was based on foot of a speed measurement that was detected by a member of the Garda Síochána using a speed detection radar gun.

The matter was referred for advice to the Office of the Attorney General with a view to identifying whether a change in the current road traffic law is required. If an amendment is required I will bring new legislative provisions before the Oireachtas without delay.

*Question No. 131 answered with Question No. 39.*

*Question No. 132 answered with Question No. 43.*

### Rail Services.

133. **Mr. Timmins** asked the Minister for Transport his plans for the development of the Phoenix Park tunnel; and if he discussed the matter with Irish Rail. [20309/04]

**Minister for Transport (Mr. Brennan):** I understand that the rail connection between Heuston and Connolly stations is over 7 kms in length, part of which passes through a tunnel under the Phoenix Park.

Irish Rail is looking at the potential for making greater use of the Phoenix Park tunnel when the second phase of the DART upgrade programme is completed in 2007 and extra rail paths into Connolly Station become available.

The difficulty with the use of the tunnel at present is that Connolly Station has a limited number of train paths available through it. In order to facilitate services from Heuston trains would have to be taken off services from Maynooth, Dundalk or the DART.

By the end of August Irish Rail customers will be able to board Luas trams outside of Heuston station to take them to Dublin City centre, Bus-



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 arus and Connolly Station within a matter of minutes, a distance of around 3 kms.

### Road Safety Permits.

134. **Mr. Wall** asked the Minister for Transport the progress in reaching consensus among concerned parties on revised guidelines for the issuing of special permits for off-road dumpers. [20558/04]

**Minister of State at the Department of Transport (Dr. McDaid):** My Department is engaged in a consultative process with a view to amending the permit scheme so that it is more effective in road safety and operational terms. The draft revised guidelines are intended to address road safety for vehicles, protection of infrastructure investment, environmental concerns, public project economics and job protection.

My Department is examining the views of the principal parties concerned, including local authorities, the Garda authorities and plant owners. When the examination is finished I expect to make a decision on the content of the revised guidelines.

*Question No. 135 answered with Question No. 93.*

*Question No. 136 answered with Question No. 75.*

*Question No. 137 answered with Question No. 76.*

*Question No. 138 answered with Question No. 49.*

*Question No. 139 answered with Question No. 63.*

*Question No. 140 answered with Question No. 72.*

### Road Network.

141. **Mr. Perry** asked the Minister for Transport the progress to date on the delivery of the inter-urban motorways. [20322/04]

**Minister for Transport (Mr. Brennan):** The current position in relation to the upgrading of the five major inter-urban routes to motorway-high quality dual carriageway standard is that the M1 is expected to be complete by the end of 2006. Major projects are under way on the N7 Monasterevin bypass, the N8 Cashel bypass, and the N4-N6 Kilcock-Kinnegad route. Work is expected to start this year on the Dundalk western bypass and Dundalk to Newry on the M1, N8 Fermoy bypass and N7, widening of Naas Road. Completion of these projects will eliminate many of the major bottlenecks on these routes.

In addition, it is expected that compulsory purchase orders and environmental impact statements for the remaining projects on these routes will either be approved by or be lodged with An Bord Pleanála by the end of 2004.

It should be noted that since 2000 a total of 41 projects, over 277 kms, were completed. Work is in progress on 18 projects, or 199 kms, and another 12 projects or 88 kms are at tender stage.

*Question No. 142 answered with Question No. 75.*

### National Development Plan.

143. **Mr. Durkan** asked the Minister for Transport the extent to which the targets set by and for his Department, in the context of the national plan, are being achieved on time and within cost estimates; and if he will outline those that are not. [20525/04]

259. **Mr. Crowe** asked the Minister for Transport the amount of overrun in spending by his Department that has taken place, taking into account moneys spent on the Luas project, major road improvements and the break-up of Aer Rianta; and the reason for such the overrun in expenditure. [20679/04]

273. **Mr. Durkan** asked the Minister for Transport the extent to which the various projects identified by him, in the context of the NDP, are on schedule and in keeping with cost projections. [20840/04]

274. **Mr. Durkan** asked the Minister for Transport if he can clear up the confusion caused by the cost overruns on projects sponsored by his Department, with particular reference to the failure of tender prices and eventual outturns to stay in line with estimates. [20841/04]

**Minister for Transport (Mr. Brennan):** I propose to take Questions Nos. 143, 259, 273 and 274 together.

Procurement arrangements, contracts and the delivery of capital infrastructure are primarily the responsibility of the State bodies under the aegis of my Department. They comply with the requirements of the code of practice for the governance of State bodies, including conformity with the guidelines for the appraisal and management of capital expenditure in the public sector.

Good progress was made in the implementation of the overall national roads upgrade programme provided for in the NDP. To date 41 projects, a total of 278 km, including 76 km of motorway and 62 km of dual carriageway standard, have been completed. In addition, work is under way on 18 projects totalling 199 km, including 175 km to motorway-dual carriageway standard and another 12 projects, or 88 km, are at tender stage.

In relation to the five major inter-urban routes, the key NDP mid-term, end of 2003, target of 30% completion of the five MIUs was substantially met with 29% achieved and work under way on approximately another 12%.

Following publication of the NDP in 1999, at a time of high construction sector inflation due to constrained capacity in the construction industry, the cost of the national roads programme mandated in the NDP increased substantially from €6.96 million, early 1999 prices, to €15.8 billion, early 2002 prices. The increase was attributable to: exceptional items such as the additional land-archeological costs on the south eastern motorway and the Dublin Port tunnel. There were also add-ons such as a reduction in timescale, higher road standards, upgrading of routes such as the N9 — 31%; construction cost inflation and initial underestimation — 49%; and scheme refinement as design process proceeded — 18%.

Since 2001 construction cost inflation has moderated from an annual average of 12% to less than 5%. Given the lower level of construction inflation and improvements in cost estimation and control, it is likely that the overall cost of the NDP mandated programme will not have changed significantly from the 2002 figure of €15.8 billion.

In considering the national roads programme and its development and management in recent years, it is important to bear in mind the major expansion in the scale of the programme over the period since 2000. The level of activity on the programme was increased very significantly in this period. Initial costing of the programme of work proved difficult due to the limited information available from the smaller preceding programme and the preliminary scheme outlines available as a basis for costing.

The NRA made significant efforts to strengthen programming, project management systems and cost estimation and control. A number of independent evaluation reports, such as C.F. Fitzpatrick and Indecon, acknowledged that the national roads investment programme is, in general, well managed.

My Department continues to support the NRA in the strengthening of its cost estimation, control and procurement procedures. This is being done in order to have more accurate cost estimates from the earliest stages of a project and to ensure greater certainty of outturn costs between tender stage and completion date. The measures taken include: a greater use of design and build lump sum fixed price contracts offering cost efficiencies; greater certainty of outturn costs and reduced scope for claims; standardisation of economic designs for high cost items such as bridges and other structures; the buy out of price variation, clause and risk, or traditional procurement, where this gives good value; the further attention to improving the quality of site investigations;

and the acceptance of such investigations by contractors as an agreed basis for pricing.

The mid-term evaluation of the economic and social infrastructure programme recognised that, as result of NDP investment since 2000, significant increases in public transport capacity were achieved in a number of areas, including the DART, suburban rail, Dublin Bus and Bus Éireann. The full impact of public transport investment will be evident over the next two years. There will be further additions to capacity with the coming into operation of the Luas lines, the upgrading of the DART system, the placing into service of additional rolling stock and the expansion of the quality bus corridor network in Dublin.

The NDP's public transport priority performed positively in terms of physical output, financial absorption and good management. As a result the Department of Finance and the European Commission have recommended that it be allocated a proportion of a performance reserve allocation from the EU Structural Funds.

There have been increases in the cost of public transport projects since the NDP was published due to the cost of inflation. There have also been improvements in cost estimation, project management and monitoring and in general projects are being completed in line with tender prices.

One of the objectives of the NDP in relation to mainline rail includes completion of the Railway Safety Programme 1999-2003 at a cost of €546 million using 1998 prices. Another objective was the reconstitution of the rail safety task force to prepare recommendations for a second five year safety programme before the end of 2003. Both objectives were met. Some individual infrastructural renewal targets were not achieved such as level crossings. However, other significant and essential renewal works, such as cuttings, embankment and coastal protection, not envisaged in the original safety programme were completed instead.

Approximately €571 million was invested under the safety programme during the course of the NDP. Over €660 million will be invested over the full five year programme. The task force completed its work and will shortly submit its recommendations to Government for a new safety programme.

On 30 June the opening ceremony of the first Sandyford Luas line took place. Passenger services on the Tallaght line will commence at the end of August.

In 2000 the Government approved the capital cost of €466 million for the Luas project. It consisted of €265 million for the Sandyford line and €201 million for the Tallaght line. The sum was based on preliminary estimates, using 1999 prices, submitted by CIE.

In February 2001 the budget was revised and increased to €675 million. As much as €480 mill-

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ion was allocated for the Tallaght line and €295 million was allocated for the Sandyford line. There was also a risk provision of €89 million to take account of actual competitive tender prices received. The revised allocation reflected high inflation in the construction sector, higher than anticipated property acquisition costs and changes to the scope of the project mainly related to the provision for upgrading the Sandyford line to metro status.

In December 2002 the Government noted the increase in the budget to €691 million, composed of €501 million for the Tallaght line, €290 million for the Sandyford line and a risk provision of €84 million. The reasons for the increase of €16 million is accounted for by the higher than anticipated costs associated with the demolition of the Connolly ramp and increases in the costs of utilities and enabling works. The RPA has informed me that the project is within the €691 million budget and risk provision.

Responsibility for the completion of projects within the targeted timescale rests with the regional airports. However, the first round of approved projects was completed on time and within cost estimates of approximately €9 million. A further round of projects will be considered for funding later this year.

My Department also has a contract with the consortium, PricewaterhouseCoopers, Matheson Ormsby Prentice and Steer Davies Gleave to advise on all aspects of the Aer Rianta restructuring process. To date payments are within the budgeted sum.

*Question No. 144 answered with Question No. 44.*

*Question No. 145 answered with Question No. 130.*

### **Dublin-Monaghan Bombings.**

146. **Caoimhghín Ó Caoláin** asked the Taoiseach when the further reports on Justice Henry Barron will be published; the incidents they will cover; and if he will make a statement on the matter. [20927/04]

**The Taoiseach:** On 29 June, I received a report from Judge Barron on a number of events. These included Dublin bombings in the Film Centre cinema in November 1972, Eden Quay and Sackville Place in December 1972 and Sackville Place in January 1973. Appendices to this report, received from Judge Barron on 5 July, included the murder of Bríd Carr, the murders of Oliver Boyce and Bríd Porter, the bombings in Clones, Belturbet and Pettigo, along with other bombing incidents in the State between 1970 and 1974. Consideration is now underway by relevant Departments and the Attorney General. The

report will then be considered by the Government. It is the intention that the report be then considered by the Oireachtas and published.

Judge Barron is expected to report on the case of Seamus Ludlow towards the end of the year. He will then report on other cases including the Dundalk bombing of 1975 and in the context of that report, he will report on a number of other bombings that took place after May 1974 including the Castleblaney bombing.

### **Census Results.**

147. **Mr. Allen** asked the Taoiseach the number of persons prosecuted for not responding to the 2002 census; and the estimated number of persons who failed to respond. [20607/04]

**Minister of State at the Department of the Taoiseach (Ms Hanafin):** Some 4,000 enumerators were employed by the Central Statistics Office to conduct the fieldwork for the 2002 census of population. The enumerators delivered blank census forms to all households in the State in the five week period before census day, 28 April 2002. In the five weeks after census day, they collected the completed forms and subsequently returned them to CSO. A total of 1.29 million households were covered.

The majority of householders co-operated fully with the enumerators in ensuring that their completed census forms were ready for collection after census day. In a number of cases where the householder was not initially convinced of the necessity of returning their completed census form, a further visit by the enumerator or the relevant field supervisor usually resulted in the satisfactory completion of the form.

The estimated number of persons who failed to respond to the census is not precisely known. However, every attempt was made at local level to keep the number of such cases to an absolute minimum. The enumerator and her supervisor highlighted the importance of the census operation to the non-compliant householder and the obligation under law to complete the census form. Where a refusal resulted from this procedure, the enumerator using his or her local knowledge was normally in a position to provide the relevant details. While it would not have been practical to prosecute all of the non-respondents it was decided to take proceedings against three individuals who failed to comply. Two of these resulted in successful prosecutions.

The CSO policy is to emphasise the importance of 100% compliance with the census in order to ensure up to date and comprehensive information on the population at local, regional and national level. A public awareness campaign is mounted around the time of the census to get this message across to the public. However, through the prosecutions it has taken to date, CSO will make it

clear in future censuses that it will have no hesitation in prosecuting non-respondents.

### Import Statistics.

148. **Mr. S. Power** asked the Taoiseach the value of imported vegetables in 2003; and if he will make a statement on the matter. [20672/04]

#### Vegetable imports

Commodity type	2001		2002		2003	
	€(000)	Tonnes	€(000)	Tonnes	€(000)	Tonnes
Potatoes, fresh, frozen or dried	20,111	68,051	20,348	67,311	17,501	55,397
Other potatoes, prepared or preserved	70,210	62,023	75,313	64,548	74,663	69,084
Tomatoes, fresh, frozen or dried	21,286	19,660	28,204	20,294	28,557	21,145
Other tomatoes, prepared or preserved	9,654	13,364	10,158	16,124	9,231	15,621
Onions, leaks, etc., fresh, frozen or dried	13,230	28,994	17,622	33,377	18,279	36,425
Other onions, leaks, etc., prepared or preserved	2,516	1,066	2,463	1,142	2,246	1,129
Cabbage, broccoli, etc., fresh, frozen or dried	10,511	12,865	13,214	16,602	11,173	14,306
Carrots, turnips, etc., fresh, frozen or dried	10,233	17,144	10,319	20,443	10,200	19,826
Lettuce, chicory, etc., fresh, frozen or dried	9,938	7,227	10,710	7,808	12,043	7,978
Peas, beans and pulses, fresh, frozen or dried	10,124	34,454	5,408	5,502	6,578	18,288
Mushrooms, fresh, frozen or dried	1,957	736	2,714	1,178	2,486	1,004
Other vegetables, fresh, chilled or frozen	78,160	64,583	76,599	66,487	81,229	74,527
Other vegetables, prepared or preserved	36,717	29,297	40,726	28,860	38,398	27,446
<b>Total</b>	<b>294,647</b>	<b>359,464</b>	<b>313,798</b>	<b>349,676</b>	<b>312,584</b>	<b>362,176</b>

Note: It should be noted that, overall, approximately 3% of all trade is unclassified by commodity.

### Job Creation.

149. **Cecilia Keaveney** asked the Tánaiste and Minister for Enterprise, Trade and Employment if the job creation strategy for the north-west is proving successful, particularly for north east Donegal; and if she will make a statement on the matter. [20662/04]

153. **Cecilia Keaveney** asked the Tánaiste and Minister for Enterprise, Trade and Employment the position in relation to job creation and job retention in the north-west region in particular in Donegal; and if she will make a statement on the matter. [20666/04]

154. **Cecilia Keaveney** asked the Tánaiste and Minister for Enterprise, Trade and Employment the policy efforts being made to assist in attracting industry to the north-west region, in particular to Inishowen; and if she will make a statement on the matter. [20667/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** I propose to take Questions Nos. 149, 153 and 154 together.

In recent months, I have met with delegations from the Donegal County Development Board and from IBEC north-west to discuss employment and related issues in Donegal and the north-west region in general. As a result, I have arranged for the expert skills group in Forfas to carry out research on the labour market needs of the area. The research work began last month

**Minister of State at the Department of the Taoiseach (Ms Hanafin):** The table below shows the value and volume of vegetables imported in 2003 and distinguishes, where significant, fresh, frozen or chilled vegetables from prepared or preserved vegetables. Data for 2001 and 2002 are also included for comparison.

and I expect that a report will be available in October.

Over the last few years, IDA Ireland has secured new investment for the north-west, including Donegal from companies such as Abbott Laboratories, MBNA, Prumerica, PacifiCare and Keith Prowse in Bunrana. All of these companies are recruiting at present. Enterprise Ireland has been very active in supporting the development of enterprise space in the north-west. A total of 24 Community Enterprise Centres have been funded in the region including ten in Donegal. In addition, ten companies in the north-west region, including five in Donegal, have been approved for funding under Enterprise Ireland's competitiveness fund.

The development agencies continue to try to source new investment for Donegal and are committed to playing their part in the development of the north-west region by maintaining the maximum number of existing jobs and by attracting new investment into the region. The recently announced decentralisation programme will also facilitate economic development in the area.

150. **Cecilia Keaveney** asked the Tánaiste and Minister for Enterprise, Trade and Employment the progress to date in achieving the aims within the Donegal task force report; and if she will make a statement on the matter. [20663/04]

151. **Cecilia Keaveney** asked the Tánaiste and Minister for Enterprise, Trade and Employment

[Cecilia Keaveney .] the position regarding the implementation of the recommendations of the Donegal task force initiative report; and if she will make a statement on the matter. [20664/04]

156. **Cecilia Keaveney** asked the Tánaiste and Minister for Enterprise, Trade and Employment if she has satisfied herself that the employment agencies are achieving the employment goals of the Donegal employment initiative task force; and if she will make a statement on the matter. [20669/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** I propose to take Questions 150, 151 and 156 together.

The monitoring and implementation of the recommendations of the Donegal task force report have been allocated to the Donegal County Development Board. The county development board completed a ten year strategy for the development of the county and this was launched in 2002. The current focus of the county development board is on progressing a number of key economic infrastructure projects in the county. The priority action areas are roads, water, telecoms including broadband, air access and energy, both electricity and gas. Progress in these areas is important in attracting further new investment into the county. All of these issues were discussed at my last meeting with the Donegal County Development Board and I am continuing to keep in touch with developments in these areas.

The industrial development agencies continue to try and secure new investment for Donegal and are committed to playing their part in the future development of the county by attracting new investment into Donegal. These agencies, together with FÁS, are all represented on the county development board. Finally, the Government and the development agencies are committed to ensuring balanced regional development particularly through the implementation of the national spatial strategy and the recently announced decentralisation programme.

152. **Cecilia Keaveney** asked the Tánaiste and Minister for Enterprise, Trade and Employment her views on the unemployment statistics on County Donegal; and if she will make a statement on the matter. [20665/04]

155. **Cecilia Keaveney** asked the Tánaiste and Minister for Enterprise, Trade and Employment the initiatives that are underway to address the unemployment statistics in the north-west region; and if she will make a statement on the matter. [20668/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** I propose to take Questions Nos. 152 and 155 together.

According to the latest quarterly national household survey published by the Central Statistics Office on 16 June 2004, unemployment in the border area is at 5.4%. The corresponding figure this time last year was 6.2%. The live register figures for June 2004 show that in the north-west region, numbers decreased by more than 7% against a national average decrease of 5%. The Donegal live register rate decreased by 5% between June 2003 and June 2004, down from 10,680 to 10,146. Although the live register is not a true record of the level of unemployment, as it includes people who are not available for work, it is a useful indicator of current employment trends. These statistics indicate that the actions being taken by the industrial development agencies are impacting positively on Donegal and the north-west region in general.

Support for job creation is a day to day operational matter for the industrial development agencies. Job creation and job losses are a feature of economic development worldwide as various sectors expand and contract in response to market demand for goods and services, competitive forces, restructuring and technological change. In the case of redundancies or lay-offs the employment services division of FÁS provides a full service to the unemployed job seeker. This service is offered by FÁS through its network of employment services offices and clinics. It consists of matching suitable people to job vacancies, providing guidance interviews and placement on suitable training courses. In addition, FÁS north-west region has two training centres in Donegal, located in Letterkenny and Gweedore, delivering apprenticeship and specific skills courses. The expert skills group in Forfas is currently engaged in carrying out research on the labour market needs of the north-west. In addition, the enterprise strategy group, which I established in July, 2003, was given the task of developing strategic policy recommendations for enterprise in Ireland.

I am satisfied that a combined agency approach, including IDA Ireland, Enterprise Ireland and the county enterprise boards, together with the involvement of local business communities, will address the job creation needs.

*Questions Nos. 153 and 154 answered with Question No. 149.*

*Question No. 155 answered with Question No. 152.*

*Question No. 156 answered with question Nos. 150 and 151.*

#### **EU Funding.**

157. **Mr. Stagg** asked the Tánaiste and Minister for Enterprise, Trade and Employment the amount of all State or European Union assistance

granted to companies (details supplied) on their location here; the date payments were made; if further or subsequent payments were made in each case; if so, the amounts of such payments in each case; the agency involved in assessing and payment of the grant in each case; and if she will make a statement on the matter. [20671/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** Enterprise Ireland has responsibility for inward investment in the food and natural resources sector as well as for indigenous manufacturing and internationally traded services companies employing more than ten people. Grants paid to the companies, referred to by the Deputy, by the State development agencies, under the aegis of my Department, were as follows:

Weyerhaeuser Europe Ltd

Year	Payment (€)
1983	2,464,527.33
1984	1,578,973.89
1985	29,330.95
1986	32,290.71
1988	54,537.79
1989	3,688.59
1990	202,797.48
1991	275,576.04
1992	167,689.24
1993	187,334.62
1994	1,018,629.60
1995	2,283,959.15
1998	83,296.09
1999	117,587.91
2000	66,794.57
2001	80,474.72
2002	1,292,978.31
2003	429,426.00
2004	27,137.25

Finsa Forest Products Ltd

Year	Payment (€)
1982	18,434.06
1984	323,026.44
1985	1,164,974.53
1986	297,871.68
1988	906,592.99
1990	116,503.00
1991	253,038.46
1992	138,353.20
1993	323,255.00
1998	1,269,738.08
1999	1,904,607.12
2002	67,584.98

SmartPly Europe Ltd

Year	Payment (€)
1995	5,985,196.13
1996	6,712,184.66
1998	111,083.04
1999	194,163.27
2001	135,622.00
2003	275,054.68

Masonite Ireland

Year	Payment (€)
1996	6,933,524.13
1997	6,823,717.19
1998	1,294,492.89
1999	1,492,465.37
2001	107,659.82
2002	513,461.71
2003	46,119.50
2004	17,619.90

The programmes under which these grants were approved were eligible for co-funding under the various operational programmes of the European Structural Funds. Any eligible amount of co-funding is incorporated into the payments listed. The establishment and success of these board mills has been a critical factor in the overall development of the forest products sector in Ireland. In 2003 these four companies generated \$220 million in sales and \$150 million in exports. They currently employ 755 people in mainly rural areas.

**Fair Trading.**

158. **Mr. Ferris** asked the Tánaiste and Minister for Enterprise, Trade and Employment if her attention has been drawn to the British Office of Fair Trading code of practice on supermarkets' dealings with suppliers; if she has examined the document for possible application in some format in this State; her views on whether this would be a useful exercise and whether such a code of practice introduced here should have the benefit of legislation. [20678/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** I understand that the code of practice in question was recently reviewed in the UK and that the Office of Fair Trading has appointed auditors to conduct a compliance audit of the code.

The Irish retail grocery sector is already regulated by the Restrictive Practices (Groceries) Order 1987 and the Competition Act 2002. The Competition Act 2002 sets out general rules and prohibits all agreements which prevent, restrict or distort competition. The groceries order is more specific and contains fair trade provisions which are not specifically covered by the Competition

[Ms Harney.]

Act 2002, such as a ban on the selling of grocery goods at below net invoice price, boycotting and hello money. This ensures that similar terms are available to all suppliers.

I am currently reviewing the 1987 order and will take into account, so far as may be appropriate, the code of practice and compliance audit concerned.

#### **Gas Pipelines.**

159. **Mr. Eamon Ryan** asked the Tánaiste and Minister for Enterprise, Trade and Employment the role the Health and Safety Authority has with regard to the assessment of the import onshore gas pipeline in the area between the proposed Bellanaboy refinery and the boundary of the lands in the control of the developers of this project; and the analysis that has been undertaken with regard to the safety of such pipelines which will carry wet gas containing several impurities at pressures of up to 340 bar in areas prone to bog movement. [20732/04]

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. Fahey):** The Health and Safety Authority is required to give advice to planning authorities in relation to the provision of establishments that come within the scope of the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2000 (S.I. No. 476 of 2000) which transposes Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances. For purposes of the directive and the statutory instrument an establishment is considered to be the site within the overall landholding of an undertaking where dangerous substances are present in one or more installations.

The establishment in the case of the proposed gas terminal is considered to be the terminal footprint, which is the area within the security fence where the hazardous substances are processed and stored. Pipelines outside the establishment are outside the scope of the directive and statutory instrument and are therefore outside the remit of the Health and Safety Authority for the provision of advice pursuant to these regulations. Pipelines to and from the proposed gas terminal were subject to a permission system under the aegis of the Department of Communications, Marine and Natural Resources. The Health and Safety Authority has not had any role in the assessment of these pipelines outside the establishment.

An Bord Pleanála is currently considering an appeal relating to a planning application for this proposed gas terminal. The application relates to the terminal and the land between it and the boundary of the landholding within which the proposed terminal is situated.

#### **Decentralisation Programme.**

160. **Mr. Kenny** asked the Tánaiste and Minister for Enterprise, Trade and Employment the number of posts decentralised in respect of previous decentralisation in whole or part of her Department or any agency under the aegis of her Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if she will make a statement on the matter. [20757/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** The Patents Office, which is an office of my Department, relocated to Kilkenny on the 1 September 1998. This involved the relocation of 68 posts in total. Of the staff who transferred to Kilkenny in September 1998, four staff transferred on promotion and four specialist staff were recruited directly to the patents office, Kilkenny at that time. The remainder of staff transferred in their existing grades at that time. No agency under the aegis of my Department has decentralised previously.

#### **Company Law Compliance.**

161. **Ms B. Moynihan-Cronin** asked the Tánaiste and Minister for Enterprise, Trade and Employment if her attention has been drawn to allegations that an organisation (details supplied) filed apparently false and incomplete documentation in the companies registration office for two successive accounting years, 1998 and 1999; if her attention has also been drawn to the further allegations that this organisation is also in effective control of a linked organisation that in the 12 years to December 2000 raised a substantial sum of money, but that there is no record of the way in which this money was spent in pursuit of the objectives of the charity and that these allegations have been reported to the office of the director of corporate enforcement, although no action has been taken by that office on the matter; and if she will make a statement on the matter. [20803/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** I understand that the matters referred to by the Deputy concern compliance with company law. Since 28 November 2001, the Director of Corporate Enforcement is responsible for enforcing and for securing compliance with the Companies Acts. He is required under the Company Law Enforcement Act 2001 to be independent in performing those functions. He is also obliged as a general principle to keep confidential any information obtained by him in that context. I am not in a position to say, therefore, whether or not any investigation has been or is being carried out by the office of the director of corporate enforcement in regard to these companies.

#### **Insurance Industry.**

162. **Mr. B. Smith** asked the Tánaiste and Minister for Enterprise, Trade and Employment the

progress to date in implementing the recommendations of the Motor Insurance Advisory Board in view of the serious problems caused by excessive insurance costs; and if she will make a statement on the matter. [20827/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** A key element of the insurance reform programme that I announced on 25 October 2002 is to implement the Motor Insurance Advisory Board action plan. Significant progress has been made in implementing the recommendations of the Motor Insurance Advisory Board and I am confident that these implementing measures will radically overhaul the functioning of the insurance market and help tackle the high cost of insurance. The key measures include the establishment of the Personal Injuries Assessment Board. The Personal Injuries Assessment Board Act was signed into law on 28 December 2003. The board was established and members appointed on 13 April 2004. The PIAB commenced dealing with employer liability cases from 1 June 2004 and it is my intention that it will commence dealing with motor and public liability claims from autumn 2004 or earlier. A book of quantum, an aid for assessing the level of compensation based on the type of injury involved and which is essential for the successful operation of the PIAB, was published by PIAB on 2 June 2004.

Other measures include the undertaking by my Department and the Competition Authority of a joint study into the insurance market. The study will identify and analyse barriers to entry and limitations on rivalry in the insurance marketplace. The bulk of the study was completed in 2003 and a preliminary report and consultation document on competition issues in the non-life insurance market was published on 18 February 2004. Following consultation, a final report will be published later in the year which will contain recommendations based on the findings. Significant progress has been made by the Department of Transport on the implementation of the road safety strategy. For example, the introduction of the penalty points system has already reduced the number of accidents on our roads, which has benefits far beyond the cost of insurance. The Road Traffic Bill 2004 was published on 22 June 2004.

The Minister for Justice, Equality and Law Reform published the Civil Liability and Courts Bill on 11 February 2004. It is expected that this Bill will have passed all stages of the Dáil and Seanad this week and enactment will take place at the earliest date possible. This Bill contains measures to streamline the law on personal injury claims including measures to deal with fraudulent and exaggerated claims. The MIAB recommended that the Irish Financial Services Regulatory Authority is charged with progressing, deal with issues relating to public information, promotion of competition, transparency and consumer protection. Recommendations

implemented since it began operations on 1 May 2003 include a one stop website went live on 26 November 2003; an IFSRA code of practice published during December 2003; and comparative tables showing motor insurance quotations published on a quarterly basis since 10 December 2003.

The Irish Insurance Federation has incorporated a number of the MIAB recommendations on insurance providers in a code of practice. These recommendations deal with issues such as equality, transparency and information issues for consumers. While EU law prohibits the imposition of price control on insurance, I have made it clear that I consider there to be an onus on the insurance industry to ensure that the reforms to be taken will have the effect of significantly reducing the cost of premia to consumers and businesses. Indications to date are that the insurance reform programme is having its desired effect. The CSO publishes monthly indices of costs for a number of classes of insurance. These statistics show that there was a reduction of 12.9 index points, or 12.1%, in motor car insurance between the months of October 2002, when the programme was launched and April 2004, which is the latest figure available. Reductions are also beginning to occur in the cost of employers' liability and public liability insurance premia, which represent a significant burden for businesses. As implementation of the reform programme continues, I expect further reductions to occur. I am also confident that the measures the Government is putting in place to reform the Irish insurance market will attract new players into the market leading to further downward pressure on premia.

#### **Industrial Development.**

163. **Mr. B. Smith** asked the Tánaiste and Minister for Enterprise, Trade and Employment the proposals by the industrial development agencies to attract inward investment or to assist in the creation of jobs throughout County Cavan; and if she will make a statement on the matter. [20828/04]

**Tánaiste and Minister for Enterprise, Trade and Employment (Ms Harney):** IDA Ireland is actively marketing Cavan for potential foreign inward investment. The IDA has recently completed a €1 million upgrading of Cavan business park to raise its profile and increase its attractiveness for inward investment. The former Teradyne building on the park is currently available for occupation by investors. In addition, IDA Ireland received planning permission for two further 25,000 square feet advance technology buildings on Cavan business park at the end of 2002. IDA is also cognisant of the range of smaller buildings provided through private developers in Cavan and through bodies associated with Cavan County Enterprise Board.

Construction of the new Abbott Laboratories facility at Cootehill, which was announced by the healthcare company as part of an €88 million



[Ms Harney.] investment plan in December 2002 and was supported by Enterprise Ireland, is nearing completion. Currently approximately 50 of the proposed 100 new jobs have been created with recruitment for the remaining jobs ongoing. Enterprise Ireland provides preferential funding for companies, with detailed export plans, who are expanding or establishing a business in the County. In 2004 to date, Enterprise Ireland has approved funding of €611,426 to eight companies in County Cavan. Enterprise Ireland's strategy is to further develop the building and construction materials sector in County Cavan, as well as a number of food companies. Enterprise Ireland has also approved funding for community enterprise centres in Cavan, Kingscourt, Bailieboro, Cootehill, and Killeshandra. Enterprise Ireland also works with companies to assist them in improving competitiveness. Enterprise Ireland's €10 million competitiveness fund, which I announced in May 2003, was set up to help small and medium enterprises overcome distinctive competitiveness difficulties. Under this fund three applications in County Cavan were successful in competing for funding to the amount of €448,380.

I am confident that the efforts of the industrial development agencies in partnership with other local organisations as well as the continuing commitment of the Government to regional development, which will see some 380 further civil servants transferred to Cavan under the decentralisation programme, will bring positive results to Cavan.

#### **Defence Forces Reserve.**

164. **Mr. Allen** asked the Minister for Defence if he intends to approve the military implementation plan for the reorganisation of the Reserve Defence Force; and the time-frame for completion of this plan. [20597/04]

**Minister for Defence (Mr. M. Smith):** On 15 January 2003 I approved, in principle, the report of the Reserve Defence Force review implementation board for the implementation of the recommendations of the special steering group on the reserve, which had reported to me in September 1999.

The Permanent Defence Force is now organised in a three-brigade structure and a Defence Forces training centre. The Reserve Defence Force will be similarly reorganised and restructured and it is envisaged that the implementation of these changes in the Reserve Defence Force will take place over a period of approximately six years. The White Paper on Defence recognised that a notable and important feature of the existing FCA organisation is its countrywide, geographical spread. This particular aspect will, in general terms, be retained in the future. The full organisational and establishment details of the new reserve will be determined in the course of the ongoing detailed implementation process

which is being carried forward by the military authorities.

165. **Mr. Allen** asked the Minister for Defence if the FCA may legally be deployed with the Permanent Defence Force on aid to the civil power operations in the situation where he has not exercised his power under the Defence Act to call out reservists. [20598/04]

**Minister for Defence (Mr. M. Smith):** Defence Forces regulations do not provide for the performance of duties in aid of the civil power by members of the Reserve Defence Force who are rendering service on a voluntary basis.

#### **Defence Forces Training.**

166. **Ms Enright** asked the Minister for Defence if paragraph four of Training instruction 17/87 implementation of safety precautions — weapon handling and firing, which requires periodic seminars to be conducted at sub-unit level, were carried out for those involved in the training exercise at the Glen of Imaal on 27 November 2001 prior to that date; and if he will make a statement on the matter. [20740/04]

**Minister for Defence (Mr. M. Smith):** The Deputy will recall my answer to Questions Nos. 264, 265 and 266 on 27 January 2004 in which I stated, *inter alia*, that where an incident involves injury to a member of the Defence Forces, a formal court of inquiry is convened to take evidence and to make recommendations on the matters referred to it. In this case, the court of inquiry has not been convened as the incident is currently the subject of a civil action in the courts. I am advised that once the matter has been disposed of by the courts, a court of inquiry will be convened. As the matter is the subject of an action by the individual involved and as the matter is still before the courts, it would not be appropriate for me to comment further on the matter at this time.

#### **Decentralisation Programme.**

167. **Mr. Kenny** asked the Minister for Defence the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if he will make a statement on the matter. [20758/04]

**Minister for Defence (Mr. M. Smith):** The finance branch of my Department was decentralised to Galway in 1989, comprising of a total of 176 staff. The percentage of staff who were transferred on promotion was 4.3% and the percentage of staff who transferred at their current grade was 90.3%. Ten staff were directly recruited in the services areas, that is, the remaining 5.4%.

#### **Defence Forces Equipment.**

168. **Mr. J. O'Keeffe** asked the Minister for

Defence the number of soldiers, and the details of equipment, vehicles and machinery which were deployed in respect of the recent visit of President Bush; and the estimate, followed by final figures giving a detailed breakdown, of the costs incurred; and if he will make a statement on the matter. [20790/04]

**Minister for Defence (Mr. M. Smith):** The Garda Síochána has the primary responsibility for law and order, including the protection of the internal security of the State. Among the roles assigned to the Defence Forces is the provision of aid to the civil power which means in practice to assist, when requested, the Garda Síochána, whose duties include the protection and guarding of vital installations, the provision of certain security escorts and so on.

The gardaí requested the support of the Defence Forces for the recent visit of the US President. Approximately 2,262 members of the Permanent Defence Force were deployed on security duties in connection with the visit. The equipment, vehicles and machinery deployed by the Defence Forces in connection with the visit are shown on the attached schedule.

With regard to the question of the costs incurred by the Defence Forces in the provision of assistance to the Garda Síochána for the visit, I am advised that such costs are not readily available due to the extent of the Defence Forces commitment to the operation. However, these costs are currently being compiled and will be available before the end of the month. I will arrange to have them forwarded to the Deputy when they are available.

Schedule of Defence Forces Vehicles and Equipment Deployed in Connection with Visit of US President

Air Corps		Naval Service	
5	Alouette Helicopter	2	Off Shore Patrol Vessel (OPV)
2	Dauphin Helicopter	1	Coastal Patrol Vessel (CPV)
2	Casa aircraft	1	Long Range Patrol Vessel (LPV)
1	Beechcraft		
1	PC 9		
1	Marchetti		
12	Total	4	Total

  

Brigade Assets		Assorted Vehicles	
12	Field Kitchen	92	Truck
3	Freezer Unit	26	Transit
75	Portaloo	68	Landrover plus 29 trailers
10	Chemical Toilet	15	Mowag Armoured Personnel Carriers
10	Waste Skip	7	Scorpion Tank
8	Generator	1	SISU Armoured Personnel Carrier
11	Portacabin	5	Drops Vehicle
13	Firefighting Hose	4	Coach
60	Fire Extinguisher	1	Low Loader plus Artic
44	Troop Carrying Truck	3	Recovery Vehicle
	<i>Air Defence Regiment</i>	2	Ration Van
6	RBS Missile Post	10	Motor Bike
1	Giraffe Radar	1	Fire Engine
1	Flycatcher Radar	7	Saloon/Vanette
		2	Tipper Truck
		6	Ambulance
		250	Total Assorted Vehicles

### Defence Forces Strength.

169. **Mr. J. O'Keefe** asked the Minister for Defence the number of soldiers which were deployed in respect of the May Day weekend in 2004; and the estimate, followed by final figures giving a detailed breakdown, of the costs incurred; and if he will make a statement on the matter. [20791/04]

**Minister for Defence (Mr. M. Smith):** The roles of the Defence Forces as assigned by Government are set out in the White Paper on Defence, which was published in February 2000. To aid the civil power, which means in practice to assist, when requested, the Garda Síochána which has the primary responsibility for law and order, including the protection of the internal security of the State, is among the assigned roles. The

[Mr. M. Smith.]

Defence Forces, pursuant to their role of rendering aid to the civil power, assisted the gardaí as required in duties, which included the security operation surrounding the ceremonies marking the accession of new member states to the EU on 1 May 2004.

I am advised that over 2,500 personnel were deployed in various roles in connection with the security operation. In addition, the Naval Service was on patrol in the Irish Sea and the Air Corps provided air traffic control capability and support to operations both at Casement Aerodrome, Baldonnel and in the Phoenix Park. The additional costs incurred by the Defence Forces in the provision of assistance to the Garda Síochána on 1 May amounted to approximately €872,650. A breakdown of these costs is shown on the attached schedule.

Schedule of Costings of Operation Mayfly

	Cost
	€
Security Duty Allowance and Overtime	506,780
Rations	62,120
Fuel	44,350
Tech Stores Supplies and Equipment Hire*	259,400
<b>Total</b>	<b>872,650</b>

\*This item includes engineer and communications equipment supplies together with ancillary support equipment, including generators, toilets, water supply services and catering.

#### Rural Environment Protection Scheme.

170. **Mr. Naughten** asked the Minister for Agriculture and Food if a REP scheme payment will be approved for a person (details supplied) in County Roscommon; and if he will make a statement on the matter. [20704/04]

**Minister for Agriculture and Food (Mr. Walsh):** In the course of a routine audit of this participant's REPS plan in my Department, an issue arose in relation to land title and eligibility for REPS. My Department has requested legal documentation, and when this is received a final decision on eligibility will be taken. No further payment can be processed until the matter is resolved.

#### Grant Payments.

171. **Mr. Hayes** asked the Minister for Agriculture and Food the reason a person (details supplied) in County Tipperary is being penalised in their application for bull premium; and if he will take action in this case. [20705/04]

**Minister for Agriculture and Food (Mr. Walsh):** The person named lodged three applications under the 2003 EU special beef premium scheme; on 06 March 2003, in respect of four animals, one on 12 September 2003, in respect of five animals and on 8 October 2003, in respect of one animal. It is a basic requirement of the special beef premium scheme that all animals are held for the regulatory two month retention period and applicants are advised, in writing, in respect of each application lodged when the particular retention period expires and the first date on which animals may be sold. In this case the first dates on which he could see these animals were 7 May 2003 for the first application, 13 November 2003 for the second application and 9 December 2003 for the third application.

Following computer validation it transpired that the six animals applied on under the second and third applications were sold on 1 November before expiry of the regulatory two month retention period. Accordingly, the animals in question were rejected for special beef premium, in accordance with the terms and conditions of the scheme.

#### Decentralisation Programme.

172. **Mr. Kenny** asked the Minister for Agriculture and Food the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if he will make a statement on the matter. [20759/04]

**Minister for Agriculture and Food (Mr. Walsh):** Table 1 shows the existing staff of my Department's decentralised HQ offices in Johnstown Castle, Castlebar, Cavan and Portlaoise. The table also shows the years when the original decentralisation to these locations took place. Table 2 shows the previous career history of the staff involved in the most recent decentralisation to Johnstown Castle, other than forest service staff, along the lines requested by the Deputy. No specific promotion competition was held for this decentralisation. Similar data is not readily available for the earlier decentralisation.

TABLE 1

Staff currently in decentralised HQ Offices

Location	Number of Staff	Date of Decentralisation
Castlebar	100	1976
Cavan	162	1989
Port Laoise	156	1993
Johnstown Castle	300	1998

TABLE 2

Analysis of staff involved in Decentralisation to Johnstown Castle in 1998

Relocated	Transferred in	Recruited
17.41%	40.61%	41.98%

### Grant Payments.

173. **Mr. Connaughton** asked the Minister for Agriculture and Food when the 2003 suckler cow grant will issue to a person (details supplied) in County Galway; and if he will make a statement on the matter. [20781/04]

**Minister for Agriculture and Food (Mr. Walsh):** The person named applied for premium on 25 cows and 13 heifers under the 2003 suckler cow premium scheme. The application is being processed and payment in full will issue shortly.

### Excise Duties.

174. **Mr. Ferris** asked the Minister for Finance his position on ending the exemption from excise duties for aviation fuel in order that the environmental cost of flying food across the world is included in the price. [20676/04]

177. **Mr. Ferris** asked the Minister for Finance the consideration which has been given to including aviation fuel for the purposes of excise duties. [20674/04]

**Minister for Finance (Mr. McCreevy):** Under Article 14 of Directive 2003/96/EC governing the taxation of energy products and electricity, fuel used for the purpose of air navigation other than in pleasure flying is compulsorily exempt from excise duties. This is in line with international practice with respect to aviation fuel. As long as the long-standing existing international agreements in this area remain in place, the taxation of such fuel is not a practicable proposition in any event.

### Disabled Drivers.

175. **Mr. Kehoe** asked the Minister for Finance the reason no allowance is made for a person suffering from a disability (details supplied) under the current criteria for the primary medical certificate, first schedule, when this is as much a disability as the listed criteria but not in the same order; the assistance now available for this person; and if he will make a statement on the matter. [20782/04]

**Minister for Finance (Mr. McCreevy):** It is a fundamental requirement for relief, under the disabled drivers and disabled passengers tax concessions scheme, that the applicant must meet the medical criteria specified in the regulations and be in possession of a primary medical certificate to that effect issued by the appropriate senior area medical officer, who is an official of the relevant health board. Where the issue of the

required certificate is refused this can be appealed to the disabled drivers medical board of appeal, an independent body whose decision is final.

The medical criteria for the purposes of the tax concession under this scheme are set out in the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994. Six different types of disablement are listed under the regulations and a qualifying person must satisfy one or more of them. The six types of disablement are the following. Persons who are wholly or almost wholly without the use of both legs; persons who are wholly without the use of one of their legs and almost wholly without the use of the other leg such that they are severely restricted as to movement of their lower limbs; persons without both hands or without both arms; persons without one or both legs; persons wholly or almost wholly without the use of both hands or arms and wholly or almost wholly without the use of one leg; persons having the medical condition of dwarfism and who have serious difficulties of movement of the lower limbs.

My Department has no involvement in the operation of the disabled drivers medical board of appeal. Although the details of the person seeking access to the scheme is not clear, there are a number of tax reliefs which may be of benefit. These include incapacitated child tax credit, dependent relative tax credit, employment of a carer allowance, medical expenses relief, VAT relief for a certain range of medical equipment and covenants. More detailed information on the above relief is available by contacting Revenue forms and leaflets service at 01 878 0100 or from the Revenue website at [www.revenue.ie](http://www.revenue.ie).

### Tax Incentives.

176. **Mr. Ferris** asked the Minister for Finance if consideration has been given to the introduction of grants of tax breaks to encourage local food markets and the production, distribution and sale of food under the Fairtrade mark. [20673/04]

**Minister for Finance (Mr. McCreevy):** I am taking it that the Deputy is referring in the first instance to farmers' markets that have become increasingly popular venues for local producers of foodstuffs to promote and sell their produce. I have been informed by the Minister for Agriculture and Food that Bord Bia, the food State agency, is active in promoting and encouraging this route to market for small producers. In 2002, Bord Bia was instrumental in promoting this con-

[Mr. McCreevy.]  
cept when it staged Ireland's largest ever outdoor foodmarket on the farmers market style for 110 small food producers at its international food symposium in Kinsale. Since then and in partnership with the OPW, Bord Bia has run a farmers' market in Farmleigh for nine weeks from September to October 2003 attracting more than 35,000 visitors who bought produce direct from stallholders. I have been informed that Bord Bia is planning a further Farmleigh market later this year and is in discussion with the OPW about appropriate expansion of farmers markets on OPW sites. Bord Bia has also dedicated a section of its website to the promotion of the farmers markets concept which includes a list of farmers markets in Ireland and an online leaflet offering practical advice on setting up such markets. It is my view that this approach, which involves the promotion of farmers' markets through the dissemination of information and practical advice rather than the introduction of tax incentives, is a more appropriate and effective measure in promoting the development of this route to market for such producers.

With regard to the request for tax incentives to encourage the production, distribution and sale of food certified under the Fairtrade mark it should be pointed out that the sale of such food like all food attracts a zero rate of VAT. While the Deputy has not made it clear what type of tax incentives he is seeking, it should be borne in

mind that foodstuffs certified under the Fairtrade mark are increasingly sold and distributed by a wide range of enterprises rather than speciality shops and enterprises that deal exclusively in Fairtrade mark products. The introduction of a separate tax treatment on the profits accruing from the sale and distribution of such goods would introduce an inordinate level of complexity into the tax code for the taxation of profits of retail and food distribution undertakings and inevitably lead to calls for similar treatment from other sectors. In addition, this would amount to a lower rate of tax on such profits and would thus not be allowed under EU State aid rules. For all these reasons there are no plans to change the tax treatment of profits accruing from the production, distribution or sale of such goods.

*Question No. 177 answered with Question No. 174.*

#### **Vehicle Registration.**

178. **Mr. S. Power** asked the Minister for Finance the number of new motor vehicles registered here for the six months of 2004; the way in which this compares with previous years; and if he will make a statement on the matter. [20712/04]

**Minister for Finance (Mr. McCreevy):** I am informed by the Revenue Commissioners that the total number of new motor vehicles registered for VRT purposes in the first six months of the years 2000 to 2004 inclusive are set out in the table below.

Year	Motor Cars	Car Derived Vans	Commercial Vehicles	Motor Cycles	Total Registrations
2000	179,611	2,194	32,481	4,786	219,072
2001	129,499	2,093	31,843	5,213	168,648
2002	119,859	2,107	27,701	3,906	153,573
2003	111,900	1,690	28,184	3,281	145,055
2004	121,828	2,195	25,804	2,489	152,316

The figures include registrations of vehicles that are exempt from VRT.

#### **OPW Property.**

179. **Ms Enright** asked the Minister for Finance the number of OPW properties used for non-Government organised events in 2004; the names of these properties; the arrangements made for the use of the properties; if negotiations are entered into with local communities if the events have an impact on them; the insurance arrangements made; if a fee is charged for the use of the properties; the criteria followed to decide if an event is suitable; and if he will make a statement on the matter. [20713/04]

**Minister of State at the Department of Finance (Mr. Parlon):** The following 26 OPW managed properties have been used for non-Government organised events in 2004: Dublin Castle; Royal Hospital Kilmainham; Farmleigh; 51-52 St. Ste-

phen's Green; the Atrium Altamont Gardens, County Carlow; Donegal Castle, County Donegal; Phoenix Park, Dublin 8; Garden of Remembrance, Dublin 1; St. Stephen's Green Park, Dublin 2; Iveagh Gardens, Dublin 2; National War Memorial Gardens, Dublin 8; Rathfarnham Castle, Dublin 14; St. Enda's Park, Dublin 16; National Botanic Gardens, Dublin 9; Athenry Castle, County Galway; Castletown, County Kildare; Kilkenny Castle, Kilkenny; Emo Court, County Laois; Desmond Hall, County Limerick; Bru na Boinne, County Meath; Hill of Tara, County Meath; Boyle Abbey, County Roscommon; Mainguard, Clonmel, County Tipperary; Roscrea Castle, County Tipperary; Dungarvan Castle, County Waterford; Tintern Abbey, County Wexford. The arrangements made for the use of the properties may vary depending on the property concerned and the nature of the event.

Dublin Castle is the main OPW property in which non-Government events are held. For the

first six months of 2004, Dublin Castle was not available for private hire because it was being used exclusively for meetings and events of the Irish EU Presidency. To date in 2004 only two non-Government organised events have been held there. Application to use Dublin Castle is made through local management and, if agreed, is subject to a standard hiring contract. The majority of such events would be conferences, seminars, exhibitions or receptions and would have no impact on local communities. However, for the past number of years outdoor public concerts have been held in Dublin Castle on the May bank holiday weekend. These concerts were held under planning permission granted by Dublin City Council to the organisers and this permission contained conditions designed to minimise impact on the surrounding community. In 2004 these concerts were held on the June bank holiday weekend and were subject to recent regulations governing the holding of certain outdoor events. These regulations require that certain outdoor events must have an event plan drawn up by the organisers and agreed with the statutory authorities such the gardaí, emergency services, planning authority and so on. Apart from ensuring the health and safety of attendees the purpose of this agreed plan is to minimise disruption to local communities.

The hiring contract to which I referred provides that the person organising the event must provide evidence of adequate public and employer liability insurance. Fees are charged for the use of the properties within Dublin Castle. There is a number of different event venues within the Dublin Castle complex and each has different capacities. Hire charges range from €1,460 to €12,700 per day depending on the venue chosen. There is no formal set of criteria drawn up to assess the suitability of events. In deciding whether to allow use of the property local management has regard to the nature of the event, its appropriateness in terms of form and content and its potential impact on both the image and fabric of Dublin Castle.

The OPW manages the north range of the Royal Hospital Kilmainham as an event venue on behalf of the Irish Museum of Modern Art which is a tenant of that property. As with Dublin Castle, the RHK was not available for private hire in the first six months of 2004 due to the EU Presidency. Only two non-Government events have been held in this property to date in 2004. The same provisions governing the use of Dublin Castle apply at this property also.

Farmleigh is not available for non-Government organised use. However, from 24 July 2004 to 30 July 2004, as part of the Farmleigh public access events programme, RTE, in conjunction with OPW, will present the RTE Farmleigh proms—a week long series of concerts free to the public. The proms were held in 2003 also. RTE will be required to produce evidence of insurance for this event. There is no charge for use of Farmleigh for

this event. Planning permission has been granted for use of Farmleigh for public events such as the proms. A detailed traffic management plan formed part of the planning application.

Most of the events held at the other 23 properties on the above list, with the exception of the recent large concert in the Phoenix Park and the national country fair at Emo Court, have been on a small scale ranging from poetry and musical recitals, launches and receptions to sporting events. They were predominantly organised by local community groups or charitable and sporting organisations, and local communities were consulted as appropriate. All such events organised at heritage properties are covered by public liability insurance.

Each application to stage an event is examined on its merits with reference to the nature and purpose of the event, to the social and cultural benefits obtaining, the infrastructure and conservation needs of the site and the integrity of the property in question. I refer the Deputy to the replies given to Questions No. 502 of 7 October 2003, No. 53 of 16 October 2003 and No. 146 of 1 June 2004 on events held in the Phoenix Park.

A fee was charged for the holding of the national country fair in Emo Court. The site and facilities were particularly appropriate for such an event but the main consideration was to raise the profile of and to publicise, and disseminate information about this magnificent but relatively unknown property nationally.

#### **Decentralisation Programme.**

180. **Mr. Kenny** asked the Minister for Finance the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if he will make a statement on the matter. [20760/04]

**Minister for Finance (Mr. McCreevy):** I am advised by the Revenue Commissioners that the information requested by the Deputy is as follows: a total of 1050 posts decentralised in the previous decentralisation's; 40% of these were transferred on promotion, the remaining 60% transferred at their existing grade. I am advised by the Office of Public Works that the information requested by the Deputy is as follows: a total of 27 posts were decentralised in the previous decentralisation — 11% of these were transferred on promotion, the remaining 89% transferred at the grade in which they were serving at that time.

#### **Legal Fees.**

181. **Mr. J. O'Keeffe** asked the Minister for Finance the details of each of the increases in the fees paid to solicitors and barristers which have been sanctioned or approved by him since 1997; his views on whether the proposal from Fine Gael

[Mr. J. O’Keeffe.]

to introduce a competitive tendering process for lawyers will have a beneficial effect in reducing the costs; if he has proposals in this regard; and if he will make a statement on the matter. [20775/04]

**Minister for Finance (Mr. McCreevy):** Fees payable to legal personnel acting on behalf of the State in tribunals of inquiry are subject to my sanction after obtaining the advice of the Attorney General and the views of the sponsoring Department of the respective tribunal. There have been no increases in *per diem* rates for counsel in ongoing tribunals of inquiry since July 2002. The increase in 2002 was the only increase since the establishment of the Flood and Moriarty tribunals — see table below.

I have a number of proposals under consideration aimed at reducing the legal costs of tri-

bunals and other forms of inquiry. I am liaising with the Attorney General and the Minister for Justice, Equality and Law Reform in this regard. These proposals will require the approval of Government and I am not therefore at liberty at this juncture to go into individual detail of these proposals but broadly they are aimed at addressing a number of issues including the following; review of basis of payment for legal representatives; tightening and better focusing of the terms of reference of future tribunals with a view to minimising duration and costs and, streamlining the operation of tribunals.

I understand that recent legislation introduced by the Minister for Justice, Equality and Law Reform provides for competitive tendering in this area.

The original 1997 *per diem* rates were:

Fee	Counsel	
Brief Fee	Senior Counsel	31,743
	Junior Counsel	20,951
Refresher — 1*	Senior Counsel	1,841
	Junior Counsel	1,206
Refresher — 2**	Senior Counsel	1,778
	Junior Counsel	1,175
Refresher — 3***	Senior Counsel	1,714
	Junior Counsel	1,143
Non-Sitting Days	Senior Counsel	1,714
	Junior Counsel	1,143
In 2002 these rates increased to: Refresher (per diem)	Senior Counsel	2,500
	Junior Counsel	2,000
Non-Sitting Days	Senior Counsel	2,500
	Junior Counsel	2,000

Refresher fees categorised as follows:

\* first 30 days

\*\* Next 20 days

\*\*\* Remainder.

### EU Directives.

182. **Dr. Cowley** asked the Minister for Finance the reason complex new rules are required for the simple task of purchasing a few prize bonds, for example, for children or grandchildren; his views on whether this is bureaucracy gone mad; if he will consider easing these regulations; and if he will make a statement on the matter. [20777/04]

**Minister for Finance (Mr. McCreevy):** The Deputy is presumably referring to the impact of the new rules arising from the introduction of the recent EU savings directive on new prize bonds. This directive was implemented in Irish law by section 90 of, and Schedule 4 to, the Finance Act 2004.

The directive provides for most EU member states to exchange information on the cross-Border payment of interest to individuals resident in another member state. Austria, Belgium and

Luxembourg will instead impose a withholding tax on such interest payments. The directive applies only to the savings income of individuals. For the purposes of the directive interest payment includes prizes attaching to a security. Prize bonds are defined in Irish legislation as non-interest-bearing securities in relation to which chance may be used to select particular securities for prizes. Prize bond prizes, therefore, come within the scope of the directive.

The directive prescribes the rules to be applied to establish the identity and country of residence of beneficial owners of an interest payment — more stringent rules apply where prize bonds are purchased by an individual for the first time from 1 January last. Where these rules show that an individual is resident in another EU member state, the directive requires that information as regards the prize and the winner be reported to the authorities of that member state. As recently

agreed at EU level, the obligation to exchange information comes into operation as respects an interest payment made on or after 1 July 2005. On the application of the rules to give effect to this provision, my Department and the Revenue Commissioners are already in discussion with the National Treasury Management Agency and the prize bond operator with a view to minimising the paperwork concerned in the purchase of prize bonds.

### Charities Provisions.

183. **Ms B. Moynihan-Cronin** asked the Minister for Finance if it would be a breach of the obligations set out in chapter 14 of the charities manual published by the Revenue Commissioners in July 2001, if a charity (details supplied) were to pay salaries to staff employed by a linked charity with the consequence that the salaries concerned were not accounted for in the accounts of the properly employing charity; and if he will make a statement on the matter. [20802/04]

**Minister for Finance (Mr. McCreevy):** I am advised by the Revenue Commissioners that the charities manual referred to is an internal procedures manual used by charities section staff in relation to charitable tax exempt bodies. The manual is published as part of Revenue Commissioners freedom of information records under the terms of section 16 of the Freedom of Information Act 1997.

It is not the practice of the Revenue Commissioners to comment on specific charities. However, on the matter of accounts and accounting practices, all tax exempted charities are required to maintain proper books of account and records as this is a condition attaching to their exemption. Bodies which are granted charitable exemption are subject to periodic review with a view to ensuring their continued compliance with the terms of the exemption. The failure to keep proper financial records by a tax exempted charity would be considered a breach of the obligations associated with the exemption.

If the Deputy has any further information relevant to the issues raised, I would suggest she advise the Revenue Commissioners, who are the appropriate authorities to deal with such matters.

### Cross-Border Projects.

184. **Cecilia Keaveney** asked the Minister for Foreign Affairs the position in relation to Canning Lane Coney Road, Muff, County Donegal; and if he will make a statement on the matter. [20746/04]

**Minister for Foreign Affairs (Mr. Cowen):** I am aware that the closure of the section of Canning Lane, off Coney Road, which lies in Northern Ireland, continues to be a matter of concern to the residents of Muff, County Donegal.

As the Deputy is aware from previous response on the matter, my Department has raised this

issue on numerous occasions with the relevant Northern Ireland authorities and with the British Government through the British Irish Intergovernmental Secretariat. I understand that a way forward on the impasse between the relevant authorities, Derry City Council and the Northern Ireland Department of Regional Development, and the landowner has not yet been found.

Following the Deputy's further inquiry on this matter, my Department again raised the issue with the British Government. A response to the request is awaited. As soon as a response is received, I will make it immediately available to the Deputy.

### Decentralisation Programme.

185. **Mr. Kenny** asked the Minister for Foreign Affairs the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if he will make a statement on the matter. [20761/04]

**Minister for Foreign Affairs (Mr. Cowen):** The Department of Foreign Affairs established a passport sub-office in Cork city in 1987. Two of the original three posts were filled from within the Department. The third officer came from another Department. Filling the three posts did not necessitate any officer being promoted.

### Garda Investigations.

186. **Ms Burton** asked the Minister for Foreign Affairs if he will make a statement on reports that a number of hired cars used during the course of the Irish Presidency were lacking full compliance with insurance, tax and safety certification; and if his Department is carrying out an inquiry into the matter. [20771/04]

**Minister for Foreign Affairs (Mr. Cowen):** I understand that a complaint was received by the Carriage Office of an Garda Síochána concerning the use of certain vehicles during the course of the Irish Presidency. The complaint is being investigated by the Carriage Office and it would be inappropriate to comment on the matter until this investigation has been completed, and the complainant notified of the outcome.

### EU Membership.

187. **Ms Burton** asked the Minister for Foreign Affairs his views on a recent article (details supplied) which reported that the Parliament of Bosnia and Herzegovina failed to pass a key education law that would have brought Bosnia millions of dollars in World Bank funding; and if he will make a statement on this matter in its greater EU context as outgoing chair of the Council of Foreign Ministers. [20772/04]



**Minister for Foreign Affairs (Mr. Cowen):** An efficient, modern and inclusive education system is one of the key elements in the development of Bosnia and Herzegovina as a fully functioning European state.

In November 2002, the OSCE, in co-operation with the Bosnian education authorities, published a comprehensive education reform strategy which included proposals for the reform of higher education. On the basis of the strategy, a draft framework law on higher education was prepared by a team of experts, including representatives of the education ministries of the Bosnian Federation and of the Republika Srpska, the mainly ethnic-Serb entity.

The aim of the draft framework law is to increase significantly the number of students with access to higher education and to enable the recognition of Bosnian qualifications in other European countries. It would enable the universities of Bosnia and Herzegovina to participate in the European higher education area under the Bologna process and the Lisbon recognition convention and encourage greater mobility of students and academics within Bosnia and throughout Europe. Implementation of the law would also meet an important condition of Bosnia's membership of the Council of Europe.

I regret that the state parliament was unable to pass the framework law on higher education on 7 May as a result of the invoking by a number of deputies of the vital national interest protection procedure. The matter has now been referred to the constitutional court of Bosnia and Herzegovina for a ruling on the invoking of the protection procedure. In a statement on 11 May, the Office of the High Representative for Bosnia, Lord Ashdown, and the OSCE Mission in Bosnia noted that continued failure to pass the law would contribute to an increase in the numbers of ambitious young people leaving Bosnia and Herzegovina for countries in the EU and elsewhere, where the standards proposed in the framework law are already in force. The adoption of the law had been a condition for the release of a World Bank loan, in part for investment in the education sector. The World Bank has now restructured its direct budget support for Bosnia and Herzegovina and has specifically linked the release of \$24 million in structural adjustment credits to the successful completion of key reforms, including adoption of a satisfactory framework law.

Bosnia faces enormous challenges in overcoming the legacy of violence and division from the 1990s and working towards the goal of eventual integration into EU structures on the basis of the shared agenda agreed at the EU-Western Balkans Summit in Thessaloniki in June 2003. In November 2003, the Commission completed a feasibility study on the opening of negotiations for a stabilisation and association agreement with Bosnia and Herzegovina. It identified 16 major areas of reform and concluded that if significant progress were made in each of them, the Commission

would hope to recommend to the Council by the end of this year that negotiations could begin. The Government has worked closely with the Commission, with the High Representative for Bosnia and with the Bosnian authorities over the past six months of Ireland's EU Presidency. There have been some very positive developments. I would like to pay tribute to the determination of the Bosnian authorities to pursue an ambitious reform agenda and to legislate for reform. The EU is encouraging them strongly to continue this progress and to focus in particular on the implementation of reforms over the coming months.

The European Union will continue to work closely with the Bosnian authorities, and with the High Representative for Bosnia, Lord Ashdown, in the task of consolidating peace and democracy and implementing the reforms required for Bosnia's progress towards a closer institutional relationship with the EU. Last month, the Council adopted European partnerships for Bosnia and Herzegovina and the other countries of the Western Balkans. The partnerships draw on the experience of the current enlargement process and set out specific areas of reform in which progress is required for further movement in the integration process. The June European Council also adopted a comprehensive policy on Bosnia and Herzegovina outlining the practical arrangements to strengthen the coherence and effectiveness of the EU's involvement with Bosnia. This involvement will develop significantly by the end of 2004 with the transition from the UN-mandated, NATO-led peacekeeping force, SFOR, and the launch of an EU mission, including a military component.

#### Higher Education Grants.

188. **Mr. Crawford** asked the Minister for Education and Science the number of students who received grant support for third level education on a county by county basis over the past five years; if he has satisfied himself that assets should be taken into account in any future means test towards third level grants; his views on the possibility of property owners selling off sites in rural Ireland to provide education for their children; and if he will make a statement on the matter. [20599/04]

**Minister for Education and Science (Mr. N. Dempsey):** The information requested by the Deputy in the first part of his question is not readily available in my Department. However, the information will be compiled from the records maintained in my Department and in so far as it is available, it will be issued directly to the Deputy in due course.

On the other matters raised by the Deputy in relation to means-testing arrangements for third level grants, the position is that in accordance with the commitment in the Agreed Programme for Government, it is my intention to introduce a unified scheme on a statutory basis. I also pro-

pose to put in place a more coherent administration system which will, I believe, facilitate the introduction of more sophisticated means testing arrangements and ensure consistency of application and client accessibility.

The Deputy will be aware that the report, Supporting Equity in Higher Education in 2003, identified the fairness of the means assessment on which student support is based as being a vitally important issue in promoting equity. It noted that the current system is widely regarded as being inequitable and, in line with earlier reports, concluded that the introduction of a capital test would remove a significant perceived inequity in the system. The report also concluded, in this context, that the administration of the student support schemes needs to be reformed. In this connection, the Deputy will be aware that my Department has commenced discussions with the Department of Social and Family Affairs and the Office of the Revenue Commissioners to establish the extent to which these Departments can assist in the streamlining of the administration of the single unified scheme.

It is my intention that there will be full consultation with all interested parties and that no irrevocable decisions will be taken in relation to any future arrangements prior to such consultation taking place. My Department has and will be meeting with the representative groups. When these discussions are concluded, I will be in a position to make a final determination as to the most efficient and effective arrangements for the future administration of the schemes. Any review of means-testing would not target any specific sector but would aim to ensure that the grants system is fair and equitable and that the resources are allocated accordingly in a fair manner to achieve the Government's objective of supporting and facilitating greater participation in further and higher education from hitherto under-represented socio-economic groups.

### Schools Building Projects.

189. **Mr. Crawford** asked the Minister for Education and Science the restructuring and extension to Ballybay community college; his views on the fact that the failure to carry out these vital and necessary works long promised and long overdue is putting the actual future of this school at risk; his further views on the fact that in spite of all its structural problems this VEC College produced the best results in County Monaghan in the year 2003; and if he will make a statement on the matter. [20600/04]

**Minister for Education and Science (Mr. N. Dempsey):** A large scale building project for Ballybay Community College is listed in section 9 of the 2004 school building programme which is published on my Department's website at [www.education.ie](http://www.education.ie). This project is at stage 3, detailed plans-costs, of architectural planning. It has been assigned a band 2 rating by my Depart-

ment in accordance with the published criteria for prioritising large-scale projects.

The budget announcement regarding multi-annual capital envelopes will enable me to adopt a multi-annual framework for the school building programme which in turn will give greater clarity regarding projects that are not progressing to tender in this year's programme including Ballybay community college. I will make a further announcement in that regard during the year.

190. D'fhiafraigh **Mr. O'Shea** den Aire Oideachais agus Eolaíochta an aontaíonn sé go bhfuil ag teip ar an gcóras oideachais maidir le múineadh na Gaeilge (sonraí tugtha) agus an ndéanfaidh sé ráiteas ina leith. [20608/04]

**Minister for Education and Science (Mr. N. Dempsey):** Déanann an Stát infheistíocht shuntasach i dteagasc na Gaeilge ag gach leibhéal. Féachtar chuige go bhfaigheann na hoidí oiliúint cheart réamhsheirbhíse agus inseirbhíse i múineadh na teanga. Féachann na cigirí chuige go múintear an Ghaeilge do na daltaí uile sa chóras ach amháin iad sin go bhfuil díolúine oifigiúil acu. Leagann an Chomhairle Náisiúnta Curaclaim agus Measúnachta amach an curaclam agus bíonn na comhpháirtithe san oideachas páirteach san obair sin. Tá curaclam nua, nua-aoiseach i bhfeidhm sna bunscoileanna ó 1999 i leith.

I nDaonáireamh na bliana 2002 fuarthas go raibh cumas Gaeilge ag 1, 570, 894 duine sa tír, líon nár bheag agus fás de 140, 689 ón Daonáireamh roimhe sin. Is don chóras oideachais atá an chuid is mó den chreidiúint ag dul as an méid sin.

Admhaíonn gach éinne an dul chun cinn atá déanta ag Gaelscoileanna le blianta anuas agus tugann an Roinn Oideachais agus Eolaíochta cúnaimh ar leith dóibh sin. Maoiníonn an córas stáit foilseacháin Ghaeilge tríd an nGúm chun cur le teagasc na Gaeilge. Ar leibhéal níos neamhfhoirmiúla cuidíonnna coláistí samhraidh le cur chun cinn na Gaeilge ag lucht scoile. Is tríd an gcóras oideachais a mhaoinítear iad sin.

Déanaim tagairt ar leith don obair atá déanta ag an gClár Tacaíochta don gCuraclam Bunscoile agus go háirithe don éifeacht atá ag na cuiditheoirí teanga maidir leis an nGaeilge a chur chun cinn. Aithním go bhfuil fadhbanna ann fós. Caithfear tuilleadh infheistíochta a dhéanamh i gcumasú múinteoirí sna modhanna múinte is fearr. Caithfear féachaint chuige go bhfaigheann na mic léinn sna coláistí oideachais an réamhoiliúint is fearr ní hamháin le haghaidh teagaisc i ngnáthscoileanna ach i scoileanna lánGhaeilge agus scoileanna Gaeltachta chomh maith. Táim sásta leis an dul chun cinn atá déanta ag an gcóras oideachais ó thaobh forbairt na Gaeilge.

191. D'fhiafraigh **Mr. Crowe** den Aire Oideachais agus Eolaíochta cé atá freagrach as na téacsleabhair a chur ar fáil i nGaeilge le freastal a dhéanamh ar an gcuraclam úr atá anois i bhfeidhm sna Bunscoileanna Gaeltachta. [20609/04]

**Minister for Education and Science (Mr. N. Dempsey):** Faoi fhorálacha Alt 31 den Acht Oideachais (1998), bunaíodh An Chomhairle um Oideachas Gaeltachta agus Gaelscolaíochta i Mí Márta 2002.

I measc feidhmeanna na Comhairle deirtear: Alt 31 — (1) (a) (i) “Bunóidh an tAire comhlacht daoine chun soláthar téacsleabhar agus áiseanna d’fhoghlaim agus do mhúineadh trí Ghaeilge a phleanáil agus a chomheagrú”.

Forbraíodh Plean Straitéiseach don Chomhairle i 2003 agus tá sé mar sprioc ag an gComhairle plean soláthar comhordaithe a fhorbairt. Tá iniúchadh déanta ar an soláthar atá ar fáil agus sainiú déanta ar na riachtanais. Tá comhchoiste le teacht le chéile go luath ar a mbeidh ionadaithe ón Roinn Oideachais agus Eolaíochta; An Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta; Foras na Gaeilge/An Gúm; Údarás na Gaeltachta; An tÁisaonad agus an Chomhairle le tús a chur le plean soláthar.

Is iad Foras na Gaeilge (an ghníomhaireacht teanga) agus Gníomhaireacht na hUltaise (Tha Boord o Ulstèr-Scotch) an dá chuid den Fhoras Teanga, an comhlacht teanga Thuaidh/Theas, ceann de na comhlachtaí forfheidhmithe a bunaíodh faoi théarmaí Chomhaontú Bhéal Feirste. Is foras trasteorainn é Foras na Gaeilge a bhfuil forbairt na Gaeilge, an ghaelscolaíocht ar oileán na hÉireann san áireamh, mar chúram aige. I measc na freagrachtaí i leith an oideachais atá air tá: Measúnú a dhéanamh ar na hacmhainní atá ann d’oideachas trí mheán na Gaeilge agus múineadh na Gaeilge, ina measc sin, soláthar sásúil téacsleabhar, ábhar agus acmhainní teagaisc; Ról na Roinne Oideachais agus Eolaíochta maidir leis an nGúm Bunaíodh An Gúm i 1926. Ba chuid den Roinn Oideachais é go dtí gur bunaíodh na forais thrasteorann i mí na Nollag 1999 agus is cuid d’Fhoras na Gaeilge ó shin é. Sa lá atá inniu ann is ag plé leis an bhfoclóireacht, le foilsiú téacsleabhar agus áiseanna scoile agus le hábhar léitheoireachta don aos óg is mó a bhíonn An Gúm.

#### Departmental Schemes.

192. **Mr. Penrose** asked the Minister for Education and Science the reason a person (details supplied) in County Westmeath was not accepted for a third year VTOS course by Westmeath VEC; the criteria which was used to make the selection for participation in the third year of the VTOS scheme; the person who is responsible for making the decision; the basis for so doing; and if he will make a statement on the matter. [20636/04]

**Minister for Education and Science (Mr. N. Dempsey):** The vocational training opportunities scheme is funded by my Department and administered by the Vocational Education Committees, VECs. VTOS programmes are for a maximum of two years’ duration. The VECs have delegated sanction to allow a third year on VTOS in exceptional circumstances to students who fulfil certain criteria. They are not obliged to inform the

Department or seek its approval in individual cases. Accordingly, I have no information on the case referred to in the question.

193. **Mr. Penrose** asked the Minister for Education and Science the criteria which was used by Westmeath VEC which resulted in a person (details supplied) in County Westmeath not being allowed to proceed to a third year VTOS programme; and if he will make a statement on the matter. [20637/04]

**Minister for Education and Science (Mr. N. Dempsey):** The vocational training opportunities scheme is funded by my Department and administered by the Vocational Education Committees, VECs. VTOS programmes are for a maximum of two years’ duration. The VECs have delegated sanction to allow a third year on VTOS in exceptional circumstances to students who fulfil certain criteria. They are not obliged to inform the Department or seek its approval in individual cases. Accordingly, I have no information on the case referred to in the question.

#### School Accommodation.

194. **Ms Enright** asked the Minister for Education and Science if his attention has been drawn to the fact that a school (details supplied) is operating from two different premises in the town, one of which is unable to accommodate the entrance of a fire brigade or ambulance; the status of its application for a new building; when he expects it to proceed; and if he will make a statement on the matter. [20638/04]

**Minister for Education and Science (Mr. N. Dempsey):** The boys’ and girls’ national schools in Rathdowney amalgamated in 1998 and continue to operate from two different premises. Since the girls’ school site is confined, it is proposed to address the long term accommodation needs of the amalgamated school by extending the former boys’ school.

Officials in my Department’s planning section are currently conducting a review of all projects which did not proceed to construction as part of the 2004 school building programme with a view to including them as part of multi-annual school building programme from 2005, details of which will be announced later this year. The school to which the Deputy refers will be included in this review.

#### Schools Building Projects.

195. **Ms Enright** asked the Minister for Education and Science the reason an application to convert rooms in a school (details supplied) to make them suitable for children attending the school with special needs has not been approved; when it is expected that it will be approved; and if he will make a statement on the matter. [20639/04]

**Minister for Education and Science (Mr. N. Dempsey):** The management authority of the school to which the Deputy refers prioritised a folding partition in the GP room to make room for resource teaching and secretarial work in its application for capital funding under the summer works scheme. The application was not approved because the works are deemed to be within category D, curricular requirements. It was only possible to fund projects in categories A, B and C this year. It is open to the school's management authority to re-apply for the key priority works required at the school as part of the 2005 summer works scheme, details of which will be announced later this year.

196. **Ms Enright** asked the Minister for Education and Science when an application will be approved for an extension to a school (details supplied); and if he will make a statement on the matter. [20640/04]

**Minister for Education and Science (Mr. N. Dempsey):** When publishing the 2004 school building programme, I outlined that my strategy going forward will be grounded in capital investment based on multi-annual allocations. My officials are reviewing all projects which were not authorised to proceed to construction as part of the 2004 schools building programme with a view to including them as part of a multi-annual school building programme from 2005 onwards and I expect to be in a position to make further announcements on this matter in the course of the year.

#### Special Educational Needs.

197. **Mr. Ferris** asked the Minister for Education and Science if funding has been made available for the purchase of a centre (details supplied) in County Armagh for the high support of children with autism. [20651/04]

**Minister for Education and Science (Mr. N. Dempsey):** The centre in question is the former St. Joseph's Adolescent Centre owned by the St. Louis Order. It will be operated on a joint North-South basis to serve the needs of children and young persons with autism in both jurisdictions. The costs involved will be shared on an equal basis. The purchase cost is £3 million sterling.

The property acquisition was completed in the in the past few days and my Department has provided its share of the cost. Proposals for the centre envisage the following: a learning support service; an educational assessment service; a training and advisory service and, an autism research, dissemination and information service.

#### Disadvantaged Status.

198. **Ms Lynch** asked the Minister for Education and Science if a school (details supplied) in County Cork will be designated a disadvantaged school in view of the fact that the three feeder schools in the are have all be recognised as being

within an educational disadvantaged area; and if he will make a statement on the matter. [20652/04]

**Minister for Education and Science (Mr. N. Dempsey):** I am currently finalising a detailed review of all education disadvantage schemes with a view to the adoption of a fully integrated and cohesive strategy in this area for the future. Any decision to expand or extend any of the initiatives aimed at tackling educational disadvantage is being considered in the context of this review, the outcome of which I hope to announce shortly.

#### School Transport.

199. **Mr. Ó Fearghail** asked the Minister for Education and Science if his Department will provide a school bus service for persons (details supplied) in County Kildare. [20681/04]

**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 when the report has been received and assessed.

#### Schools Recognition.

200. **Mr. Sargent** asked the Minister for Education and Science the status in relation to permanent recognition of a school (details supplied); and the factors which his Department will take into account when deciding on this. [20682/04]

**Minister for Education and Science (Mr. N. Dempsey):** An application for permanent recognition from the school referred to has been received and is being considered in the school planning section of my Department. Amongst the factors to be considered are the long-term viability of the school, current and projected enrolments, suitability of accommodation and whether the school is operating in accordance with the rules for national schools. Officials from my Department will contact the school authority when the application has been examined and a decision made.

#### Schools Building Projects.

201. **Cecilia Keaveney** asked the Minister for Education and Science the plans he has to expand the number of schools into the devolved grant scheme; and if he will make a statement on the matter. [20754/04]

**Minister for Education and Science (Mr. N. Dempsey):** When publishing the 2004 school building programme, I outlined that my strategy going forward will be grounded in capital investment based on multi-annual allocations. My officials are reviewing all projects that were not authorised to proceed to construction as part of the 2004 school building programme with a view to including them as part of a multi-annual school building programme from 2005 onwards. Schools that satisfy the criteria for inclusion in the

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 devolved permanent accommodation initiative will be identified as part of this process. I expect to be in a position to make further announcements in this matter in the course of the year.

#### School Security.

202. **Ms Burton** asked the Minister for Education and Science if he will respond to issues concerning a school (details supplied) in Dublin 15; and the assistance his Department can give to the school to take measures to improve security at the school. [20769/04]

**Minister for Education and Science (Mr. N. Dempsey):** I appreciate the concerns of the school to which the Deputy refers at the wanton vandalism of school property. The local Garda Síochána is best placed to provide practical advice and support and to make recommendations as to how best to mitigate the potential risk to the school. I understand that most Garda stations have a crime prevention officer who will work with the management authorities in this matter.

If the Garda recommend equipment that cannot be procured from normal funding sources, an application for contingency funding can be made to the school building section of my Department. In the long-term, the advice of the Garda Síochána should be procured in regard to all security issues presenting at the campus. 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 for long term security measures required at the school as recommended by the Garda.

#### State Examinations.

203. **Mr. Boyle** asked the Minister for Education and Science the number of students who have been given the status of persons doing exams orally, have had this status changed for the 2004 leaving certificate examinations; and the areas of the country in which such changes in status has occurred. [20805/04]

**Minister for Education and Science (Mr. N. Dempsey):** On foot of a Government decision, I formally established the State Examinations Commission on 6 March 2003. The commission now has statutory responsibility for operational matters relating to the certificate examinations. Accordingly I have passed the Deputy's query to the chief executive officer of the commission for direct reply.

#### School Staffing.

204. **Mr. Boyle** asked the Minister for Education and Science his Department's views on whether staffing levels at a school (details supplied) in County Cork are adequate in view of the fact that in the school year 2004-05 some class sizes will be upwards of 36 pupils. [20806/04]

**Minister for Education and Science (Mr. N. Dempsey):** The staffing of a primary school for a particular school year is determined by reference to the enrolment of the school on 30 September of the previous school year. This is in accordance with guidelines agreed between my Department and the education partners. The enrolment of the school referred to by the Deputy at 30 September 2003 was, 374 pupils, which warrants a staffing of principal plus 13 mainstream posts for the 2004-05 school year.

The staffing schedule is structured to ensure that all primary schools will operate to an average mainstream class size of 29 pupils. School authorities should ensure that there is an equitable distribution of pupils in mainstream classes and that the differential between the largest and the smallest classes is kept to a minimum. To ensure transparency and openness in the system an independent appeals board is now in place to decide on any appeals on mainstream staffing. Details of the appeals procedure are outlined in Department primary circular 03/04.

205. **Mr. Boyle** asked the Minister for Education and Science the reason for the inconsistency of allowing substitution for teachers who accompany school groups on educational trips. [20807/04]

**Minister for Education and Science (Mr. N. Dempsey):** A scheme for paid supervision-substitution is currently operating in schools. The scheme provides significant improvements for schools, pupils and teachers in relation to arrangements for supervision and substitution by extending the normal substitution arrangements to cover absences on uncertified sick leave and certain other approved absences and by providing funding to schools to pay teachers already employed in the school to commit to and be paid for supervision and substitution over and above their normal class contact hours where qualified substitutes from outside the school are not available.

While there is a limit on the level of funding at school level the scheme is flexible and allows discretion at local level in order to cater for individual school needs.

#### Residential Institutions Redress Scheme.

206. **Ms Harkin** asked the Minister for Education and Science when a person (details supplied) in County Sligo will receive compensation and final settlement from the Residential Institutions Redress Board. [20821/04]

**Minister for Education and Science (Mr. N. Dempsey):** The Residential Institutions Redress Board is independent in the performance of its functions in accordance with the terms of the Residential Institutions Redress Act 2002. In the circumstances, I do not have access to the details of an individual's application. However, all applicants are entitled to contact the board directly or,

through their legal representatives, to inquire about the progress of their applications.

#### **Youth Services.**

207. **Mr. Stanton** asked the Minister for Education and Science the supports and financial assistance available to the Irish Centre for Talented Youth by his Department; if he will consider increasing the support to the centre in view of the excellent work it is carrying out; if he has visited or is planning to visit the centre; and if he will make a statement on the matter. [20825/04]

**Minister for Education and Science (Mr. N. Dempsey):** The Irish Centre for Talented Youth, CTYI, provides services for the parents of high ability children aged eight to 16 years and the children themselves. As the centre contributes to the development of the potential of individual pupils, my Department makes an annual subvention to CTYI in recognition of its ongoing work in this area. The subvention in 2004 amounts to €86,000. Due to immediate commitments I do not have any plans to visit the centre in the short term.

#### **Gas Pipeline Project.**

208. **Mr. Eamon Ryan** asked the Minister for Communications, Marine and Natural Resources the details of a person (details supplied) who carried out the report on the evaluation of onshore pipeline design code use on the Corrib gas pipeline project. [20728/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** The report on the evaluation of onshore pipeline design code was carried out by Mr. Andrew Johnston, consultant engineer, 25 Ramilles Road, Chiswick, London, W41 5W, England. Mr. Johnston is well qualified in having a B.Sc. Civil Eng., chartered engineer, Fellow of the Institution of Mechanical Engineers, Member of the Institute of Petroleum and Member of the Society of Underwater Technology.

Mr. Johnston is a pipeline engineer with over 25 years experience in the onshore and offshore pipeline industry, initially with engineering consultants, followed by project engineering-management in major international companies, and most recently with consultants and project finance companies. He has a proven track record of work in infrastructure studies, due diligence, feasibility studies, economic evaluations, gas transmission system analysis, project planning-scheduling, engineering design and project management. He has extensive experience of onshore pipelines work in the Middle East that ranged from six onshore pipelines totalling 250 kms to reinstatement of crude oil pipelines in Kuwait after the Gulf War and supervision of a multi disciplinary design team on a Middle East gas project that included high temperature and pressure flowlines, manifolds and export facilities. He has international experience in North America, Latin

America, the Middle East, India, the Far East, the North Sea and the New Independent States.

#### **Departmental Correspondence.**

209. **Mr. Eamon Ryan** asked the Minister for Communications, Marine and Natural Resources if the letter from the Minister of State, Deputy Fahey, from 15 April 2002 to a person (details supplied) setting out the conditions for consent to construct an onshore pipeline for the Corrib gas field development is the actual consent letter on the matter; if a separate consent letter exists will he provide a copy to this Deputy. [20729/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** All relevant approvals-consents from the Minister of State, Deputy Fahey, were issued in early 2002 in respect of the proposed development of the Corrib gas field. These approvals-consents include: plan of development approval dated 15 April 2002 under the Petroleum and Other Minerals Development Act 1960; consent to construct a pipeline dated 15 April 2002 under the Gas Act 1976 as amended; consent under section 5 of the Continental Shelf Act 1968 as amended dated 15 April 2002; and, foreshore Licence approval 17 May 2002 under the Foreshore Act 1933, as amended. I can confirm that the approval-consent letters as listed are the only letters that were issued by the Minister of State, Deputy Fahey. The conditions attaching to these approval-consents were placed on the Department's website.

#### **Corrib Gas Field.**

210. **Mr. Eamon Ryan** asked the Minister for Communications, Marine and Natural Resources the analysis that has been presented by the developers of the Corrib gas field with regard to the conditions set out by the Minister, Deputy Fahey, in a letter of 15 April 2002 requiring further analysis to be carried out before consent could be given for the onshore pipeline. [20730/04]

211. **Mr. Eamon Ryan** asked the Minister for Communications, Marine and Natural Resources the way in which the petroleum affairs division in his Department intends to address concerns that have been raised regarding the safety of the construction of the Corrib gas field onshore pipeline in deep peat soil. [20731/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I propose to take Questions Nos. 210 and 211 together.

I understand that Mayo County Council has raised the issue of the construction of the Corrib gas field onshore pipeline in deep peat soil with the developers in the context of their planning application for the onshore terminal at Bellanaboy Bridge. I can inform the Deputy that up to now only a very small element of the proposed pipeline work has been commenced. No work has been completed, with the exception of some pipe-

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line route exploration work, in relation to the onshore pipeline.

To date, approval to undertake pipeline works on the Corrib gas field development specifically for phase 1, nearshore trench construction, phase 2, landfall and, part of phase 3, onshore pipeline construction, has been issued to the developers. When the final application to install the onshore pipeline for phase 3 is received, the issue of deep peat soil will be examined along with all other matters such as design, trench depth and compliance with conditions attaching to pipeline consent of 15 April 2002.

The Deputy will no doubt be aware that my Department commissioned an evaluation of the onshore pipeline design code. The report indicated that the design code has been selected in accordance with best public safety considerations and is appropriate for the pipeline operating conditions and subject to the developers undertaking to comply with a number of conditions incorporated in the consent to construct. The pipeline design is generally in accordance with best national and international industry practice and is considered to meet public safety requirements.

#### Alternative Energy Projects.

212. **Cecilia Keaveney** asked the Minister for Communications, Marine and Natural Resources the position in relation to wind farm mooted for Lough Foyle; and if he will make a statement on the matter. [20751/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** I understand that the consortium involved with the proposals for the possible development of a wind farm in the Tunes plateau area is in the process of completing its studies and assessments, including an environmental impact statement. It will be a matter for the consortium to determine, taking account of the results of the studies and investigations they have undertaken, whether they wish to proceed with applications for the necessary statutory consents for the project.

The consortium, and the Department of Enterprise, Trade and Investment in Northern Ireland and the Crown Estates Commission, have been informed that the development of a wind farm at the location under consideration may only be carried out in accordance with the terms of a foreshore lease granted under the Foreshore Acts 1933 to 2003.

#### Decentralisation Programme.

213. **Mr. Kenny** asked the Minister for Communications, Marine and Natural Resources the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff

who transferred at their current grade; and if he will make a statement on the matter. [20762/04]

**Minister for Communications, Marine and Natural Resources (Mr. D. Ahern):** In 1976, some 50 staff in the accounts branch of the then-named forest and wildlife service were decentralised to Castlebar, County Mayo. As a result of departmental reconfiguration over time and, in particular, the establishment of the State forestry agency, Coillte, the accounts branch of my Department based in Castlebar today consists of 18 staff. Given the number of years that have elapsed and the extent of reconfiguration of departmental boundaries since this decentralisation, my Department is not in a position to source the specific information requested by the Deputy in relation to the Castlebar decentralisation.

On the recent decentralisation of the Marine Institute, 95 staff have, to date relocated from Dublin to Galway. An additional 40 individuals have confirmed they will be moving to Galway on completion of the institute's new facility at Oranmore. It is anticipated that some 135 staff will be based in Galway by end 2005. Of the institute's staff who have relocated, 88% transferred at their current grade and 12% on foot of a promotion.

#### Sports Capital Programme.

214. **Ms Enright** asked the Minister for Arts, Sport and Tourism when a consent to sale of a portion of lands (details supplied) in County Offaly will be signed; and if he will make a statement on the matter. [20737/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** Grants totalling €76,148 were allocated to the club in question in 1997 and 1998 under the sports capital programme which is administered by my Department. Approval of grants under the programme are subject to recipients meeting its terms and conditions. Among the conditions required is the execution of a Deed of Covenant and Charge, which provides, *inter alia*, for a refund of grants in the event of the facility not continuing to be used for the purpose for which the grant was allocated. The deed of covenant and charge is invoked by my Department's legal advisers, the Chief State Solicitor's Office, CSSO. The deed was successfully invoked to cover both grants which were paid out in full.

As a condition of the deed, the permission of my Department rather than the CSSO is necessary in order for the organisation which holds the deed to dispose of any part of the lands covered by it. My Department had previously consented to the disposal of a portion of the land covered by the existing deed with the club in question. The CSSO recently wrote to my Department to state that the club in question was seeking my Department's consent to the sale of another portion of the land covered by the existing deed. Before being in a position to agree to this consent, my Department required further infor-

mation which it recently requested from the club. That information was received from the club today by my Department which will undertake to examine the information and proceed with the request for consent as soon as possible.

#### **Departmental Advertising.**

215. **Cecilia Keaveney** asked the Minister for Arts, Sport and Tourism the plans he has to work with the Department of Justice, Equality and Law Reform and the Department of Health and Children to develop a joint initiative in relation to an advertising campaign or a co-ordinator of legislation in relation to the issue of under age drinking, particularly in view of the recent announcement by GAA task force; and if he will make a statement on the matter. [20753/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I have noted the recommendations of the GAA task force on alcohol and substance abuse and I am pleased that the report has received a broad welcome. The promotion by all national sporting organisations of alcohol-free sporting environments for young people is in keeping with the provisions of the Irish Sports Council's code of ethics and good practice for children's sport in Ireland.

I will be happy to co-operate with my colleagues the Minister for Justice, Equality and Law Reform and the Minister for Health and Children on initiatives related to the issue of under-age drinking.

#### **Decentralisation Programme.**

216. **Mr. Kenny** asked the Minister for Arts, Sport and Tourism the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if he will make a statement on the matter. [20763/04]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** There are no posts which have been decentralised in respect of previous decentralisation in whole or part of my Department or any agency under its aegis.

#### **Hospital Services.**

217. **Mr. Ferris** asked the Minister for Health and Children if he will, in co-operation with the Department of Health and Children, consider the creation of a programme to train sexual assault nurse examiners. [20649/04]

230. **Mr. Ferris** asked the Minister for Health and Children if his attention has been drawn to the pilot forensic nurse examiner project at a centre (details supplied) in England; and if there are plans to set up a similar pilot project here. [20619/04]

234. **Mr. Ferris** asked the Minister for Health and Children if there are plans to employ sexual assault nurse examiners. [20633/04]

235. **Mr. Ferris** asked the Minister for Health and Children the plans there are to address the lack of forensic medical examiners dealing with sexual assault victims. [20634/04]

**Minister for Health and Children (Mr. Martin):** I propose to take Questions Nos. 217, 230, 234 and 235 together.

While I have no immediate plans to put into effect any of the measures referred to by the Deputy in these questions, issues relating to the appropriate level of service in the area of forensic nursing are under active joint consideration by my Department and the Department of Justice, Equality and Law Reform.

#### **Health Insurance.**

218. **Mr. Kirk** asked the Minister for Health and Children if his attention has been drawn to the escalating premium costs for VHI subscribers; and if he will make a statement on the matter. [20602/04]

**Minister for Health and Children (Mr. Martin):** By letter dated 22 June 2004, notification was received from VHI stating that it intends to increase premiums by 3.8% for its hospital A to E plans and 2.5% for options plans from 1 September 2004 as members renew. There is no increase proposed for its primary care Healthsteps plans. The VHI has stated that the level of increases decided by the board is less than previous years and significantly less than the rate of increase in the cost of medical care which is currently running at over 10% per annum. VHI has stated that this increase in premiums will be applied totally to finance new benefits and services for members.

#### **Hospitals Building Programme.**

219. **Mr. J. O'Keefe** asked the Minister for Health and Children if he will report on the proposed extension to St Anthony's Community Hospital, Dunmanway; the estimated cost involved; and the likely time frame. [20603/04]

**Minister of State at the Department of Health and Children (Mr. Callely):** The provision of health services in County Cork is a matter for the Southern Health Board, in the first instance. The board has advised that Dunmanway Community Hospital is to be enlarged from 23 beds to 45. A project group has been established and work has advanced on the preparation of a draft design brief. It is intended to complete the design brief in 2004 for submission to my Department for approval to appoint a design team.

The board has further advised that it is likely that a number of options will be considered by the design team to enlarge the hospital and at that stage the estimated cost will be established. It is not possible for the board to say with any



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certainty how quickly the project will progress through the selection and appointment of a design team and then on to the design and planning phase pending the outcome of the current review of the National Development Plan by my Department and the Department of Finance.

#### Medical Cards.

220. **Mr. J. O’Keeffe** asked the Minister for Health and Children the circumstances in which UK pensioners resident here are entitled to medical cards; if such entitlement is automatic; and if not, to specify the necessary qualifying circumstances. [20604/04]

#### Minister for Health and Children (Mr. Martin):

Persons resident in Ireland who are in receipt of a social security pension from another EU member state, including the UK, and are not in receipt of a pension from the Irish Department of Social and Family Affairs, or are not employed or self employed in Ireland, are eligible to receive medical cards under EU regulations.

As the Deputy is aware, responsibility for the delivery of health services in Ireland falls to seven regional health boards and one regional health authority. These bodies are the main providers of health services at regional level. Each health board-authority has a chief executive officer, CEO, who has responsibility for day-to-day administration of the services. Eligibility for health services in Ireland is primarily based on residency and means rather than payment of income tax or social insurance. Any person, regardless of nationality, who is accepted by the health boards as being ordinarily resident in Ireland is entitled to either full eligibility — category 1, namely, medical card holders — or limited eligibility — namely category 2 — for health services. Health boards normally regard a person as ordinarily resident if she/he satisfies the health board that it is his-her intention to remain in Ireland for a minimum period of one year.

Income guidelines are drawn up by the CEOs to assist in determining a person’s eligibility for a medical card and these guidelines are revised annually in line with the consumer price index. However, the guidelines are not statutorily binding and even though a person’s income exceeds the guidelines, a medical card may still be awarded if the chief executive officer considers that his-her medical needs or other circumstances would justify this. All persons aged 70 or over are automatically eligible for a medical card, irrespective of their income. Persons who receive a medical card are entitled to a full range of services free of charge, including general practitioner services, prescribed drugs and medicines, all in-patient public hospital services in public wards including consultant services, all out-patient public hospital services including consultant services, dental, ophthalmic and aural services and appliances and a maternity and infant care service.

Alternatively, a person who is considered resident in Ireland may opt to take out private health insurance. The main private health insurance companies in Ireland are VHI and BUPA. Details of the health insurance schemes offered by each can be obtained by contacting the insurers directly or by contacting the Health Insurance Authority.

#### Services for People with Disabilities.

221. **Dr. Cowley** asked the Minister for Health and Children if he will address the perceived gross lack of support for the sufferers of autism and their families; the lack of rights based legislation despite promises by Government, the lack of non-means tested medical cards for specific family members suffering from autism, the passing-off of responsibility between his Department and the Department of Education and Science on supplying services to autistic children, the lack of occupational therapists and speech therapists and the lack of respite care for sufferers of autism and their families; and if he will make a statement on the matter. [20605/04]

#### Minister of State at the Department of Health and Children (Mr. Callely):

The Department of Health and Children and the Department of Education and Science have been working together at national level to enhance the level of educational and health-related support services available to children with special educational needs, including those with autism.

The Government has invested an additional amount of around €643 million in health funded services for people with disabilities since 1997. This includes around €388 million allocated to services for people with autism and those with an intellectual disability to provide a broad range of support services including residential, respite, day and home support services. Since 1998 approximately €16 million has been put into the system to enhance the early intervention, pre-school and multi-disciplinary support services — speech and language therapy, occupational therapy, psychology and other support services — for children with autism and those with an intellectual disability.

Several key developments were noted in the 2003 annual report from the national intellectual disability database, including the continued expansion in the availability of residential support services, in particular service-based respite services, which had grown by 314%, with an additional 520 people reported as being in receipt of these services between 2002 and 2003 alone.

Notwithstanding the additional funding described above, one of the major difficulties facing the health services in delivering support services to people with disabilities is the shortage of certain professionals such as speech and language therapists, occupational therapists, physiotherapists and psychologists.

Significant progress has been achieved in boosting the number of training places in line

with the recommendations of the report entitled, *Current and Future Demand Conditions in the Labour Market for Certain Professional Therapists*, commissioned by my Department from Dr. Peter Bacon and Associates. In May 2002, the Minister for Health and Children announced, in conjunction with the Minister for Education and Science, an additional 175 therapy training places in physiotherapy, occupational therapy and speech and language therapy to achieve the recommended increase in the number of therapists over the next decade recommended in the report. These additional places have now come on stream.

There has also been a concerted overseas recruitment drive on behalf of all health boards, the introduction of a fast-track working visa scheme for health and social care professionals and the streamlining of procedures for the validation of overseas qualifications. The success of these measures is reflected in the increases in speech and language therapists and occupational therapists employed in the public health service over the last three year period to end of 2002, with a 73% increase in occupational therapists and a 33% increase in speech and language therapists.

In relation to legislation, the Government intends, as promised in the *Agreed Programme for Government*, to bring forward a *Disability Bill* which includes provisions for rights of assessment and for appeals, provision and enforcement. The Bill is being finalised and will be published as soon as the Government has completed its work.

In relation to medical cards, no person or group of persons, other than those aged 70 years and over, is automatically entitled to a medical card. People who cannot, without undue hardship, arrange for the provision of medical services for themselves and their dependants may be entitled to a medical card. Eligibility for a medical card is solely a matter for the chief executive officer of the relevant health board. In determining eligibility, the CEO has regard to the applicant's financial circumstances. Health boards use income guidelines to assist in determining eligibility. However, where a person's income exceeds the guidelines, a medical card may be awarded if the CEO considers that the person's medical needs or other circumstances would justify this. Medical cards may also be issued to individual family members on this basis. Non-medical card holders, and people with conditions not covered under the LTI, can use the drugs payment scheme. Under this scheme, no individual or family unit pays more than €78 per calendar month towards the cost of approved prescribed medicines.

The provision of services to people with autism and intellectual, physical or sensory disabilities is one of the limited number of areas in which additional revenue funding has been provided by the Government in any Department over 2003 and 2004. In respect of services to persons with

autism and intellectual disability, this revenue funding, amounting to €43 million up to the end of 2004, was specifically provided to meet costs associated with the provision of emergency residential placements, extra day services particularly for young adults leaving school and to enhance the health-related support services for children. This is very visible evidence of the Government's commitment in this area.

#### **HIV Infection.**

222. **Mr. S. Power** asked the Minister for Health and Children his policy in reducing the incidence of HIV in view of the 10% increase in the number of cases here in 2003; the way in which this increase compares with previous years; and if he will make a statement on the matter. [20610/04]

**Minister for Health and Children (Mr. Martin):** The National Disease Surveillance Centre recently published HIV figures for 2003. There were 399 newly diagnosed cases in 2003, representing a 10% increase on 2002. This brings the total number of cases of HIV infection diagnosed to the end of 2003 to 3,408.

Of the 399 newly diagnosed cases where exposure category is known, 221 were heterosexually acquired. This compares to 232 in 2002 and 173 in 2001. There were 75 new diagnoses among men who have sex with men, MSM, during 2003. This compares with 46 newly diagnosed HIV infections during 2002 and 71 in 2001. There were 47 newly diagnosed among IDUs during 2003 compared to 50 in 2002 and 38 in 2001. Of the 399 newly diagnosed cases, 202, or 50.6% were male and 196, or 49.1%, were female. Information on gender is not available for one of newly diagnosed cases.

The report of the National AIDS Strategy Committee, NASC, which was published in 2000, makes a range of recommendations for dealing with HIV-AIDS and other sexually transmitted infections, STIs. My Department through the National AIDS Strategy Committee and its sub-committees on education and prevention, surveillance and care and management is working to implement these recommendations.

In relation to HIV and other STIs, our first line of defence must be education and awareness. In this regard the National Health Promotion Strategy 2000-2005 acknowledges that sexuality is an integral part of being human and healthy sexual relationships can contribute to an overall sense of well-being. A strategic aim of the Health Promotion Strategy 2000-2005 is "to promote safer sexual health and safer sexual practices among the population."

Education and prevention measures are coordinated by the health promotion unit of my Department within the context of both the National Health Promotion Strategy and the report of the National AIDS Strategy Committee 2000. In fulfilment of objectives and recommendations set out in these strategies the health pro-

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motion unit is involved in and supports a range of initiatives and interventions aimed at preventing and raising awareness of HIV and other sexually transmitted infections. The following are some examples of the current priorities.

In the school setting, my Department is working in partnership with the Department of Education and Science and the Health Boards to support schools in the introduction and delivery of Social Personal and Health Education, SPHE, at both primary and post primary level. Relationships and sexuality education is an integral part of this curriculum and remains a key priority for this work with schools.

In the out of school setting the health promotion unit of my Department works in partnership with the youth affairs section of the Department of Education and Science and the National Youth Council of Ireland to implement the national youth health programme. The aim of the programme is to provide a broad-based, flexible health promotion-education support and training service to youth organisations and to all those working with young people in the non-formal education sector. Within the context of this programme, a training initiative called Too Hot to Handle is offered to youth workers which addresses the issues of relationships, sexuality and sexual health with young people.

A national public awareness advertising campaign has been established to promote sexual health which is aimed at men and women in the 18 to 35 age group to increase awareness about safe sex, HIV and other sexually transmitted infections. The overall goal is to increase safe sex, reducing the incidence of HIV, other STI transmission and unwanted pregnancies among young people in Ireland. The campaign runs in third-level colleges, places of entertainment, such as pubs, clubs, discos and youth clubs. This national programme has been running for several years and a new and revised campaign is currently being implemented by the health promotion unit, which has greatly increased the number of venues targeted.

My Department and the Crisis Pregnancy Agency are conducting a national survey of sexual knowledge, attitudes and behaviour of adults living in Ireland. This survey is a direct response to documented rises in HIV, STIs and unwanted pregnancies in Ireland and offers the prospect of increasing our understanding of the pattern of health behaviours in the area of sexual health and their relationship to both attitudes and beliefs and socio-demographic characteristics of individuals. Such a survey will: provide robust information in the area of sexual health that will feed into the planning and development of services, sexual health policies and strategies; assist with more efficient allocation of resources; and, provide quality baseline data for future surveys of sexual knowledge, attitudes and behaviour to monitor change over time and allow for long term

planning. The collection of national information on sexual knowledge, attitudes and behaviour is an important first step in assisting individuals, organisations and policy makers working in the area of sexual health promotion to plan and work towards meeting the sexual health needs of people living in Ireland. The health promotion unit also produces a range of awareness-raising leaflets on HIV, STIs and safe sex practices which are available through health promotion departments in each health board.

In addition to this ongoing work within my Department, a number of other important initiatives are underway which should go a long way to improving the overall sexual health of the population. Both statutory and non-governmental bodies are working in partnership to improve sexual health and promote safer sexual practices; a number of health boards are implementing sexual health strategies, with dedicated human and financial resources allocated regionally. Also health boards and voluntary organisations have in place targeted initiatives aimed at the drug using population and MSM.

Almost €5.5 million additional funding has been provided to health boards since 1997 to address the treatment of HIV-AIDS and other STIs. This has resulted in a substantial increase in the facilities in place. At present there are seven consultants specialising in the treatment of HIV-AIDS-STIs. Five of these are in Dublin — one of whom deals with children — one in Cork and a recently appointed infectious disease consultant in Galway.

The care and management sub-committee of NASC visited hospitals and health boards involved in the provision of services to people with HIV-AIDS and STIs. The purpose of these visits was to identify gaps and make recommendations for the future direction of treatment services. The report of the sub-committee is currently being finalised. My Department will continue to closely monitor the position in relation to HIV-AIDS and other STIs.

#### **Services for People with Disabilities.**

223. **Mr. Stanton** asked the Minister for Health and Children if the drafting of national standards in disability services is almost complete; if no more piloting of the standards or the monitoring tool are necessary; when he expects that the national standards in disability services project will be concluded; when the national standards will be published; and if he will make a statement on the matter. [20611/04]

**Minister of State at the Department of Health and Children (Mr. Callyey):** As the Deputy is aware, my Department in partnership with the National Disability Authority is developing national standards for disability services. Work on the development of these standards is ongoing and is at an advanced stage. It is my hope that the advancement of the standards will reach conclusion in the autumn. There are no plans at this

time to undertake further piloting of the standards or the monitoring tool. I am pleased to advise that the work to date has been both positive and progressive and I am confident that these standards, upon completion, will provide a benchmark to ensure that all services reach an agreed level of performance across the country.

#### **Hospital Inquiry.**

224. **Mr. Connolly** asked the Minister for Health and Children the action he proposes to take in view of the report into the death of a person (details supplied) at Cavan General Hospital; and if he will make a statement on the matter. [20612/04]

225. **Mr. Connolly** asked the Minister for Health and Children the way in which responsibility for the death of a person (details supplied) will be apportioned; and if he will make a statement on the matter. [20613/04]

226. **Mr. Connolly** asked the Minister for Health and Children the way in which he proposes to address the executive decisions and administrative failures that contributed to the death of a person (details supplied) at Cavan General Hospital; and if he will make a statement on the matter. [20614/04]

227. **Mr. Connolly** asked the Minister for Health and Children the reason the Sheridan report fails to explain the absence of a consultant in the accident and emergency department when a person (details supplied) was admitted to Cavan General Hospital; and if he will make a statement on the matter. [20615/04]

228. **Mr. Connolly** asked the Minister for Health and Children if the letter from the general practitioner of a person (details supplied) explaining their medical condition presented on admission to Cavan General Hospital has been located; and if he will make a statement on the matter. [20616/04]

229. **Mr. Connolly** asked the Minister for Health and Children further to the observation in the report into the death of a person (details supplied) that the Cavan General Hospital was experiencing an increase in the volume and complexity of cases presenting at its accident and emergency department; the plans he has to reduce volume; if these will include the return of on-call services in Monaghan General Hospital; and if he will make a statement on the matter. [20617/04]

**Minister for Health and Children (Mr. Martin):** I propose to take Questions Nos. 224 to 229, inclusive, together.

The Deputy will be aware that responsibility for the provision of services at Cavan General Hospital rests with the North Eastern Health Board.

Following the publication of the report into the circumstances surrounding the death of the per-

son in question, I met the chief executive officer of the board last week. The report contains 22 recommendations of which eight are classified as high priority and 14 as medium priority. The board has advised me that most of the high priority recommendations have already been put in place and that it is working to ensure compliance with all of the recommendations. I have instructed the board to take steps to implement all recommendations as a matter of urgency.

With regard to some of the specific queries raised by the Deputy, I am advised by the board that the consultant in emergency medicine was not on duty in Cavan on the day in question; however there were three non-consultant hospital doctors, four nurses and a care attendant on duty in the A & E department when the patient presented. I am further advised that the referral letter from the family's general practitioner is on the child's medical file. As the Deputy is aware, a steering group for the Cavan-Monaghan hospital group has been established. The group will determine the level of service to be provided at each site, taking into account available resources, quality of care and safe practice. In view of the ongoing Garda investigation I am not in a position to make any further comment on this case.

*Question No. 230 answered with Question No. 217.*

#### **Health Board Services.**

231. **Mr. J. Higgins** asked the Minister for Health and Children if his attention has been drawn to the fact that there is no orthodontist working full-time at Millhouse, Ashtown Gate, Navan Road, (details supplied) despite a long waiting list for treatment; and if he will make a statement on the matter. [20630/04]

232. **Mr. J. Higgins** asked the Minister for Health and Children if he will urgently address the lack of a full time orthodontist at Millhouse, Ashtown Gate, Navan Road (details supplied); and if he will make a statement on the matter. [20631/04]

233. **Mr. J. Higgins** asked the Minister for Health and Children if he will immediately sanction funding in order that priority patients awaiting orthodontic treatment at Millhouse, Ashtown Gate, Navan Road (details supplied) can avail of the treatment purchase scheme; and if he will make a statement on the matter. [20632/04]

**Minister for Health and Children (Mr. Martin):** I propose to take Questions Nos. 231 to 233, inclusive, together.

As the Deputy is aware, the provision of orthodontic services is a matter for the health boards-authority in the first instance.

I am pleased to advise the Deputy that I have taken a number of measures to improve orthodontic services in the Northern Area Health Board, NAHB, area of the Eastern Regional

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Health Authority, ERHA, and on a national basis.

The grade of specialist in orthodontics has been created in the health board orthodontic service. In 2003, my Department and the health boards funded 13 dentists from various health boards for specialist in orthodontics qualifications at training programmes in Ireland and at three separate universities in the United Kingdom. These 13 trainees for the public orthodontic service are additional to the six dentists who commenced their training in 2001. Thus, there is an aggregate of 19 dentists in specialist training for orthodontics — including five from the ERHA. These measures will complement the other structural changes being introduced into the orthodontic service, including the creation of an auxiliary grade of orthodontic therapist to work in the orthodontic area.

Orthodontic initiative funding of €2.044 million was provided to the ERHA in 2001 and this has enabled the authority to recruit additional staff and build additional orthodontic facilities. The authority has developed additional orthodontic facilities at Loughlinstown, Ashtown and at the regional orthodontic unit located at St. James's Hospital.

In June 2002, my Department provided additional funding of €5 million from the treatment purchase fund towards the treatment of persons on the orthodontic waiting lists; the ERHA received €1.815 million from this fund. My Department instructed the health boards-authority that the funding was to be allocated on the basis of the following principles: first, treatment of clients longest on the waiting list in accordance with the severity of their treatment need; second, allocation to provide additional treatments over and above what was provided in the normal way; third, efficiency and value for money; and fourth, equitable delivery across health board populations.

The management of orthodontic staff in the Eastern Regional Health Authority is the statutory responsibility of the regional chief executive. Therefore, my Department has asked the regional chief executive to investigate the matter raised by the Deputy and to reply to him directly.

Finally, the regional chief executive of the authority has informed my Department that at the end of the March quarter 2004, there were 3,782 children receiving orthodontic treatment in the public orthodontic service in the ERHA.

*Questions Nos. 234 and 235 answered with Question No. 217.*

#### **Ambulance Service.**

236. **Dr. Cowley** asked the Minister for Health and Children if he has made contact with the Minister for Communications, Marine and Natural Resources and the Minister for Defence concerning a recently published feasibility report into an

all-Ireland helicopter emergency medical service; the progress he has made towards establishing a secondary response-hospital retrieval helicopter emergency service, as strongly urged in the report; and if he will make a statement on the matter. [20677/04]

#### **Minister for Health and Children (Mr. Martin):**

My Department and the Department of Health, Social Services and Public Safety, Belfast, DHSSPS, commissioned a feasibility study and report on the costs and benefits associated with the introduction of a dedicated helicopter emergency medical services, HEMS, for the island of Ireland.

The decision to commission the study followed a recommendation by a cross border working group on pre-hospital emergency care, one of a number of groups established under the North-South Ministerial Council to examine areas of North-South co-operation in the health field.

The report of the consultants appointed to undertake the study was published on 30 April 2004 and is available on my Department's website. The study identifies possible roles for a helicopter emergency medical service, HEMS: primary response, which entails travelling directly to the scene of an incident to take the patient to hospital, and inter-hospital response, which entails the planned, rapid transfer between hospital of patients requiring specialist care, escorted by skilled professionals.

The study concludes that an inter-hospital transfer service would be the most appropriate in an all-island context. The study indicates that this would involve significant capital investment and annual operating costs. The estimated cost is €12 million capital and €4 million annual operating costs for a single helicopter. Additional helicopters could be added with an additional annual cost for each aircraft of over €3 million.

An air ambulance service is currently provided to the health boards by the air corps on a request and availability basis. The air corps provides this service subject to the nature of the mission, available aircraft and other operational commitments.

Air corps helicopters operate from airports and, where available and deemed safe, hospital helipads. Most transfers are airport to airport with onward transfer by land ambulance. The service is well regarded and appreciated by those in the health service who avail of it.

My Department is exploring options in relation to HEMS development in the light of the recent study. As part of this exercise, it has initiated discussions with the Department of Defence and the Department of Communications, Marine and Natural Resources — Irish Coast Guard.

#### **Services for People with Disabilities.**

237. **Cecilia Keaveney** asked the Minister for Health and Children his plans to change the criteria for the motorised transport grant to enable persons with Down's Syndrome to avail of it; and

if he will make a statement on the matter.  
[20725/04]

**Minister of State at the Department of Health and Children (Mr. Cally):** The circular for motorised transport grant states that all health boards may pay a grant towards the purchase of a car and-or adaptations to a car being purchased by a person with a severe disability who is 17 years or older and up to 65 years of age, where such a car is essential for him-her to obtain or retain employment. Self-employed persons who satisfy the criteria of eligibility may also be considered, subject to the above age limits. In cases, where application is made on the basis of obtaining or retaining employment or self employment, the board must be satisfied that the applicant is capable of holding down a job, has the physical capacity to drive the vehicle and is qualified to hold a driver's licence, full or provisional. However, qualified persons with a disability who are incapable of driving or who have been medically advised not to drive, and who have to be driven to and from his-her place of employment will only be considered eligible for a grant provided that she-he will be driven by another named person to and from his-her place of employment. The car must be purchased in the name of the person with a disability. The grant may also be considered in exceptional circumstances for a person with a severe disability, subject to the above age limits, who lives in a very remote location and whose disability impedes him-her from using public transport.

There are no specific disabilities which are excluded from eligibility for the motorised transport grant provided the person applying for the grant meets the eligibility criteria. The Deputy should be aware that the working group established to examine the feasibility of introducing a cost of disability payment proposes to examine the scope for rationalising and streamlining the various disability support measures, with a particular focus on mitigating the additional costs of disability for a greater number of people with disabilities, particularly in the case of those who wish to move from a position of total welfare dependence to one of greater economic independence.

It is expected that the first area the working group will examine will be all mobility-related schemes.

#### **Ambulance Service.**

238. **Cecilia Keaveney** asked the Minister for Health and Children when the rapid response vehicle for a town (details supplied) in County Donegal is to commence operation; and if he will make a statement on the matter. [20741/04]

**Minister for Health and Children (Mr. Martin):** Responsibility for the provision of ambulance services in County Donegal rests with the North Western Health Board. My Department has therefore asked the chief executive officer of the

board to investigate the matter raised by the Deputy and to reply to her directly.

#### **Substance Misuse.**

239. **Cecilia Keaveney** asked the Minister for Health and Children the number of programmes which have taken place in relation to underage drinking; and if he will make a statement on the matter. [20742/04]

**Minister for Health and Children (Mr. Martin):** My Department is involved in a wide range of partnerships with other Government Departments and bodies in an effort to tackle the issue of underage drinking.

My Department, in partnership with the Department of Education and Science, has developed a social, personal and health education, SPHE, programme, which addresses the issue of substance misuse in the schools setting.

Education programmes have been developed so that young people may be more informed and better equipped to make informed decisions when faced with the issue of alcohol.

In accordance with action 43 of the national drugs strategy, the Department of Education and Science in partnership with the health promotion unit of my Department and the health boards, has issued guidelines for developing a school substance abuse policy to all primary and post-primary schools.

The national youth health promotion programme with support from the health promotion unit of my Department initiated a national project which provided opportunities for young people, 14-16 years, to explore their relationship with alcohol. Training is provided for youth leaders to ensure the implementation of this initiative.

The health promotion unit of my Department has recently completed a three year alcohol awareness campaign entitled Think Before You Drink — Less Is More. Some phases of the campaign focused on those who buy or supply alcohol to those underage with a poster and radio messages with the theme of keeping children safe from drink.

The responsible serving of alcohol, RSA, programme is a training initiative which was developed by the health promotion unit in association with the Drinks Industry Group of Ireland specifically for those who work in the bar trade and hospitality sector. The aim of the programme is to limit harm in the drinking environment by not serving to intoxicated customers, encouraging the use of age cards to prevent underage people from being served and promoting alternative strategies to reduce drink driving.

One of the recommendations of the strategic task force on alcohol, which I established in 2002 to make evidenced based recommendations to prevent and reduce alcohol-related harm, concerns limiting the exposure of children and adolescents to alcohol advertising. The Cabinet has approved a draft general scheme for an Alcohol

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Products Bill for the control of advertising, sponsorship and sales promotions-marketing practices. Work is ongoing on its preparation.

The task force is currently finalising a second report which will bring forward a further set of recommendations aimed at tackling the problem of alcohol misuse.

240. **Cecilia Keaveney** asked the Minister for Health and Children the plans he has to work with the Department of Justice, Equality and Law Reform and the Department of Arts, Sport and Tourism to develop a joint initiative in relation to an advertising campaign or a co-ordinator of legislation in relation to the issue of under age drinking, particularly in view of the recent announcement by GAA task force; and if he will make a statement on the matter. [20743/04]

**Minister for Health and Children (Mr. Martin):** I have expressed my concerns about the misuse of alcohol by young people on a number of occasions. I established a strategic task force on alcohol in January 2002, whose remit is to recommend specific, evidence-based measures to Government to reduce alcohol related harm.

The Department of Justice, Equality and Law Reform and the Department of Arts, Sport and Tourism are represented on the task force. The task force has made a number of recommendations in its interim report, which include measures on legislation, advertising and education. An inter-departmental group was established to co-ordinate the responses of the various Government Departments to the recommendations. The Departments of Justice, Equality and Law Reform and Arts, Sport and Tourism are also represented on the inter-departmental group.

One of the recommendations of the task force concerns limiting the exposure of children and adolescents to alcohol advertising. The Cabinet has approved a draft general scheme for an Alcohol Products Bill for the control of advertising, sponsorship and sales promotions-marketing practices. Work is ongoing on its preparation.

The task force is currently finalising a second report which will bring forward a further set of recommendations aimed at tackling the problem of alcohol misuse.

#### **Health Board Services.**

241. **Cecilia Keaveney** asked the Minister for Health and Children the number of orthodontic consultants that are in the north west region; the efforts being made to recruit extra consultants; and if he will make a statement on the matter. [20747/04]

242. **Cecilia Keaveney** asked the Minister for Health and Children the plans to try and expedite current orthodontic treatment lists in each orthodontic area; if there is a role on the treatment purchase fund in relation to dealing with this; and

if he will make a statement on the matter. [20748/04]

**Minister for Health and Children (Mr. Martin):** I propose to take Questions Nos. 241 and 242 together.

The provision of orthodontic services is a matter for the health boards in the first instance. I am pleased to advise the Deputy that I have taken a number of measures to improve orthodontic services in the North Western Health Board, NWHB, area and on a national basis.

The grade of specialist in orthodontics has been created in the health board orthodontic service. In 2003, my Department and the health boards funded 13 dentists from various health boards — including one from the NWHB — for specialist in orthodontics qualifications at training programmes in Ireland and at three separate universities in the United Kingdom. These 13 trainees for the public orthodontic service are additional to the six dentists who commenced their training in 2001. Thus, there is an aggregate of 19 dentists in specialist training for orthodontics. These measures will complement the other structural changes being introduced into the orthodontic service, including the creation of an auxiliary grade of orthodontic therapist to work in the orthodontic area.

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 development of an approved training programme leading to specialist qualification in orthodontics. The chief executive officer of the Southern Health Board has reported that the professor commenced duty on the 1 of December 2003. In recognition of the importance of this post at Cork Dental School my Department has given approval in principle to a proposal from the school to further substantially improve the training facilities there for orthodontics. This project should see the construction of a large orthodontic unit and support facilities; it will ultimately support an enhanced teaching and treatment service to the wider region under the leadership of the professor of orthodontics.

Orthodontic initiative funding of €4.698m was provided to the health boards-authority in 2001 and 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. The NWHB was allocated an additional €273,000 in 2001 for orthodontic services of which €178,000 was for the orthodontic initiative.

In June 2002, my Department provided additional funding of €5 million from the Treatment Purchase Fund towards the treatment of persons on the orthodontic waiting lists; the NWHB received €285,000 from this fund. My Department instructed the health boards-auth-

ority that the funding was to be allocated on the basis of the following principles: first, treatment of clients longest on the waiting list in accordance with the severity of their treatment need; second, allocation to provide additional treatments over and above what was provided in the normal way; third, efficiency and value for money; and fourth, equitable delivery across health board populations.

The management of orthodontic staff in the NWHB is the statutory responsibility of the chief executive officer. Therefore, my Department has asked the chief executive officer of the NWHB to provide the Deputy with the information requested.

Finally, the chief executive officers of the health boards-authority have informed my Department that at the end of the March quarter 2004, there were 21,033 children receiving orthodontic treatment in the public orthodontic service. This means that there are nearly twice as many children getting orthodontic treatment as there are children waiting to be treated and almost 4,000 extra children are getting treatment from health boards-authority since the end of 2001.

#### **Medical Cards.**

243. **Cecilia Keaveney** asked the Minister for Health and Children the plans to bring in a tier medical card system and or review income limits for medical cards; and if he will make a statement on the matter. [20749/04]

**Minister for Health and Children (Mr. Martin):** Entitlement to health services in Ireland is primarily based on residency and means. Under the Health Act 1970, determination of eligibility for medical cards is the responsibility of the chief executive officer of the appropriate health board other than for persons aged 70 years and over, who are automatically eligible for a medical card. Medical cards are issued to persons who, in the opinion of the chief executive officer, are unable to provide general practitioner medical and surgical services for themselves and their dependants without undue hardship. For those who do not qualify for a medical card there are a number of schemes which provide assistance towards the cost of medication, including the long-term illness scheme and the drug payments scheme. Many allowances such as carers' allowance, child benefit, domiciliary care allowance, family income supplement and foster care allowance are disregarded when determining a person's eligibility. Given these factors and the discretionary powers of the CEOs, having an income that exceeds the guidelines does not mean that any person will not be eligible for a medical card, and a medical card may still be awarded if the chief executive officer considers that a person's medical needs or other circumstances would justify this.

It is open to all persons to apply to the CEO of the appropriate health board if they are unable

to provide health services for themselves or their dependants without hardship.

There is no short-term plan to extend medical card income guidelines other than as provided for by the annual CPI index increase. The last such increase was notified in January 2004. However, in line with the health strategy entitled Quality and Fairness — A Health System For You, the possibility of extending medical card entitlement by statute to various groups is under ongoing review in my Department in the context of the strategy's second goal which is fair access. As the Deputy is aware the health strategy includes a commitment that significant improvements will be made in the medical card income guidelines in order to increase the number of persons on low income who are eligible for a medical card and to give priority to families with children and particularly children with a disability. This should be viewed in the broader context of the strategy's emphasis on fairness and its stated objective of reducing health inequalities in our society. Due to the prevailing budgetary situation I regret that it is not possible to meet this commitment this year but the Government remains committed to the introduction of the necessary changes within the lifetime of this Government.

The health strategy includes a whole series of initiatives to clarify and expand the existing arrangements for eligibility for health services, including recommendations arising from the review of the medical card scheme carried out by the health board CEOs under the PPF which include: streamlining applications and improving the standardisation of the medical card applications process to ensure better fairness and transparency; providing clearer information to people about how and where to apply for medical cards; and, proactively seeking out those who should have medical cards to ensure they have access to the services that are available.

In addition, my Department is committed to the preparation of new legislation to update and codify the whole legal framework for eligibility and entitlements in regard to health services.

#### **Departmental Investigations.**

244. **Mr. Crawford** asked the Minister for Health and Children the number of reports and inquiries he has set up or instigated since he took office; the cost of same; if they were of benefit to patients and the general public; and if he will make a statement on the matter. [20779/04]

**Minister for Health and Children (Mr. Martin):** It is not possible in the time allowed to compile all of the information requested by the Deputy. The information is being collated in my Department and will be forwarded directly to the Deputy as soon as possible.

#### **Health Board Services.**

245. **Mr. Gormley** asked the Minister for Health and Children his plans to avert the threat-



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ened closure of the Carmichael Centre in Dublin. [20783/04]

**Minister of State at the Department of Health and Children (Mr. Calley):** My Department has asked the Eastern Regional Health Authority to make a grant of €150,000 available to alleviate the immediate needs which have been outlined by the board of the Carmichael Centre. Representatives of the centre have now confirmed to my Department that the centre will remain open.

#### Long-Term Illness Scheme.

246. **Mr. Gormley** asked the Minister for Health and Children if his attention has been drawn to the fact that between 7,200 and 10,500 polio survivors here are suffering real physical and increasing financial hardship; and if he has plans to help improve their quality of life. [20786/04]

**Minister of State at the Department of Health and Children (Mr. Calley):** The provision of health services to people with physical and/or sensory disabilities, including polio survivors, is a matter for the Eastern Regional Health Authority and the health boards. My Department met with the post polio support group in 2002 and discussed a number of issues, including the possibility of setting up a high level committee to look into the issues surrounding this condition. While it is not deemed appropriate to establish such a committee, my Department undertook to investigate a number of issues which were raised and has been in contact with the group in this regard.

In accordance with commitment in Sustaining Progress, my Department will be conducting a strategic review of existing service provision for people with disabilities. Questions of access to aids and appliances and respite care which have been raised by the post polio support group will be examined as part of that review.

#### Water Fluoridation.

247. **Ms O. Mitchell** asked the Minister for Health and Children if the regulation amending the optimal level of fluoride in drinking water from 0.8 to 1.0 p.p.m. to between 0.6 and 0.8 p.p.m. as recommended by the Forum on Fluoridation has yet been implemented; and if he will make a statement on the matter. [20793/04]

248. **Ms O. Mitchell** asked the Minister for Health and Children if he has the intention of reducing the level of fluoride in drinking water from 0.8 to 1.0 p.p.m. to between 0.6 and 0.8 p.p.m. as recommended by the Forum on Fluoridation; and if he will make a statement on the matter. [20794/04]

**Minister for Health and Children (Mr. Martin):** I propose to take Questions Nos. 247 and 248 together.

The use of fluoride technology is known to manifest a positive oral health outcome.

Local and national surveys and studies conducted since the introduction of fluoridation in this country attest to the reduced dental decay levels of children and teenagers in fluoridated areas compared to those residing in non-fluoridated areas.

Furthermore, the safety and effectiveness of water fluoridation has been endorsed by a number of international and reputable bodies such as the World Health Organisation, the Centre for Disease Control and Prevention, the United States public health service, and the United States surgeon general.

As the Deputy is aware, I established the Forum on Fluoridation to review the fluoridation of public piped water supplies in Ireland; its main conclusion was that the fluoridation of public piped water supplies should continue as a public health measure.

The Forum on Fluoridation made several recommendations concerning the continued use of fluoride technology in this country; re-defining the optimal level of fluoride in drinking water was one of its recommendations. This recommendation was made against a background of exposure to multiple sources of fluoride and changes in the rates of dental decay and dental fluorosis on both a population and individual level; it is part of a long-term strategy to reduce levels of mild dental fluorosis in children.

In all, the report of the fluoridation forum made 33 recommendations covering a broad range of topics such as research, public awareness, and policy and technical aspects of fluoridation. The expert body, that was recommended by the forum, has been established; one of its terms of reference is to oversee the implementation of the recommendations of the Forum on Fluoridation — including that referred to by the Deputy. In addition, the expert body will advise me and evaluate ongoing research — including new emerging issues — on all aspects of fluoride and its delivery methods as an established health technology and as required, and report to me on matters of concern at my request or on own initiative.

The expert body has broad representation, including from the areas of public health medicine, engineering, management, environmental protection, environmental health, dentistry, and health promotion. I am pleased to inform the Deputy that the body will have a strong consumer input in terms of members of the public and representatives of consumer interests, in addition to the necessary scientific, managerial and public health inputs.

#### Water Fluoridation.

249. **Ms O. Mitchell** asked the Minister for Health and Children if the expert group on fluoridation has implemented any of the recommendations of the Forum on Fluoridation; if so, the recommendations which have been implemented;

and if he will make a statement on the matter. [20795/04]

**Minister for Health and Children (Mr. Martin):** As the Deputy is aware, I established the Forum on Fluoridation to review the fluoridation of public piped water supplies in Ireland. The forum report's main conclusion was that the fluoridation of public piped water supplies should continue as a public health measure. The forum also concluded that water fluoridation has been very effective in improving the oral health of the Irish population, especially of children, but also of adults and the elderly. The best available and most reliable scientific evidence indicates that at the maximum permitted level of fluoride in drinking water at 1 part per million, human health is not adversely affected. Dental fluorosis — a form of discolouration of the tooth enamel — is a well-recognised condition and an indicator of overall fluoride absorption, whether from natural sources, fluoridated water or from the inappropriate use of fluoride toothpaste at a young age. There is evidence that the prevalence of dental fluorosis is increasing in Ireland.

In all the report of the fluoridation forum made 33 recommendations covering a broad range of topics such as research, public awareness, and policy and technical aspects of fluoridation. The expert body, that was recommended by the forum, has been established; its terms of reference are: to oversee the implementation of the recommendations of the Forum on Fluoridation; to advise the Minister and evaluate ongoing research — including new emerging issues — on all aspects of fluoride and its delivery methods as an established health technology and as required; and, to report to the Minister on matters of concern at his-her request or on own initiative.

The expert body has broad representation, including from the areas of public health medicine, engineering, management, environmental protection, environmental health, dentistry, and health promotion. I am pleased to inform the Deputy that the body will have a strong consumer input in terms of members of the public and representatives of consumer interests, in addition to the necessary scientific, managerial and public health inputs. The expert body will oversee the implementation of the wide-ranging recommendations of the forum and advise me on all aspects of fluoride going forward.

#### **Health Board Services.**

250. **Ms B. Moynihan-Cronin** asked the Minister for Health and Children if a financial audit into the accounts of an organisation (details supplied) commissioned by the South Western Area Health Board within the past 12 months ever took place; the outcome of same; and if he will make a statement on the matter. [20801/04]

**Minister of State at the Department of Health and Children (Mr. Callely):** A number of the health boards have been working together with

the Irish Society for Autism to address various concerns, including those mentioned by the Deputy.

My Department has asked the chief executive officer of the South Western Area Health Board to reply directly to the Deputy on behalf of the various boards in relation to this matter.

#### **Nursing Home Subventions.**

251. **Mr. Stanton** asked the Minister for Health and Children the amounts granted by way of enhanced subvention by the respective health boards in 2002, 2003 and to date in 2004 to nursing homes and other such agencies; the number currently receiving enhanced subvention in each health board area; the number of claims for enhanced subvention being processed in each health board area; the length of time it takes for such claims to be processed; and if he will make a statement on the matter. [20826/04]

**Minister of State at the Department of Health and Children (Mr. Callely):** As the Deputy will be aware, the administration of the nursing home subvention scheme is a matter for the Eastern Regional Health Authority and the health boards in the first instance. My Department has therefore requested the chief executive officers of the authority and the boards to investigate the matters raised by the Deputy and reply direct to him as a matter of urgency.

#### **Regional Airports.**

252. **Dr. Cowley** asked the Minister for Transport if funding will be made available to Knock International Airport equivalent to that available to other Irish airports in view of the fact that it is now recognised and operating at international airport status and in view of the major importance of this airport to the entire BMW region; and if he will make a statement on the matter. [20589/04]

**Minister for Transport (Mr. Brennan):** The programme for Government provides for the continued support of the six regional airports and my Department provides a range of financial mechanisms in support of this objective.

Knock Airport benefits considerably through a range of direct and indirect support mechanisms, namely, capital grant assistance towards essential infrastructural improvements under the BMW regional operational programme of the NDP, the allocation of assistance towards marketing, safety and security related expenditure incurred by the airport and scheduled flights supported by the PSO programme.

Under the NDP capital measure, my Department has provided €2.337 million in grant aid towards essential infrastructural improvements at the airport since December 2001. The primary purpose of the NDP measure is to provide grant assistance to facilitate the continued safe and viable operations at the airport. A further round

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of projects under the measure is currently being considered for funding by my Department.

With regard to capital investment at the three State airports, I should point out that investment in infrastructure at Dublin, Shannon and Cork is funded by Aer Rianta from its own resources and financing arrangements. Non-recourse to the Exchequer will continue following the restructuring of Aer Rianta.

Scheduled air services linking Knock Airport with Dublin are subsidised through the public service obligation, PSO, programme. Aviation and passenger handling charges applied by Knock Airport for handling PSO flights represent a significant proportion of total operating income for the airport.

The airport also receives approximately €400,000 from my Department each year towards marketing, safety and security related expenditure.

I am aware that, under the guidance of the new management team, the airport has enjoyed some success in recent years and I am encouraged to see the growth in passenger numbers, particularly on new non-subsidised services to the UK.

In recognition of the role that the airport can play in stimulating more balanced economic development for the north west, my Department will continue to assist Knock Airport as it develops into the future. However, any financial assistance would have to be carefully evaluated in line with the general scale of operations at the airport and wider transport and aviation policy.

### **Public Transport.**

253. **Ms Shortall** asked the Minister for Transport the action he intends to take to avert the threatened industrial action by members of the NBRU following his recent decision to issue two new licences for private bus services in Dublin; and if he will make a statement on the matter.  
[20788/04]

**Minister for Transport (Mr. Brennan):** I set out my policy proposals for public transport reform in statements to the Public Transport Partnership Forum in November 2002 and the Oireachtas Committee on Transport in June 2003.

My objectives in proposing reform of the 70 year old legislation which regulates the public transport sector are: to use competition in the provision of bus services to stimulate better performance, improved efficiency and cost effectiveness; to ensure that the taxpayer and the public transport user get better value for money; and, to show clearly how funding for public transport is being spent to deliver service, and to establish a clear link between payments and performance.

The principal elements of my proposals are: the establishment of an independent procurement and regulatory authority for transport, on a national basis; and, the introduction of controlled competition into the bus market in the Dublin

area in the form of franchising as the primary means of procuring bus services.

I am firmly of the view that creating genuine opportunities for other bus companies to enter the bus market in Dublin is in the best interests of both the taxpayer and the customers of public transport. I am also firmly of the view that these opportunities can be created without adversely impacting on the pay and conditions of existing Dublin Bus employees.

Officials of my Department have held a number of meetings with the CIE unions since February this year. On 12 May my Department put detailed proposals on reform of the bus market in Dublin to the CIE unions. On 18 May the CIE unions presented a substantive response paper through the independent chair. This paper included proposals which would have significant implications for the industrial relations structure of the bus industry, and which in turn would have potentially significant ramifications for the wider economy and the general approach to industrial relations in this country. When the discussions resumed on 8 June, my officials gave an initial response to the union paper but advised the unions that, given the implications of these proposals, there was a need for detailed consultations with other Departments and for the issue to be discussed at Cabinet. Unfortunately, despite this need to consider the proposals more fully, the NBRU decided to ballot on industrial action.

I regret the recent announcement by the NBRU that it plans to go ahead with industrial action which will seriously inconvenience the travelling public, have negative impacts on business and tourism and damage the reputation of public transport as a viable alternative to private car commuting.

There is no need for this industrial action. The talks, under the skilled chairmanship of Kevin Foley, have been making progress. There has been real engagement in identifying and solving the core issues. I remain personally committed to the current talks process.

As regards the bus licensing issue, my Department issued two licences in early June to enable the provision of morning and evening services for workers in the Citywest Business Park. In processing the licence applications, my Department followed its normal procedure which included an assessment of the public interest as narrowly defined by the Road Transport Act 1932. During the course of its assessment my Department was advised by Citywest that Dublin Bus had first been requested to provide services into the business campus, but the company did not take up the request. The background to this licensing decision has been fully explained to the trade unions. I have repeatedly made it clear that the Road Transport Act 1932 no longer provides a satisfactory basis for regulating the bus market and that I plan to replace it as part of my regulatory reform programme. The sooner we find a basis in the talks process for moving forward in

the reform programme, the sooner the 1932 Act will be replaced.

254. **Mr. Naughten** asked the Minister for Transport his plans for bus competition; and if he will make a statement on the matter. [20822/04]

**Minister for Transport (Mr. Brennan):** I refer to my reply to Question No. 253.

*Question No. 255 answered with Question No. 61.*

#### **Departmental Funding.**

256. **Mr. Connolly** asked the Minister for Transport the extent to which upgrading the Aer Lingus fleet will be subsidised by his Department; and if he will make a statement on the matter. [20583/04]

**Minister for Transport (Mr. Brennan):** Last October, I approved a proposal from Aer Lingus to upgrade and standardise its European fleet. This will see the airline transition to a single short-fleet aircraft for its European operations with the acquisition of 17 Airbus A320 aircraft.

The new aircraft will be on stream by 2005, maintaining the short-haul fleet at 27 but with increased capacity and operational flexibility arising from the larger aircraft and lower unit costs. The overall transaction involves the sale of some existing aircraft. I should point out that this investment is being funded from internal resources within the company with no recourse to the Exchequer.

In addition, the company has commenced a review of its long-haul fleet which is expected to be completed by autumn 2004. It would be unwise for me to speculate on the outcome of that review at this stage. However, early indications are that the company will need access to equity to fund the investment.

#### **Road Safety.**

257. **Mr. Connolly** asked the Minister for Transport the rationale behind his decision to make the wearing of seat belts compulsory for taxi drivers; and if he will make a statement on the matter. [20584/04]

**Minister for Transport (Mr. Brennan):** Under the Road Traffic (Removal of Exemption from Wearing Seat Belts by Taxi Drivers) Regulations 2004, S.I. No. 402 of 2004, which have recently become law, the exemption which allows drivers of taxis, hackneys and limousines not to use seat belts has been removed.

The decision to remove the exemption was made on the advice of the advisory council to the commission for taxi regulation which has a wide ranging membership including taxi, hackney and limousine representatives.

Overwhelming evidence exists of the effectiveness of the wearing of seat belts in reducing the chance of injury or death in a motor vehicle collision. On this basis I consider that the wearing of

seat belts by the drivers of taxis, hackneys and limousines not only improves their own safety but that of their passengers.

258. **Mr. Connolly** asked the Minister for Transport his plans to address the inconsistencies evident in the application of standards required to pass and fail the NCT; and if he will make a statement on the matter. [20585/04]

**Minister of State at the Department of Transport (Dr. McDaid):** As required by EU law, testing of certain passenger cars has been mandatory in Ireland since January 2000. The National Car Testing Service Limited holds a ten year contract to carry out testing on behalf of the State. The company was awarded the contract following an international public tendering competition, which was conducted in accordance with EU procurement law.

The contract for the operation of the national car test, NCT, requires National Car Testing Service Limited, NCTS, to meet a range of performance standards for the service. These cover customer service, premises, test equipment, staff, test arrangements, facilities management and management information technology. The performance standards are designed to ensure test integrity and consistency across the testing network together with a high level of customer service. The contract provides for penalties, including financial penalties, and for the termination of the contract in certain circumstances for failure to carry out the service in accordance with the performance standards.

My Department monitors all aspects of the operation of the NCTS to ensure that it delivers the car testing service to the required standards. To assist the Department in this function a supervision services contractor, a consortium involving the Automobile Association and PricewaterhouseCoopers with engineering, financial, legal, IT and operational expertise, has been engaged and is working to an agreed programme for the Department. This programme includes detailed monthly operational audits of the company's performance; quarterly controlled checks to ensure that consistent test results are obtained across the NCTS test centre network; each month reviewing the performance of a sample of vehicle inspectors as they carry out tests; carrying out spot checks without any advance warning on a representative sample of cars that have just undergone the NCT; carrying out detailed interviews with a representative sample of customers to assess customer satisfaction levels; and a comprehensive annual review of the company's overall performance.

The test integrity measures are in place to ensure testing is carried out to the necessary standards across the network. As a consequence customers can be confident that there are no variations in the standards of the test no matter where it is conducted on the network. Because of these safeguards, test outcomes represent the actual condition of vehicles presented for test.

[Dr. McDaid.]

Results for 2003 show a pass rate of 52% for first tests and 90% on retest.

Since 2000 when car testing commenced the customer satisfaction rating for NCTS has at all times been above the contract standard and the satisfaction rating has improved year-on-year. The customer satisfaction rating was determined using proven and reliable scientific methods for such purposes and involved telephone interviews and structured interviews of representative samples of the customers. The high level of customer satisfaction is also borne out by the small number of complaints received by the company in relation to the service. In an operation involving 631,257 full tests and 303,320 retests in 2003 complaints arose in relation to 0.10% of the vehicles tested.

*Question No. 259 answered with Question No. 143.*

### **Pension Provisions.**

260. **Mr. P. Breen** asked the Minister for Transport if there is a shortfall in the funding of the Irish airlines pension; if there is also a shortage in the contributions in the Aer Rianta pension; the body which will fund the shortfall; the way in which staff in the Shannon and Cork authorities and retired staff in both Cork and Shannon will be affected; and if he will make a statement on the matter. [20706/04]

**Minister for Transport (Mr. Brennan):** The Irish Airlines General Employees Superannuation Scheme, IAS scheme, is a multi-employer pension scheme which provides pensions for, *inter alia*, most Aer Lingus and Aer Rianta employees. Aer Rianta's current and past employees comprise a minority of the membership of this scheme. The most recent actuarial valuation of the IAS scheme, March 2003, indicates, *inter alia*, that the fund is in surplus and that the actuary is able to provide the minimum funding standard certificate as required by the 1990 Pensions Act.

I should make it clear that pension entitlements for employees of commercial State bodies, including Aer Rianta and Aer Lingus, are matters primarily for the trustees, the members of the relevant scheme and the company or companies involved. The State has no involvement in the funding of these schemes.

In relation to the Irish airlines scheme, I understand that the employers, including Aer Rianta, have been meeting all of their liabilities towards the pension fund in accordance with the rules of the scheme.

The State Airports Bill 2004 which will give effect to the restructuring of Aer Rianta contains general provisions in relation to pensions and enables the new Cork and Shannon Airport authorities either to adhere to the current IAS pension scheme or establish a new scheme, subject to ministerial consent. This will enable each of the new airport authorities to join the existing pen-

sion scheme or, if they wish, to prepare a scheme for the granting of superannuation benefits to or in respect of employees of those authorities. In the latter case, each authority can establish schemes for its own employees or establish schemes in conjunction with the other airport authorities.

### **Parking Regulations.**

261. **Mr. Eamon Ryan** asked the Minister for Transport the regulations available to county councils to restrict the parking of HGVs in residential areas; the number of local authorities that have such restrictions in place; and if his Department has issued guidance to local authorities on the matter. [20708/04]

**Minister for Transport (Mr. Brennan):** The Road (Traffic and Parking) Regulations 1997 give local authorities the power to apply a range of parking controls on vehicles, including the imposition of a prohibition on the parking of large vehicles. Article 38 of these regulations provides that where the appropriate traffic sign is provided at the entrance to a road or an area, a vehicle whose unladen weight exceeds the weight specified on the information plate that accompanied the sign, is prohibited from being parked in that area. At the end of the prohibition on such parking in an area a traffic sign accompanied by an information plate containing a symbol of a large vehicle and the word END-CRÍOCH is provided. The restriction on such parking does not apply where it is necessary to park the large vehicle while goods are being loaded in or on to it or unloaded from it for a period not exceeding 30 minutes from the commencement of the parking.

The application of prohibitions provided for in article 38 and the determination of the weight-based threshold is a matter for each local authority and my Department does not compile statistics in relation to the exercise of such functions. General guidance notes for local authorities in relation to the Road (Traffic and Parking) Regulations 1997 were issued in May 1997.

### **Light Rail Project.**

262. **Mr. Eamon Ryan** asked the Minister for Transport when the redevelopment of the old Harcourt Street rail line station will occur with particular reference to the inclusion of a disabled access lift to facilitate direct access from the Luas stop to Waldmare Terrace and Dundrum village; his views on whether the provision of such a facility and such a redevelopment was included in the line B light rail order as part of an urban design framework plan from Dundrum village; the funding that will be available for such works; and when it will be carried out. [20709/04]

**Minister for Transport (Mr. Brennan):** I understand from the Railway Procurement Agency, RPA, that the redevelopment of the old Harcourt Street Line station building at Dundrum will form part of the redevelopment of residual space

created as a result of the property acquisitions for the construction of Luas and the new suspension bridge. Such development was not included in the light rail order for the line. The RPA, in conjunction with Dún Laoghaire Rathdown County Council, DLRCC, and Dublin Bus have prepared an outline brief for the development which features a new bus interchange facility and improved access to Dundrum village by lift for disabled persons.

The programme for the redevelopment of the site, including its funding, has not yet been finalised but the RPA have assured me that the redevelopment of the site is a key objective for the RPA and DLRCC and that it is being treated as high priority.

In the meantime, the Deputy may wish to note that there is access for disabled persons to Dundrum Luas stop from Taney Drive.

### Public Transport.

263. **Mr. Eamon Ryan** asked the Minister for Transport if the motorway bus route between Dundalk, Drogheda and Dublin has been awarded to a private bus operator and Bus Éireann were not given the necessary permissions to compete on the route but instead are confined to serving the old route and its attendant villages; his views on whether this means that Bus Éireann are left with the high cost route while being deprived of the chance to recoup that cost on the potentially profitable motorway route; if this is the case, the rationale behind the move; and the reason Bus Éireann cannot compete with the private operator on the motorway route. [20710/04]

**Minister for Transport (Mr. Brennan):** I can confirm that my Department awarded an annual passenger licence on 28 April 2004 to a private operator under the Road Transport Act 1932 to provide express bus services between Dundalk, Drogheda and Dublin via the M1 motorway.

My Department is required under section 11(3)(a) of the 1932 Act to apply a public interest test to applications for licences. It must consider whether the service proposed is in the public interest having regard to the passenger road services and other forms of passenger transport available to the public on or in the neighbourhood of the route of the proposed service.

My Department concluded following a thorough examination, that it was in the public interest to grant the application. The critical considerations which led to this decision were: the large scale residential and other developments along this route over the past five years; the consequential growth in the level of commuter traffic; the absence of an express bus service from the main population centres involved; the significant overcrowding at peak commuter times observed on Iarnród Éireann services, particularly from Drogheda; the deferral of the introduction of additional bus services between Drogheda and Dublin by Bus Éireann which

were authorised by my Department on 21 October, 2003; and, the absence of any other prior proposal for an express service.

It is not correct that Bus Éireann were not given the necessary permissions to compete on the route. The company submitted a proposal to my Department for an express service along the M motorway between Dundalk and Dublin on 1 March, 2004, namely five months after the private operator submitted his application.

On 29 April 2004, the day after a licence was awarded to the private operator, my Department, in accordance with its first come, first served policy, sanctioned the introduction of approximately half the services proposed by Bus Éireann along the M1 motorway. The remaining services were judged to be in direct competition with the private licensed operator. Section 25 of the Transport Act 1958 precludes the CIE companies from initiating or altering road passenger services so as to compete with a service licensed under the 1932 Act. Bus Éireann were therefore advised that it was open to them to seek my consent under section 25 so as to compete with the private operator at the times in question.

An application from Bus Éireann under section 25 was duly received by my Department on 29 June, 2004 and this application is under active consideration.

My Department operates due process and fair procedure in the administration of the bus licensing and authorisation system. Bus Éireann has the same opportunity as private operators to propose the introduction of additional or new services to meet growing customer demand from commuters into Dublin. In this particular case, a private operator identified the need for a service which would utilise the new M1 motorway and was first to apply to my Department with a proposal to operate a service. The operator was duly awarded a licence following due consideration by my Department.

*Question No. 264 answered with Question No. 43.*

### Road Traffic Offences.

265. **Cecilia Keaveney** asked the Minister for Transport if his attention has been drawn to the Stingray system which is operated in Northern Ireland to catch persons who drive without tax since January 2002; his views on whether an opportunity exists to introduce a similar system into this jurisdiction which, using the same concept, could target insurance; and if he will make a statement on the matter. [20722/04]

**Minister for Transport (Mr. Brennan):** Detection of non-insured drivers is an operational matter for the Garda Síochána. I have no detailed information on the operation or effectiveness of the Stingray system in operation in Northern Ireland. Display of a motor insurance disc on specified vehicles has been provided for in S.I. No. 355 of 1984, Road Traffic (Insurance Disc)

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Regulations, 1984, and S.I. No. 227 of 1986, Road Traffic (Insurance Disc) (Amendment) Regulations, 1986.

### Decentralisation Programme.

266. **Mr. Kenny** asked the Minister for Transport the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if he will make a statement on the matter. [20764/04]

**Minister for Transport (Mr. Brennan):** The Public Enterprise (Alteration of Name of Department and Title of Minister) Order 2002, which came into operation on 19 June 2002, altered the name of the Department of Public Enterprise to the Department of Transport. No decentralisation process has taken place in the former Department of Public Enterprise or in the Department of Transport since its establishment in June 2002.

### Driving Tests.

267. **Mr. Durkan** asked the Minister for Transport if he considers it satisfactory that driving test examiners have full and final control in respect of the passing of an applicant for a test; if he proposes to introduce any degree of transparency into driver test exams; and if he will make a statement on the matter. [20768/04]

**Minister for Transport (Mr. Brennan):** Driver testers are trained to carry out an assessment of

the driving competence of candidates attending for a driving test. The work of each tester is monitored on an ongoing basis by his or her supervisor.

Under Section 33 of the Road Traffic Act 1961, a person aggrieved by the decision of a driver tester may appeal the decision to the District Court. If the court finds that the test was not properly conducted, my Department may be directed to arrange a further test, free of charge, for the person concerned. In addition, my Department has a complaints procedure in place which candidates can avail of. Details of the procedure are outlined in the customer complaints procedure leaflet, available at test centres and on the driving test website at [www.drivingtest.ie](http://www.drivingtest.ie). All complaints received in my Department are examined and necessary action taken as appropriate.

268. **Mr. Deasy** asked the Minister for Transport the improvements which have been made to delays in driver testing at both the Waterford driving test centre at which the average waiting time in February 2004 was 38 weeks and at Dungarvan driving test centre at which the average waiting time was 46 weeks; and if he will make a statement on the matter. [20799/04]

**Minister for Transport (Mr. Brennan):** The following table sets out the numbers waiting together with the average and longest waiting times at the Waterford and Dungarvan test centres during the specified period. An extra tester has been assigned to the south east region and he undertakes tests at both the Waterford and Dungarvan test centres. Numbers waiting at both centres have fallen and I expect this trend to continue for the rest of this year.

Waiting Times and Number waiting

Date	Numbers Waiting		Weeks Waiting			
	Waterford	Dungarvan	Average*		Longest	
			Waterford	Dungarvan	Waterford	Dungarvan
2 February 2004	3,533	1,744	38	46	57	57
5 July 2004	3,423	1,617	51	43	51	47

\* The average waiting time is derived having regard to waiting times experienced by individual applicants who have undergone a driving test over the previous four week period in the test centre.

*Questions Nos. 269 to 272, inclusive, answered with Question No. 43.*

*Questions Nos. 273 and 274 answered with Question No. 143.*

### Road Network.

275. **Mr. Durkan** asked the Minister for Transport the degree to which the road development programme outlined in the national development plan is to date in line with time and cost projections; and if he will make a statement on the matter. [20842/04]

**Minister for Transport (Mr. Brennan):** The planning, design and implementation of national road improvement projects, including the outturn costs of individual road projects, is a matter for the National Roads Authority and the local authorities concerned. The NDP mid-term target of 30% completion of the major inter-urban routes by the end of 2003 was largely met with 29% of the programme completed on schedule. In relation to the national roads programme overall, it should be noted that since 2000 a total of 41 projects, over 277 kms, have been completed. Work is in progress on 18 projects, 199 kms, and another 12 projects, 88 kms, are at tender stage.

The estimated cost of delivering the programme was €16.4 million at end 2003 prices.

I understand from the NRA that the current position in relation to the upgrading of the five major inter-urban routes to motorway-high quality dual carriageway standard is that the M1 is expected to be fully complete by end 2006. Work is underway on major projects on the N7 — Monasterevin by-pass, which is expected to be opened later this year, on the N8 — Cashel by-pass and the Fermoy by-pass on the N4-N6 — Kilcock-Kinnegad, and the N1 Dundalk Western by-pass. Work is expected to start this year on Dundalk to Newry on the M1, the Waterford city by-pass and the Naas Road widening. Completion of these projects will eliminate many of the major bottlenecks on these routes.

In addition, it is expected that compulsory purchase orders and environmental impact statements for the remaining projects in planning on these routes will either be approved by, or be before, An Bord Pleanála by end 2004.

276. **Mr. Durkan** asked the Minister for Transport the steps he proposes to take to prevent a recurrence of the Carrickmines issue whereby road works or other developments are routed in the vicinity of or through national monuments with resultant environmental damage and cost implications; and if he will make a statement on the matter. [20843/04]

**Minister for Transport (Mr. Brennan):** As part of the planning and design of individual national road improvement projects the National Roads Authority and local authorities seek, in accordance with NRA project management guidelines, to identify from the earliest stages of project planning all potential environmental impacts including impacts on heritage sites or buildings. As part of this process there is extensive consultation with environmental and heritage authorities and interests in order to avoid or reduce negative impacts. Major projects are also subject to comprehensive environmental impact assessment in accordance with the Roads Act 1993, which requires environmental impact statements on major road projects to be submitted to An Bord Pleanála for approval.

The National Monuments (Amendment) Act 2004, prepared by the Department of Environment, Heritage and Local Government, currently on Committee Stage in the Seanad, seeks to update the legislation on our national heritage and provide more streamlined procedures for resolving archaeological issues arising in the case of major infrastructure projects, including national road improvement projects.

I understand from the NRA that a total of 13 project archaeologists and five assistant archaeologists are on contract, overseen by an archaeologist and assistant archaeologist on its headquarters staff, who manage the archaeological aspects of road scheme, planning and construction. This expertise and the expenditure of signifi-

cant resources from the national roads grant allocation seek to minimise direct impacts on archaeology to the extent feasible, and, where impacts are unavoidable, to resolve archaeological sites and features in accordance with best practice.

277. **Mr. Durkan** asked the Minister for Transport if the NRA or other authorities will use state-of-the-art technology in order to determine the precise location of historic monuments, earthworks or settlements with a view to ensuring the elimination of costly delays and the protection of the environment; and if he will make a statement on the matter. [20844/04]

**Minister for Transport (Mr. Brennan):** The planning, design and implementation of national road improvement projects, including investigation of identified archaeological sites discovered during the projects, is a matter for the National Roads Authority, NRA, and the local authority concerned.

I understand from the NRA that its work in this area is managed to the highest recognised standards and that, where appropriate, the use of state-of-the-art technology, including both geophysical studies and aerial studies, are carried out on projects across the network as part of the planning programme.

#### Rail Service.

278. **Mr. Durkan** asked the Minister for Transport the daily capacity of the rail commuter service from Monasterevin to Dublin via Kildare, Newbridge, Sallins and Hazelhatch; the extent to which it is envisaged that the capacity can be increased in the near future; and if he will make a statement on the matter. [20845/04]

**Minister for Transport (Mr. Brennan):** The issues of timetabling and allocation of rolling stock is a day to day operational matter for Irish Rail. However, Irish Rail has informed me that Monasterevin has three commuter morning services each day to Dublin at 0704, 0735, and 0800 with seating accommodation for approximately 800 passengers on each train. Return services to Monasterevin from Dublin in the evening are at 1735 and 1800 with seating accommodation for approximately 700 passengers on each train.

Irish Rail will shortly announce planning for the 2005 timetable and part of that process will be to review all commuter services to and from Dublin and implement any changes necessary. A further 36 diesel rail cars, identical to the 80 already in service since earlier this year, will be delivered in 2005. Some of these railcars will be used to provide further additional capacity on the Kildare route.

279. **Mr. Durkan** asked the Minister for Transport the daily capacity of the commuter rail service from Enfield to Dublin via Kilcock, Maynooth, Leixlip and Confey; the extent to which it is intended to increase these levels in the near



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future; and if he will make a statement on the matter. [20846/04]

**Minister for Transport (Mr. Brennan):** The scheduling and allocation of rail services is strictly

an operational matter for Irish Rail to consider. However Irish Rail have informed me that the following services operate from Enfield:

Departing Enfield	Service	Origin	Capacity
07.19	Mondays Only	Longford	900
07.31	Tues — Friday	Longford	900
08.00	Mon — Friday	Longford	900
11.50	Mon — Friday	Enfield	600
13.13	Mon — Friday	Longford	600
14.15	Mon — Friday	Longford	600

The company also stated that platform extension work currently being undertaken at Enfield will enable longer trains with a capacity of 1,200 seats to operate on Longford services, which will call at the station from September 2004.

Any other service increases specifically for Enfield will be considered as more rolling stock becomes available and as part of the annual timetable review. In this regard, an additional 36 diesel railcars will be delivered to Irish Rail next year.

#### Road Network.

280. **Mr. Durkan** asked the Minister for Transport when he expects the Dublin Port Tunnel to be ready for use; the way in which it is intended to use this as a means to alleviate traffic congestion in Dublin city and its environs; and if he will make a statement on the matter. [20847/04]

**Minister for Transport (Mr. Brennan):** I understand from the National Roads Authority and Dublin City Council that the Dublin Port tunnel is expected to be completed in the third quarter of 2005 and will significantly improve access to Dublin Port, in addition to providing relief to the city centre, environmental and safety benefits and relief from congestion for freight distributors and other port related traffic.

Traffic management in the city centre and in the vicinity of Dublin Port is a matter for Dublin City Council. In parallel with the opening to traffic of the Dublin Port Tunnel, Dublin City Council will be introducing a heavy goods vehicle traffic management strategy to ensure that maximum traffic benefits are secured from the Dublin Port Tunnel. This plan will have three objectives, namely, to ensure the optimal use by HGVs of the port tunnel, to minimise adverse effects of remaining HGV movements in the city and to manage the movement of vehicles not within permitted dimensions, e.g. through permit systems.

Dublin City Council has published a report on HGV management as a basis for a widespread public consultation exercise. The public consultation period is now concluded and the responses

received are being evaluated within Dublin City Council. The HGV management strategy, revised to take account of submissions received, will be published in the autumn.

#### Public Transport.

281. **Mr. Durkan** asked the Minister for Transport the position in relation to a metro for Dublin and the greater Dublin area; and if he will make a statement on the matter. [20848/04]

**Minister for Transport (Mr. Brennan):** The programme for Government contains a commitment to develop a metro with a link to Dublin Airport. I have received the revised outline business case for line 1 of the metro from the Railway Procurement Agency, RPA, which involves a line from the airport to the city centre. The total estimated direct capital cost of construction in 2002 prices is €1.2 billion. This is before allowing for risk, contingency, VAT and inflation.

The timescale, precise cost and route, number and location of stations and arrangements for connections with other elements of public transport will depend on a number of factors, including the Government decision, geo-technical surveys, negotiations with bidders and railway order process, including the public inquiry. In preparing a submission for Government on this matter, the merits of all alternative solutions and routes will be considered.

I expect the Government to consider proposals on the metro in the near future. In advance of the Government considering proposals, it would not be appropriate for me to comment on the matters raised in any more detail.

*Questions Nos. 282 to 286, inclusive, answered with Question No. 73.*

#### Closed Circuit Television Systems.

287. **Mr. S. Power** asked the Minister for Justice, Equality and Law Reform the moneys that have been provided by his Department for the purchase of closed circuit television; if he has satisfied himself that the use of such technology is very helpful in the fight against crime; if it is

his intention to provide extra resources for the purchase of more equipment; and if he will make a statement on the matter. [20643/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** A total of €4.881 million, including VAT, has been spent since 1997 on the supply, installation and commissioning of CCTV systems in the following areas: Dublin North Central; Dublin South Central; Tralee, Cork City, Bray, Dundalk, Dún Laoghaire, Finglas, Galway and Limerick. Provision has been made in the Garda Vote for 2004 for expenditure of up to €4.494 million on CCTV systems. This provision will cover existing financial commitments for the CCTV systems in Cork city, Bray, Dundalk, Dún Laoghaire, Finglas, Galway and Limerick. Work is underway in restructuring the tender process for the next phase of Garda CCTV schemes in Athlone, Clondalkin, Tallaght and Waterford.

The value of Garda CCTV systems is principally as an aid to existing Garda resources. CCTV systems must, therefore, be viewed in the context of overall policing operations and carefully planned and integrated into Garda operational procedures. They are not, nor are they intended to be, a replacement for gardaí on patrol. The Garda Síochána is strongly of the view that CCTV has a significant role to play in detecting crime and that it is also an important factor in crime prevention, through the fear of being caught on camera. The siting and visibility of CCTV cameras can act as an overt deterrent to criminals. The systems have also been of proven assistance to gardaí in the identification of suspects, in facilitating a more efficient use of Garda resources and the better management of incidents. Anecdotally, experience both here and in other jurisdictions with CCTV as a crime prevention and detection aid has been very positive.

To date, the Irish experience is that CCTV systems have been greatly welcomed by local communities in that they help to create a safer environment in which people can go about their daily business in the knowledge that persons are less likely to commit offences in the presence of the cameras. There is still a huge demand from communities all around the country for CCTV. The Garda Research Unit carried out an internal evaluation of CCTV systems in Dublin and Tralee in 1999. While the evaluation identified potential benefits of CCTV, such as reduced crime and disorder, increased detections, improved public feelings of safety, more effective deployment of police resources and improved court processing — guilty pleas — the evidence was not conclusive. This was mainly due to methodological difficulties such as data limitations and difficulty in isolating CCTV effects from other influences.

The Garda research unit is currently evaluating CCTV in three locations — Dundalk, Dún Laoghaire and Galway-Salthill. The main focus of the evaluation is on crime and detection levels before and after camera installation. Crime and detection levels are also being examined in two

control areas — Drogheda and Blackrock — to assess general trends and possible crime displacement. The CCTV systems were installed in Dundalk and Dún Laoghaire at the end of 2003 and early 2004. Research findings will not be available for some time, since the evaluation involves comparison of data for 12 month periods before and after camera installation.

The Garda annual policing plan 2003 provided for an assessment of the proactive use of CCTV systems as a means of gathering criminal intelligence. The Garda annual policing plan 2004 has also committed the research unit to carrying out a review of the cost and benefit of extending the CCTV system to all urban areas with over 7,000 people. Both projects are expected to be completed later this year.

#### Drugs in Prison.

288. **Mr. S. Power** asked the Minister for Justice, Equality and Law Reform the plans he has to reduce the use of drugs by inmates in prisons. [20644/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** No level of illegal drug consumption in a prison setting is acceptable to me or to the prison authorities. It is my intention and that of the Irish Prison Service, in line with the commitments in the programme for Government, to take all necessary measures to eliminate drug misuse among prisoners. This is being pursued by way of measures to reduce both the supply and demand for illicit drugs in the prisoner population. In particular, the programme for Government commits me to creating a drug free prison service, with mandatory drug testing of prisoners. A new set of prison rules, which will make provision for such testing, is at an advanced stage of drafting in the Office of the Parliamentary Counsel. Mandatory drug testing can play an important role in the overall strategy for tackling the scourge of heroin use among prisoners. In the meantime, a number of measures are being implemented to curtail the supply of drugs into prisons, including video surveillance, improved visiting-searching facilities and increased vigilance by staff. Netting has been installed over the recreation yards in a number of our closed prisons, to prevent contraband material, such as drugs, being propelled over exterior walls. Future prison designs will seek to locate recreation yards away from perimeter walls as part of further efforts to frustrate the supply of illegal drugs.

Other measures to counter the supply of drugs in prisons include screened visits in Cloverhill and the Midlands Prisons and new visiting arrangements at Mountjoy Prison. Each prisoner at Mountjoy Prison is now required to supply to prison authorities a list of up to six persons who they wish to visit them. Only persons on this list who have been approved by the governor are permitted to visit. In addition, each visitor, prior to being allowed to enter the prison, is now required

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to present photo identification confirming their identity.

Measures to reduce the demand for drugs within the prison system include education, treatment and rehabilitation of drug addicted offenders. These programmes and interventions are delivered on an individual and co-ordinated basis by the psychology service, Probation and Welfare Service, prison education service and prison officers. Particular initiatives put in place include drug free areas, drug misuse awareness programmes, support programmes and appropriate health interventions, substitution therapies, vaccination programmes and treatment for viral illnesses. In addition, the Irish Prison Service provides prisoners with a range of opportunities to encourage them to aspire to a substance free lifestyle, before and after release, thereby reducing demand for illicit substances.

I am currently considering proposals for a new prison drugs policy and examining whether it would be effective in ridding our prisons of drugs. It is my intention to publish the new policy in due course.

#### **Ground Rents Abolition.**

289. **Mr. Penrose** asked the Minister for Justice, Equality and Law Reform the status of the Government commitment in relation to ground rents; and if he will make a statement on the matter. [20645/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The position is that the Government legislation programme, which was published on 26 April 2004, makes provision for a Bill to abolish ground rents.

As I have stated previously in relation to this matter, publication of the Bill is subject to the resolution of possible constitutional and practical difficulties. The constitutional difficulties are related to the respective rights of ground rent tenants and landlords, while the practical difficulties concern land law generally and more particularly the land registration system.

#### **Asylum Applications.**

290. **Ms Enright** asked the Minister for Justice, Equality and Law Reform further to Parliamentary Question No. 182 of 3 June 2004 if he will now consider the appeal of a person (details supplied) to remain here with their family; and if he will make a statement on the matter. [20646/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The person concerned was informed on 23 June 2004, in accordance with section 3 of the Immigration Act 1999, as amended, that it was proposed to make a deportation order in his case. He was given the options of making representations within 15 working days to the Minister for Justice, Equality and Law Reform setting out reasons why he should be

allowed to remain in the State, to voluntarily leave the State or to consent to the making of a deportation order. To date, it does not appear that the person in question has made any representations in this regard, although he may do so before 15 July 2004.

#### **Garda Stations.**

291. **Mr. Neville** asked the Minister for Justice, Equality and Law Reform when a new Garda barracks will be constructed at Kilfinane, County Limerick. [20647/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Kilfinane is one of eight Garda stations in Counties Limerick and Tipperary selected by the Office of Public Works, in consultation with my Department, for inclusion in the pilot equity exchange programme. The aim of this programme is to replace the stations in question with better facilities which satisfy OPW specifications and modern Garda requirements.

#### **Registration of Title.**

292. **Mr. Noonan** asked the Minister for Justice, Equality and Law Reform the status regarding transfer of property (details supplied) in County Limerick; if the matter will be finalised; and if he will make a statement on the matter. [20648/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Registrar of Titles that this is an application for a transfer of part which was lodged on 9 October 2003. Dealing number D2003PS00523IR refers.

I am further informed that the application was completed on 19 April 2004.

#### **Visa Applications.**

293. **Mr. O'Dowd** asked the Minister for Justice, Equality and Law Reform if visas will be issued to persons (details supplied). [20650/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I can confirm that the visa in question was approved by my Department on 1 July 2004.

#### **Liquor Licensing Laws.**

294. **Cecilia Keaveney** asked the Minister for Justice, Equality and Law Reform the communications he has had with the Department of Health and Children to date regarding the problem of underage drinking throughout both rural and urban areas; and if he will make a statement on the matter. [20744/04]

296. **Cecilia Keaveney** asked the Minister for Justice, Equality and Law Reform the plans he has to work with the Department of Health and Children and the Department of Arts, Sport and Tourism to develop a joint initiative in relation to an advertising campaign or a co-ordinator of legislation in relation to the issue of under age drinking, particularly in view of the recent

announcement by GAA task force; and if he will make a statement on the matter. [20752/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 294 and 296 together.

I had consultations with the Minister for Health and Children during the preparation of proposals to reform the licensing laws, particularly those relating to under-age consumption of alcohol. Such consultations took place, for example, during the preparation and drafting of the Intoxicating Liquor Act 2003 which contains measures aimed at combating the problem of underage drinking.

The provisions in the 2003 Act, which give effect to recommendations of the Commission on Liquor Licensing and the Strategic Task Force on Alcohol, include a strengthening of the provisions prohibiting the sale or delivery of alcohol to persons under the age of 18, restrictions on the presence of persons under the age of 18 in bars of licensed premises and a new requirement that persons aged 18 to 20 must carry an age document in order to be in the bar of licensed premises after 9 p.m.

In the course of drafting a Bill to codify the licensing Acts, I shall continue to consult with other Ministers in line with Government policy in this area and take into account the views of interested bodies, including the GAA.

#### **Garda Stations.**

295. **Cecilia Keaveney** asked the Minister for Justice, Equality and Law Reform the number of Garda stations in County Donegal which have each of the basic resources (details supplied) supplied by the State; and if he will make a statement on the matter. [20745/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities responsible for the allocation of such resources that the issue of IT equipment to Garda stations in Donegal is ongoing and in line with current policies regarding the issue of such equipment. The current status in relation to County Donegal is as follows:

Non Pulse Equipment:

- 61 Computers
- 10 Laptops
- 36 Printers
- 3 Scanners

Pulse Equipment:

- 44 Computers
- 15 Printers
- 6 Servers

The equipment mentioned is located at the following Garda stations: Letterkenny, Newtowncunningham, Buncrana, Milford, Glenties, Ballyshannon, Lifford, Raphoe, Burnfoot, Falcarragh, Carndonagh, Bundoran, Killybegs, Bunbeg, Moville and Donegal.

I am informed by the Garda authorities that the purchase of computer hardware in the current year will allow for the issue of additional equipment. The allocation of all computer equipment within a division is at the discretion of the divisional officer. The current situation in the Donegal division is that there are now 34 fax machines issued to 27 stations and 29 photocopiers issued to 17 stations.

*Question No. 296 answered with Question No. 294.*

#### **Garda Deployment.**

297. **Cecilia Keaveney** asked the Minister for Justice, Equality and Law Reform when two gardai will be replaced (details supplied) in County Donegal; and if he will make a statement on the matter. [20756/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities which are responsible for the detailed allocation of resources, including personnel, that local Garda management in Donegal division is currently in the process of selecting suitable candidates for allocation to Moville Garda station.

#### **Decentralisation Programme.**

298. **Mr. Kenny** asked the Minister for Justice, Equality and Law Reform the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if he will make a statement on the matter. [20765/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** One division and two agencies of my Department have previously decentralised. Details of these decentralisations are contained in the tabular statement below.

Name of Organisation/Office	Legal Aid Board	Land Registry	Finance Division
No. of post decentralised	39	140	100
% of staff transferred on promotion	17.95%	N/A	N/A
% of staff transferred at current grade	50%	N/A	N/A

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In the case of the Legal Aid Board, the final 32.05% of staff were recruited by the Civil Service Commission.

The information requested by the Deputy in relation to the percentage of staff who transferred on promotion in their current grade in respect of staff who decentralised in both the Department's Finance division and in the Land Registry is not readily available and would take an inordinate amount of time to compile. I refer the Deputy to the information contained in my answers to Parliamentary Questions Nos. 533 of 16 December 2003, 466 to 468 of 24 February 2004 and 358 to 360 of 29 June 2004.

### EU Presidency.

299. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform if he will provide an estimate and subsequent preliminary figures, detailing the breakdown of expenditure relating to the amount provided in the 2004 estimates in respect of the EU Presidency in 2004; and if he will make a statement on the matter. [20776/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The budget provision in the Vote for the Office of the Minister for Justice, Equality and Law Reform for the Irish Presidency, Vote 19, is €4.1 million. Expenditure to date for the management and operation of the business of the Irish Presidency, including pay and other costs associated with meetings during the six month period from January to June 2004, is €2.4 million. This is in line with planned expenditure. It is not possible at this stage to give a detailed breakdown of the overall costs of the Irish Presidency in respect of Vote 19 as the maintenance of accounts is ongoing.

An additional €12.473 million was made available in the Garda Vote to take account of the increased policing and security workload associated with our hosting of the EU Presidency this year. Complete costs in relation to the involvement of the Garda Síochána in EU Presidency-related duties are not available at present. When all expenditure returns have been received and collated, a full costing of the operation will be made.

### Disability Support Service.

300. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform if progress has been made towards meeting the demands of the Centre for Independent Living 2003 Dáil Éireann campaign for appropriate funding levels for a countrywide programme on personal assistance services, rights based legislation on disability, a reduction in the number of persons with disabilities being forced into residential settings, increased awareness of the needs and rights of persons with disabilities and ring fencing 5% of disability proofing funding to provide services for

persons with disabilities in developing countries. [20785/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** My Department has responsibility for disability equality policy and legislation and has been active in promoting disability awareness. The policy of mainstreaming services for people with disabilities was introduced in June 2000. As a result, responsibility for the provision of services for people with disabilities rests with the mainstream body responsible for providing the service generally. Elements of this question relating to specific services are outside the remit of my Department and should be referred to the relevant Minister with overall responsibility for the service in question.

In relation to legislation, the Government intends, as promised in the Agreed Programme for Government, to bring forward a disability Bill which includes provisions for rights of assessment, appeals, provision and enforcement. The Bill is being finalised and will be published as soon as the Government has completed its work.

In the last number of years, in co-operation with the European Commission, my Department organised the Irish national information day on disability. Each year, a particular theme is chosen for the day. Themes to date have included: Progress Through Partnership — 24 November 1997; Progress Through Employment — 30 November 1998; Building a Future Together — 29 November 1999; Information Technology — Access for All — 27 November 2000. This took place simultaneously in three locations — Dublin, Sligo and Ennis; Design for All — 22 October 2001; “Do they take sugar?” — a television programme, aired on Network 2 on 3 December 2002 at 9 p.m.

In 2003, my Department chose to focus the national information day on the public sector. More than 200,000 brochures were distributed to public sector employees to inform and raise awareness of disability issues.

The year 2003 was European Year of People with Disabilities. Ireland and our EU partners worked together to create awareness about disability issues among the population at large and, more important, to promote awareness of the right of people with disabilities to equal opportunities and protection against discrimination. My Department designated the National Disability Authority, NDA, as the national co-ordinating body. The NDA chaired the national co-ordinating committee which co-ordinated events for the year in Ireland. The members of the committee represented disability organisations, the social partners, Departments and the media. My Department was represented on the committee which focused on four particular themes for the year — awareness raising; youth and disability; rights, partnership and responsibilities; and employment. The committee supported a wide ranging programme of projects nation-wide to highlight the aims of the year.

My Department funded other initiatives and events to publicise the year, including the Youth — Beyond Disability seminars, organised by People with Disabilities in Ireland; a calendar, in conjunction with PwDI; and the Design for All exhibition in partnership with the Office of Public Works. My Department continues to be active in promoting disability awareness. A television programme title “Three 60” is currently airing on RTE television on Monday evenings at 7.30 p. m. which has been supported by funding from my Department.

### Juvenile Offenders.

301. **Mr. Gregory** asked the Minister for Justice, Equality and Law Reform the number of persons aged 16 years or under who have multiple charges but are not in custodial care pending further court appearances, specifically in the district covered by Store Street Garda station, Dublin 1; if there is a strategy in place to deal with this small number of offenders who are repeatedly involved in crime in the Dublin 1 area; his views on whether after being charged on at least three separate occasions, they should be held in custody; and if he will make a statement on the matter. [20830/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities that a total of seven juveniles have been identified in the Store Street area as having multiple charges who are not in custody pending further court appearances.

On the question of whether a person charged with a number of offences should be held in custody, I draw the Deputy’s attention to the fact that the decision to grant or refuse bail, or to hold a person in custody, in any particular case is a matter for the courts which are, subject only to the Constitution and the law, independent in the exercise of their judicial functions.

The Garda authorities have informed me that in 2003 an arrest referral scheme was piloted in the north central division, which includes Store Street. The scheme targets young people at risk and emphasises early intervention to refer young people to the appropriate services. I understand from the Garda authorities that the policy of the Garda Síochána when dealing with juveniles who offend is to consider the offender for inclusion in the Garda juvenile diversion programme. The programme provides that in certain circumstances, a juvenile under 18 years of age who freely accepts responsibility for a criminal incident may be cautioned as an alternative to prosecution. The Children Act 2001 placed this programme on a statutory footing and the relevant sections of the Act were commenced in May 2002.

The programme has proven to be highly successful in diverting young people away from crime by offering guidance and support to juveniles and their families. In more serious cases, juveniles are placed under the supervision of Garda

juvenile liaison officers, who are specially trained members of the Garda Síochána responsible for administering the programme at the local level. I am further informed that in 2003 the Garda national juvenile office received 19,915 referrals under the programme for 17,050 individual offenders. The Deputy should note that these figures are provisional and are subject to a validation process. The programme is delivered throughout the country by 85 garda and eight sergeant juvenile liaison officers who are employed full time working with juvenile offenders.

Part 4 of the Children Act 2001 introduced the concepts of restorative justice, specifically restorative cautioning and restorative conferencing, to the juvenile diversion programme. The restorative justice programme supports the victim by providing an opportunity in certain circumstances to attend a caution of the juvenile offender. The victim may take the opportunity to explain the harm done to him or her and receive an apology. Essentially, the provisions of the Children Act provide for the inclusion, where appropriate and possible, of the victim, the juvenile’s family and the wider stakeholding community in the process of diversion.

To facilitate these innovative developments, most of the Garda juvenile liaison officers have now received training in mediation skills, with advanced training being provided to selected officers. Since the commencement of the relevant part of the Children Act in May 2002 and up to the end of December 2003, 135 restorative cautions and 12 restorative conferences have been held. Early assessments indicate a very high level of satisfaction from all those involved in the process.

Ongoing evaluation of restorative justice practice is being carried out by the Garda research unit. It is intended that as Garda juvenile liaison officers become more skilled in administering restorative justice, they will be able to focus on the more complex and high-risk offenders, with a view to further reducing the incidence of recidivism. To ensure the effective operation of the Garda juvenile diversion programme in accordance with section 44 of the Act, a committee to monitor the effectiveness of the programme, review all aspects of its operation and monitor the ongoing training needs of facilitators involved in restorative conferencing was established in June 2003.

In addition to the Garda juvenile diversion programme, there are 64 Garda youth diversion projects. These projects are a community-based, multi-agency crime prevention initiative which seeks to divert young persons from becoming involved — or further involved — in anti-social or criminal behaviour by providing suitable activities to facilitate personal development, promote civic responsibility and improve long-term employability prospects. By doing so, the projects also contribute to improving the quality of life within communities and enhancing Garda-com-

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 munity relations. As the Deputy may be aware, recent years have seen a dramatic increase in the number of these projects, from 12 in 1997 to 64 at present, a process made possible, in part, by funding under the National Development Plan 2000-2006. The locations of the new projects were decided upon according to local needs by the Garda authorities, in conjunction with my Department. Funding of €5.318 million has been allocated to these and related projects in the current year.

There are three Garda youth diversion projects currently operating in the north inner city: the NICKOL project in the Summerhill-Ballybough area, the DIME project in Hardwicke Street and the HAY project in the North Strand.

#### **Garda Stations.**

302. **Mr. Gregory** asked the Minister for Justice, Equality and Law Reform the details of plans to close Fitzgibbon Street Garda station, Dublin 1, for short term refurbishment of the station or for any long term reason; if his attention has been drawn to the serious concerns in the local community at the prospect of its closure; and if he will make a statement on the matter. [20831/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As I indicated previously to the House, the Office of Public Works identified health and safety issues in Fitzgibbon Street Garda station which require it to be vacated. The Office of Public Works has not yet succeeded in providing any suitable alternative accommodation to facilitate the carrying out of refurbishment works at the station. I understand, however, that the health and safety issues identified continue to be monitored by the Office of Public Works on a regular basis.

The optimum use of Garda stations was considered as part of the major review of the Garda organisation structures under the strategic management initiative programme of modernisation which looked in detail at a range of areas within the organisation. The final report of the Garda SMI implementation group, which is available on my Department's website, does not refer to the closure of any specific Garda station, but rather makes recommendations to assist policy-making with regard to the management and use of all available resources, including Garda stations.

#### **Temporary Release of Prisoners.**

303. **Mr. Gregory** asked the Minister for Justice, Equality and Law Reform the number of persons who have failed to return to custody after being out on temporary release in the district covered by the Store Street Garda station; and if he will make a statement on the matter. [20832/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The information requested by

the Deputy is not available. Prisoner addresses are not classified by Garda district and are also subject to change as persons being committed to prison will in some cases lose their accommodation. However, I understand the Irish Prison Service is carrying out a detailed examination of its records of persons who have failed to return to custody following a period of temporary release and I have arranged for the Deputy's query to be incorporated into that exercise. The Irish Prison Service will forward the relevant information to the Deputy when it becomes available.

#### **Electoral Offences.**

304. **Mr. Gregory** asked the Minister for Justice, Equality and Law Reform the process by which organised personation in a specific area might be further investigated in the context of the election results of June 2004; and if he will make a statement on the matter. [20833/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Electoral offences such as personation are set out in the Electoral Acts 1997 to 2002. If an offence of the type referred to by the Deputy was reported to the Garda authorities, it would be thoroughly investigated by the gardaí in the usual way. If the Deputy has information relating the commission of such an offence he should contact the gardaí immediately.

#### **Affordable Housing.**

305. **Ms Burton** asked the Minister for the Environment, Heritage and Local Government if he will raise the earnings threshold for persons applying for affordable housing. [20985/04]

315. **Mr. Penrose** asked the Minister for the Environment, Heritage and Local Government if he will indicate when he will announce a substantial increase in the income eligibility criteria for applicants who wish to participate in the affordable housing schemes; and if he will make a statement on the matter. [20628/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** I propose to take Questions Nos. 305 and 315 together.

A review of income eligibility and loan limits is currently being finalised and details will be announced very shortly.

#### **Local Authority Housing.**

306. **Mr. Crawford** asked the Minister for the Environment, Heritage and Local Government the amount of money his Department provided on a county by county basis for each of the past ten years to provide local authority housing and voluntary housing; if he has satisfied himself that enough houses from this sector are being made available at the present time; and if he will make a statement on the matter. [20601/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The total amount for capital expenditure on the local authority housing construction and acquisition programme for the years 1995 to 2003 and the capital allocation for 2004, which is funded by a combination of Exchequer capital grants and internal capital receipts, for each local authority is set out in the following table. Expenditure information on the

voluntary housing programme is currently being compiled in my Department and will be forwarded to the Deputy shortly.

It is estimated that the total social and affordable housing output under the local authority housing programme, taken with housing outputs from the voluntary housing sector and other social housing measures, as well as vacancies arising during the course of the year, will meet the needs of some 13,000 households this year.

Local Authority Housing Programme

Local Authority	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
									Provisional	Allocation
Carlow Co. Cl.	850,000	944,000	2,417,581	2,540,873	1,491,942	4,061,892	7,060,760	3,595,400	5,345,000	8,000,000
Carlow T.C.	1,560,000	910,800	1,062,136	1,389,093	745,082	1,582,474	1,691,164	8,193,708	6,735,700	2,200,000
<b>Total</b>	<b>2,410,000</b>	<b>1,854,800</b>	<b>3,479,717</b>	<b>3,929,966</b>	<b>2,237,024</b>	<b>5,644,366</b>	<b>8,751,924</b>	<b>11,789,108</b>	<b>12,080,700</b>	<b>10,200,000</b>
Cavan Co. Cl.	1,258,800	1,386,000	2,160,332	2,590,266	2,520,557	3,542,569	10,083,853	13,389,900	14,121,200	14,000,000
Cavan T.C.	474,700	740,800	1,062,136	1,389,093	772,082	1,582,474	1,691,164	8,193,708	3,254,700	2,500,000
<b>Total</b>	<b>1,733,500</b>	<b>2,126,800</b>	<b>3,222,468</b>	<b>3,979,359</b>	<b>3,292,639</b>	<b>5,125,043</b>	<b>11,775,017</b>	<b>21,583,608</b>	<b>17,375,900</b>	<b>16,500,000</b>
Clare Co. Cl.	1,233,800	1,313,800	2,932,841	3,402,644	5,099,015	5,960,532	6,897,979	11,904,343	10,411,000	12,000,000
Ennis T.C.	868,500	1,654,700	1,556,699	500,277	1,023,282	914,973	1,446,486	5,223,000	3,604,600	6,500,000
Kilrush T.C.	296,600	394,800	660,518	675,374	571,382	1,642,025	924,370	816,400	1,524,500	400,000
<b>Total</b>	<b>2,398,900</b>	<b>3,363,300</b>	<b>5,150,058</b>	<b>4,578,295</b>	<b>6,693,679</b>	<b>8,517,530</b>	<b>9,268,835</b>	<b>17,943,743</b>	<b>15,540,100</b>	<b>18,900,000</b>
Cork C.C.	6,486,000	8,004,100	9,820,154	10,885,972	15,790,971	25,525,671	37,367,236	35,095,280	35,653,971	27,000,000
<b>Total</b>	<b>6,486,000</b>	<b>8,004,100</b>	<b>9,820,154</b>	<b>10,885,972</b>	<b>15,790,971</b>	<b>25,525,671</b>	<b>37,367,236</b>	<b>35,095,280</b>	<b>35,653,971</b>	<b>27,000,000</b>
Cork (North) Co. Cl.	2,380,700	2,752,200	2,970,680	3,338,141	3,803,500	4,099,222	5,092,031	5,777,120	7,824,200	11,000,000
Fermoy T.C.	346,500	321,400	368,351	113,007	195,540	428,790	1,531,051	1,257,900	213,600	500,000
Macroom T.C.	50,000	352,600	76,184	195,666	114,276	693,658	1,434,677	2,634,900	908,300	1,200,000
Mallow T.C.	709,400	652,600	894,911	1,142,764	466,883	1,175,269	1,269,738	792,700	727,000	2,500,000
<b>Total</b>	<b>3,486,600</b>	<b>4,078,800</b>	<b>4,310,126</b>	<b>4,789,578</b>	<b>4,580,199</b>	<b>6,396,939</b>	<b>9,327,497</b>	<b>10,462,620</b>	<b>9,673,100</b>	<b>15,200,000</b>
Cobh T.C.	437,600	167,600	1,051,978	1,632,248	1,624,630	776,191	577,985	4,751,700	1,422,700	1,000,000
Kinsale T.C.	46,200	118,000	33,013	153,384	189,572	290,262	63,487	820,200	549,000	900,000
Midleton T.C.	83,600	84,000	537,099	142,211	221,951	182,842	2,051,897	428,400	160,000	500,000
Youghal T.C.	290,000	424,500	507,898	627,250	698,355	1,436,835	2,706,065	2,070,000	1,208,700	2,800,000
<b>Total</b>	<b>3,037,400</b>	<b>3,380,700</b>	<b>5,734,774</b>	<b>6,466,521</b>	<b>7,043,238</b>	<b>8,582,158</b>	<b>31,494,037</b>	<b>28,293,740</b>	<b>20,119,600</b>	<b>22,200,000</b>
Cork (West) Co. Cl.	1,316,400	1,525,400	1,787,664	1,464,516	2,947,189	4,130,712	6,035,573	12,841,637	10,557,100	9,000,000
Clonakilty T.C.	30,000	337,200	561,225	937,955	221,442	491,769	315,657	1,749,837	217,800	1,300,000
Skibbereen T.C.	187,000	370,000	317,688	24,125	38,092	1,214,251	1,269,738	2,025,500	459,900	500,000
<b>Total</b>	<b>1,533,400</b>	<b>2,232,600</b>	<b>2,666,577</b>	<b>2,426,596</b>	<b>3,206,723</b>	<b>5,836,732</b>	<b>7,620,968</b>	<b>16,616,974</b>	<b>11,234,800</b>	<b>10,800,000</b>
Donegal Co. Cl.	4,772,400	5,010,000	6,945,468	8,037,696	10,258,087	13,739,201	35,177,585	26,565,900	21,508,000	24,100,000
Buncrana T.C.	435,000	402,700	412,919	76,184	101,579	888,817	2,611,470	3,640,200	2,071,900	1,500,000
Bundoran T.C.	77,600	124,200	312,864	463,073	76,184	403,904	348,162	1,715,800	354,700	1,500,000
Letterkenny T.C.	283,000	1,030,900	444,282	639,313	1,142,003	2,165,031	3,951,552	9,017,200	867,000	2,000,000
<b>Total</b>	<b>5,568,000</b>	<b>6,567,800</b>	<b>8,115,533</b>	<b>9,317,845</b>	<b>12,365,091</b>	<b>18,919,606</b>	<b>43,117,499</b>	<b>37,298,900</b>	<b>24,801,600</b>	<b>29,100,000</b>
Dublin C.C.	33,853,885	34,763,100	41,658,329	40,036,746	83,001,381	114,975,799	143,683,688	112,986,500	109,902,900	100,000,000
<b>Total</b>	<b>33,853,885</b>	<b>34,763,100</b>	<b>41,658,329</b>	<b>40,036,746</b>	<b>83,001,381</b>	<b>114,975,799</b>	<b>143,683,688</b>	<b>112,986,500</b>	<b>109,902,900</b>	<b>100,000,000</b>
South Dublin Co. Cl.	5,270,100	5,090,400	7,394,573	12,127,014	18,798,218	20,055,513	35,534,559	44,917,800	50,349,856	55,000,000
Dún Laoghaire Co. Cl.	6,500,300	8,193,600	10,090,736	9,891,514	5,600,179	12,192,279	13,329,964	24,029,900	20,108,000	19,000,000



Local Authority	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
									Provisional	Allocation
Fingal Co. Cl.	4,427,900	5,210,500	5,697,823	4,204,103	6,761,228	9,059,708	20,516,936	25,296,700	29,485,900	30,000,000
Galway C.C.	3,766,300	3,842,000	6,382,338	10,079,562	10,135,939	5,004,673	13,483,158	34,048,000	14,010,300	5,000,000
Galway Co. Cl.	1,894,300	2,824,700	4,343,774	5,024,354	5,952,913	8,584,445	10,789,218	10,131,400	10,131,574	11,000,000
Ballinasloe T.C.	239,200	650,800	350,067	773,778	513,990	957,763	1,702,719	833,100	666,000	1,400,000
Kerry Co. Cl.	3,120,000	2,883,200	4,118,015	4,849,384	6,163,309	7,722,167	4,269,633	14,587,200	16,663,200	16,500,000
Killarney T.C.	767,400	500,000	526,560	541,797	367,843	395,270	2,097,607	4,698,300	2,921,700	4,000,000
Listowel T.C.	475,000	517,100	542,686	404,919	307,657	1,236,471	845,773	996,200	581,700	600,000
Tralee T.C.	1,573,200	1,245,000	2,872,528	3,151,871	3,068,069	3,900,000	3,899,620	3,756,600	4,219,100	9,000,000
Total	5,935,600	5,145,300	8,059,789	8,947,971	9,906,878	13,253,908	11,112,633	24,038,300	24,385,700	30,100,000
Kildare Co. Cl.	3,890,040	4,166,000	6,318,979	7,023,049	7,419,842	9,653,565	17,491,404	23,998,000	9,745,200	19,000,000
Athy T.C.	580,000	642,300	834,091	1,528,130	917,132	1,611,297	2,524,509	1,109,200	1,255,500	1,000,000
Naas T.C.	505,400	280,100	703,054	128,244	764,128	1,726,336	3,166,981	3,365,900	3,726,300	2,500,000
Total	4,975,440	5,088,400	7,856,124	8,679,423	9,101,102	12,991,198	23,182,894	28,473,100	14,727,000	22,500,000
Kilkenny Co. Cl.	1,738,500	1,593,200	1,429,898	2,426,215	3,302,462	4,802,276	6,579,021	4,503,200	7,120,900	8,000,000
Kilkenny B.C.	1,000,000	491,900	1,052,359	427,775	469,803	1,579,046	1,331,066	1,990,900	1,817,600	3,750,000
Total	2,738,500	2,085,100	2,482,257	2,853,990	3,772,265	6,381,322	7,910,087	6,494,100	8,938,500	11,750,000
Laois Co. Cl.	1,745,000	1,959,700	2,826,437	2,669,117	3,564,917	4,479,763	9,622,837	14,754,804	19,099,154	15,500,000
Leitrim Co. Cl.	1,645,400	1,530,100	2,234,993	2,197,790	3,971,106	3,397,819	4,721,140	4,493,700	5,309,800	5,500,000
Limerick C.C.	3,962,800	334,700	5,649,065	5,665,190	4,528,648	14,112,123	12,415,042	12,810,500	7,174,300	12,000,000
Limerick Co. Cl.	2,337,600	2,139,800	4,291,334	3,594,121	3,982,915	5,324,265	15,418,810	21,813,200	12,461,400	16,000,000
Total	6,300,400	2,474,500	9,940,399	9,259,311	8,511,563	19,436,388	27,833,852	34,623,700	19,635,700	28,000,000
Longford Co. Cl.	1,771,400	1,704,600	3,097,907	3,025,659	3,221,072	7,851,933	12,505,904	9,983,400	11,291,900	7,500,000
Longford T.C.	841,500	932,600	1,001,824	1,808,233	792,660	1,274,182	2,123,510	2,229,800	1,709,400	1,000,000
Total	2,612,900	2,637,200	4,099,731	4,833,892	4,013,732	9,126,115	14,629,414	12,213,200	13,001,300	8,500,000
Louth Co. Cl.	1,289,400	1,341,600	1,722,146	2,132,017	1,795,536	2,517,002	4,990,578	7,435,500	7,600,600	12,000,000
Drogheda B.C.	1,826,500	1,935,000	2,186,235	2,795,328	2,672,672	3,404,548	5,266,619	6,900,000	6,605,600	5,000,000
Dundalk T.C.	1,449,400	944,900	1,783,601	2,507,732	1,546,541	1,771,666	7,854,854	6,867,100	3,265,700	11,000,000
Total	4,565,300	4,221,500	5,691,982	7,435,077	6,014,749	7,693,216	18,112,051	21,202,600	17,471,900	28,000,000
Mayo Co. Cl.	2,891,600	3,451,500	5,426,607	5,403,878	5,608,307	6,823,065	14,251,159	11,397,300	5,245,100	9,000,000
Ballina T.C.	307,500	269,100	478,691	200,619	260,296	276,803	380,921	741,100	5,170,000	1,700,000
Castlebar T.C.	900,000	851,100	156,178	157,448	203,158	203,158	253,948	0	100,000	500,000
Total	4,408,100	4,827,700	6,470,061	6,349,707	6,815,954	7,489,677	15,044,745	12,688,400	10,719,400	11,700,000
Meath Co. Cl.	1,879,200	2,198,400	3,662,941	4,768,882	5,377,594	5,814,131	16,163,893	28,539,100	13,477,100	16,500,000
Kells T.C.	60,400	49,000	477,421	1,307,576	634,996	1,015,791	1,146,355	110,000	50,000	100,000
Navan T.C.	363,400	380,200	643,757	237,273	1,155,335	444,789	152,369	152,300	100,000	100,000
Trim T.C.	220,500	165,500	356,416	402,000	320,355	59,678	63,487	19,189	50,000	100,000
Total	2,523,500	2,793,100	5,140,535	6,715,731	7,488,280	7,334,389	17,526,104	28,820,589	13,677,100	16,800,000
Monaghan Co. Cl.	1,152,100	1,096,200	1,493,339	1,820,805	2,642,198	2,857,164	3,282,589	6,115,600	6,991,100	8,000,000
Carrickmacross	517,300	62,000	48,250	82,533	126,974	101,579	424,092	224,800	392,700	1,000,000
Castleblaney T.C.	40,000	76,600	106,658	105,388	126,974	126,974	126,974	230,000	172,700	800,000
Clones T.C.	170,000	46,000	148,814	69,836	88,882	634,869	782,381	201,300	50,000	500,000
Monaghan T.C.	208,100	161,000	836,599	427,013	253,948	1,008,172	1,168,947	2,088,200	2,581,200	3,000,000
Total	2,087,500	1,441,800	2,633,660	2,505,575	3,238,976	4,728,758	5,784,983	8,859,900	10,187,700	13,300,000

Local Authority	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
									Provisional	Allocation
Offaly Co. Cl.	1,197,376	1,407,600	2,324,510	2,661,752	2,534,016	3,553,108	3,861,908	9,102,900	9,417,800	8,000,000
Birr T.C.	101,600	524,300	414,316	341,306	642,487	1,055,279	878,659	6,025,500	2,149,200	1,500,000
Tullamore T.C.	619,000	685,400	818,981	881,198	1,117,242	1,182,126	2,041,357	4,314,500	2,808,200	2,500,000
<b>Total</b>	<b>1,917,976</b>	<b>2,617,300</b>	<b>3,557,807</b>	<b>3,884,256</b>	<b>4,293,745</b>	<b>5,790,513</b>	<b>6,781,924</b>	<b>19,442,900</b>	<b>14,375,200</b>	<b>12,000,000</b>
Roscommon Co. Cl.	1,429,600	1,812,800	2,475,227	2,616,677	2,589,123	4,822,973	6,589,687	8,209,200	9,189,600	7,000,000
Sligo Co. Cl.	493,200	1,179,700	2,278,164	2,517,764	2,996,455	3,437,562	8,210,253	7,499,900	8,608,900	8,500,000
Sligo B.C.	1,400,500	825,100	2,735,015	3,143,617	3,423,722	3,650,624	6,243,937	8,304,900	6,282,100	5,500,000
<b>Total</b>	<b>1,893,700</b>	<b>2,004,800</b>	<b>5,013,179</b>	<b>5,661,381</b>	<b>6,420,177</b>	<b>7,088,186</b>	<b>14,454,190</b>	<b>15,804,800</b>	<b>14,891,000</b>	<b>14,000,000</b>
North Tipperary Co. Cl.	1,298,100	1,628,600	1,889,751	1,965,301	901,514	2,913,795	4,267,336	9,828,440	7,398,300	7,000,000
Nenagh T.C.	20,700	113,000	450,757	410,252	228,553	220,934	507,895	1,459,800	2,631,000	2,000,000
Templemore T.C.	158,000	168,300	220,934	380,922	330,132	517,037	698,356	433,900	75,000	800,000
Thurles T.C.	474,800	870,000	854,534	673,850	838,027	1,368,778	1,119,020	2,153,000	4,723,900	4,000,000
<b>Total</b>	<b>1,951,600</b>	<b>2,779,900</b>	<b>3,415,976</b>	<b>3,430,325</b>	<b>2,298,226</b>	<b>5,020,544</b>	<b>6,592,607</b>	<b>13,875,140</b>	<b>14,828,200</b>	<b>13,800,000</b>
South Tipperary Co. Cl.	1,820,500	2,281,100	2,401,202	3,034,674	2,235,628	4,069,510	4,494,873	9,937,000	8,643,400	9,000,000
Carrick-on-Suir	290,000	552,700	601,856	579,001	604,269	375,843	439,583	1,763,300	1,120,000	1,600,000
Cashel T.C.	199,300	272,100	196,809	280,612	1,714,147	567,572	190,461	200,000	150,000	1,200,000
Tipperary T.C.	273,000	367,700	549,796	685,659	390,826	279,342	283,787	1,972,000	2,079,500	2,000,000
<b>Total</b>	<b>3,198,600</b>	<b>4,697,500</b>	<b>5,401,592</b>	<b>6,318,598</b>	<b>6,143,503</b>	<b>5,965,228</b>	<b>6,881,601</b>	<b>14,901,800</b>	<b>14,422,400</b>	<b>19,800,000</b>
Waterford C. C.	3,364,000	3,547,000	3,816,579	5,071,715	5,159,961	4,089,064	14,447,588	22,888,570	7,916,100	15,000,000
Waterford Co. Cl.	1,525,200	1,441,400	2,089,100	2,880,527	3,131,175	3,674,876	3,733,665	11,359,500	5,612,900	7,000,000
Dungarvan T.C.	553,700	481,800	867,739	609,093	375,969	1,360,297	4,519,632	8,288,400	3,409,000	3,000,000
<b>Total</b>	<b>5,442,900</b>	<b>5,470,200</b>	<b>6,773,418</b>	<b>8,561,335</b>	<b>8,667,105</b>	<b>9,124,237</b>	<b>22,700,885</b>	<b>42,536,470</b>	<b>16,938,000</b>	<b>25,000,000</b>
Westmeath Co. Cl.	1,604,300	1,646,600	2,752,919	3,065,656	3,499,525	4,523,696	5,998,242	9,840,600	15,254,100	6,500,000
Athlone T.C.	570,000	1,343,900	1,951,588	461,803	1,162,700	1,313,925	3,223,992	1,843,400	1,871,300	600,000
<b>Total</b>	<b>2,174,300</b>	<b>2,990,500</b>	<b>4,704,507</b>	<b>3,527,459</b>	<b>4,662,225</b>	<b>5,837,621</b>	<b>9,222,234</b>	<b>11,684,000</b>	<b>17,125,400</b>	<b>7,100,000</b>
Wexford Co. Cl.	2,868,900	3,353,900	4,425,672	5,315,123	5,615,290	7,697,534	10,016,075	13,490,300	14,429,900	15,000,000
Enniscorthy T.C.	860,000	706,900	875,865	1,453,977	1,072,166	1,944,730	2,333,651	3,096,800	7,263,600	1,700,000
New Ross T.C.	396,000	294,000	816,823	1,169,555	398,698	1,817,884	3,969,836	1,441,100	4,044,600	900,000
Wexford B.C.	1,349,000	1,786,000	2,916,716	1,820,804	1,509,084	1,671,102	1,396,711	6,749,800	3,389,300	2,500,000
<b>Total</b>	<b>5,473,900</b>	<b>6,140,800</b>	<b>9,035,076</b>	<b>9,759,459</b>	<b>8,595,238</b>	<b>13,131,250</b>	<b>17,716,273</b>	<b>24,778,000</b>	<b>29,127,400</b>	<b>20,100,000</b>
Wicklow Co. Cl.	2,325,000	3,037,800	3,867,241	5,316,521	4,306,713	7,453,235	11,762,980	11,415,600	15,977,200	16,000,000
Arklow T.C.	895,000	920,000	1,314,179	1,080,420	342,829	2,184,331	2,204,011	1,285,100	2,130,400	1,500,000
Bray T.C.	2,151,800	2,900,000	5,416,703	6,426,780	3,994,215	2,035,898	8,813,125	12,243,900	2,916,300	1,750,000
Wicklow T.C.	748,000	981,000	1,198,632	1,142,764	896,308	1,296,275	2,017,741	1,087,100	4,700,800	5,000,000
<b>Total</b>	<b>6,119,800</b>	<b>7,838,800</b>	<b>11,796,755</b>	<b>13,966,485</b>	<b>9,540,065</b>	<b>12,969,739</b>	<b>24,797,857</b>	<b>26,031,700</b>	<b>25,724,700</b>	<b>24,250,000</b>

### Water and Sewerage Schemes.

307. **Dr. Cowley** asked the Minister for the Environment, Heritage and Local Government if he will assent to funding an extension of the Brackloon group water scheme, serving the Carrowkennedy area of Westport, to a number of houses suffering from a lack of water or contaminated from other sources; and if he will make a statement on the matter. [20620/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** Responsibility

for the administration of group water schemes has been devolved to county councils. Consequently my Department does not have information on the status of applications by particular group water schemes for grant assistance.

### Postal Voting.

308. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government his plans to extend the postal vote to persons who are on holidays; and if he will make a statement on the matter. [20621/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** Electoral law provides for postal voting by members of the Garda, whole-time members of the Defence Forces, Irish diplomats serving abroad and their spouses, electors living at home who are unable to vote because of a physical illness or disability, certain election staff employed at the poll outside the constituency where they reside and electors whose occupation, service or employment makes it likely that they will be unable to vote in person at their local polling station on polling day. Full-time students registered at their home who are living elsewhere while attending an educational institution in the State are also eligible to apply for a postal vote. There are no proposals to extend the range of postal voter categories to include persons who are away on holidays.

#### **Housing Grants.**

309. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government his views on whether there are a number of young widows and widowers who are ineligible for home improvement grants; if he plans to introduce small grants for such persons; and if he will make a statement on the matter. [20622/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** There are a number of targeted options currently available to assist those in particular categories of need to secure necessary home improvement works. These options include the local authority house improvement loan scheme and the scheme of improvement works in lieu of local authority housing. The disabled person's grant scheme is also available to adapt housing to meet the needs of persons with a disability, while the essential repairs grant scheme and the task force on special housing aid for the elderly both seek to prolong the useful life of a house for elderly homeowners, enabling them to remain in their own homes and communities. Further information and application forms are available from the relevant local authority.

#### **Local Authority Housing.**

310. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government the plans he has to assist the deficit of accommodation for single persons in view of the fact that priority with most local authorities are family accommodation; if there is any imaginable solution to this problem; and if he will make a statement on the matter. [20623/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** Single people who are unable to provide housing for themselves from their own resources are entitled to apply for social housing, which is provided by either a local authority or a voluntary housing body. While it is a matter for individual local authorities to decide on the allo-

cation of houses to single persons and other categories on their waiting lists in accordance with their schemes of letting priorities, my Department continues to advise local authorities of the need to provide a reasonable mix of dwellings suited to the different kinds of households already on waiting lists and to plan their future programmes taking account of the estimated size and type of households likely to be seeking housing in the future.

Local authorities have been asked to submit action plans setting out their social and affordable housing programmes for the period 2004 to 2008. Most authorities have submitted these plans in draft form to my Department. I consider that given the nature of continuous housing need, the preparation of these action plans will be beneficial to local authorities in identifying priority needs over the coming years and providing a coherent and co-ordinated response across all housing services, including delivery of housing by the voluntary and co-operative housing sector. My Department will be examining individual plans to ensure that they match the profile of need in local authority areas. It is intended to agree activity levels with each local authority in the autumn of this year.

#### **Water and Sewerage Schemes.**

311. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government the position in relation to Malin sewerage scheme; when it is envisaged that works will commence; and if he will make a statement on the matter. [20624/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** The Malin town sewerage scheme is included in my Department's Water Services Investment Programme 2004-2006 under the rural towns and villages initiative at an estimated cost of €1.6 million. I approved the preliminary report for this scheme on the 1 June 2004. It is now a matter for Donegal County Council to advance this scheme further through the planning process.

#### **Planning Issues.**

312. **Mr. S. Power** asked the Minister for the Environment, Heritage and Local Government the number of submissions received following the publication of draft guidelines in relation to one-off houses; when he expects to publish the final guidelines; and if he will make a statement on the matter. [20625/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** In accordance with normal practice, the Guidelines for Planning Authorities on Sustainable Rural Housing, published on 4 March 2004, were issued in draft form to give all those interested an opportunity to comment before the guidelines were finalised in statutory form. Submissions on the draft guidelines were to be submitted to my Department by 30

April 2004. A total of 105 submissions on the draft guidelines have been received by my Department from interested organisations and individuals. The submissions are currently being examined in detail by my Department. I intend to consider carefully any suggestions for clarifying or improving the guidelines before they are finalised. I expect the guidelines will be issued in their final statutory form before the end of this year.

However, in view of the importance of the rural housing issue and the fact that there has already been extensive opportunity for public debate, I have requested planning authorities and An Bord Pleanála to have regard to the draft guidelines with effect from their date of publication. The guidelines are a material consideration for development plans and in the consideration of planning applications. Planning authorities are required to review and vary their development plans, where necessary, to ensure that their policies on rural settlement are consistent with the policies set out in the guidelines.

#### **Housing Grants.**

313. **Mr. S. Power** asked the Minister for the Environment, Heritage and Local Government the number of applications received by Kildare County Council under the disabled person's and essential repairs grant scheme during the past 12 months; the number of grants paid each month during that period; and if he will make a statement on the matter. [20626/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The information available to my Department on activity under the disabled person's and essential repair grant schemes is published in the Department's annual housing statistics bulletin. The latest bulletin, for 2003, was published in May 2004. Copies of the bulletin are available in the Oireachtas Library.

314. **Mr. S. Power** asked the Minister for the Environment, Heritage and Local Government if he is concerned with the implementation of the disabled person's and essential repairs grant scheme by some local authorities; the monitoring of the administering of the scheme done by his Department; and if he will make a statement on the matter. [20627/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The administration of the disabled person's and essential repairs grant schemes, including the processing of individual applications, is a matter for local authorities. The framework for the operation of the schemes is laid down in statutory regulations and, as far as practicable, is designed to give an appropriate degree of flexibility to local authorities. The increases to the grant and recoupment levels and to the proportion of the cost of approved work

payable, which were introduced by my Department over the past few years, have led to a significant increase in activity under the schemes. To meet this demand the funding provided by Government has enabled expenditure to increase from €13 million in 1998 to €65 million this year.

I am anxious to ensure that the disabled person's and essential repairs grant schemes are operated by local authorities in the most efficient, cost effective and user-friendly manner possible. It is obvious that local authorities have recently become more conscious of the need to manage the schemes to ensure the available funding is directed towards those most in need of assistance, having regard to the priorities in their own areas. Management of the schemes is also necessary to ensure that authorities remain within their capital allocation and do not put undue pressure on their own revenue accounts, from which they provide one third of the available funding.

My Department monitors activity on the schemes through the compilation of statistical information on the level of applications received and approved by and in the hands of local authorities. Expenditure and recoupment levels are also monitored, as are emerging trends in the operation of the schemes. In addition, discussions take place between my Department and local authorities throughout the year at official level in the context of the annual financial allocations.

*Question No. 315 answered with Question No. 305.*

#### **Genetically Modified Organisms.**

316. **Mr. Ferris** asked the Minister for the Environment, Heritage and Local Government the way in which he voted at the meeting of EU environment Ministers on 28 June 2004 on the proposal to authorise the import of a GM maize NK 630; and the basis on which he made his decision. [20629/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** Based on a positive but precautionary approach, any notification under Directive 2001/18/EC that comes for scrutiny at competent authority, regulatory committee or Environment Council level is considered on its individual merits, having regard to the environmental risk assessment and other relevant factors. At the meeting of EU environment Ministers on 28 June 2004, Ireland maintained a previously expressed position in favour of the European Commission's proposal to authorise the product in question.

#### **Rural Dwellings.**

317. **Ms Enright** asked the Minister for the Environment, Heritage and Local Government if he will now approve an application for a rural dwelling with Offaly County Council for persons (details supplied) in County Offaly who have already transferred the site to Offaly County

[Ms Enright.]  
Council; and if he will make a statement on the matter. [20641/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** My Department has issued approval to Offaly County Council to accept a new tender for the construction of a rural house for the family in question. It is now a matter for the County Council to deal with the matter so that the construction of the dwelling can commence as soon as possible.

#### **Waste Management.**

318. **Mr. Ferris** asked the Minister for the Environment, Heritage and Local Government if he will report on the implementation of the EC directive on packaging and packaging waste, in particular the enforcement of the new phase from 2004 to 2008. [20675/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** Directive 94/62/EC on packaging and packaging waste is based on the concept of producer responsibility, which effectively requires producers to contribute to the waste management costs of products which they have placed on the market at the end of their lives. Under the directive, Ireland was required to achieve a 25% recovery rate of packaging waste by 1 July 2001, increasing to a 50% recovery rate by 31 December 2005, with a minimum of 25% to be achieved by recycling, including a minimum 15% recycling rate for each type of packaging material. In accordance with this approach, a producer responsibility initiative operates in Ireland in the area of recovery of packaging waste and is underpinned by the Waste Management (Packaging) Regulations 2003 which replaced earlier regulations introduced in 1997.

Under the regulations, producers are required to take steps individually to recover their packaging waste — this is known as self-compliance — or alternatively to contribute to, and participate in, compliance schemes set up to recover packaging waste. Repak Limited was established by Irish industry in 1997 to promote, co-ordinate and finance the collection and recovery of packaging waste with a view to achieving Ireland's packaging waste recovery and recycling targets under Directive 94/62/EC on packaging and packaging waste and is the only such approved compliance scheme in Ireland. Repak has reported consistent progress since 1997 and in 2001 met the 25% packaging waste recovery target required by the directive. The latest indications are that Ireland is on course to meet the higher recovery and recycling targets for the end of 2005.

Enforcement of the packaging regulations is primarily a matter for local authorities. In this regard, I have allocated €7 million to local authorities from the environment fund in 2004 for stepped-up enforcement of waste management

legislation generally. Local authorities have been requested to give particular priority to enforcement of the new packaging regulations in their functional areas. In this context, the network of enforcement officers from the major urban local authorities — which was established by my Department in late 2001 to step up enforcement of the packaging regulations — has now been extended nationwide to all local authorities. Furthermore, the Office of Environmental Enforcement was recently established within the Environmental Protection Agency to improve the implementation and enforcement of environmental legislation generally. Local authorities are obliged to report to the EPA on their enforcement activities and where a local authority's performance is deemed to be unsatisfactory, the EPA can take appropriate remedial action on the matter, including as a last resort prosecuting relevant local authorities for failing to discharge their enforcement obligations.

The 1994 packaging directive has recently been revised by a new amending directive which specifies higher recovery and recycling targets to be achieved by 2011 in the case of Ireland and 2008 for most other member states. The main revisions to the 1994 Directive are an increase in the packaging waste recovery target to 60% and in the packaging waste recycling target to 55%, with the material-specific recycling targets for glass, 60%, paper and board, 60%, metals, 50%, plastics, 22.5%, and wood, 15%. In this regard, my Department is in discussions with Repak with a view to developing an effective strategy which will facilitate the achievement by Ireland of the new higher recovery and recycling targets over the period 2006 to 2011.

#### **Water and Sewerage Schemes.**

319. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government the position in relation to the Merville-Greencastle sewerage scheme; when it is envisaged that works will commence; and if he will make a statement on the matter. [20717/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** The Merville-Greencastle sewerage scheme is included in my Department's Water Services Investment Programme 2004-2006 as a scheme to commence construction in 2006 at an estimated cost of €8.8 million. My Department is awaiting the submission of the preliminary report for this scheme from Donegal County Council.

#### **Motor Taxation.**

320. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government the number of cars taxed in each of the decentralised offices in Donegal (details supplied); and if he will make a statement on the matter. [20719/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** The following table gives the number of cars taxed in each of the one-stop shops in Donegal since they opened:

	Number
Carndonagh (which serves Inishowen)	19,584
Donegal Town	3,000
Dungloe (which serves Glenties)	15,977
Letterkenny	40,809
Milford	10,260

### Decentralisation Programme.

321. **Mr. Kenny** asked the Minister for the Environment, Heritage and Local Government the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if he will make a statement on the matter. [20766/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** My Department has participated in two previous decentralisation programmes. In 1983 the vehicle registration unit, involving 75 staff, decentralised to Shannon, while under a later decentralisation programme in 1989 a number of sections, totalling 115 staff, moved to Ballina. The headquarters of the Environmental Protection Agency, which was established in 1993, moved to Wexford in 1994. There are currently 114 staff employed in the EPA in Wexford. The further information sought in the question is not readily available and its compilation would involve a disproportionate amount of time and work.

### Floor Certificates.

322. **Ms Burton** asked the Minister for the Environment, Heritage and Local Government if a person (details supplied) in Dublin 15 can expect to receive a floor certificate; and if he will expedite the production of the certificate as they are without accommodation and waiting urgently to occupy their new home. [20770/04]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** An inspection with a view to issuing the floor area compliance certificate, if in order, will be carried out as soon as possible.

### Electoral Register.

323. **Mr. J. O'Keeffe** asked the Minister for the Environment, Heritage and Local Government if he has proposals to introduce legislation with a view to ensuring that electoral registers are more accurate and that existing voters are not removed therefrom without notice to them. [20773/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** The compilation and publication of the register is a matter for each registration authority in accordance with electoral law and involves the carrying out of house-to-house or other local inquiries and in many cases delivering registration forms to households for completion. The draft register is published on 1 November annually and is made available for examination by the public at post offices, public libraries, Garda stations, courthouses and local authority offices up to 25 November. The public are invited, through national and local advertising campaigns, to check the draft during this period to ensure that they are correctly registered and to bring errors or omissions in the draft to the attention of the registration authority. The final register is published on 1 February and comes into force for a year on 15 February. Electoral law also provides for the updating of the register through the supplement facility in the run up to polls.

When removing electors from the register authorities are required, by a ministerial instruction issued under section 18 of the Electoral Act 1992, to send a notice to a person whose name it is proposed to omit from the draft register indicating that they have failed to establish that the person is still resident at the address and unless evidence to the contrary is provided within ten days, his or her name will be removed. In addition, any person may claim to have a correction made to the draft register following its publication. The claim must be made to the registration authority by 25 November and it may include, in particular, a claim to have the name of a person added or deleted. Such claims are ruled on, in public, by the appropriate county registrar and interested parties must be given notice of the time and location of the proposed hearing. An appeal may be made in the Circuit Court on the decision of a county registrar.

After the final register comes into force, a person's name can only be removed if he or she has applied successfully for entry on the supplement to the register as a result of a change of residence, which can be within the constituency or to another constituency. In such cases, the person's name on the register in respect of their previous address is deleted and they are registered at their new address.

I wish to ensure that the register of electors used at any poll should be as accurate as possible and there have been a number of changes in recent years which have helped to improve its accuracy. The Electoral (Amendment) Act 2001 included new provisions to allow persons who have moved residence to another constituency or to another electoral area in a constituency during the currency of a register or who will reach 18 years of age on or before polling day to apply for entry in the supplement to the register. The Act also provides that persons who are unable to vote in their constituencies because of their employ-

[Mr. Cullen.]

ment by a returning officer in another constituency on polling day are eligible to apply for entry in the supplement to the postal voters list. Notwithstanding these reforms of the administrative and legal arrangements for compiling the register of electors, the continued improvement of the register is still an important concern and I intend to monitor its progress closely.

#### Boundary Alterations.

324. **Mr. Kehoe** asked the Minister for the Environment, Heritage and Local Government the number of local authorities which initiated an application for a boundary alteration as provided for in the Local Government Act 2001; the number which were successful; and the details of the successful applications. [20774/04]

Local authority	Date of boundary alteration	Statutory Instruments
Killarney Town Council	1 January 2001	SI Nos. 451 & 452 of 2000
Ballina Town Council	1 January 2002	SI Nos. 603 & 604 of 2001
Castlebar Town Council	1 January 2002	SI Nos. 638 & 639 of 2001
Westport Town Council	1 January 2002	SI Nos. 601 & 602 of 2001
Athlone Town Council	1 January 2004	SI Nos. 704 & 705 of 2003
Letterkenny Town Council	1 January 2004	SI Nos. 679 & 680 of 2003

#### Special Areas of Conservation.

325. **Mr. Connaughton** asked the Minister for the Environment, Heritage and Local Government the outcome of a recent meeting to discuss outstanding issues in relation to the Shannon callows area of Counties Galway and Offaly; and if he will make a statement on the matter. [20780/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** I refer to the reply to Questions Nos. 388 and 394 of 29 June 2004.

Outstanding issues with regard to the Shannon callows are being addressed within the wider discussions under Sustaining Progress on the review of the 1997 Habitats Regulations. The most recent meeting between farming representatives and officials from my Department and from the Department of Agriculture and Food was held on 29 June. It was not possible at that meeting to reach final agreement on all outstanding issues including those relating to the Shannon callows. All parties to the discussions are agreed that they should now be brought to a conclusion and it is hoped to do this at a meeting arranged for 12 July.

#### Water Quality.

326. **Mr. Perry** asked the Minister for the Environment, Heritage and Local Government the details of the EU policy on rules and regulations for the provision of water standards to households here; when it will be implemented;

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** Since the introduction in 1996 of a revised boundary alteration code under the Local Government Act 1991, applications from a number of local authorities to alter their administrative boundaries have been determined and implemented and these are listed in the following table. Further details of these boundary extensions are set out in the relevant statutory instruments which are cited in the table.

In only one case was an application not determined and the applicant local authority, Limerick City Council, was advised to develop a revised proposal on the basis of updated data. I intend to bring into effect later this year new arrangements regarding local authority boundary alterations based on provisions in the Local Government Act 2001 which will replace those of the 1991 Act.

and if he will make a statement on the matter. [20789/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** Water quality standards for water intended for human consumption are set out in Council Directive 98/83/EC of 3 November 1998. This directive has been transposed into Irish law by the European Communities (Drinking Water) Regulation 2000.

#### Electoral Register.

327. **Mr. Deasy** asked the Minister for the Environment, Heritage and Local Government the details of the number of additions to the supplementary register in each constituency and each local authority area. [20797/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** The number of additions to the supplementary register at the June 2004 polls by registration authorities, that is, county councils and city councils, is set out in the following table. A breakdown of the information in respect of each constituency is not available in my Department.

County Councils	Number of supplement applications approved
Carlow	887
Cavan	1,141
Clare	2,586
Cork	4,133
Donegal	3,652

County Councils	Number of supplement applications approved
Dún Laoghaire-Rathdown	1,593
Fingal	2,103
Galway	2,672
Kerry	1,924
Kildare	2,527
Kilkenny	1,383
Laois	1,120
Leitrim	1,125
Limerick	2,637
Longford	919
Louth	1,136
Mayo	2,961
Meath	4,030
Monaghan	908
North Tipperary	3,014
Offaly	786
Roscommon	1,733
Sligo	1,474
South Dublin	1,312
South Tipperary	3,197
Waterford	1,385
Westmeath	1,693
Wexford	1,146
Wicklow	1,132
<i>City Councils</i>	
Cork	1,279
Dublin	3,650
Galway	1,282
Limerick	554
Waterford	564
Total	63,638

328. **Mr. Deasy** asked the Minister for the Environment, Heritage and Local Government the details of the amount allocated to each local authority for the compilation of the register of electors; and if he is satisfied that the money was well spent. [20798/04]

**Minister for the Environment, Heritage and Local Government (Mr. Cullen):** My Department does not make separate allocations to local authorities in respect of the preparation of the register of electors. However, some €752 million has been allocated to local authorities from the local government fund for general purpose grants for 2004. This amount represents an increase of 14% on the corresponding figure for 2003. General purpose grants are a contribution towards the day-to-day costs of running local authority services, including compilation of the register of electors. I am satisfied that the 2004 general purpose grants allocated from the local government fund represents an appropriate contribution to the ongoing and special costs of local authorities in the present year.

### Drugs Task Forces.

329. **Mr. R. Bruton** asked the Minister for Community, Rural and Gaeltacht Affairs his plans for the future development of the drugs task forces located in the Dublin area; if they will continue to enjoy a direct relationship with their funding Department; if there are plans to make them accountable to subsidiary bodies such as the Dublin City Development Board; and if he will make a statement on the matter. [20670/04]

**Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern):** My Department supports the ongoing work of the 14 local drugs task forces, LDTFs. In this context, the Deputy should note that since 1997 almost €86 million has been allocated or spent by the task forces through their two rounds of local action plans. In addition, a further €12.7 million has been allocated under the LDTF premises initiative. The national drugs strategy team is currently working on proposals to support the work of the LDTFs in the future and these will be considered by my Department in due course.

In January 2004, following a review of the structures employed in the delivery of local and community development programmes, the Government agreed a number of measures aimed at improving delivery of services on the ground and improving cohesion and focus across the various programmes. In this context, city and county development boards have been given responsibility for considering and endorsing plans prepared by community and local development agencies with the aim of securing better co-ordination of services on the ground. The LDTFs, like other local development agencies, will therefore be required to submit any future action plans to the CDBs for consideration and endorsement.

### Decentralisation Programme.

330. **Mr. Kenny** asked the Minister for Community, Rural and Gaeltacht Affairs the number of posts decentralised in respect of previous decentralisation in whole or part of his Department or any agency under the aegis of his Department; the percentage of staff who were transferred on promotion; the percentage of staff who transferred at their current grade; and if he will make a statement on the matter. [20767/04]

**Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív):** I refer the Deputy to my reply to Questions Nos. 513 of 24 February 2004 and 409 and 410 of 29 June 2004.

As the Deputy will appreciate, my Department in its present configuration was established in June 2002, while the Gaeltacht division was decentralised to Na Forbacha, County Galway, where the number of staff now employed is 46, in 1980. The detailed records sought by the Deputy are not readily available due to the passage of time and the various changes of Departmental functions that have occurred since 1980.



### Proposed Legislation.

331. **Ms B. Moynihan-Cronin** asked the Minister for Community, Rural and Gaeltacht Affairs when the proposed draft heads of Bill will be published in view of the fact that the consultation period in respect of his consultation paper on charities regulation is over; if he intends to legislate to deal with any situation whereby a charity raises money without the obligation to establish in a transparent way the money which has been spent on the purposes for which the charity was founded; if he intends to deal with any situation whereby charities become closed shops, refusing to admit persons to membership without due reason or maintaining situations in which the officerships and control of the organisations are vested in small, self-perpetuating groups of persons; if he intends to ensure that the standards of corporate governance applicable to charities are as rigorous as those applied to the corporate sector and to public bodies; and if he will make a statement on the matter. [20804/04]

**Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern):** In the interests of public information, we have posted the developments on the charities regulation web page of my Department's website, [www.pobail.ie](http://www.pobail.ie). Once again I invite Deputies to access this dedicated web page, <http://pobail/en/CharitiesRegulation/>. The press release which I issued on 03 June 2004 after the public consultation had concluded is also posted on the web page. This addresses the issues raised in the Deputy's question insofar as these lie within my Department's remit.

The current estimated publication date for the draft legislation is the end of 2005. Preparation of the draft legislation, including its content, will be informed by the outcome of the public consultation. An external report on the public consultation is under preparation and is likely to be available by the end of September 2004, at which stage it will be posted on the web page.

### Health Board Allowances.

332. **Mr. Penrose** asked the Minister for Social and Family Affairs if she is satisfied regarding the figures of having the means assessment for rent allowance payable under the SWA scheme determined on a national rather than a *de facto* basis; her views on whether same is extremely punitive in the context of prevailing low interest rates; if her attention has been drawn to the fact that notified assessment system has remained unchanged for 27 years; if, in this context, due to the unfairness of same, she will have it adjusted; and if she will make a statement on the matter. [20654/04]

**Minister for Social and Family Affairs (Mary Coughlan):** The supplementary welfare allowance scheme, SWA, is the safety net within the overall social welfare system in that it provides assistance to eligible people in the State whose means are

insufficient to meet their basic needs and those of their dependants. Its primary purpose is to ensure that every person in the state has sufficient resources to meet their basic needs. In assessing a person's means for the purpose of SWA, including the rent supplement aspect of the scheme, the legislation provides that all income both in cash and in kind is taken into account. While income derived from certain sources can be disregarded, applicants for SWA are generally expected to use their own income or capital, if they have any, to meet their basic needs in the first instance.

The method of assessment to which the Deputy refers relates to the assessment of capital such as savings or the value of property other than the applicant's home. For the purpose of the means test, capital is assessed using the following formula: 5% of the first €507.90 plus 10% of the balance above €507.90. This is then divided by 52 to give the weekly value of the means. A single person with capital of €70,000 will qualify for SWA at a reduced rate, while a person with dependants will still qualify even if they have substantially higher amounts of capital.

I am aware that interest rate paid to depositors is low at present. However, the purpose of the formula is to assess capital value rather than the interest accruing to an individual. Any changes in the means assessment criteria for receipt of supplementary welfare allowance would have to be considered in a budgetary context. In this regard I am satisfied that the formula is reasonable and I have no immediate plans to alter it.

333. **Mr. Penrose** asked the Minister for Social and Family Affairs if she will take steps to reverse her decision to discontinue the crèche supplement; and if she will make a statement on the matter. [20655/04]

**Minister for Social and Family Affairs (Mary Coughlan):** The objective of the supplementary welfare allowance scheme is to meet immediate, short-term income maintenance needs. The scheme is not intended to be a long-term solution in any individual case and it was never intended to be an ongoing source of funding for crèches. The appropriate necessary services need to be funded directly in a sustainable and appropriate manner. The crèche supplement was introduced with the intention of providing assistance to a parent in need of short-term emergency support. This could arise, for example, where a parent would not be able to avail of necessary supports such as counselling services or addiction treatment programmes without assistance with child minding.

The fact that supplements were in payment for long durations in many cases indicates that they had become a long-term child care support rather than the short-term social welfare intervention which was originally intended. In effect, long-term child care needs were being provided through a short-term emergency provision

scheme. This is not an appropriate way to meet the needs of the people in question.

Discussions are continuing with officials from the Department of Justice, Equality and Law Reform, the Department of Health and Children, the Department of Education and Science and health board representatives to ensure a more co-ordinated approach to the provision of crèche and pre-school supports. As an interim measure, crèche supplements in payment prior to 1 January 2004 are being allowed to continue. The changes I introduced in the supplementary welfare allowance scheme do not affect the discretion available to health boards to provide assistance in emergency cases which may arise from time to time.

### Departmental Schemes.

334. **Mr. Penrose** asked the Minister for Social and Family Affairs if her attention has been drawn to the fact that if a single parent takes up a community employment scheme he is disqualified immediately from receiving rent allowance if his gross income exceeds €317.43; if her attention has further been drawn to the fact that this acts as a complete disincentive to single parents who wish to take up community employment schemes; if, in this context, she will consider increasing the gross household income limit to €417.43; and if she will make a statement on the matter. [20656/04]

**Minister for Social and Family Affairs (Mary Coughlan):** Lone parents or others who take up a community employment place are not automatically disqualified from receiving rent supplement if the household income exceeds the €317.43 limit referred to by the Deputy. Any participant in community employment has the option of being assessed for rent supplement under the standard supplementary welfare allowance means test.

Under standard assessment rules, rent supplements are calculated to ensure that an eligible person, after the payment of rent, has an income equal to the rate of supplementary welfare allowance appropriate to his or her family circumstances, less a minimum contribution of €13 which each recipient is required to pay from his or her own resources. Up to €50 in respect of additional income from part-time employment is disregarded in the means test, thus ensuring that a person is better off as a result of taking up such an opportunity. Community employment is regarded as part-time employment for these purposes.

The amount of rent supplement payable in any given case depends on the particular circumstances of the individual concerned. In most cases, a lone parent with one child living in the Dublin area and participating in a CE scheme would receive €85.90 per week in rent supplement. He or she would have an income of €188.60 per week after paying rent and would be €50 per week better off than a lone parent in similar circumstances who was not participating in a CE scheme.

The limit to which the Deputy refers applies to people in full-time employment. Supplementary welfare allowance is not normally payable to people who are engaged in full-time employment. However, arrangements have been in place for a number of years which allow people to retain a portion of their rent supplement where they take up employment through approved schemes, such as community employment, subject to a weekly household income limit of €317.43. While the €317.43 income limit applicable in these cases has remained static, other improvements have been made. The period for which rent supplement may be retained has been extended to four years on a tapered basis, that is, 75% in year one, 50% in year two and 25% in years three and four. In addition, the upper limit of €317.43 per month on the amount of supplement payable was abolished for people on the approved schemes.

Furthermore, back to work allowance and family income supplement, in cases where one or both of these are in payment, are now disregarded in the assessment of the €317.43 weekly income limit. PRSI and reasonable travelling expenses are also disregarded in the means test. I am aware that the €317.43 income limit affects lone parents who participate in community employment schemes. This is due to the fact they receive one-parent family payment in addition to receiving the appropriate community employment wage. To facilitate people in this position, participants in CE schemes may opt for assessment under the standard SWA means test or under the special means test described above, whichever is the more favourable to them.

Rather than acting as a disincentive to work or training, the arrangements I have outlined are designed to encourage and assist people in the transition from reliance on welfare payments to full-time employment. Any further changes in the qualification criteria for receipt of rent supplement will be considered as part of the review of the supplementary welfare allowance scheme currently under way in my Department.

### Health Board Allowances.

335. **Ms Enright** asked the Minister for Social and Family Affairs if a person (details supplied) in County Offaly is entitled to supplementary welfare allowance; and if she will make a statement on the matter. [20739/04]

**Minister for Social and Family Affairs (Mary Coughlan):** The objective of the supplementary welfare allowance scheme, which is administered on behalf of my Department by the health boards, is to provide assistance to eligible people in the State whose means are insufficient to meet their basic needs. With effect from 1 May 2004, a person must be habitually resident in the State in order to qualify for basic supplementary welfare allowance.

The Midland Health Board was contacted regarding this case and has advised that the person concerned was refused basic supplementary

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welfare allowance on the basis that he does not satisfy the habitual residency condition. He has been advised of his right to appeal against this decision to the health board appeals officer.

#### **Social Welfare Fraud.**

336. **Mr. Gregory** asked the Minister for Social and Family Affairs the procedures in place in her Department to investigate persons in receipt of social welfare and income from illegal drug dealing; the process by which such persons may be reported by concerned members of the community in the north city areas of Dublin 1 and 3; and if she will make a statement on the matter. [20834/04]

**Minister for Social and Family Affairs (Mary Coughlan):** Recognising the adverse impact that abuse of the social welfare system can have, my Department has a broad-ranging and comprehensive control strategy which aims to keep fraud and abuse to an absolute minimum. This includes checks at point of claiming, verification that the conditions for entitlement continue to be met, review of means for those in receipt of a non-contributory social assistance payment, arrangements for debt recovery and prosecution of offenders.

Furthermore, the Criminal Assets Bureau, which was set up under the Criminal Assets Bureau Act 1996, has been operating since October 1996 and comprises of members of the Garda and the Revenue Commissioners and officials of my own Department. Section 5 of the 1996 Act, which deals with the function of the bureau, empowers bureau officers to investigate and determine as appropriate under the Social Welfare Acts any claim in respect of benefit, within the meaning of the Social Welfare Consolidation Act 1993, by any person engaged in criminal activity. The bureau has already recorded considerable success in this regard.

In line with my Department's control strategy, the Department's control division accepts details of possible fraud offered by members of the public in relation to my Department's schemes. Such

information may be conveyed by way of written complaint, telephone, e-mail or personal representation. Such reports can also be made to any of my Department's offices and persons reporting such abuses who wish to remain anonymous are facilitated in this regard.

#### **Health Board Allowances.**

337. **Mr. Gregory** asked the Minister for Social and Family Affairs if there are persons in the Dublin 1 and 3 districts, evicted by Dublin City Council during the past 12 months for anti-social drug related activities, who have subsequently been granted rent supplements for private rented accommodation in the same districts; if there is liaison with Dublin City Council on this issue; and if she will make a statement on the matter. [20835/04]

**Minister for Social and Family Affairs (Mary Coughlan):** Subject to certain conditions, the supplementary welfare allowance scheme, which is administered on behalf of my Department by the health boards, provides for the payment of a weekly or monthly supplement in respect of rent to eligible people in the State whose means are insufficient to meet their accommodation needs and who do not have accommodation available from any other source.

Where a local authority tenant is evicted for anti-social behaviour the health board normally liaises with the local authority to assess the most suitable solution to address the person's accommodation needs. Local authority tenants who have been evicted for anti-social behaviour are not ordinarily able to obtain rent supplement from the health board. However, the legislation governing the payment of rent supplement provides the health board with discretion to deal with exceptional cases. Having considered the circumstances of each individual case, a health board may provide assistance where, in the opinion of the board, the circumstances of the particular case so warrant.

Dublin City Council was contacted on this matter and it has confirmed that liaison arrangements are in place between the council and the health board for dealing with such cases.