



## DÁIL ÉIREANN

*Dé Céadaoin, 16 Feabhra 2005.*  
*Wednesday, 16 February 2005.*

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

*Paidir.*  
*Prayer.*

### Leaders' Questions.

**Mr. Kenny:** I want to ask the Taoiseach about an issue that has raised its head on a regular basis over the past number of years. We have all experienced and heard Ministers' comments on the rip-off that occurs on a regular basis for tickets for major international events, matches, concerts etc. This has been a problem of some proportion within the Gaelic Athletic Association for some years. I recall being in Jones's Road one day and speaking to the Taoiseach, long before he became Taoiseach, and talking about the matter.

I noticed that two tickets for a U2 concert, normally costing between €60 and €80, were on sale for €500 within minutes of the tickets going on sale. This morning I read of two terrace tickets for the Ireland-England rugby match in Lansdowne Road attracting a bid of €1,350. This is disgraceful. The only people who profit from this practice are ticket touts. In France and Britain there is very strong anti-tout legislation. If we read over the reports of these annual cases of clear rip-off, we read that Ministers are appalled at the carry on. I understand that even last night at The Point there were ticket touts operating. It beggars belief that thousands of genuine fans of football, soccer, rugby, music, concerts or whatever cannot legitimately get their hands on tickets, while tickets find their way into the hands of touts and are sold at exorbitant rates on the black market. A Member told me this morning that he has paid €500 for two tickets for Pavarotti.

As a person interested in sport and with a connection to the music world, does the Taoiseach not think it is time the Government considered the issue? Instead of having Ministers say they are appalled by it, the Taoiseach could introduce legislation that would in some way restrict, limit or put out of business the touts who charge exorbitant fees and rip off genuine fans of sport and music who cannot find a way of getting tickets. I am sure the Taoiseach must agree with that. The matter does not appear on his legislative prog-

ramme, but perhaps he will do something about it now.

**The Taoiseach:** Subject to correction, I understood we passed legislation some years ago making touting illegal.

**Mr. Allen:** It is not working.

**Mr. Rabbitte:** I introduced a Bill on it but it was voted down.

**The Taoiseach:** I remember we debated the issue then. For as long as I can remember, touts, of whom there are plenty around my part of the world, have always been fearful of gardaí and try to avoid them. I presume there is some reason for that and that there is some law in existence on the issue.

**Mr. English:** The ticket can be confiscated.

**The Taoiseach:** However, I cannot recall hearing whether the law is enforced rigidly or whether there have been prosecutions. There is an issue. U2 and rugby tickets are like gold dust. It is almost impossible to get tickets for the Ireland-England match and this is a real problem. I wanted to build a national stadium so that a large number of people would fit in it and we would not have the problem. At least I funded Croke Park. A national stadium is probably the best way of eliminating the problem, but subject to that happening — it will sometime — I agree exorbitant prices are being charged.

In recent years many of the sporting organisations have tried to operate a system of only giving a small quota of tickets to individuals to cut out the practice. Other sporting organisations have tried to issue tickets through clubs in order to eliminate the problem. Obviously, no matter what is done, some people will try to profit.

If an old law exists, it probably involves a low fine that is not a deterrent. The issue of trying to stop people selling on tickets would not be easily enforced, no matter how it was done. As Deputy Kenny wants me to consider the issue, I will raise it and see what happens.

**Mr. Kenny:** Thank you. Deputy Naughten introduced a Bill on the issue previously which was accepted on Second Stage but voted down by the Government on Committee Stage. Deputy Rabbitte did the same on behalf of the Labour Party.

I was in Murrayfield, filling in for the Taoiseach, on Saturday. There was no evidence of ticket touts there because there was a problem filling the stadium which holds 67,000. If the GAA motions committee got its act together, this matter might be discussed. In respect of this clear problem, will the Taoiseach instruct the appropriate Minister, be it the Minister for Justice, Equality and Law Reform or the Minister for Enterprise, Trade and Employment, to look again at the two Private Members' Bills that were

[Mr. Kenny.] introduced by Fine Gael and the Labour Party in previous years, and at the legislation that exists in the United Kingdom and France, which is strong and clear?

The problem is that when tickets are issued officially, some organisations or persons decide either to raffle them or let them out on the black market. The essence of the matter should be that no ticket should be resold beyond its retail value without the consent of the organisation. For example, clubs have raffled All-Ireland GAA tickets with the consent of the GAA to raise money for the clubs. This was a prolific practice in the run-in to last year's All-Ireland. The Taoiseach should look at the legislation that exists in other countries and advise the appropriate Minister to bring the matter before the House. There are many of these major sporting and musical occasions coming up and people will be ripped off by unscrupulous touts.

**The Taoiseach:** I have no problem looking at that. As I said, an old law exists but I accept it is probably ineffectual as the fines and confiscations provided for have little effect. My colleagues inform me they believe a Bill was accepted in principle but was never passed. We can look at that.

Deputy Kenny has raised the matter of the practicalities of distribution which is a very difficult issue. Ticket distribution through quotas in sporting organisations annoys many genuine fans who try to buy tickets for their friends. Fans who queue for tickets also find they have difficulties. Ticket distribution through clubs is the fairest way because their members are the people who are active in the sport in question. However, people can pass on tickets, sell them or raffle them. We will examine if tough laws are in place elsewhere that would prevent tickets valued at €25 selling for €600. That is a crazy situation which would prevent any genuine fan from having the opportunity to get into a sports ground for a game let alone for a concert. I will have the matter examined.

**Mr. Rabbitte:** I wish to raise with the Taoiseach a matter relating to the programme for Government. As we all know, that agreement was entered into after the election so we are not talking about election promises. The Taoiseach stated in the programme for Government:

We will continue to reduce the pupil-teacher ratio in our schools. Over the next five years we will progressively introduce maximum class size guidelines which will ensure that the average size of classes for children will be below best international practice of 20:1.

The position is that more than 100,000 children are catered for in classes that range from 30 to 39 pupils. Obviously, children in bigger schools suffer most.

Let us look at, for example, Kildare and Meath, for no particular reason. The Government has reached its target of a class size of under 20 in 4% of cases in Kildare and in 10% of schools in Meath. Some 37% of pupils in Kildare and 34% in Meath are taught in classes of between 30 and 39. Meath has the second largest class size in the entire country with 44 children in one class. There has been no move at all on class sizes. It would appear the new Minister for Education and Science — I will sit down before she gets a note to the Taoiseach — has retreated from this aim. She described it as a “noble aspiration” on a recent television programme. I do not know if that is what she has written in the note to the Taoiseach but it would appear she has retreated from the promise in the programme for Government.

**Mr. J. O’Keeffe:** Can the Taoiseach read her writing?

**The Taoiseach:** We have promised and continue to pursue the commitment to reduce class sizes. The average class size in primary schools has now gone down to just under 24. It was previously over 27. This is the smallest class size in our history. We are determined to lower class sizes even further to below the international best practice figure of 20.

In recent years we have invested resources in special needs and education for the disadvantaged. Deputy Rabbitte would accept that all areas are not equal. This is an issue about which I feel strongly and have spoken on several times. It is not simply a case of dividing the number of teachers by the number of children in the population. That is flawed thinking. I accept that we should aim to achieve the international best practice target in all schools. However, focusing on schools in disadvantaged and marginalised areas, which have high levels of unemployment or social disadvantage, where we have to implement active programmes, including pre-school and after-school care, breakfast clubs and school lunches to attract children and help them, is a better system than looking at the global issue. In the area of special needs, class size is 1:15 and 1:20, which is as it should be. It would be sad if we were simply to reduce class sizes to 22 or 23 everywhere. It is preferable that we try to target resources. This year the number of special needs teachers has reached 4,000. Class size is already at or below the target for the areas that really need it, those which have been designated as priority areas.

I am happy to talk about Kildare where €85 million has been provided for major school building and modernisation projects in the past five years. We have invested significant sums of money in NUI Maynooth where student numbers have increased dramatically. We have also invested significant resources in other areas of education in County Kildare and in County Meath.

In reply to Deputy Rabbitte's question, international best practice is a class size of 20 and we are reducing it. I think Deputy Rabbitte would agree with the point that it is far better that we target resources and get lower class sizes, which we have done, in disadvantaged and marginalised areas.

**Mr. Rabbitte:** The Taoiseach is right. I might well agree with him but all I am doing is pointing to the programme for Government that he agreed with the Progressive Democrats. The Taoiseach does not agree with it. He gave a clear commitment that he would bring class size below the international best practice guideline of 20:1 within five years. That was a Government agreement. Whether I agree with the Taoiseach's latest position is neither here nor there. I accept children these days are immensely bright but none of the primary school children in Kildare go to NUI Maynooth. That is two stages later. Why has the Government departed from that commitment? The Minister for Education and Science, Deputy Hanafin, described the programme for Government as a "noble aspiration" on Ursula Halligan's television programme, which I saw.

**Ms Hanafin:** It is noble.

**Mr. Howlin:** Ivor Callely has noble aspirations.

**Ms O'Sullivan:** That is not much good to children in large classes.

**Mr. Rabbitte:** Does the programme for Government stand under the new Minister for Education and Science? Her Department has quite properly in recent years taken sex education seriously but, nonetheless, it appears to be entirely taken aback when three or four years after young couples buy homes in a new housing estate, children appear. Only when the children are four years of age does discussion begin on the need for the provision of a school. For example, where land is designated for a school it has to be purchased at post-rezoning prices. The Government has sought to do nothing about that.

In one case I came across in Kildare a child had to wait until the age of six because there was no place for her in the local school. That is the reality of the figures. If the Taoiseach is now changing the focus to educational disadvantage I entirely agree with him—

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

**Mr. Rabbitte:** —but I still disagree that it is acceptable for 100,000 primary school children to be in classes of between 30 and 39 in whatever area of the country they happen to be located.

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

**The Taoiseach:** As stated in the programme for Government, best international practice is a class size of 20 children per teacher. We have significantly reduced class size to 23.9 children. Deputy Rabbitte is also aware of the policy to support small rural schools, of which there are 600 or 700. That has been a good policy. These one or two-teacher schools are small but they are based in their communities. It is part of the rural renewal process of keeping schools in rural communities. We made a decision to do that rather than close or rationalise them. Otherwise, children would have further to travel to school. In some of these small schools it is difficult to manage class size. Half the schools in the country have four teachers or fewer. Therefore, when one factors in such matters one can appreciate the practical issues involved. Nevertheless, we are reducing the ratio and, in disadvantaged and special need areas, teacher-pupil ratios are now 1:15 and 1:20 and we will continue to invest additional resources.

In recent years the Government has hired more than 4,000 extra primary teachers and more than 2,000 extra post-primary teachers, which represents an enormous increase in the education budget, which has doubled from €3 billion to more than €7 billion. Approximately 47,000 pupils in 234 disadvantaged schools are now in reduced class sizes of between 15 and 20 and support for these schools is a priority. I am glad Deputy Rabbitte agrees that the correct approach involves not treating every area as equal because they are not. As a result of family circumstances, education and inherent problems over many decades certain areas require additional resources. In regard to resources, I have always argued that rather than trying to carry out a mathematical exercise, which many would have one do, and placing teachers with a certain number of pupils while stating that the ratio is the same everywhere, one should examine the areas which need the resources most.

This is the correct approach in order to give people a break. If children do not get a break in primary school they will not get a break anywhere else. That is the Government's policy and one which has enabled it to achieve ratios of 1:15 and 1:20. It is the correct policy.

**Ms O'Sullivan:** The Government has not expanded the number of disadvantaged schools in years.

*(Interruptions).*

**An Ceann Comhairle:** Allow Deputy Ó Caoláin without interruption.

**Caoimhghín Ó Caoláin:** Will the Taoiseach advise the House if it is the Government's intention to proceed with plans to impose waste incinerators on communities throughout the State, despite the concerns about pollution and the obvious risks to public health? How does he square that policy with the position of the Mini-

[Caoimhghín Ó Caoláin.]

ster for the Environment, Heritage and Local Government, Deputy Roche, who has publicly opposed the siting of any such incinerator in Wicklow or that of the Minister for Enterprise, Trade and Employment, Deputy Martin, who himself was an objector to the Ringaskiddy proposition at the planning stage? Moreover, what is his position on the views of the Minister for Justice, Equality and Law Reform, Deputy McDowell, who claims to be opposed to the Poolbeg incinerator in Dublin South-East but is still quite happy to see four smaller incinerators based at different locations around Dublin?

Does the Taoiseach agree it is now incumbent on the city manager of Dublin City Council to withdraw plans for the Poolbeg proposition given that last Monday night, by an overwhelming vote of 33 to three, the democratically-elected and accountable members of Dublin City Council decided to reject it? Will the Taoiseach join me in urging respect for the democratic wishes of the electorate as expressed at that meeting? Has he also noticed that the overwhelming majority of his own party's representatives on Dublin City Council supported the Sinn Féin motion of opposition to the proposed incinerator?

Will the Taoiseach call on the board of the EPA to make itself available at its own oral hearings, something it has yet to accede to, and that it will be accountable for its decisions? Will the Government listen to the will of the people on this issue, which is of major concern and importance, and come down on the side of the responsible addressing of the waste problems we all face?

**The Taoiseach:** The Government is committed to accelerated delivery of all infrastructure which is necessary to underpin economic growth and it is placing emphasis at the top of the waste hierarchy with waste prevention to the fore. We are dealing, once and for all, with integral and illegal waste activities by putting in place the necessary structures to deal with individuals and companies who are breaching those guidelines. Deputy Ó Caoláin will be aware that thermal treatment plants are a key element of modern waste strategy everywhere in the world. The countries which have the best—

**Caoimhghín Ó Caoláin:** Terminal for whom?

**An Ceann Comhairle:** Allow the Taoiseach without interruption. Deputy Ó Caoláin was allowed put his question without interruption and the Taoiseach is entitled to exactly the same courtesy.

**Caoimhghín Ó Caoláin:** I seek a clarification of the Taoiseach's definition of the word "terminal".

**An Ceann Comhairle:** The Chair will have to take appropriate action if the Deputy does not allow the Taoiseach to reply.

**The Taoiseach:** All over the world thermal treatment plans are a key part of modern waste management systems. The most environmentally-friendly countries, with the best environmental standards and which are quoted in all the international reports, have thermal treatment as an integral part of their plans. If the Deputy examines any of these programmes or the presentations prepared by NGOs on this issue, he will see that is the case.

The regional waste plans, which are being actively implemented, are being reviewed and updated. There has also been a number of other initiatives. The Government has enacted the Protection of the Environment Act 2003 and a draft national biodegradable study will be finished shortly which is intended to assist in the direction of the major element of waste from landfill to be implemented through the regional waste plans which are now being updated.

The overall recycling rate has been accelerated rapidly. A few years ago, I answered questions in the House indicating that the figures for recycling were tiny and had little effect but the rate increased to 9% in 1998, 21% in 2002, 28% in 2003 and last year it increased as it has this year. We have reached a serious stage in meeting these targets. The number of bottle banks has increased from approximately 400 a number of years ago to almost 1,700. By the end of 2003, the last year for which we have figures, the segregated waste collection service was provided to 42% of all households in the State, which figure has been rising rapidly.

All of these issues are progressing. Our figures are among the best in Europe. We have improved from being nowhere on the list to a very high level. Issues such as packaging waste recycling has increased rapidly and there has been remarkable progress. Ireland is well on track to meet the EU's 50% recycling target for the waste stream by the end of this year. We have allocated enormous funds from the environmental fund for this purpose. More than 93 local waste recycling projects are operating in local authority areas. I am sure Deputy Ó Caoláin will welcome these amazing improvements. If his scientific information is that the thermal treatment plants are not up to these international standards and he provides the evidence to me, I will have it examined.

**Caoimhghín Ó Caoláin:** Once again the Taoiseach has avoided addressing the questions put to him. He did not address the issue of the decision of Dublin City Council last Monday and the support for the Sinn Féin motion of many of his own party's representatives in the city. He has not called on the Dublin city manager to respect the democratic wishes of the elected representatives of the city council. He has not called on the board of the EPA to make itself amenable to its own oral hearings. He has continued to obfuscate, which is clearly his penchant at almost all times. Does the Taoiseach accept that this is primarily

an issue about democracy and public health? That is what we are talking about here.

When the people of County Louth dissented about the north-east waste management strategy because it imposed incineration, the former Minister for the Environment, Heritage and Local Government, Deputy Noel Dempsey, incinerated democracy. He took the power from the hands of local councillors and vested it in county and city managers under whose diktat he was able to impose the plans. We are now faced with an incinerator at Carronstown, County Meath, the hearings for which will commence in the week of the by-election in Meath and Kildare North. That is a very important date. With everything the Taoiseach has said, it is apparent he was more taken by his visit to China than he has admitted heretofore, having been absolutely impressed by the powers of the mayor of Shanghai in respect of planning matters. I assure the Taoiseach that the electorate in this country will not accept Shanghai-type standards in democracy or public health, or indeed the planning process, something the Taoiseach and his party know far too much about.

**Mr. O'Dea:** One will not see the Belfast brigade talking of that.

**Caoimhghín Ó Caoláin:** Or the Limerick one.

**An Ceann Comhairle:** Allow the Taoiseach without interruption, please.

**The Taoiseach:** We have probably one of the most open processes in the world with regard to planning issues and I agree with that, though it takes time. The systems of local authority, of planning, of courts and of the EPA are all open and transparent and all issues have to be considered by them. That does not take from the fact that we are making substantial progress in dealing with the waste issue. I have given the figures. We have established the office of environmental enforcement, a distinct and dedicated unit of the EPA to deliver enhanced environmental compliance through enforcement of EPA licences, which is the right thing to do. Substantial funding has been provided to local authorities from the environmental fund specifically for enforcement. We also have the national enforcement network. The local authorities and managers also have their powers in place and I do not need to comment on them. The legislation governs the EPA. All these matters are in place. We are committed to accelerating the delivery of infrastructure necessary to underpin economic growth.

The only thing I object to is the people who on one side want to oppose landfill sites and thermal treatment and do not really subscribe to recycling. They want to be against everything and for nothing.

**Mr. Allen:** Like the Minister for Justice, Equality and Law Reform.

**An Ceann Comhairle:** Please allow the Taoiseach to conclude.

**The Taoiseach:** Unfortunately, the reality is the waste issue must be dealt with.

**Caoimhghín Ó Caoláin:** The most comprehensive—

**An Ceann Comhairle:** I ask Deputy Ó Caoláin to allow the Taoiseach to conclude without interruption.

**The Taoiseach:** We are using the best international standards in every system in this country. The regulatory system and the independent system are there to oversee that.

**Caoimhghín Ó Caoláin:** The Taoiseach should try to sell that to the people of County Meath.

**An Ceann Comhairle:** Deputy Ó Caoláin, this is a parliamentary democracy and the Taoiseach is entitled to be heard without interruption in the same way as the Deputy.

**Mr. O'Dea:** The Deputy would be unfamiliar with that.

**The Taoiseach:** This is a modern economy which must deal with waste of all kinds if we are to have 2 million of our citizens working every day. To say we do not have to deal with it is running away from the issue. We should be looking at the best environmental standards. This is the right thing to do and we are doing it.

## Ceisteanna — Questions.

### Programme for Government.

1. **Mr. Kenny** asked the Taoiseach the progress to date in respect of the implementation of An Agreed Programme for Government; and if he will make a statement on the matter. [34098/04]

2. **Mr. Kenny** asked the Taoiseach if he will report on progress on implementing those elements of An Agreed Programme for Government for which his Department is responsible; and if he will make a statement on the matter. [34099/04]

3. **Mr. J. Higgins** asked the Taoiseach if he will report on the progress to date in implementing An Agreed Programme for Government. [1459/05]

4. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on the implementation to date of An Agreed Programme for Government. [3497/05]

5. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on progress in implementing the

[Caoimhghín Ó Caoláin.]  
programme for Government; and if he will make a statement on the matter. [3625/05]

6. **Mr. Sargent** asked the Taoiseach if he will report on progress to date in implementing An Agreed Programme for Government; and if he will make a statement on the matter. [4483/05]

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

Progress on the implementation of the Government programme is kept constantly under review. Deputies will be aware that for every full year that Fianna Fáil and the Progressive Democrats have been in Government, we have published an annual progress report. The second such report of the current administration was published on 1 August 2004. The report sets out the progress to date in implementing every commitment contained within the programme for Government.

It is the responsibility of each individual Minister to ensure the commitments in the programme that fall within their particular portfolio are fully implemented. The Department of the Taoiseach derives its mandate from my role as Head of Government. As such, it is involved to some degree in virtually all aspects of the work of Government. It provides support to me as Taoiseach and to the Government through the Government secretariat, the Cabinet committee system and through its involvement in key policy areas and initiatives.

The current key strategic priorities of the Department are set out in the strategy statement. They include Northern Ireland, EU and international affairs, economic and social policy, social partnership, public service modernisation and the information society and e-government. Both I and the Ministers of State in my Department answer questions in the House on these issues. In all of its work, my Department works closely with other Departments and offices. Individual Ministers are of course answerable to the House in respect of their own specific areas of responsibility.

The key areas for which my Department is responsible in terms of the agreed programme for Government can be broadly summarised as follows: supporting the development and implementation of social partnership, working with the British Government and the pro-Agreement parties to achieve the implementation of the Good Friday Agreement in all its aspects, coordinating the e-government initiative to bring about an expansion in the range and quality of on-line Government services and ensuring that Ireland's key objectives in the European Union are carried forward in the context of my role as a member of the European Council.

**Mr. Kenny:** Regarding the programme for Government, there is a good deal of concern about the way the country is moving. It moved so fast in ten years that it is unable to cope with the whole concept of planning for the nation's future.

We have never had a proper discussion in this House about the national spatial strategy, be it good or bad, about its implementation, about the impact of gateways, hubs and the massive developments proposed and taking place.

Does the Taoiseach see a need to analyse where exactly we are and where he thinks we should be over the next ten to 15 years, given that the House has never even bothered to have a decent debate about the impact and consequences of the national spatial strategy, which impacts on every Department with regard to the programme for Government, be it good or bad, as outlined by the Taoiseach?

**The Taoiseach:** I will not quibble but I think we did hold a debate on the spatial strategy. I think the Deputy is asking where we will go in that regard in the future. I am not saying the matter should not be debated in the House or in committees but the whole concept of the spatial strategy is that the local authorities in the first instance would have a large input into the basic guidelines which form the strategy as well as the centres and hubs for the future. They have a role in framing the guidelines for the future so they are not merely drawn up centrally but also through detailed local involvement. That is happening all over the country. As I understand it, most of the guidelines have now been drawn up.

Deputy Kenny is correct in saying that for the next 15 or 20 years there are enormous challenges faced by the relevant unit in the Department to coordinate the work and the guidelines with the local authorities because Ireland's population is projected to increase to 5 million in a short period of time. I am conscious the projections were not accurate if one looks back at the past 20 years. At one stage the population was projected as being less than 3.5 million by 2010 while the current projection for 2020 is 5 million.

There is a huge challenge in all of this. The guidelines have given rise to considerable debate. In Dublin city, more planners are trying to convince public representatives and others that the only way the city can now develop is upwards. I disagree with that but it is happening. In other areas people are looking at other issues. The ratios must increase in Dublin city as otherwise one will have sprawl everywhere. All these issues are reflected in the guidelines.

I am not sure if a committee of the House has looked at these issues but I know from the committee dealing with infrastructure there is a huge amount of work being done in the system, not merely in local authorities but in the various sections of the Department of the Environment, Heritage and Local Government. The studies done by those coordinating these matters are very good because they have looked ahead not merely to the next five or ten years but to the next 20 or 25 years. Admittedly we do not spend much time on these longer projections but at least there are people who specialise in that and they have done

some good work in their projections for up to 30 years ahead.

**Mr. Kenny:** I thank the Taoiseach for that. There are however three areas on which we do not seem to have any national perspective — waste, energy and communications. Regarding waste, some landfills have been closed while others are opening up. Some can take waste only from specific areas while others are wide open, yet the Government is dealing with Dublin's waste problem by sending 200,000 tonnes of waste north every year, some of it being buried in south Armagh and some in other places. We do not seem to have a national perspective in this area. Local authorities feel the Government intends to foist incinerators on every area, despite page 15 of the programme for Government stating that “the mass incineration of unsegregated waste with no energy recovery is not an acceptable practice today”.

Regarding energy, we are reliant on gas. We listened this morning to a member of the energy community talking about wind farming and the fact that there is no longer any incentive to provide that here as part of an alternative. There is no concept of where we should be in 20 years.

On communications, I have said before that we cannot wait around until the machines dig up every lane and bóithrín to install broadband. We need it fast and must move to wireless and satellite and get on with it so that one gives Bloody Foreland the same opportunities as central Dublin. If we do not do that in a national or regional sense, our population of 5 million by 2020 will all be focused on the semicircle of the greater Dublin region. That will create problems over the next 50 or 100 years if the Government does not take a long-term perspective now.

**The Taoiseach:** I assure Deputy Kenny that all Departments and agencies must now work to the national spatial strategy in their overall planning, as must local authorities. I know there is always controversy when one tries to do something, but one works to the best international standards. It is envisaged that we will need four or five thermal plants for a country with a population of 5 million. In other countries people will have seen that there are practically no emissions. They are in city areas and built to the highest specifications. They have been rigorously examined in those countries and are effectively not political or community issues being reported on with regard to emissions. It is difficult to see how one can resolve those issues.

Regarding broadband, we are doing precisely what Deputy Kenny has said and it is being rolled out nationwide. Having had an admittedly slow start in 1998 and 1999, when some progress was made, we are fast moving forward, and in the last two years enormous strides have been made. In some areas, wireless technology and satellite operate, but in others one has to use what is being rolled out by the rail lines or by some companies

that have re-engaged. They had disengaged for a few years because of their great accumulated losses on the 3G licences. However, they are now back working with the Department, and broadband is moving ahead.

Another project with which Deputy Kenny will be familiar is the great deal of work going on in the Atlantic corridor to make it an alternative hub to the east coast and get development into that area over the next decade. That is a good thing and it has been examined regarding roads, transport and electricity. There are some parts of the country, particularly the north west, where the ESB is now focusing on increasing electricity capacity. Otherwise it would not be at the requisite capacity in future. Those are investment decisions, but they have been well analysed. It is a question of their implementation.

There is an identification of the broad areas, though I am not saying everything is done or close to it. There are always pressures, but what is required has been well identified in the spatial strategy and by the various agencies, including electricity, gas, broadband, the Industrial Development Authority and Enterprise Ireland. Although we are spending more on infrastructure in percentage terms than any other country, it is because of rapid growth and deficiencies over many decades, which exert pressure. The identification of the issues is now being well presented in regional policy to try to achieve balance.

That means, as Deputy Kenny knows, a changed position for many rural areas since, as the population increases to its current extent, one reaches saturation point in the east. The spread of population masses around the country is inevitable, and that will bring problems. Recently we witnessed the debate in Laois. I understand the county's problem. On one side, it is now the next hub, while on the other side, it has lovely villages. However, there is an inevitability about increased population and economic growth. It is an issue to which we must face up. It will not make matters easy for the next ten or 15 years, including for political life. As one moves to that population, it is a success story, but it brings with it a great many pressures that would not have been here in the 1970s or 1980s.

**Mr. J. Higgins:** Does the Taoiseach expect us and the citizens of this country to take seriously and accept as good coin An Agreed Programme for Government? I ask that particularly regarding his integrated transport policy, designed as far as possible to overcome existing delays, bottlenecks and congestion and provide choice through alternative modes of transport. Can we take that seriously, particularly when the Taoiseach puts Deputy Callely in charge of one of the most serious bottlenecks in the country, namely, Dublin traffic? So desperate were we, I must confess, that in recent days when we heard the Deputy promise us metro lines, stations and millions of euro——



**An Ceann Comhairle:** I remind the Deputy that the six questions are general in nature, except for No. 2, which relates specifically to the Taoiseach's Department. Detailed questions should be directed at the responsible Minister rather than at the Taoiseach.

**Mr. J. Higgins:** Yes, but the Taoiseach is responsible for his ministerial appointments and for the general oversight of the implementation of the programme for Government.

The point that I seek to elucidate is whether we can take seriously An Agreed Programme for Government. I will not labour the point, but I was just saying that so desperate are we in Dublin that when Deputy Callely promised us millions of euro for the metro and so on within a short time, like Fianna Fáil balloons at election time, we almost believed it. Then the Minister for Transport, Deputy Cullen, said that it was guess work. At 9.45 a.m. today, from Dunboyne down to the Navan road and from Ballymun to the toll bridge was rock solid with vehicles that were virtually parked. This issue is very serious, and I would like the Taoiseach to answer why the Government is not taking it seriously, as is obviously the case. My last general point is that——

**An Ceann Comhairle:** I point out once again to the Deputy that his questions are detailed and should be addressed to the relevant Minister.

**Mr. J. Higgins:** The Ceann Comhairle is missing my point, but the Taoiseach certainly knows what I am talking about, so I will let him answer.

**The Taoiseach:** I will give a general reply, though I am also aware of the specific issues.

Deputy Joe Higgins and everyone else must realise the economic development happening and the scale of infrastructural work. As I said yesterday, we are spending over €10 billion under the five-year plan, an enormous sum. That can be broken down into individual contracts, figures and areas, but we are spending enormous amounts. One cannot change every plan raised by everyone overnight. However, yesterday I stated in the House part of what has been delivered in road, rail, the Luas, the DART, the intercity line, aviation, and transport in general, which is enormous. The contracts are worth over €1.25 billion this year alone.

It is always easy to say there is another contract and ask where it is; everything has to be implemented. The whole idea of a ten-year envelope is that we get a systematic plan rather than the Department, the National Roads Authority or Irish Rail rolling it out separately and that a proper plan is in place for the engineers and planners involved.

Most of the projects the Deputy mentioned are in those plans. He asked me last week about the rail project in his own area, which is in the plan. These projects are part of the overall infrastructural plan and, as I stated yesterday, the roads

aspect of that will be presented to the Cabinet committee in March and should be available after Easter. In the area of rail, the people responsible put forward their plan. Those responsible for the DART have published their plan up to the end of the decade. Most of those plans are in the public domain.

**Mr. J. Higgins:** Does the Taoiseach guess that everything will be fine?

**The Taoiseach:** There will always be pressures.

**Mr. Rabbitte:** In his reply the Taoiseach dealt with the importance of social partnership and the responsibility of his own Department for nurturing social partnership. We moved a motion in Private Members' Business last night to have a national uniform waiver scheme in terms of waste charges for people who are unemployed, those with a disability or pensioners but the amendment moved by the Government stated that there are continuing discussions within the social partnership process which are seeking to identify and address any inequitable impact the charging system is having on the disadvantaged. Is the Taoiseach involved in that? It is news to me.

**The Taoiseach:** I assume it is one of the committees under social partnership, of which there are many. I am not involved in it but the Deputy heard the Government's response last night to the proposal for a national waiver scheme. It is not one we support. I presume the purpose of the discussions is to examine some of the difficulties in terms of individuals being hit for these charges. I presume that reference is to pensioners and others.

**Mr. Rabbitte:** I refer the Taoiseach to the programme for Government which states: "In so far as it lies within our power, we will strive to create and maintain a secure environment for political progress and bring about, both through the application of law and by persuasion, a complete and lasting cessation of all paramilitary activity in Northern Ireland and throughout these islands, including punishment beatings and shootings, and the transformation of movements linked to paramilitary organisations into exclusively democratic organisations and completion of the process of putting arms beyond use". Does the Taoiseach accept that this aspiration in the programme for Government has been defeated? I am not seeking to allocate any blame to the Government for that but half way through the lifetime of the Government, is that not the only realistic if sad conclusion we can arrive at? Does the Taoiseach see any prospect of breaking the impasse in circumstances where paramilitary activity is taking place, including a young boxer being shot through the hands, the savage stabbing to death of Robert McCartney and those type of events, to dominate and control communities on the nationalist side?

Does the Taoiseach believe there is any hope of breaking the impasse?

**The Taoiseach:** I have to acknowledge that, obviously, we have not got a comprehensive settlement that ends these activities. That is the sad reality. In terms of punishment beatings and acts of violence, thankfully they have not reached the level they reached in the past. They are taking place at a time when we thought we would have eliminated them. For now and for the future, we have identified clearly the outstanding issues. There is an enormous understanding of those issues among the people. Whether there is total support for their resolution is a question on which the people of Northern Ireland have to focus their minds. I hope there will be support and that we get a comprehensive agreement that ends paramilitary activity, sectarian violence and other criminality.

That brings us to the linked issue of policing. It is the Government's view, and I believe the view of all parties in this House, that if we do not get a resolution to the policing issue — and we were almost there — we will not end these acts because the policing issue is central to these issues and to nationalist communities. That is the reason many of these activities are happening. In sincere response to Deputy Rabbitte, I believe we have to continue to try to get people to accept the elements of the agreement of last December, which were worked out over a two year period, and to try to build up trust and confidence. It is difficult but it is something we will not give up on.

**Caoimhghín Ó Caoláin:** The programme for Government states: "... will encourage the end of the two-tier health system by ensuring that public patients will have access to timely and quality services in all parts of the system". Does the Taoiseach not accept that cannot be done without a revision of the consultants' contract?

**An Ceann Comhairle:** Again, Deputy, as I pointed out to Deputy Joe Higgins, the questions are general in nature. Matters of detail should be pursued separately with the responsible Minister.

**Caoimhghín Ó Caoláin:** Yes, but my question seeks information on progress towards implementation and I am outlining a number of areas——

**An Ceann Comhairle:** That is a detailed question appropriate to the Minister for Health and Children.

**Caoimhghín Ó Caoláin:** This question is about progress towards the implementation of the commitment in the programme for Government.

**An Ceann Comhairle:** Deputy, if the Chair were to accept that——

**Caoimhghín Ó Caoláin:** That is the purpose of my question.

**An Ceann Comhairle:** There is a principle of collective responsibility——

**Caoimhghín Ó Caoláin:** There is, of course.

**An Ceann Comhairle:** ——and each Minister is responsible to the House. The Taoiseach does not have official responsibility to this House for detailed questions relating to the Department of Health and Children.

**Caoimhghín Ó Caoláin:** He has responsibility for the programme for Government.

**An Ceann Comhairle:** Yes.

**Caoimhghín Ó Caoláin:** I am pointing out the deficiencies in the programme so far in respect of the commitments made. I am giving a few examples and inviting the Taoiseach to reply in the general, if that is his wont. I made the point on the consultants' contract. Also, does the Taoiseach accept that the revision of same was promised in the health strategy to be implemented by the end of 2002, more than two years ago? Does he accept that key commitments under health in the programme for Government require the co-operation of the health consultants and that in the current climate, where there is a clear breakdown in that relationship——

**An Ceann Comhairle:** Deputy, that is a detailed question appropriate to the Minister for Health and Children.

**Caoimhghín Ó Caoláin:** It is a detailed question but I am inviting a general response to help the Taoiseach to focus on what is a myth in the programme for Government and the way it applies to the daily lives of ordinary people. Let us make no mistake about it; health is one of the key areas under same as is the situation in respect of children and child care. What is the Government's strategy to implement the health elements of the programme for Government if consultants continue to bar the way——

**An Ceann Comhairle:** Deputy, you are moving on to a detailed question. The Chair has ruled on the matter and I ask the Deputy to stay within the——

**Caoimhghín Ó Caoláin:** What is the Taoiseach's view on the methodology employed in carrying out a national survey of child poverty in 2003, also committed to in the programme for Government, which sought to address, under Children and Child Care, the issue of reducing child poverty in line with the national anti-poverty strategy? Perhaps the Taoiseach might be good enough to address both of those issues.

**The Taoiseach:** On the issue of the health reform programme, the Deputy is aware of the position on that. The Health Service Executive is up and running, and we now have the National

[The Taoiseach.] Hospitals' Office. The third part of the legislation has to go through this House later in the year on the quality issues of health.

The history of the consultants' contract is clear and well-known. Junior hospital doctors, under an EU directive, must have a shorter working week compared to the hours they traditionally worked, which were excessive. We are committed to that. As a result, there will be more consultants in hospitals, a development to which the Government is committed, and the common contract will have to be reformed. The Government is anxious to proceed with negotiations on the common contract but it has not been able to progress the matter as a result of the insurance indemnity issue. It will be impossible to engage the consultants in discussions on the common contract while that issue remains unresolved. Last week, when replying to a question from Deputy Kenny, I outlined the position in respect of insurance indemnity. Industrial action is pending and the Government is seeking to negotiate but there are some things we just cannot do.

We want to negotiate the contract and make progress. It is necessary, in the overall reform of the health area, to make progress. The common contract has not been renegotiated for 25 years and matters in the area of health have moved on to a major extent in the interim. There are now 120,000 full-time and part-time employees in the health service. The position is, therefore, entirely different to that which obtained in the mid to late 1970s when the common contract was negotiated. We want to proceed with the negotiations but we must resolve the insurance indemnity issue in the first instance.

I answered questions on child poverty recently. We have made substantial progress. However, the two recent reports, NESC's household survey and that carried out by the CSO, identified the areas on which we need to target our efforts for the future. The line Ministers will take action in that regard. This is not only a matter for the Department of Social and Family Affairs, it is also a matter for the Departments of Education and Science and Health and Children. These Departments must focus on how we can best deal with those areas which the reports continue to show as having——

**Caoimhghín Ó Caoláin:** Is the Taoiseach satisfied with the findings?

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

**The Taoiseach:** I have no difficulty with the methodology used. The only argument I would put forward is that it is not possible to compare like with like because it is not a case of being able to do so. As both reports state, the methodology employed is different and cannot be compared with earlier reports. I welcome the fact that they

focus on the areas on which we should target resources. While there has been a major reduction from 15% to 5% of children living in extreme poverty, we must concentrate our efforts on those 5% of children.

**Mr. Sargent:** When speaking on An Agreed Programme for Government, the Taoiseach repeatedly states that if the Government had previously known what it knows now, it would have done things differently. This is particularly the case when he is obliged to answer questions on matters such as traffic congestion, problems relating to social housing, etc. Is it not the case, however, that when one is preparing such a programme, unless — as happened in Finland — a study into what might happen in the future and how to plan for this is carried out, one is merely failing to prepare and, as they say in football parlance “preparing to fail”? Is that why quite a number of matters dealt with An Agreed Programme for Government are not being implemented? I refer here to establishing a national waste management advisory board, a recycling forum and a marketing development group. We all thought these would be standard and required but they have either fallen off the agenda or the programme is not to be believed.

The agreed programme contains a commitment which states “We will implement our greenhouse gas taxation policies on a phased incremental basis”. Is the programme anything more than an elaborate press release? Should we simply adopt a take it or leave it approach to it? Does the Taoiseach intend to revisit a number of the matters to which consideration has clearly not been given in order to see what can be done to take action in respect of them? I have heard that he intends to rewrite the national climate change strategy and perhaps he needs to do so. Would such a development represent a response to the Government's failure in respect of the Kyoto Protocol? Is it intended to redraw the commitment which states “Defence Policy continues to develop in the service of peace” when Ireland joins the European defence agency. We do not have to do the latter and we have not had a debate in the House on it.

Are we to take An Agreed Programme for Government seriously when it comes to obvious differences between Government action and stated policy? Is the programme worth discussing, particularly in light of the fact that it does not seem to hold much weight for the Government? Why should it, therefore, hold much weight for others?

**The Taoiseach:** I do not accept that analysis. The programme for Government sets down plans for every Department, Minister and agency to follow and endeavour to implement. An audit carried out each year on the huge number of areas and initiatives covered by the programme shows what has been completed. It is obvious that everything has not been completed and some

initiatives are either more advanced than others or have already been completed.

The national spatial strategy was professionally — not politically — prepared and those involved analysed what will happen in the future. The relevant unit in the Department, various outside consultants, etc., considered the geographical and population changes and the various trends that might occur during the preparation of the strategy, which sets out how those involved see the country developing. The analysis and qualitative work carried out by the Central Statistics Office has also been taken into account.

As regards the rate of progress, the Deputy will be aware that projects often, for one reason or another, take longer to complete than originally envisaged. That is an inevitable consequence of the planning process. I do not have a difficulty with that process but I am of the view that it takes too long to be completed in respect of matters of this nature.

**Mr. Sargent:** As in the case of the metro.

**The Taoiseach:** The major issue with the metro is its sheer size and the scale of the resources required. Almost the entire capital programme would be needed.

**Mr. Sargent:** It would be a fraction of—

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

**The Taoiseach:** There are other places besides Dublin and the resources must be spread around.

**Mr. J. Higgins:** The Taoiseach stated that the metro would reach Dublin Airport by 2007.

**An Ceann Comhairle:** The Taoiseach, without interruption.

**The Taoiseach:** Dublin Airport is doing better than anyone ever thought it would. Up to 20 million visitors passed through it last year. Only five or six years ago, people stated that this number might only reach 10 million.

A huge amount of work was invested in preparing the national spatial strategy and the guidelines for every region and local authority area. Deputy Sargent is correct that the Kyoto Protocol comes into play today. We must take action in terms of progressing matters in that regard. Issues relating to a range of areas are continually reviewed in the context of the national climate strategy because it is necessary to update our knowledge in respect of them.

**Mr. O'Dowd:** The Taoiseach referred earlier to the existence of thermal treatment plants in other countries. Does he not agree that the key issue in terms of the Government's policy relates to the health aspects of these plants and people's concerns in that regard? The EPA is refusing to

appoint representatives of the World Health Organisation at its oral hearings.

**An Ceann Comhairle:** That question is more appropriate to the line Minister.

**Mr. O'Dowd:** Does the Taoiseach agree that concerns about the health issues involved are genuine, sincere and widely held and that the EPA is not addressing them?

**Ms McManus:** I do not know if the Taoiseach is aware that the Health (Amendment) (No. 2) Bill, which the Government rushed through the House just prior to Christmas, has been deemed to be unconstitutional by the Supreme Court. This has major implications in terms of how the Government has dealt with the elderly. It is clear that it has been unfair and inefficient in terms of ensuring that the elderly were cared for and provided for and not robbed of their pensions. There is a specific commitment to the elderly in the programme for Government which was not met. I refer here to the fact that 850 nursing home beds were to be provided by way of PPPs.

**An Ceann Comhairle:** The Deputy knows that this matter is more appropriate to the line Minister.

**Ms McManus:** In light of the Supreme Court decision, it is vital that the Government be held to account in respect of the care of the elderly.

**An Ceann Comhairle:** The Deputy cannot ask a detailed question of the Taoiseach on the matter.

**Ms McManus:** There is a specific commitment in the programme for Government.

**An Ceann Comhairle:** The Tánaiste and Minister for Health and Children, Deputy Harney, is responsible.

**Ms McManus:** I have listened to many specific questions on An Agreed Programme for Government. This is a specific commitment. The first phase, as regards care for the elderly, is for 859 community nursing unit beds, provided for under a public private partnership. Only the first—

**An Ceann Comhairle:** The Chair has ruled on this.

**Ms McManus:** Will the Taoiseach make a statement now as regards the situation that arises as a result of Government bungling, ineptitude and the harshness with which it has treated the elderly who needed nursing care in community units, who were robbed when they went looking for this care and who have not been provided for within the Government programme which made specific commitments to meet needs which had not been met?

**The Taoiseach:** As regards the first question on the health issue and the thermal treatment plants, of course I acknowledge there is concern in all of these cases. Whenever there is anything new there is concern about these issues. However, the EPA study notes that the World Health Organisation dealt with these issues. They have been reviewed not just in Ireland but in many countries. I understand that people have concerns in this regard, but the World Health Organisation was involved, as stipulated in the report.

On Deputy McManus's question, I have just heard that the case was lost. This will now bring clarity to the whole position. That was the benefit of it being reviewed by the Supreme Court. Now the case has to be dealt with. A 90-page judgment is being read, and that will have to be carefully examined by the Attorney General and the Department of Health and Children. This issue has existed since the mid-1970s. Now we have to deal with it in accordance with the Supreme Court's ruling and the Government will do 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.

**Mr. Morgan:** I seek leave to move a motion for the adjournment of the Dáil under Standing Order 31 to discuss the following matter of urgent public concern, namely, the refusal of the EPA to attend the hearings into the granting of a draft licence to Indaver Ireland for a municipal and toxic waste incinerator at Ringaskiddy, County Cork and the necessity for the Minister for the Environment, Heritage and Local Government to intervene to ensure the board of the EPA is held accountable to the public by forcing its representatives to attend the remainder of the hearings, which are ongoing.

**Aengus Ó Snodaigh:** I seek leave to move a motion for the adjournment of the Dáil on the following specific and important matter of public interest requiring urgent consideration, namely, the need for the Minister for State with responsibility for the national drugs strategy to report on Government plans to combat the worst case drugs scenario for the country, namely the establishment of a crack cocaine culture in Dublin city, following the revelations that Ireland now has the second highest rate of cocaine usage in Europe, and the arrest of two suspected crack cocaine dealers recently.

**Mr. Sargent:** I seek to have the business of the House adjourned under Standing Order 31 to raise a matter of urgent national and international importance, namely, to appraise the Dáil of the Government's failure to date to prepare Ireland for compliance with the Kyoto Protocol, which comes into effect today, and its successors

which provide that reductions will be far more stringent than the original protocol. It is expected that Ireland will have an overrun of over 40% on 1990 levels by 2010, posing enormous fines on taxpayers.

**An Ceann Comhairle:** Having considered the matters raised, I find they are not in accordance with Standing Order 31.

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

**The Taoiseach:** It is proposed to take No. 5, Social Welfare and Pensions Bill 2005 — Order for Second Stage and Second Stage; and No. 4, Criminal Justice Bill 2004 — Second Stage (resumed). Private Members' business shall be No. 44, motion re waiver scheme for domestic refuse charges (resumed), to conclude at 8.30 p.m.

**An Ceann Comhairle:** There are no proposals to put to the House on the Order of Business.

**Mr. Kenny:** I want to propose an amendment to the effect that time be set aside today from, say, 4 p.m. to 6 p.m., for a statement to be made to the House by the Tánaiste on behalf of the Government arising from the 88-page Supreme Court judgment in which it has just ruled that the nursing homes Bill is unconstitutional. This matter was first raised by Deputy Perry and it appears as if the information that was available to the Department of Health and Children for quite some time amounts to a massive cover-up, possibly exposing the State to tens of thousands of claims. This is because property rights may not be retrospectively interfered with by the State.

This has serious implications for thousands of people all over the country. I know the statement will require some analysis by Government and in that sense the fact the President referred it to the Supreme Court for a constitutional test is to be complimented. It has just been brought to my attention that under Standing Order 101 all Government Bills shall be published if accompanied only by a printed explanatory memorandum, explaining the provisions of the proposed legislation in a readily intelligible manner. I understand no explanatory memorandum was published with this particular Bill. It means the Government legislation is flawed.

The issue of future claims is not in question, but the House needs to know from the Tánaiste on behalf of the Government what its reaction is to this legislation and what clarity has now been brought to the issue of the imposition of charges prior to 2001, which appears to be somewhat unclear. Is the State now exposed to literally tens of thousands of claims going back *ad infinitum*, as the issue was not on the question of property rights? The House should set aside a period of time today for an explanation from the Tánaiste, and there might be an opportunity for Deputies to question her as to what the Government's

intentions are as regards dealing with and facing up to this liability.

**Mr. Rabbitte:** I support Deputy Kenny's request for a brief debate today on this important development. Following the passing of this Bill, Deputy McManus on behalf of my party, wrote to the President, suggesting that she might convene the Council of State, because in our view this Bill was unconstitutional. It has now been struck down by the Supreme Court, with some of the implications that Deputy Kenny has just outlined.

The House needs an opportunity, as well, to test the Taoiseach's confidence in his Minister for Health and Children. It is a bad day for her. She has already lost the chief executive of the Health Service Executive. She has been unable to commit to her promise on medical cards. The legislation which promised to provide a new "yellow pack" medical card is not yet before the House. Accident and emergency departments throughout most of the country's hospitals are not functioning. It is a bad day for the Minister for Health and Children and for the Government. It rushed the legislation through in the face of pleas from this side of the House that it ought to be more considered, given the discrepancy that was uncovered. The Taoiseach ought to assent to the request that the House be given an opportunity to discuss this.

**Mr. Sargent:** It is quite a worrying development and indicates not alone the problems raised by the Supreme Court but also vindicates Opposition warnings that the Bill was being rushed through the House. This health amendment Bill was inspired, it seems, more on PR grounds than from a legally vigorous and well-thought out policy viewpoint. It is clear that the business is unfinished and that a debate is needed. It is important to call for a debate.

When we have a debate I would like to hear from the Taoiseach and the Minister for Health and Children whether a special Estimate will be provided by the Government and whether it is prepared to listen to the views that were expressed and which were not given a hearing. These urged that more time was needed to deliberate on the legislation because of the complexity of the issue and with regard to the retrospective action that is needed given the injustices over many years.

**Caoimhghn Ó Caoláin:** I do not agree that this is a worrying development. It is a welcome development as it vindicates the arguments presented by the Opposition to this Bill on its rushed nature, its purpose and its intent. There clearly was not sufficient consideration given to the enormity of what was involved. Today is a good day because this has happened. It is right that the Government takes the lesson that rushed legislation to accommodate what is perceived as an immediate need is not good governance. Les-

sons will be learned from this and that we will see a more considered approach to legislation that affects ordinary decent citizens throughout the length and breadth of this State. I also support the call for statements on this matter to be accommodated today, following the Tánaiste's statement to the House. I hope we proceed in a more orderly and considered fashion in addressing this and all other matters in future.

**The Taoiseach:** As I said earlier, the Supreme Court has ruled that the Health (Amendment) (No. 2) Bill is unconstitutional. I have had no chance to talk to anybody about it, as all I have received is a note informing me that there has been a 93-page judgment. I welcome the clarity which the court's ruling will bring. When the meeting of the Council of State took place, the Tánaiste and I said it was better to get this issue clarified. It had been around for 20 years in one form or another, this ruling now deals with it and we will have to examine it. The legal problems arising from the method of charging medical card holders for long-term institutional care goes back many years, at least to 1976. This is obviously a complex area of law. The Minister for Health and Children, together with myself and her colleagues in the Government, will study today's judgment very carefully. I am not in a position to say at this time whether further legislation may be required in this matter. I understand the Tánaiste will be happy to make a statement to the House later today, in consultation with the Whips. We will just have to check with the Whips to see if it can be arranged.

#### **Social Welfare and Pensions Bill 2005: Order for Second Stage.**

Bill entitled an Act to amend and extend the Social Welfare Acts and, for the purpose of giving effect to Directive 2003/41/EC of the European Parliament and of the Council and for other purposes, to amend and extend the Pensions Act 1990.

**Minister for Social and Family Affairs (Mr. Brennan):** I move: "That Second Stage be taken now."

Question put and agreed to.

#### **Social Welfare and Pensions Bill 2005: Second Stage.**

**Minister for Social and Family Affairs (Mr. Brennan):** I move: "That the Bill be now read a Second Time." Molaim go léifí an Bille seo don dara uair. I am very pleased to introduce the second of two Bills intended to implement the €874 million social welfare package announced in budget 2005. This sum represents a 40% increase of €244 million on the 2004 package of €630 million and brings the projected level of social welfare expenditure in 2005 to over €12.25 billion. That represents a 9% increase of €1 billion on the

[Mr. Brennan.]  
 allocation for 2004. This level of expenditure is the highest ever on social welfare and is indicative of the Government's priority to protect and improve the living standards of social welfare recipients. It is a clear demonstration of this Government's commitment to addressing the needs of people with disabilities and their carers, children, the elderly, widowed persons, the unemployed, those who are parenting alone and many others who are disadvantaged, vulnerable or on the margins of society. It continues substantial year-on-year increases in social welfare spending, representing an increase of almost 60% in four years and double that which was spent in 1997.

The budget for my Department, at more than €12 billion, is the largest spending allocation of any Department. It means that for every €3 that will be spent by this Government in 2005, almost €1 will go in social welfare entitlements, benefits and supports. An estimated 970,000 people are expected to claim weekly social welfare payments this year. Almost 1.5 million people, including dependents, will benefit from these payments. That is two out of every five people in the State who are, in one way or another, receiving vital welfare supports.

Since this Government took up office, Ireland has changed dramatically and the facts speak for themselves. The number of people at work has increased to almost 1.9 million; the rate of unemployment has fallen dramatically from 10% to 4.3%, which is the lowest in the EU and among the lowest in the world; the number of low-paid removed from the tax net has increased and all those on the minimum wage will be completely taken of the income tax net this year; while spending on social welfare has more than doubled from €5.74 billion in 1997 to an expected €12.25 billion in 2005. Over the past decade, while gross average industrial earnings have increased by 71%, social welfare payments have improved by between 87% and 95% and by even more for larger families. Substantial improvements in the conditions for entitlement to a range of social welfare schemes and services have been implemented. New social welfare benefits such as the farm assist scheme, carer's benefit, the widowed parent grant and the respite care grant have been introduced and enhanced. The social welfare increases of budget 2005 range from more than 7% to over 10%, while inflation this year is expected to come in at 2.5%.

I could spend a long time quoting more facts and figures that confirm the pivotal role the Department plays in the lives of so many people and the great strides that have been made in just a few years. However, the Department of Social and Family Affairs is about more than statistics. The payments, benefits and supports that go directly to almost 1 million people are a weekly lifeline for many struggling to make ends meet. More often than not, the Department is the final safety net for those descending towards poverty, marginalisation and economic and social distress.

However, the Department is more than an efficient and effective administrative structure for processing and delivering State entitlements. It is above all else about people and it must be people centered. The response of the Department must always be to shape the welfare system to meet individual and family needs. That must be the guiding principle for the way my Department does its work. It will continue to react and respond speedily and sympathetically to all those who reach out to the welfare lifeline. It will not be guided only by rules and regulations that may sometimes blur the real purpose. Put simply, a one-size welfare system does not fit all. The Department is about the welfare and the overall well being of those who are caught in the daily struggle to make ends meet. Such people include the children at risk of poverty, the carers who look after those unable to care for themselves, older people, the unemployed and the many others who must be supported. We are now enjoying a new wave of economic growth and this time around the rising tide must lift those boats that are left behind.

I will now outline the main provisions of the Bill which amends both the Social Welfare (Consolidation) Act 1993, which is the principal Act, as well as the Pensions Act 1990. I propose making the following amendments to the social welfare code. In the area of child income support, the Government's policy is to concentrate resources on enhancing the child benefit scheme. Child benefit now accounts for over 66% of child income support, while in 1994 it constituted less than 30%. There are sound reasons for this policy. Child benefit is both neutral *vis-à-vis* the employment status of the parents of the child, and it does not contribute to poverty traps. As a universal payment, child benefit is not taxable, is not assessed as means for other secondary benefits and is payable to the primary carer, usually the mother. When account is taken of these aspects of payment, child benefit is a most effective child income support mechanism. Section 3 provides for increases in the monthly rates of child benefit as announced in budget 2005. The lower rate of benefit, payable in respect of each of the first two children, is being increased by €10 per month to €141.60. The rate for the third and each subsequent child is to increase by €12 per month to bring the rate from €165.30 to €177.30. The increases will come into effect from 1 April.

Disability benefit payment rates are determined in part by the level of the claimant's weekly earnings. Currently, where a person in receipt of long-term unemployment assistance becomes ill or unfit for work, he or she may qualify for only a reduced rate disability benefit as a consequence of having low or non-existent earnings during the governing contribution year. Section 4 of the Bill provides that in such cases a person may be eligible to receive disability benefit at the maximum rate where he or she satisfies the qualifying conditions and has paid a minimum of 260 social

12 o'clock

insurance contributions and 39 credited contributions in the governing contribution year. The section further provides that such customers shall be exempted from the requirement to have paid 13 of the required 39 contributions and to satisfy the prescribed earnings limit. The measures will take effect from the beginning of May.

Currently, where a person in receipt of injury benefit suffers a second injury and establishes entitlement to disablement benefit, the total amount payable is restricted to 100% of the disablement benefit rate. Section 5 provides for the abolition of the limit to permit payment of disablement benefit together with the appropriate rate of injury benefit. The measure will be effective from 2 May.

As the House knows, I am committed to the cause of carers. I set out in the budget process to recognise and support in a special way the contribution carers make to society. Carers provide a valued and valuable service and everyone in this House and society in general knows of the commitments and sacrifices involved. The package of measures I agreed with the Minister for Finance commits additional spending of close to €35 million to enhance supports for carers and to allow more of them to qualify for entitlements. The range of measures I propose includes an increase of €14 per week in carer's allowance and carer's benefit payments. The increase has been applied since January and was initially provided for in last year's Social Welfare Act. The annual respite care grant is to increase from €835 to €1,000 and will be received by almost 33,000 full-time carers this year. The respite care grant is to be extended to include irrespective of income all carers who provide full-time care subject to the conditions that they are not otherwise employed for more than ten hours per week, in receipt of an unemployment payment or signing for unemployment credits. The measure will result in the receipt of the grant by an estimated additional 9,200 full-time carers for the first time.

Section 7 of the Bill provides for the implementation of all respite care grant enhancements with effect from June this year. In recognition of the particular challenges faced by those carers who provide care for three or more people, the respite care grant will be paid in respect of each of their care recipients. The carer's package this year expands the income limits for carer's allowance by increasing the weekly means test income disregard by €20 to €270 for a single person and by €40 to €540 for a couple to allow all those earning an average industrial income to qualify. The measure will permit a couple with two children to earn up to €30,700 and receive the maximum rate of carer's allowance. The same couple will be able to earn up to €49,200 and receive the minimum rate of carer's allowance, free travel, the household benefits package of free schemes and the respite care grant. The improvements set out will result in the qualification of an additional 1,000 new carers for payment while 2,400 existing carers currently in receipt of a reduced payment will

receive an increase in their weekly carer's allowance payment.

The earnings threshold for carer's benefit recipients who work for up to ten hours per week outside the home is to increase by €120 to €270 per week. The revised earnings disregard, which will be provided for in regulations, will be effective from April. In addition, I intend to ease somewhat the qualification conditions for entitlement to carer's benefit to extend entitlement to certain seasonal and atypical workers who have difficulty meeting the current employment related conditions. While it was originally proposed to remove the conditions, this was not considered on further examination to constitute the best way forward. To remove the conditions would be to break the link with employment, which was not the original intention. Given the issue's complexity, I do not want to make changes with the potential to cut across proposals to accommodate certain patterns of care sharing which my Department is currently examining. I have decided, therefore, to revisit section 6 of the Bill and propose to bring forward an amendment to it on Committee or Report Stage.

I assure the House that my intention is to make carer's benefit more accessible to those who work. The measures set out in the 2005 budget and previous initiatives will go some way towards responding to the specific needs of carers. There will be further opportunities to address the issues which face carers and I hope to take them. I will continue to meet with and listen to carers to further develop the entitlements and supports which best assist them in the valuable work they do. While a great deal has been done, we must acknowledge that there is a lot more which should and, I assure the House, will be done to recognise and reward carers.

With some exceptions, disability allowance is not generally payable to a person who resides in an institution. Section 8 of the Bill provides for the introduction of a means-tested payment of up to €35 per week for persons currently excluded from the disability allowance scheme by virtue of their residence in an institution. It is estimated that some 2,400 people will benefit from the provision which will be effective from 1 June.

Section 9 of the Bill provides that the amount of capital disregarded for means test purposes for all schemes except supplementary welfare allowance will be increased from €12,694.38 to €20,000. This is an increase of over €7,300. The improvement is being introduced following an examination of current arrangements for the assessment of capital and property, especially in so far as they apply to special savings investment accounts, or SSIA's. The enhanced disregard will apply to all capital regardless of whether it is held in an SSIA or credit union, post office or other account with a bank or other financial institution. The increased disregard will provide, for example, that a single non-contributory pensioner with no other means can hold capital of up to €28,000 while continuing to qualify for a pension at the



[Mr. Brennan.]

maximum rate. A single pensioner will be able to hold capital of up to €76,000 while continuing to qualify for a minimum pension. The figures are double in the case of a pensioner couple.

SSIAs were introduced in 2001 as part of an overall Government strategy to encourage a regular savings culture among the population in general. The new measures are consistent with this strategy and are designed to ensure that social welfare means-testing procedures do not act as a disincentive to claimants to become savers or harshly penalise those who have been regular savers in the past. The provisions will take effect from early April in respect of carer's allowance and from early June for other relevant means-tested schemes.

Section 10 provides for an entitlement to island allowance for those in receipt of certain payments from other EU member states which correspond to the social welfare payments with which island allowance is normally payable. The measure will take effect on the enactment of the Bill. Section 11 standardises the transitional arrangements introduced following the alignment of the income tax and calendar years in 2001 for determining entitlement to certain insurance-based social welfare schemes. Section 11 confirms that the second last complete contribution year will continue to be used to determine entitlement to short-term benefit schemes such as those for unemployment and disability benefit. Sections 12 and 13 provide for the same treatment which applies to unemployment benefit, unemployment assistance and farm assist payments for the community employment scheme for the purposes of employment under the rural social scheme operating under the aegis of the Minister for Community, Rural and Gaeltacht Affairs.

As I mentioned at the outset, the Bill makes a number of miscellaneous amendments to the social welfare code. The amendments are contained in sections 14 to 22. They include a technical amendment which provides that only one carer's benefit or carer's allowance payment may be made in any week in respect of the full-time care of a care recipient. The Mental Health Commission will be added to the list of specified bodies authorised by legislation to use a personal public service number as a unique public service identifier. According to another amendment, bereavement grants may be awarded and six-weeks-after-death payment arrangements applied without the need for referral to a deciding officer.

The Bill amends the timeframe for initiating summary prosecution proceedings in cases of fraud and abuse and modifies payment arrangements to allow orphan's payment to be made directly to an orphan aged over 18 years where he or she is not residing with a guardian. A further amendment allows for the defining in regulations of the types of employment from which a portion of earnings may be disregarded in the assessment of entitlement to rent or mortgage interest supplements. The Bill further provides that the

approach to recovery of social welfare overpayments will be prescribed in regulations and the alignment of the residency conditions attaching to the home-maker's scheme, in so far as it applies to people providing care to ill or elderly persons, with those which apply to carer's allowance, carer's benefit and respite care grant schemes.

The Bill also amends the text of certain provisions of the principal Act in advance of the publication of the social welfare (consolidation) Bill 2005 which is being prepared. The amendments will reflect the changes effected by the Health Act 2004 by providing in section 23 and Schedule 1 for changes consequent on the dissolution of the health boards and the establishment of the Health Service Executive.

Section 24 and Schedule 2 provide for the substitution of Schedule 3 to the principal Act with the reorganised accessible version of the text. This Schedule contains the rules governing the calculation of means. Section 25 and Schedule 3 provide for further amendments required on foot of the revised Schedule. Section 26 and Schedules 4 and 5 provide for a number of technical and textual amendments to the text of the principal Act required in advance of consolidation of the social welfare Acts.

I regard the area of occupational and supplementary pensions as one of the key challenges of my ministry. This is my first time to address the House with regard to this aspect of my brief in the context of a Bill, and therefore I will briefly set out some views. Regarding occupational pension cover, my philosophy is that the State has a responsibility to encourage people to make pension provision. It also has a responsibility to step in and fill gaps where they exist. There are gaps: only 59% of workers over the age of 30 have supplementary pensions, despite our target of 70%; only 43% of women in the State have pensions; and people in their twenties taking up jobs generally make no pension provision.

These are fundamental issues to which I, the Government and the House must turn our minds. Pension coverage and adequacy of cover is a multifaceted problem and there is no single solution. These challenges were recognised by those involved in the national pensions policy initiative and progress has been made under the strategy pursued since. However, I am concerned at the pace of change. I have therefore asked the Pensions Board to bring forward completion of the review of the current strategy required under the Pensions Act from the originally agreed date of September 2006 to June 2005. Getting a balanced strategy is a real challenge and I will keep the House apprised of developments.

The measures I introduced today provide for the implementation of a major EU directive on pensions and measures to address the very real problems experienced by defined benefit occupational pension schemes.

EU Council Directive 2003/41/EC on the activities and supervision of Institutions for Occu-

pational Retirement Provision is generally referred to as the IORPs directive. The directive sets out a framework for the operation and supervision of occupational pension schemes in all member states and will facilitate pan-European pension plans. In Ireland, the Pensions Act 1990 already provides for much of that framework and requires only a small number of amendments to ensure compliance, including the insertion of a section regulating cross-Border activity. However, there are three issues of change that are important to note.

The first relates to emerging opportunities for Ireland in the context of pan-European pensions under this directive. A task force, on which my Department was represented, was established under the auspices of the IFSC clearing house group to consider how Ireland might best respond to these emerging opportunities. That group recommended Ireland position itself as a domicile of choice for such pan-European pensions schemes while recognising that this is a medium-term objective. One of my overriding concerns in transposing this directive is to ensure it is transposed in a way that facilitates that aim and, as late as yesterday, I had discussions with the chairperson of the group as to how best we can progress this agenda. In Ireland, occupational pension schemes have traditionally been trust-based vehicles and, in the months following enactment of this Bill, I intend to engage with interested parties to establish whether there are other suitable pension arrangements that may facilitate those considering pan-European schemes. For the moment, institutions establishing in Ireland will have to be on a trust basis.

The second issue relates to Article 18 of the directive that deals with investment rules. Under that article, borrowing by pension schemes is prohibited other than for liquidity purposes and on a temporary basis. Section 36 implements this requirement. The directive allows for schemes with less than one hundred members to be exempted from this requirement. However, I took the view that if this is a prudent rule for some schemes it is prudent for all, an approach supported by the Pensions Board. Equally, the borrowing prohibition cannot be seen in isolation from the investment rules that relate, *inter alia*, to a requirement to ensure assets are invested predominantly on regulated markets and are properly diversified.

The third issue relates to the requirement that those who run pension schemes must be of good repute and must possess appropriate qualifications and experience. To deal with this aspect of the directive, section 34 sets out the circumstances under which a person must not act as trustee of a scheme, such as having a conviction for dishonesty or being prohibited from acting as a director of a company. The requirements with regard to qualifications and experience will be set out in regulations. The Pensions Board will be empowered to make a determination as to whether a trustee satisfies these requirements and

a determination that they do not have the effect of removing the person as a trustee. The section includes appropriate appeal mechanisms.

The other aspect of the Pensions Act amendments relate to recommendations made to me by the Pensions Board on foot of a review of the funding standard for defined benefit schemes. In 2003, my predecessor, the Minister, Deputy Coughlan, introduced short-term measures designed to alleviate the funding crisis in pension schemes. The review recommends retention of these provisions, which it found largely successful. However, what has emerged clearly since these provisions were introduced is that the liability side of pension funds is also under pressure. Improved longevity and lower interest rates are just some of the trends increasing these liabilities. I have therefore provided that an extension may also be granted with regard to difficulties on the liability side and details of this measure will be specified in regulations. These measures, being introduced after extensive consultation, achieve the required balance between member protection and the encouragement of continued pension provision.

Other amendments to the Pensions Act include: a change to section 7(a) to ensure that where guidance issued by the Society of Actuaries in Ireland is specified in regulations made under that section, it may not be altered by the society without ministerial consent; an amendment to section 18 to allow the board to require certain documents or seek certain information in the context of an investigation of a scheme; a requirement that trustee consent should always be required where early retirement is being granted in the case of a defined benefit scheme that is under-funded; an increase, from €4,000 to €10,000, in the transfer value in respect of which a certificate comparing potential benefits from the occupational pension scheme to those from the PRSA will not be required; and an increase from 15 days to 30 days in the cooling off period required when taking out a PRSA contract, which is in line with the period provided for with regard to distance marketing of consumer financial services.

This Social Welfare and Pensions Bill builds further on the development of social inclusion measures adopted by the Government in recent years. It safeguards the living standards of those who rely on social welfare income and other supports and prioritises the allocation of resources in favour of those most in need. My priority in this Bill is to make significant progress in delivering on social welfare commitments contained in the programme for government, Sustaining Progress and the national action plan against poverty and social exclusion.

Resources will be targeted on helping those most in need in order, not alone to raise their standard of living, but to ensure that everyone is a valued citizen capable of making his or her own individual contribution to society regardless of his or her circumstances.

[Mr. Brennan.]

I commend the Bill to the House and look forward to a constructive debate.

**Mr. Stanton:** I welcome the Minister and am grateful for the opportunity to speak on the Bill. I also thank him and his officials for the comprehensive and welcome briefing the Opposition received on the Bill yesterday evening. I recognise the huge amount of work that has gone into this Bill on the part of the Minister and his officials, as well as the work due later in the year with regard to the Consolidation Bill. We will go back as far as 1889 and change some of the legislation still on the books since that time. There will be a massive amount of work involved. The changeover from the health boards to the Health Service Executive has caused much work for officials in the Department of Social and Family Affairs, as they must go through the legislation and make changes. We must therefore be careful when we make changes here.

There was an unfortunate newspaper column in recent weeks. In one sense, it raised the issue of lone parents and exposed the problems faced by thousands of families struggling daily to provide the most basic necessities for their children. That debate is ongoing and it is important we keep it so. The Minister reacted to this debate by talking about some family friendly payment. I urge him to introduce this as quickly as possible. I will pursue the Minister on this matter. We do not want just an announcement but action and solid proposals brought to the House for debate.

An EU report revealed that Irish women are at greater risk of poverty than their counterparts in any other member state. A total of 23% of Irish women are at risk of poverty. That report was released yesterday. The Minister and his colleagues tell us how well off we are but an independent, outside body has conducted research and found that we are not doing well enough. It states, in effect, that the Minister must do better.

The CSO recently published a report which estimated that approximately 120,000 children and over 23,000 lone parent households with children are living in consistent poverty. That is not good enough. The Minister dismisses relative income poverty, claiming it does not count, and says the Government is dealing with consistent poverty. However, the CSO report refers to consistent poverty. This means the children concerned do not have a proper coat and only have a proper meal every second day. This is happening in Ireland today.

Of the member states of the EU, Ireland has the greatest gap between the rich and the poor. It is the Minister's job to deal with this. Unfortunately, however, there is no measure in this Bill, or indeed in last year's Bill, to deal with it. The Minister and his predecessors have made matters worse. According to the Society of St. Vincent de Paul, over 50,000 households are on waiting lists for social housing. The estimated number of homeless households remains high at 3,773 in

2002 compared with 3,743 in 1999. The situation has got worse.

Other recent studies found that the number of children living in housing that is overcrowded, damp, in disrepair and in poor neighbourhoods had more than doubled up to 2002. As many as 243,000 children in 94,000 households are at risk of experiencing detrimental living conditions. These are the facts. Children of lone parents are far more likely to experience the housing problems cited. One third of all lone parent families live in local authority housing compared with just 7% of couples with children. The impact of these issues on the children's welfare is manifest in their increased risk of psychological, respiratory, general health and behavioural problems, all of which impact on their education, health and sense of well-being. That was the finding of Trinity College's Children's Research Centre in a report published in October 2004, *Housing Problems and Irish Children*.

A Combat Poverty Agency study in 2001 showed that there is a link between low income, poverty and health. Two thirds of 30 families in the study had some health problems. People affected by ill health are more likely to live on low income because they are unable to gain employment or because their employment experiences are likely to be sporadic due to ill health. Stress, isolation and depression were induced by lack of money and inadequate income made it difficult to have a healthy diet. The Combat Poverty Agency report is entitled, *Against All Odds — Family Life on a Low Income in Ireland*.

The same study also covered the issue of living in deprived communities. The report highlighted the generally inadequate provision of public housing and the absence of affordable, private sector housing. These problems were particularly acute in Dublin but we see them throughout the country. Parents were worried that playgrounds were not safe for children. People living in disadvantaged housing estates are not only highly likely to become victims of crime but anticipate this as part of their daily lives. In a third of households surveyed, relationships with neighbours were problematic and it was not uncommon for these people to live in terror of their neighbours. Many people felt bullied. The same situation occurs throughout the country.

There is no co-ordinated thinking on the part of the Government to deal with these issues. The Minister spoke recently about joined up thinking and joined up Government with regard to child care and other such issues. There must be action soon on these issues. Houses are being built throughout the country but no community facilities are being provided. In one area there was an obligation on the developer to make a crèche available. However, the rent for the crèche is so high that nobody can afford to rent it. That is appalling but the Government sits idly by, impervious to what is happening. Many of its members do not appear to realise what is happening.

The Minister can react to the furore last week, but that is all he does. We need action in this area. In budget 2005, the Government broke its promises on child benefit payments for the third year in a row. What the Minister is introducing today is a broken promise. He spoke about the increases in child benefit, which are welcome, but they do not keep pace with the commitment his predecessors made in the past. Child dependant allowance has been frozen since 1994. This payment helps families struggling on social welfare. Why has the Minister turned his face against helping such families?

The Minister spoke about a second tier of payments for families that are struggling to survive. He has been speaking about this since he took office but there has been no action. The Bill was an opportunity to bring forward proposals for a second tier of payments but they are not in it. Now we must wait for next year's Social Welfare Bill before possibly seeing action in this regard. This Bill is a missed opportunity.

The back to school clothing and footwear allowances have not increased for the second year in a row. These two payments are targeted at those most in need, the people who, according to the Minister, are struggling to make ends meet. There are many such people and, unfortunately, some of them are not succeeding. By not recognising the importance of these two payments and not increasing child benefit the Minister has added to the pain and suffering experienced by these families.

There is a dearth of affordable child care for parents, particularly lone parents. I will support the Minister in any proposal he makes in this area. I urge him, as a priority, to get together with his Government colleagues and bring forward the joined up Government he mentioned. Unless a family or individual is wealthy, early education for one's child is a luxury in this country. In other European countries it is the norm. In Finland, for example, the state provides early education and children do not start formal schooling until they are seven years of age.

I have encountered cases in this country where children are going to school before they are four years of age, even though they should not be. The parents have no choice. I asked parliamentary questions on this last year and was given a response by the then Minister, so I am not making it up. I was shocked to discover that. Furthermore, the National Educational Welfare Board does not have enough money to carry out its tasks.

This is an area for which the Minister is responsible and on which he should focus but he is failing to do so. The National Educational Welfare Board was established on foot of legislation passed by the Houses. Everybody supported the legislation. However, the funding was increased by only €1.3 million even though the board sought €6.1 million. Currently, there is one educational welfare officer for every 12,000 students

entitled to receive a service from the board. The international norm is one for 3,000.

The famous savage 16 cuts are only partly amended. For a Government that is supposed to be caring, it is difficult to understand why the cuts were introduced and I am disappointed the Minister did not take this opportunity to rescind them. There was a long debate on the back to education allowance. The Minister reduced the period from 15 to 12 months. He told the House previously that he would reduce it to nine months so why did he not do so in the Bill? What is the Minister waiting for? The current situation goes against expert advice given at the time the BTA was introduced. At the time, the advice was that anything longer than six months would be retrogressive. The Minister has had two opportunities to change the matter this year, yet he has failed to do so. The Minister should examine this point and table an amendment on Committee Stage to reduce the period to nine months. We would support such an amendment. If not, perhaps the Minister will tell us why he will not do so.

The Bill will restore traditional half-rate payments for recipients of one-parent family payments for six months, where income exceeds €293 per week. This is a reversal as, prior to the cut-back, recipients received traditional half-rate payments for 12 months. Supplementary welfare allowance recipients have been assisted by MABS in dealing with creditors but this service has been discontinued. The allocation to fund the service used to be €700,000 per year but the Government has now replaced annual funding with a one-off payment.

The crèche supplement payment is being continued but it will be much more difficult to avail of than heretofore. If the Minister discussed this matter with community welfare officers around the country, they could tell him about the problems they are facing.

Restoration of the diet supplement is pending a report on its adequacy and application by the Irish Nutrition and Dietary Institute. The Government is once again awaiting a report before it takes action but how long does it take to obtain a report on something as simple as this? Why not leave the supplement in place until the report is published? It is like a three-card trick: the supplement is taken away and the Minister then says he will bring it back if he receives a favourable report. Why not leave the supplement alone, however, and make the change when the expert report is received?

The referral of claimants for rent supplement to local authorities for assessment seems to be under consultation with the Department of the Environment, Heritage and Local Government but it is unclear as to what is happening. Even the officials concerned are unclear about it. Perhaps the Minister can explain that matter because it needs to be clarified. The amendment to the rent supplement conditions whereby applicants may be refused if they have not been renting for a period of six months is ambiguous. It may still

[Mr. Stanton.]

mean that applicants will have to provide proof that they are already renting in order to claim the supplement. We are talking, in particular, about people who are fleeing domestic violence. The Minister should re-examine this serious problem because people fleeing domestic violence may not be able to avail of the rent supplement. Community welfare officers are unclear about this point so it is the Minister's responsibility to clarify it.

I could talk also about the medical card list but that matter is ongoing and people are almost punch drunk from listening to broken promises.

There are many aspects of the Bill which I welcome but they do not include the fact that child benefit has not been increased as promised. Fine Gael will not support that part of the Bill because the Government made a promise but did not keep it.

From April, persons in receipt of injury benefit who suffer a second injury will thus establish their entitlement to disability benefit. That is a good move with which I agree. The relaxation of employment conditions for entitlement to carer's benefit is also welcome.

The Bill provides for an improvement in the annual respite care grant from June. The Minister is correct in identifying carers as a group in society that needs special support. I welcome extension of the respite grant to all carers. I ask the Minister to ensure that the definition of those in need of carers and caring generally will not be too restrictive. We will have to examine how the grant extension works out but it is a good move that I welcome.

The provision of respite care means people will get a bed in a nursing home or hospital so the carer can avail of a break. Unfortunately, however, the provision of such respite places is limited. Issues may arise later on about the difficulty in obtaining such places, so we will have to see how the matter pans out.

I welcome the idea of introducing care sharing. Even though only one carer's allowance payment will be made in any one week in respect of full-time care of a care recipient, it is a positive step because it means people can share caring duties. Fine Gael believes the longer we can support people in their own home environment the better, rather than sending elderly people to nursing homes. People should be cared for in their own homes for as long as possible and I support anything the Minister may do to achieve that end.

I hope the issue of nursing homes will be debated in the House later today. We have heard what happened in regard to the Supreme Court's judgment. Clarity is required on that matter sooner rather than later. I hope the Government will allow a debate on it this evening because people require such clarification. The matter will be a major talking point across the country in the coming days with regard to how matters will progress from here.

When enacted, the Bill will include the Mental Health Commission in the list of specified bodies authorised to use personal public service numbers. The PPS number allows access to all kinds of personal information so we must be cautious in extending its authorised use. I note there is provision in the legislation to bring together all the bodies that can access the PPS number, which is particularly welcome. The use of such numbers, however, needs to be tightened up securely. There was some talk recently that it may be linked to the register of electors but I would not be too happy about that.

The bereavement grant is to be automatically awarded and that is a common-sense step which I welcome.

The Minister is giving himself more leeway to initiate summary prosecutions for cases involving social welfare fraud. I agree that anyone who abuses the system should be taken on and if more time is required to prepare such cases or obtain papers, it should be provided.

On the issue of guardians and orphans perhaps the Minister will examine the rights of fathers in view of the fact that the family law Bill is due to be introduced shortly. Nowadays, many people choose not to get married and in such cases a father may have no automatic right of guardianship unless he signs an order in that regard. The forthcoming family law Bill is supposed to deal with that issue but the Minister, Deputy Brennan, should examine the matter. He has referred to fathers' rights and I agree that we need to examine those rights. We also need to look at co-parenting of children. All these wider policy areas must be underpinned legally by legislation.

The Bill before the House tightens up the definition of an "orphan". Thankfully, we do not have too many orphans in society now and the number of those defined as orphans has actually fallen.

The issue of social welfare overpayments arose when the Department overpaid a certain number of old age pensioners. The Department then sought repayments by return of post stating that the pensioners would not receive their pensions the following week. In doing that, the Department broke its own rules. According to existing regulations, in the case of overpayment the Department should discuss the method of repayment with those concerned. Such matters should be negotiated but that did not happen in this case — the pensioners were just told that their pensions were being stopped.

I would be cautious about the Bill's provision to prescribe regulations concerning the approach to future social welfare overpayments. Perhaps the Minister will be able to tell us on Committee Stage what he intends to do in this regard. If he intends to do what he did over the Christmas period, I certainly could not support it. A mechanism is required whereby the Department will negotiate with people and take their individual circumstances into account. When people received this payment at Christmas, many

thought it was another bonus and spent it. The following week they received a letter saying they would get no payment for that week. I do not know whether the Minister was aware of this at the time. However, many of these people had spent the money and they had no money the following week. This should not happen again, particularly since the Department's rules and regulations prevent this.

I welcome the alignment of the carer's allowance, carer's benefit and the homemaker's and respite care schemes. When will the Bill to amend the Social Welfare Consolidation Act 1993 be introduced? It would be useful to know because we would like to plan ahead given that it will involve a great deal of work.

The Minister has done significant work on pensions. He referred to opportunities for Ireland in the context of pan-European pensions under the directive. That is exciting. The tightening of the administration of schemes and the move to prevent people of dubious repute becoming trustees of pension schemes are welcome. The increase from €4,000 to €10,000 in the transfer value in respect of which a certificate comparing potential benefits from occupational pension schemes with those funded by a personal retirement savings account is also welcome, as is the increase in the cooling off period from 15 to 30 days. It is needed because 15 days is short. People need complete information about what they are getting into when taking out PRSAs. They need time to reflect on what they have done and then have an opportunity to withdraw if they wish.

Much more work needs to be done, as the Minister acknowledged. He stated at the beginning of his contribution that 1.5 million, including dependants, benefit from social welfare payments and two out of every five people in the State receive vital welfare supports. However, this can be looked on in two ways. The State is doing a great job supporting people or a great number of people at risk of consistent poverty need State support. We should all work to help people to become more independent to support themselves.

The working poor is the new phenomenon. This group comprises people in employment who are on low wages. They lose many of their benefits when they take up employment. The Labour Party has highlighted the loss of medical cards in recent days because of this phenomenon. I have met many young couples with young children who are under enormous financial pressure. Many are renting because of the lack of housing provision, which is the Government's fault. They earn low wages and have no medical cards, which is also the Government's fault because it has failed to provide them. If their children fall ill, they attend a doctor and must pay €50, which is followed by a trip to the pharmacy for medicine, which costs another €50. These couples are not being supported and that is the Government's fault. The number of people affected is increasing.

The Minister alluded to the number of people who do not pay tax, but they are not earning enough to do so and they are caught in this trap. That must be recognised and it must be ensured the family income supplement is made available to these people and that they are aware of it. They could also benefit from the clothing and footwear allowance and the CDA but the Government has neglected these benefits. I do not know why. Perhaps it is based on an underlying Government philosophy. The Minister for Justice, Equality and Law Reform stated inequality is good in society and it is good that there are poor people in society. We are almost back to the Dickensian model of the deserving and undeserving poor. It has shades of "Oliver Twist". The Minister has not stated whether he agrees with the Minister for Justice, Equality and Law Reform's assertion that inequality is good. He is the Minister for equality, not inequality. I challenge the Minister for Social and Family Affairs, when replying to the debate, to outline whether he thinks inequality in society is good.

Does the Minister for Justice, Equality and Law Reform think there is a dynamic that forces poor people to work harder so that they become better off? That is skewed Progressive Democrats thinking. I do not agree with his assertion. Everybody must have an equal opportunity and people must be supported as best they can. We must support those who need it most. The Government has not done so in this legislation or in previous legislation introduced by the Minister's predecessor, Deputy Coughlan, which included the savage 16 cutbacks. The Minister had an opportunity to reverse all those cutbacks but he did not take it. He fudged the issue. He issued press releases and held press conferences to outline all the positive changes he would make, but that has not happened. Last week he jumped on the bandwagon in the one-parent family debacle and controversy. A timeframe for action is needed.

As the Minister acknowledged, following eight years of Government failure in this area, a great deal remains to be done. The Government parties have had more money than any Government in the history of the State. However, international bodies have stated Irish women are at greater risk of poverty than their counterparts in any other EU member state and 120,000 children and lone parents live in consistent poverty. The greatest gap between rich and poor in the EU is found in Ireland. The Minister needs to do much more and we expect more activity during the short period he remains in Government.

**Mr. Penrose:** I am glad to have an opportunity to contribute to the debate on behalf of the Labour Party. The Bill provides for a number of measures announced in the budget and details the increases provided in child benefit but, as Deputy Stanton stated, they are still way behind the objective set out in various partnership agreements and fall well short of the solemn promise made by the Fianna Fáil and Progressive Demo-

[Mr. Penrose.]

crats parties when they went to the polls in 2002. It is only one of a number of promises on which people were misled. The Bill also provides for improvements in the carer's benefit, respite care and disability payment schemes. The increase in the capital disregard for means-tested schemes is important.

One of the core objectives of the Labour Party is the achievement of a fair society. RH Tawney stated: "A society is free in so far and only so far as its institutions and policies are such as to enable all members to grow to their full stature." That is the Labour Party's vision. We want our social security system to do more than make weekly payments. It should be used creatively to encourage and enable social and economic participation. The fair society, which is our objective and which we will present to the people over the next few years as we prepare for the general election, is about the expansion of freedoms that people should be able to enjoy. It is based on the premise that everyone of us is born with immense talents, gifts and possibilities. A successful country allows people to unlock that potential and make the most of that which is within them to achieve. It should know no boundary of birth or background. Therefore, we will set out to develop a way for our social security system to play a maximum role in enabling full participation to the best of each individual's potential in our society and economy.

I set out this background because a Berlin-Boston argument has been put forward by the Progressive Democrats element of the Government. At one time the Minister for Social and Family Affairs, Deputy Brennan, was charged with being part of that brigade. Now he has changed place and I compliment him on the *ad lib* comments he made recently. Ireland is much closer to the Berlin model than the Boston model and our party articulates a vision and philosophy nearer to the Berlin model. Up to now the Boston model has been the predominant thinking within Government rather than the European ideal in terms of social protection.

We spend much less on social protection than most European countries and are second only to the United States with regard to the high proportion of people living in poverty. The Labour Party agrees with the OECD and ESRI conclusion that to reduce poverty, to which Deputy Stanton alluded, we must increase the amount we spend on social protection. Many countries are challenged to fund social security commitments. We have all responded to the exogenous pressures of globalisation and international competitors with their policy of low taxation and wage moderation. This intensifies pressure on expanding social protection funding, but does not make it impossible.

Lower tax rates set the macro fiscal context for social security policy. We can only afford a decent social security scheme with the capacity to take people out of poverty if we can fund it. High

employment participation can make social security payments more affordable. High employment ensures the income tax base is as large as it can be and that as few working people as possible are reliant on social security. However, that is only one aspect.

We are one of the richest countries in the world, but we have a very high level of poverty. Two groups of particular concern are children and those in low-paid work. We must never forget the huge numbers of people in low-paid work living in poverty. We have failed to recognise that because the Government loves to quote the statistics for those who are in work. That ignores the fact that many of those at work are low paid. This debate has raised this issue.

Some journalists seem to have had the bright idea to perpetuate the right-wing thinking and ideology of some of those ivory-tower professors who do not know the reality of what is on the ground. Perhaps if they read the article I wrote for *The Irish Times* in September 2004, some of them might not have got into trouble, and neither would their editor. They should have taken time out to review that solid article which was based on empirical data and the real life experience of myself and my Labour Party colleagues on whose behalf I wrote it. No doubt it was written on behalf of every politician in the House who has witnessed the real poverty experienced by lone parents and those in work on low incomes. We must never forget these people and these issues.

Throughout the years of the Celtic tiger, child poverty remained virtually unchanged, with nearly one quarter of all children affected. While we had a decade of unprecedented prosperity and growth, a quarter of our children remained in poverty. That is an awful indictment of Government policy over the past decade. Children of lone parents are especially vulnerable in this regard. Despite the welcome fall in unemployment during the 1990s, there has been a worrying increase in the number of working people in poverty. While only 8.3% of those at work were in poverty in 1994, by 2001 the figure had risen to 18.8%, a 250% increase. These are Government measures of poverty. The Government often uses consistent poverty as a measure, but this is an outdated concept and method of measuring poverty.

The ESRI, which practically brought in the parameters and introduced the indicators, now says the method should be scrapped and binned. It knows it is no longer up to date and that the definition of poverty must be widened. This means matters are worse. Children and those in poverty must receive special care and attention and policy objectives must be set out to deal with the particular circumstances in which they find themselves. We must deal with this issue.

There is truth in the mantra that a job is the best route out of poverty. We all encourage full employment or high levels of employment for all people of labour market age who are able to work. It is important to remember that not every-

body who takes up a job gets out of poverty. We seem to ignore that. There is a plethora of policies intended to encourage work and, therefore, social inclusion. However, many of these have become ineffective through not operating earnings disregards in line with inflation, for example, with regard to one-parent family payments, participation in and retention of the secondary schemes and the back to school clothing and footwear allowance.

These schemes are now useless. Their great objectives have been rendered nugatory and nullified because of the failure to update the disregards necessary to allow people free-flow into work without being let down with a bang when their secondary benefits are wiped away in one fell swoop. Poverty then sets in and instead of the boat being lifted, it tilts and sinks and dislodges the participants when the aim had been to get them out of the poverty trap and into work.

I accept the view of successive Governments that the best route out of poverty is through a job. However, if the job is not accompanied by ancillary measures which ensure the poverty is tackled root and branch, we will find ourselves with increasing poverty figures such as where 8.3% in 1994 became 18.8% in 2001. We must ensure that the operation of disregards is in line with inflation and that we do not unduly tighten the regulations of any of the schemes thereby making it harder to retain secondary benefits. These are issues that must be examined.

I wrote an article in September on the lone parent issue. I spent about a week trying to get the statistics, but I succeeded in getting them together. In the 2002 census, 150,634 lone parent households were listed. Lone mothers accounted for 85% of the total, almost 80,000 lone parent families, in receipt of support. These are the unvarnished public statistics. However, the census figures do not reveal how vulnerable lone parent families are, nor how their predicament in this prosperous country is getting worse rather than better. Many see this simplistically as somebody else's problem.

Lone parenthood can arise for any of us and few people choose to become lone parents. Lone parenthood can arise through death, divorce, desertion, separation, imprisonment of a partner or through an unplanned pregnancy. Whatever the cause, it is usually a traumatic event for both the lone parent and the affected children. The initial stages of adaptation to lone parenthood can be difficult. Equally difficult are the long-term prospects for lone parents. Internationally and in Ireland, the evidence is that lone parent families are at very high risk of poverty and that such poverty is persistent. This is determined largely by the prospects and feasibility of employment for the lone parent.

Employment for lone mothers is low in Ireland, as it is in the United Kingdom, Germany, the Netherlands and a number of other EU member states, yet employment is the key to raising lone mothers out of the poverty to which their family

circumstances have often condemned them. It can be difficult for lone parents to take up work, even if there is work on offer. Children must be cared for, despite the fact that there is no second parent to share the responsibility. Work must be found which facilitates this requirement, for example, when children need to be taken to and collected from school.

Many lone parent mothers, the largest group, have low educational qualifications and can, therefore, only find low paid insecure employment. For many lone parents work will be impossible without the provision of paid child care. For low wage earners also, the cost of child care can take the whole of any income earned and leave the parents and families no better off than when the parent is not working. The poverty of lone parents is largely determined by the level and regulation of lone parents' State payments, access to child care support, the cost of child care, the type of employment and employment opportunities available to them.

I had a look at how we measure up in Ireland. The first comprehensive State support for lone parent families was introduced in 1997 by my colleague, Proinsias De Rossa, MEP, *1 o'clock* when he was Minister for Social Welfare, as it was known then. The one-parent family payment applied to all one-parent families regardless of the reason for the situation. It was innovative at the time since the regulations allowed lone parents to work and earn up to €146.50 per week without losing any of their allowances. It also allowed them to earn up to €293 per week before the social welfare payment was lost. Notwithstanding that enlightened approach being taken to lone parents in 1997, in the past seven years there has been no increase, despite repeated requests from CORI and the One Parent Exchange and Network, OPEN, in the amount of income that can be earned before the State payment is lost.

The Irish Congress of Trade Unions carried out a survey between 1997 and 2000 which indicated that child care costs had doubled. It is probably safe to assume they have doubled again between 2000 and 2005. As a result, lone parents wishing to work are in an impossible position. They would lose all their State payments before they could earn enough to cover Ireland's extremely high child care costs even before they would have to address living expenses. This problem needs to be examined.

In 1994, lone parent households accounted for one in every 20 households in consistent poverty. In 2001, that figure had risen to one in five. As Deputy Stanton stated, lone parents in receipt of one-parent family payments have a higher rate of consistent poverty than any other category of social welfare recipients. Is it any wonder we hear stories from lone parents such as the one I met recently? A parent with two children told me that she does a big weekly shopping after being paid on Thursday. She always looks out for special offers and just buys the basics but there is usually



[Mr. Penrose.]

nothing left by Wednesday apart from some mince in the freezer, sausages, soup and bread. Some lone parents are literally living on the bread line with little or nothing left to pay for those items the rest of us would consider essential such as back to school needs, children's birthday treats or Christmas costs. Those are the real facts. If Mr. Myers comes down from his ivory tower and takes Professor Walsh with him I will give them a tour around Mullingar or any town or city in the country, show them the reality and dispel some of the myths that exist. The total number of lone parent households has remained fairly constant for the past six years. They accounted for 11.2% of total private households in 1996 and 11.6% in 2002. Moreover, a sizeable proportion, nearly one sixth or 15%, of lone parent households are headed by a man, not a woman.

The Minister's reference to births to single mothers was correct. The total number of births to women under 20 years old, whether lone parents or not, has remained fairly constant over the past 30 years at about 3,000 per year. In recent years both the actual numbers and percentage of births to this group has fallen from 5.35% of total births in 2001 to 4.55% in 2003. That information comes from page 27 of census data, specifically the vital statistics for the fourth quarter and the yearly summary for 2003, published by the Central Statistics Office in May 2004. I look up my own data.

When one examines the number of women in receipt of the one-parent allowance, the age profile for 2002, which again defeats another argument of those ivory tower people, shows that only 3.2% in receipt of this allowance are under 20 years old, while the majority, 51.4%, are aged between 30 and 59. Where did those people get their great ideas? I want to recommend reading to those people who live in ivory towers: *One Size Fits All? Irish Government's Failed Approach to One-Parent Families 1994-2004*, which was written by Camille Loftus and published by OPEN. That is recommended reading for Kevin Myers and Professor Walsh. The Walsh-Myers scenario of an explosion of teenage births in recent years and the suggestion that "large numbers of young women are drawn into the perils of early and unmarried motherhood" to quote Mr. Myers's bungled apology in *The Irish Times* of 10 February is false. Let them deal with statistics in future.

**Mr. F. McGrath:** Hear, hear.

**Mr. Penrose:** A public debate has commenced on the social welfare system and what influence it may have had on the proportion of one-parent families. The evidence from the recently published EU survey, to which Deputy Stanton referred, on income and living conditions has highlighted the reality known to most Deputies from their work in their constituencies, which is that single-parent families are most at risk from

poverty and the myth of high living at the State's expense is just that — a myth.

If we are to have this debate we need to look in a wider way at how women are treated generally in the social welfare code. Individualisation has been introduced in the tax system but not in the social welfare system. An unmarried couple who are both on social welfare and who move in together to parent their children jointly can lose out financially. I believe the Minister has accepted that this is a problem. We are all in favour of co-parenting. Fathers have rights too and they have a valid case which they have been putting forward forcefully in recent years.

Many women lost out on the chance of attaining any realistic pension cover in their own right owing to the marriage bar. Many of them are covered only as dependants of their husbands. The social insurance system we developed in 1952 came from a world of male breadwinners and stay-at-home wives where it was considered socially acceptable to deal with women only as their husbands' dependants. It is time in 2005 to develop a new model of social welfare coverage rooted in the social insurance principle of benefits as of right but which acknowledges the difference and complexity of women's lives. The contribution of women to society is not only through paid work but also through the care of children and the elderly. We must recognise that concept. It is no use having the Constitution pay lip-service to the role of women and how they have borne children, brought them up and cared for them only for us then to dump them. That was acceptable in the male dominated society of the 1950s but it is no longer acceptable in this age of equality.

If equality means anything then we must treat women equally. We must get beyond this outdated and outmoded concept of dependency in regard to women. To give them 70% of a social welfare payment is not the way to treat women who have often been the backbone of family life. If we have a constitutional recognition of the role, it is time we gave it real legislative meaning. I accept there are myriad difficulties attached to this. I acknowledge that it will not be easy and I know exactly where I am coming from as I have some legal knowledge. If we are to do anything to reform the social welfare code, this must be a fundamental precept of change.

The National Women's Council has produced an excellent report, *Towards a Women's Model of Social Welfare Reform*, which outlines the kind of practical steps which can be taken towards building a social welfare system which treats women as individuals and not as dependants. Such a system could address the care-giving role of single and other parents in a way that does not pose the current family and welfare traps.

Unfortunately, the barriers to self-sufficiency for single parents was made worse when the savage 16 cuts were tinkered with in the last Bill but were not reversed. The abolition of a crèche supplement, which allowed single parents the oppor-

tunity to take up education and training opportunities, was done away with. Cutbacks were also made to the back to education scheme, which was another important avenue of opportunity. Fianna Fáil and the Progressive Democrats emasculated it. We got it back to 12 months and I advocated that it be reduced to nine. I was told that would come but so will next Christmas if we wait long enough. I call on the Minister to bring that forward now and give a clear signal that something will be done rather than more platitudes or statements to the media to the effect that we are one report away from a solution. We are giving the Minister the solution. As politicians, we are out in the field and we know what will work. The Minister should forget about wasting another €35,000 or €50,000 on consultants. He should listen to a few ordinary people. We might not be too well educated but we are educated in the field of political activity and in knowing what people want. We are as good as sensors of what people need as anyone else. The restrictions on entitlement to one-parent family allowance for those employed on modest earnings and the rent allowance restrictions are a problem. The limit of €317.43, formerly £250, for earnings, which was set nine years ago, restricts the ability of lone parents and other low-income families in private rented housing from improving their situation by taking up work. This means that a lone parent with two children in community employment would have to forego his or her rent allowance. I have a great deal of respect for the Minister for Social and Family Affairs because he has grappled with his departmental duties fairly well, but he should wake up and smell the salt.

**Mr. McHugh:** The Deputy meant to say: “wake up and smell the roses”.

**Mr. Penrose:** Especially the red rose of the Labour Party.

According to research carried out by the Vincentian Partnership, community employment earnings have meant the difference for most lone parents on the scheme between buying fresh vegetables and yoghurt for their children and less nutritious food, or between getting into debt on day-to-day living and not. These restrictions only serve to maintain lone parents in poverty. It is high time the €317.43 limit was raised in line with the growth in average earnings since 1994, when it was first set. That is the first hop of the ball. There is no need for a consultant. Ordinary people such as Members of this House will tell the Minister to index-link the increase so that it would now be €400. Would that not be a good start? It would give Mr. Myers and others a simple mathematical exercise to get their facts right.

**Mr. F. McGrath:** Dr. Walsh also.

**Mr. Penrose:** Yes. As a lawyer, I can understand the rules in this Bill but no one else can. For example, there is a reference to rule 1 in

paragraph (A) of Part 2 of the Third Schedule of the Social Welfare Consolidation Act 1993, as amended by section 33 of the Social Welfare Act and so on. Will the Minister ever set a bonfire and burn these Acts and provide one decent Act instead? I am trained and paid to understand this type of work but others are not.

An example of the problem with the rules concerns a young lone parent whom I know and who had an opportunity to take up a casual postal job, meaning ten weeks' work over the year divided into a number of periods. The woman's earnings over the ten weeks might have amounted to €3,800 or €4,000, but the system is set up for a weekly disregard of €146. The Department will not spread the income over the year, which would have allowed the woman to earn up to €7,500 before she lost out. The €146 weekly disregard could have been multiplied by 52 weeks to give that figure and the woman could have taken up the employment for ten weeks, saving enough money to bring her son, who is now 12, on a little holiday or give him a treat.

The Minister should change this rule, get rid of the nonsense and get people back into work. The rules in the legislation prevented this woman taking on the work because if she worked for four weeks and was reduced to half her allowance, by the time she finished the employment and was reinstated on her full allowance, she might be preparing for another few weeks' work during the summer and the cycle would start again. This is bureaucratic nonsense. A five year old child would not devise such a system by scribbling on a page without knowing anything.

Will a small farmer who lives at home with his mother — who is confined to a chair — does his own accounting, looks after his mother in the morning, milks the cows and gives his mother breakfast receive the €1,000 respite care grant? I am afraid he will not because of the way in which the Minister has restricted the grant. Time will tell, but the Minister can be sure there will be an explosion on this side of the House if such a man does not receive it, particularly given that he is virtually housebound, leaving the house only when his 80 year old mother is in her chair as she depends on her walking frame to get around.

I have received complaints from people in Cork who write to Deputy Stanton and me regularly about the Minister's predecessor's actions in respect of the non-contributory old age pension. For example, a person who receives a non-contributory old age pension and lives frugally to save the money will have his or her case examined by the Minister's officials after he or she dies. The officials will find the money in the bank but it has come from his or her non-contributory old age pension. In other words, it is already a means-tested payment made by the Department of Social and Family Affairs, but the officials will test and assess the money with a view to establishing that the person should have received a lower rate of pension or that there should be a

[Mr. Penrose.]  
 payback. The Minister should examine this provision because it is wrong in law.

Another Cork correspondent to Deputy Stanton and me raised an argument about the manner in which free ESB units were shifted around by the Minister's predecessor, who juggled them between summer and winter. As the Minister said, his predecessor did so at the time because there had been a 1% increase in VAT. Nonetheless, the fuel allowance's real value has never increased. It does not help people in that regard. The Minister will have to examine these issues in the context of this Bill.

It is time the Government acknowledged that its strategy for increasing pension cover is in complete tatters. Virtually half the workforce has no pension cover to allow them to maintain their living standards into old age. Only one third of private sector workers are involved in a pension scheme. Ireland is almost unique in the developed world in having neither a State-backed income-related pension scheme nor an obligation on employers to offer pension cover. The basic social welfare pension is just that — basic — and while it will allow people to subsist, there is no margin to allow people to live with such modest comforts as running a car, taking a holiday, visiting relatives abroad or having repairs done to their homes without major worry. Having an additional pension for their job allows people to continue to live in retirement with dignity rather than being reduced to the breadline. However, the Government's strategy of relying on personal retirement savings accounts to increase pension coverage has been a dismal failure. Since their introduction, the proportion of the workforce with pension cover has barely inched up from 51.2% to 52.4%, an imperceptible increase. It is clear from the pensions board figures that in a great many cases, the PRSA pension plan offered to workers remains an empty shell; there have been no employers' contributions and no take-up by workers.

It should have been clear from the outset that placing a personal responsibility on low income workers, those least likely to be in a pension scheme, to navigate the shoals of the pensions industry was never going to be a runner. Experience in the UK with stakeholders' pensions and in the US with individual retirement accounts has already shown that this type of financial instrument proves attractive only to a minority and those are predominantly high earners.

I will return to these issues on Committee Stage. I could have done with another hour to address all the issues which need to be raised. The Minister need not look for consultants since Deputies are readily available to give advice and will not cost him a penny.

**Mr. Crowe:** I wish to share time with Deputies McHugh and Finian McGrath.

**Acting Chairman (Dr. Cowley):** Is that agreed? Agreed.

**Mr. Crowe:** I thank the Minister and his staff for the briefing they gave Members last night. I found it very helpful.

I welcome the increases which are being given effect through this Bill. However, in reality all they do is maintain what is already one of the largest gaps between rich and poor in the EU. While many people have undoubtedly benefited from increased wages and higher living standards over the past decade, the CORI justice commission estimates that the gap between rich and poor has increased by €294 per week, solely as a result of budgetary changes between 1997 and 2004. Between those years, a couple dependent on long-term unemployment assistance saw their income grow by €89.73 per week, while a couple with a joint income of €100,000 benefited to the tune of €676.08 as a result of budgetary changes. Despite the Government allegedly seeking the advice of people like Fr. Seán Healy, the latest budget will do very little to reverse that trend. In fact the gap has widened as a consequence. As a result of changes made by the Minister for Finance in the budget, a couple dependent on long term unemployment assistance is €23.30 per week better off, while the income of a couple with a joint income of £100,000 increases by €63.43. Overall, the income gap between the better off and the poor will widen by €30.93 per week. That has led to a situation in which the top 20% of Ireland's highest earners receive four and a half times more than the bottom 20%. In Denmark the gap is 3.1% and the difference can be attributed to a more proactive policy in Denmark in taking measures that will reduce that gap. Denmark has also managed to do this while maintaining a low level of unemployment, which stood at 5.1% at the end of 2004, well below the average for the EU. While this state had a lower overall rate of unemployment than Denmark, the Danes had a lower rate of unemployment for workers under the age of 25. What this proves is that taking measures to address poverty does not necessarily have the dire consequences predicted by some right wing commentators here.

A report on the social situation in the European Union identified one of the reasons for the poverty gap as a lower spend on job training, start-up schemes and programmes to integrate the disabled into the workforce. This state currently invests less than 2% of GDP on such initiatives.

I will give an example from the area of job training and applications. I dealt with a young man yesterday who had applied to his local employment exchange and was told that he was not actively seeking work. This young man has had various drink and drug problems but is now off drugs completely. He has tried to get work on building sites and elsewhere. The difficulty he has, which is probably the same for many other young people, is that he has never been taught in

school or anywhere else how to actively seek work. That gap needs to be filled. We have FÁS schemes and so on but we regularly hear of young people who have applied for perhaps 20 jobs and are still being told by the local employment exchanges that they are not actively seeking work. Training in job application is therefore essential.

The choice is simple. Does the State simply maintain those dependent on social welfare on low rates of income which ensure that they become increasingly marginalised and isolated from the rest of society, or does it actively seek to narrow the income gap while at the same time taking measures to incorporate as many of those on social welfare as possible into the workforce? In doing so it must also ensure that those in employment are given an adequate living wage and in that regard it has been estimated that up to a fifth of those in employment are living in poverty defined as an income of less than 60% of the average industrial wage. In that context I record my support for the increase in the minimum wage being sought by the Irish Congress of Trade Unions.

I do not accept the theory that people on social welfare can be forced into employment by maintaining barely adequate levels of payment, nor do I accept that they ought then to be satisfied with wages at subsistence levels that in many instances cannot provide people with a decent standard of living. That, more than arguing over marginal increases in social welfare, is the real issue in this society.

No one advocates a system in which people are condemned to life on social welfare. "Condemned" is the word, given the marginal existence forced on people in that situation. The longer one is on social assistance or welfare, the more difficult it is to break out of it and the more the poverty bites.

One of the means by which people can escape poverty and social welfare dependency is through education. With regard to single parents, the 2002 census found that a mere 0.5% of those over 15 involved in full time education were single parents. One of the ways this was being addressed was through the back to education grant, but the spurious changes made by the former Minister for Social, Community and Family Affairs, Deputy Coughlan, which reduced the period for which people could qualify for the grant, have made it much less effective. I talked recently to representatives from Aontas, the adult education group, Combat Poverty and so on and none of them had any experience of the so-called "educational tourists". The Minister says the problem exists and I accept his word on that but I have had no experience of it. The Minister brought the period back to 12 months but that is still a full academic year.

I urge the Minister to reconsider the situation. If we are serious about getting people out of the poverty trap, education must be the way forward. Figures showing that single mothers have much lower levels of educational attainment prove that

it is a major factor in condemning those mothers and their children to a life of poverty and social welfare dependency. Surely the most effective way to address this, and to ensure that fewer people find themselves in that position in the future is to increase the current levels of investment in educational schemes aimed at that group.

The mentality whereby education is somehow perceived as a means by which people avoid work must be eradicated, and people given a chance and not treated with suspicion when they apply for such schemes. This is particularly important where single mothers are attempting to access such schemes as this can provide a valuable role model for their own children. Far from imposing a burden on the State, investment in the back to education scheme will in the long run prove to be cost effective in helping people access employment and in fostering a culture in which more people perceive the value of education.

The Minister will be aware that main barriers to single parents returning to education are the cost of child care and the lack of transport and finance. The Government has not addressed any of these barriers. I was pleased to note that the Minister has rejected recent suggestions that single mothers chose dependency on the lone parent allowance as a career option. I also welcome the Minister's proposal that education and work opportunities should be prioritised as the means through which single mothers will be achieve a better lifestyle. However, any changes to the lone parent allowance must not be made in a way that will penalise people who currently find themselves dependent on that allowance.

While the increase in child benefit by €10 per month will be welcomed by those for whom it is a vital and important part of their income, it has to be pointed out once more that the Government has failed to meet the target which it set of €149 per month by 2005. The Minister did not refer to that missed target in his contribution earlier. It is estimated that some 66,000 children live in poverty and this increase will not contribute to any reduction in that figure.

I welcome the Minister's recognition that poverty still exists and that the theory of the rising tide lifting all boats is not good enough. However, that recognition and the marginal increases introduced, must be set against the overall record of a Government that has consistently favoured the wealthy in this society above those who live on the margins. Only when a definite decision is made to reverse that thinking and to actively seek to reduce the growing poverty gap, will those forced to live in poverty begin to see an improvement in their position.

Debate adjourned.

#### **Business of Dáil.**

**Minister of State at the Department of the Taoiseach (Mr. Kitt):** It is proposed, notwithstanding anything in Standing Orders or the Order of the Dáil of this day, that No. 17(b),

[Mr. Kitt.]

statements on the Health (Amendment) No. 2 Bill 2004, on Supplementary Order Paper, shall be taken at 5 p.m. today, and shall, if not previously concluded, be brought to a conclusion at 7 p.m., and the following arrangements shall apply: (1) the statements of the Tánaiste and Minister for Health and Children, and of the main spokespersons for the Fine Gael Party, the Labour Party and the Technical Group, who shall be called upon in that order, shall not exceed 15 minutes in each case; (2) the statement of each other Member called upon shall not exceed 10 minutes in each case; (3) Members may share time, and (4) the Tánaiste and Minister for Health and Children shall be called upon to make a statement in reply, which shall not exceed five minutes.

**Acting Chairman:** Is that agreed? Agreed.

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

## Ceisteanna — Questions (Resumed).

### Priority Questions.

#### Sexual Offences.

56. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the measures he has put in place as a direct response to the fall in the number of rape cases coming before the courts while at the same time the incidence of sexual offences is increasing; his views on whether greater supports are needed for rape victims between the reporting of the offence and the trial and on whether victims should have separate legal representation and a right of audience at a rape trial; and if he will make a statement on the matter. [5308/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The recently published provisional headline crime statistics for 2004 show that sexual offences generally decreased by 17%, or 329 cases, compared with 2003. I am glad to note a decrease of 28%, or 403 cases, in sexual assault. I am of course concerned to note an increase in the number of cases of rape of a female and rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990.

I assure the Deputy that any incident of rape or sexual assault reported to the Garda Síochána is fully investigated and that, subsequently, a file is forwarded to the Director of Public Prosecutions for direction as to whether a prosecution should proceed.

As I previously outlined to the House, there is a very high attrition rate in rape cases in Ireland, and a large number of cases reported to the gardaí do not reach the prosecution stage for a variety of reasons. I am sure the Deputy will

appreciate that decisions regarding the number of offences reported to and investigated by the Garda which proceed to the courts are a matter for the Director of Public Prosecutions. As the Deputy is aware, the Director of Public Prosecutions is statutorily independent in the performance of his functions, and it would, therefore, be inappropriate for me to comment on his decisions.

Regarding the measures which the Department of Justice, Equality and Law Reform can take, it has provided joint funding for comprehensive research into attrition rates in rape cases. The research, which is entitled *The Understanding of Attrition, Early Withdrawal, the Trial Process and Identifying Possible Changes to Support Complainants in Rape Cases*, is being carried out by the department of law at the National University of Ireland, Galway, and the Rape Crisis Network Ireland. The research commenced in 2003 and is expected to be completed next year.

That research should, I hope, provide greater understanding as to why some victims choose not to report cases to the Garda, what can be done about under-reporting and why, of the cases that are reported, only a relatively small percentage result in a court hearing. Regarding any need the victim might have for legal advice, as the Deputy knows, the Legal Aid Board offers legal advice and, in certain circumstances, representation to complainants in cases of rape or serious sexual assault. In addition, the Department of Justice, Equality and Law Reform has provided funding to the Rape Crisis Network for work of that nature.

Regarding the matter of separate legal representation and a right of audience for victims, the Sex Offenders Act 2001 provides for separate legal representation for complainants in cases of rape and serious sexual assault where an application is made to the court in the course of a trial to adduce evidence or cross-examine the complainant on past sexual history. Any such application is made in the absence of the jury.

*Additional information not given on the floor of the House.*

That provision represents a serious effort to allay some of the concerns of complainants in rape trials without breaching the fundamental principle of an accused’s right to a fair trial. The legal advice available to my Department when the 2001 Act was being prepared was that full separate legal representation in the presence of the jury would, in the words of the Law Reform Commission in its Report on Rape — LRC 24 — 1988 — deprive the accused of “the long standing benefits of a criminal trial conducted in ‘*due course of law*’ ”.

Section 5 of the Criminal Justice Act 1993 provides that in determining sentence for a sexual offence or one involving violence or the threat of violence a court may, where necessary, receive evidence or submissions concerning any effect, long term or otherwise, of the offence on the per-

son against whom it was committed and shall, upon application by that person, hear his or her evidence as to the effect of the offence.

The Deputy might also be interested to know that I have asked the national steering committee on violence against women to examine the recommendations made in the Sexual Abuse and Violence in Ireland, or SAVI, report, which was published by the Dublin Rape Crisis Centre in 2002. That report contains recommendations on awareness and education regarding rape and sexual assault as well as recommendations regarding service development and further research. The national steering committee will commence work on that very shortly and I hope that it will help reduce the number of rapes occurring.

Following recent discussions with the Rape Crisis Network and other victims' organisations, other initiatives are also under consideration.

**Mr. J. O'Keeffe:** Does the Minister accept that we should set aside playing around with figures and statistics? He quotes figures showing a reduction last year, when there was an increase of 27% in aggravated sexual assaults, but I am not interested in that. We have a serious problem, and I would like the Minister to confront the facts. In the last full year, 2003-04, 1,460 cases of sexual assault or aggravated sexual assault were reported or made known to the Garda, but only 117 cases resulted in a conviction. The story is similar regarding rape of a female or under section 4. Of 370 cases reported in 2003, only 13 resulted in a conviction.

Surely those figures are horrendous, taking into account the heinous nature of the crime involved. Surely the Minister has some views regarding the cause of attrition. Is it because of a lack of counselling and support for the rape victims in such cases? Is it because of the long delays before trials? Is there a case for fast-tracking such cases and having earlier trials? Is there generally a case for more victim support from the time of the first report?

Does the Minister accept that those figures — actual statistics rather than games with percentages up or down — are much the same as in previous years? We have a massive problem with a horrendous crime which must be confronted. We must see it through the eyes of the victims to see what can be done to achieve a higher rate of conviction and, consequently, one hopes, a lower rate of crime.

**Mr. McDowell:** I agree with the Deputy that those figures pose very serious cause for concern. In the equation resulting in such a low rate of trials and convictions in rape cases there are several variables, one of which is the rate of reporting. However, we are dealing here with the difference between reported cases and outcomes. The Deputy should know that in preparing my response to his question, I asked my Department to give me some figures on the rate of reporting

of rape cases in Ireland. It struck me that the figures were strange.

Curiously, right across the period from 1995 to 2000, in a comparative study — I can give the Deputy the figures later — Ireland had a very high rate of reporting of rape offences, something shared with Sweden and other countries. Per 100,000 of the population in the relevant period, Ireland averaged approximately 22 or 23 offences, whereas such places as Spain averaged fewer than five. We had between four and five times the reported rate of rape that the Spanish had, and that applies across Europe. It is strange that countries that one might think progressive and advanced share with us a high rate of reporting. I make that point to show that the stereotype that Ireland is a place where people do not report rapes seems not to be borne out by those figures.

However, the Deputy is asking a different question, namely, what happens to cases when they are reported. There are two issues that we should take into account, the first being the question of delay. I have asked the National Crime Council, chaired by Pádraic White, to investigate why things seem to take so long in Ireland compared with the United Kingdom, for example, regarding criminal prosecutions. I met Mr. White recently. He told me he will bring that report to me in the very near future and that they had an interesting analysis of the reason the Irish prosecution system takes longer than others. Delay and the anticipation of a lengthy delay must be a negative as regards victims going ahead with this process.

The second point, and it is one on which the study I have commissioned should be of some assistance to us, is that I do not know whether the Director of Public Prosecutions is operating on the basis of requiring a higher standard of probability of success than that required in the United Kingdom. I am not in a position to tell the Deputy whether that is so, but he is independent and he has to make a decision on whether there is corroborative detail——

**Mr. J. O'Keeffe:** That is not the problem.

**Mr. McDowell:** ——or whether the case in question will end up as a “he did, he did not” type of case.

The other point that I would accept is that, psychologically, there may be a significant withdrawal rate among complainants. People may say they are no longer interested in pursuing the matter——

**Mr. J. O'Keeffe:** Yes.

**Mr. McDowell:** ——and in that context it may be, and I believe this is what the Deputy is driving at, that anticipation of an adversarial trial in unsympathetic circumstances may cause many women, in particular those who have been the subject of rape offences, to abandon their claims.

[Mr. McDowell.]

That is something we would have to study carefully to determine the counter-measures we could take to ensure that factor is not an active one.

**Mr. J. O’Keeffe:** Of the 47 cases the DPP prosecuted, 27 resulted in convictions but the problem is that there were 412 cases that year. The problem, which arose long before the actual initiation of prosecution, is the long delay, the vulnerability of the victim and the fact that adequate support is not available for the victim from the point of view of counselling, mentoring and treating them as victims rather than mere witnesses in a case taken by the State. I urge the Minister to take this issue seriously.

**Mr. McDowell:** I take it seriously and I accept that of the 47 cases prosecuted, 27 cases resulted in conviction. That is a fairly high conviction rate. The question, however, is what happened to the 400 cases in which there was no——

**Mr. J. O’Keeffe:** The 95% of cases that did not result in a charge.

**Mr. McDowell:** Yes. I am not in a position, without putting myself in the DPP’s chair, to inform the Deputy of the reason those cases did not go ahead. Obviously, in some cases, the alleged victim says she does not want to proceed with it. In other cases, presumably, the DPP says he is not satisfied with the evidence available to him. I do not know whether issues such as intoxication or absence of corroboration affect the DPP’s decisions. These are the matters I could speculate about, as could the Deputy, but it is something on which we need a scientific database from which to operate rather than simply saying we have a hunch that something is not right.

**Mr. J. O’Keeffe:** A total of 95% of the cases reported resulted in no convictions.

### **Prison Building Programme.**

57. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform the basis on which a decision was made to locate the proposed new prison at Thornton, County Dublin; if his attention has been drawn to the serious concerns expressed by local residents at the proposal; the consultation there has been or the consultation he plans to have with local residents; the amount paid for the site of the proposed new prison at Thornton, County Dublin; if a contract has been signed for the purchase of the site; the total estimated cost of the project, including all building and development costs; the discussions he has had with the health authorities regarding the decision to relocate the Central Mental Hospital to the same campus; and if he will make a statement on the matter. [4920/05]

**Mr. McDowell:** The Deputy has raised a number of issues in his question and in the time available I will try to respond briefly to them all.

At the start of 2004, I announced my intention to replace the facilities in the Mountjoy Prison complex with a new prison facility on a greenfield site in the greater Dublin area. I am determined to improve facilities for prisoners and to do away with the practice of slopping out in Mountjoy, and the only feasible way to do that was to construct new facilities on a much more spacious site. When the new facilities are completed, the Mountjoy site, which is in a densely populated urban area, will become available for redevelopment.

After my announcement, advertisements were put in the print media inviting interested persons to come forward with potentially suitable sites. A committee comprising representatives from the Office of Public Works, the Irish Prison Service and my Department was subsequently established to review all potential sites and make recommendations. The committee had the benefit of advice from a property expert from CB Richard Ellis Gunne who supported the committee in an advisory capacity. Professional planning and engineering advice was also obtained as appropriate. Details of the process followed by the committee are contained in the reports of the committee, which are available on my Department’s website.

The committee recommended the purchase of a particular site. This recommendation was accepted and, on 26 January 2005, a contract was signed for the purchase of a 150 acre site at Thornton Hall, The Ward, County Dublin for a cost of €29.9 million, which is just less than €200,000 per acre. An initial payment of €2.9 million, which is 10% of the price, has been paid by way of deposit.

The intention is to build state-of-the-art facilities for adult male and female prisoners on the new site. Detailed planning could not commence until a site was acquired and this work is now under way. The cost of developing the new site will be substantial but it will not be possible to give any reliable estimate of total cost until the design phase has been completed and tenders obtained. I do not intend to give an indicative price here because that will just drive up the price against me. I can advise the Deputy, however, that it is far less than the estimated €400 million it would have cost to build an entirely new prison complex on the existing Mountjoy site.

There was no advance consultation with local communities in any of the areas in which potential sites were located prior to a final decision being made. I am aware that some of the local residents close to the Thornton Hall site have certain concerns about the proposed development of the site. Immediately following the announcement of the development, the Irish Prison Service wrote to residents in the immediate vicinity of the site chosen and assured them that the highest priority will be given to allaying, in so far as possible, their genuine concerns. This letter was followed up by the Irish Prison Service offering to meet concerned groups. Two such meetings were

arranged but were postponed at the request of local representatives. Plans for the development of the site will be made available to local interests in due course.

I have had no discussion with the health authorities about the relocation of the Central Mental Hospital. That is a matter for the Minister for Health and Children in the first instance. The Government has decided in principle, subject to further study, that the Central Mental Hospital should be transferred from Dundrum to the same site as the new prison facility but that it should be kept separate and distinct from any prison facility.

**Mr. Costello:** For a distinguished lawyer, the Minister can display a certain lack of logic from time to time. If the real reason for closing down Mountjoy Prison and acquiring the new greenfield site was to do with in-cell sanitation, which is lacking in the slopping out process, why did the Minister indicate to me in a reply to a question last year that approximately 400 cases were being taken to the European Court of Human Rights regarding Portlaoise, Cork and Limerick prisons, with perhaps a few cases regarding Mountjoy? If that was the Minister's real concern, he should have started in Cork, Portlaoise and Limerick.

Is it the case that there is a total lack of penal policy in this area? In the past eight years, prison accommodation has increased from 2,000 to 3,200 but at the same time the Minister has closed down three prisons. Which direction is the Minister going in? Is he opening up more spaces to accommodate more prisoners or closing down perfectly good available space for the most dubious reasons? The National Economic and Social Forum report has been disregarded.

What is the real reason for this purchase and this particular prison? How is it the case that the committee the Minister just mentioned had a presentation on the Thornton Hall site on 26 January and on that same day it made the decision to purchase it? There was no lead-in time. Nobody from the committee examined the site, other than the auctioneer, yet the committee bought it hook, line and sinker for ten times the normal market value. Will the Minister explain the reason the committee was allowed jettison the required conditions for purchase in respect of cost? Cost and public transport were no obstacles, even though they were written in as necessary conditions for a greenfield site. How did that happen? How was that a valid decision in those circumstances if the main conditions outlined to the committee had been jettisoned in regard to this particular site?

**Mr. McDowell:** I will deal with the questions in the order the Deputy raised them. First, regarding the number of prison spaces, it was necessary in the lifetime of my predecessor as Minister for Justice, Equality and Law Reform for a major expansion of the prison service. That was due to the fact that, prior to his coming into office in

1997, there was a revolving door syndrome which was causing the prison and criminal justice systems to fall into major disrepute. That has ceased. Second, we have an expanding population, with more than 4 million people. Even though I regard prison as a remedy of last resort, I have nonetheless carefully monitored the use of prison space and I am convinced of the need to build this additional accommodation.

The Deputy also inquired as to why I did not start with Limerick, Cork and Portlaoise, and asked if I am concerned about slopping out. I toured Cork Prison and I decided that it should be demolished and a new prison for the region developed at Spike Island in Cork harbour. We are working on that at present.

**Mr. Costello:** That prison is closed.

**Mr. McDowell:** The Deputy asked about three prisons being closed. He is referring to Shanganagh Castle, in which a small group of youth offenders were detained and which was not a success as an institution—

**Mr. Costello:** That is because it was deliberately run down.

**Mr. McDowell:** — and Spike Island and the Curragh, both of which were mothballed due to the impasse over prison officers' overtime. The Prison Officers Association will conduct a ballot on the overtime issue in the near future and it is my intention to reactivate those prisons as soon as the issue is resolved.

The Deputy then inquired about the procedures of the committee that was put in place. The committee operated independently and not under my direction. I am satisfied it gave careful consideration to all the options.

**Mr. Costello:** It had riding instructions from the Department.

**Mr. McDowell:** I did not change the committee's criteria.

**Mr. Costello:** The committee changed them itself.

**Mr. McDowell:** The Deputy suggested that the price is hugely inflated when compared to what was available on the market. A series of advertisements were placed in the national media and the committee considered all the offers that came forward. Many of these involved substantially higher sums of money per acre than that being asked in respect of the site in question. Bearing in mind that the site is located in the greater Dublin area and has a substantial expectation value in terms of development, when the prison is completed the price of the land will form only a small and reasonable portion of the expense attaching to the entire operation.



**Mr. J. O’Keeffe:** I would hate to send the Minister out to negotiate the purchase of a farm.

**Mr. Costello:** Is it correct that the Department of Justice, Equality and Law Reform changed the criteria in respect of costs and informed the committee that costs would not be a problem and that the committee changed the other criteria? Do I understand that no decision has been made in respect of transferring the Central Mental Hospital to the new site or is the Minister merely indicating that it is not his responsibility? Will he give a commitment to meet the residents?

**Mr. McDowell:** I made several efforts to meet the residents of the area. The arranged meetings have been postponed at the request of the residents.

**Mr. Costello:** I will organise a meeting with them.

**Mr. McDowell:** I note the Deputy’s consistent policy that Mountjoy Prison should remain where it is located at present. I am not willing to waste €400 million on a development to provide an inadequate prison.

**Mr. Costello:** I did not inquire about that matter. The Minister should answer my question.

**Mr. McDowell:** The question of redeveloping Mountjoy — the Deputy’s preferred option——

**Mr. Costello:** No, that is not correct. The Minister should just answer my question

**Mr. McDowell:** ——was considered by a group established by my predecessor and chaired by Governor Lonergan.

**Mr. Costello:** Did the Department of Justice, Equality and Law Reform inform the committee that cost was no option?

**Mr. McDowell:** The group reported in February 2001 and proposed a development which was——

**Mr. Costello:** The Minister should answer the question.

**Mr. McDowell:** ——priced at that time by a firm of quantity surveyors as being in the region of €336 million.

**Mr. Costello:** The Minister is not answering the question, he has gone off on a rant.

**Mr. McDowell:** I am not ranting.

**Mr. Costello:** The Minister is ranting.

**Mr. McDowell:** I am merely outlining the facts but the Deputy does not appear to want to hear them.

**Mr. Costello:** We will discuss Mountjoy on another occasion.

**Mr. J. O’Keeffe:** We will invite the Minister to come before the Joint Committee on Justice, Equality, Defence and Women’s Rights and ask the residents to attend as well. He can confront them at that stage.

**Mr. McDowell:** I would be happy to appear——

**Mr. J. O’Keeffe:** We will issue your invitation today.

**Mr. Costello:** The Minister should just answer the questions he is asked. We do not have a great deal of time.

**Mr. McDowell:** I remind the Deputies opposite that when their parties were in office, nothing was done about these matters.

**Mr. Costello:** The Minister is kicking to touch. He will not answer the question.

**Mr. McDowell:** What I am doing is developing a modern prison system for this country. Deputy Costello and people close to him want to keep Mountjoy in the city centre at a cost of €400 million——

**Mr. Costello:** Did the Department of Justice, Equality and Law Reform row back on the conditions it originally imposed and state that cost was no object?

**Mr. McDowell:** ——to the Irish taxpayer. My response to that is “No way, José”. I will not go down that road.

**Mr. Costello:** The Minister is not answering the questions. That is typical of him. He is merely ranting.

**Mr. McDowell:** I am not ranting. It is interesting that the Deputies opposite like to impart facts but they do not like to receive them.

**Mr. Costello:** At least we impart facts, not fiction.

58. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform the projected costs of the planned new super-prison to replace Mountjoy under PPP; the comparative cost of the project under public financing; and the results of the comparative cost analyses conducted by his Department. [5295/05]

**Mr. McDowell:** The intention is to build state-of-the-art facilities for adult male and female prisoners as well as other facilities on the new site at Thorntown, County Dublin. However, until a site was acquired, final decisions could not be made on the full range of facilities to be located there. Detailed planning is now under way. It will not

be possible to give any reliable estimate of total cost until the design phase has been completed and tenders obtained. I can, however, advise the Deputy that it will be far less than the estimated €400 million it would cost to build a new prison complex on the existing Mountjoy site.

The issue of redeveloping Mountjoy was considered by a group established by my predecessor and chaired by Governor Lonergan. Its report, published in February 2001, contained a number of specific proposals and recommendations for the future development and use of the Mountjoy complex. The proposed development would have provided a maximum of 723 places in addition to the female prison. An estimate prepared by a firm of surveyors on behalf of the OPW in June 2001 of the capital cost of construction of the proposed development came to the then total of €336 million. I have been advised that it is estimated that it would now cost over €400 million — a significant multiple of the cost of the development of a prison on a greenfield site — and take seven years to complete the redevelopment of Mountjoy as envisaged by that group. This level of expenditure on redeveloping Mountjoy cannot be justified.

All the advice I have received to date is that this project, as regards its construction, is suitable for consideration for a PPP venture. Before any PPP arrangements are entered into, however, a formal PPP assessment for the project is required. The latter will address in detail the rationale for procuring the project via PPP, the potential benefits and the optimal PPP structure.

I emphasise that there is no question of privatising the management or staffing of the Prison Service. As indicated previously in the House, I regard that as an option of last resort. In the context of the Prison Officers Association recommending to its members acceptance of the outcome of the negotiations between my Department and their union, that option should no longer feature in respect of future planning.

**Mr. Costello:** If the other prisons had remained open, there would have been no need for a new one.

**Aengus Ó Snodaigh:** Last year, I asked the Minister about his plans for PPPs and privatisation and he informed me that detailed research had not been conducted into the privatisation of prisons or the criminal justice agencies. Is that still the case? Does the Minister accept that he does not know how much less a prison built under a public private partnership will cost than one constructed on a public basis?

The choice of Thorntown stinks to high heaven. Does the Minister not agree that it was not acceptable for Ronan Webster to attend a meeting, having missed the previous meeting, and present a site for consideration which was not included on the original list of 34 or on the short-lists? At the end of the meeting in question, a deal worth €29 million was signed. Does that not

stink to high heaven? Was there a breach of the tendering process in this instance, given that the Minister advertised for expressions early in the year and that this site was not included? Will those people who took the time to submit applications have a case to state that their sites were not given proper consideration because the site to which I refer was given preferred status which permitted it to jump ahead of everything else in the queue?

Why did the planning and community impact criterion come sixth out of the eight determining criteria? Is it because community consultation is less important than access or the proximity of a site to public transport?

**Mr. McDowell:** On behalf of the people who participated in the selection procedure, all of whom are people of the highest integrity and public servants in this State and none of whom took direction from me, I reject the Deputy's suggestion that their activities stink to high heaven. I regard that as an unworthy charge against them and I refute it completely.

As I understand it, from the minutes that have been published, the group had selected a different site. The vendor of the different site decided he was not prepared to go on with the matter, for reasons best known to himself. To imply, as the Deputy did, that this purchase was one which was in the mind of the selection committee at all times and therefore that other tenderers were wasting their time is untrue. It is my understanding that a great variety of sites were on offer. One of the criteria foremost in the minds of the committee's members was the question of impacting on local communities. For that reason sites which were offered adjacent to built-up areas were rejected because they did not want to locate the prison in such communities.

If the Deputy looks in a fair-minded way at the records of the selection committee, which acted entirely independent of me and without direction from me and the way it went about its work, he will find it acted in a conscientious way. I therefore ask the Deputy to withdraw the implication of misbehaviour or corruption in saying that the committee's deliberations stink to high heaven.

**Aengus Ó Snodaigh:** I have a supplementary question. If one looks at the minutes published as a result of a parliamentary question from myself, negotiations have not closed. If the Minister took the time to read it, he will find it on paragraph three of the minutes of 18 January 2005. It says—

**An Leas-Cheann Comhairle:** It is not in order to quote.

**Aengus Ó Snodaigh:** I am not going to quote. The person in question was still interested in the sale. The following paragraph is only approximately ten lines and details where this committee

[Aengus Ó Snodaigh.]  
got a new site, as discussed on that date, produced out of nowhere by Mr. Webster, and after which a deal was quickly signed. That stinks to high heaven. There was a process in which this site was not involved from the start. If it was, it should have been introduced, re-introduced or advertised. I will not withdraw my remark that this process stinks to high heaven. I believe an investigation should be held into how the committee reached that determination.

**Mr. McDowell:** It is open to the Comptroller and Auditor General, the Committee of Public Accounts and the Joint Committee on Justice, Equality, Defence and Women's Rights to summon any of the persons concerned before them to answer how they carried out their functions.

**Mr. Costello:** It could just do that.

**Mr. McDowell:** The phrase "stinks to high heaven" suggests that somehow there was something egregiously wrong and corrupt, amounting to maladministration, in the way these people carried out their functions. If the Deputy looks at the record, he will see they had fixed on another site and that the vendor in that case opted out of the purchase at a late stage in the proceedings.

**Aengus Ó Snodaigh:** What must be the impact according to the minutes as published?

**Mr. McDowell:** The Deputy will find the vendor opted out.

**Aengus Ó Snodaigh:** It is in the minutes.

**Mr. J. O'Keeffe:** We will go into the details at the Joint Committee on Justice, Equality, Defence and Women's Rights.

**Mr. Costello:** It is still no way to do business.

#### **Garda Equipment.**

59. **Mr. J. O'Keeffe** asked the Minister for Justice, Equality and Law Reform the extent to which PULSE can be modified or adapted to increase its speed; if it can be adapted to meet new demands; the details of any reviews of the effectiveness of the system; the approximate cost of acquiring and installing a PULSE terminal in a Garda station; and if he will make a statement on the matter. [5309/05]

**Mr. McDowell:** I am informed by the Garda authorities that a performance review of the PULSE system is being undertaken with a view to improving its speed in certain respects. I am also informed that the PULSE system can be modified and adapted to meet new demands of the operational service. The review will be to hand, I understand, by the summer. In addition, a review of the effectiveness of PULSE is a matter that arises for consideration as part of the Garda Síochána information and communications

technology strategy, 2005-2009. Work on that strategy is under way and will be completed over the coming months.

PULSE is available at 181 locations, including divisional and district headquarters and all major city stations. Under that level of coverage, 85% of all incidents are directly captured and more than 75% of Garda personnel have direct access to PULSE systems in their stations. A further 19 stations are shortly to be added to the PULSE network in 2005. The cost of an additional PULSE terminal is dependent on whether the location is networked. The cost of an additional personal computer in a networked location is approximately €1,200. The cost of providing a PULSE computer at a non-networked location will vary considerably depending on the infrastructure cost involved.

**Mr. J. O'Keeffe:** Does the Minister accept we should provide cutting edge technology to the Garda Síochána and that PULSE does not qualify? This technology must be out of date because it goes back to the early 1990s. It is unsatisfactory, nonetheless, that it is installed in only 25% of Garda stations. Does the Minister not accept that a situation whereby some gardaí must travel ten or 15 miles to a Garda station to input their material into PULSE is a waste of Garda time? Furthermore, does he not accept that we got bad value in that €60 million has been spent on the system, €50 million on consultancy and a further €50 million on non-consultancy services and we end up with technology that only reaches 25% of Garda stations? Does he agree that it is slow and in many cases ineffective and does not qualify? PULSE is an acronym for police using laser systems effectively. Surely it does not qualify on any front, should be replaced and the Garda given modern state-of-the-art technology.

**Mr. McDowell:** I am not of the view that it should be replaced, but I believe it should be developed. I fully accept the Deputy's point that the Garda should have leading edge technology available and that the system should be improved and speeded up. One of the questions that has arisen is whether it would make more sense for gardaí to operate the PULSE system through call centres and have the entries made by a specialist staff so that they do not have to leave their normal duties. This is something the commissioner is pondering.

The figures quoted by the Deputy for terminals do not match up to reality because 85% of all incidents are reported in a station where there is a terminal and 75% of all gardaí have direct access to a PULSE system in their stations. The Deputy is including in his figures stations which are open for two hours on a number of days a week and asking whether they should be counted in as stations which have no access to the PULSE system.

Ideally, every Garda station should have access to the PULSE system. I hope, with broadband

technology and the like, that it will be possible to move quickly to that situation. That is where we should be going. However, the Deputy is asking that PULSE should be scrapped and we should start again only a short number of years after it has come into operation. That is the type of decision which, were I to take it, would be wholly irresponsible. Simply to throw away something which cost a great deal of money to develop and start again would be folly.

**Mr. J. O’Keeffe:** Does the Minister not accept that as a matter of priority he must provide the resources to upgrade the system? He must provide the resources to extend it nationwide to the 75% of stations that do not have it. He must provide resources to have a better way of inputting the statistics, such as palmtops for the Garda Síochána, rather than having gardaí making round trips of 20 to 30 miles to reach a station to input the material. Does he not accept there is a strong case for providing civilians to do a job that gardaí should not be doing? All this extra work that should not be associated with cutting edge state-of-the-art technology is part of the reason, even with the existing numbers in the Garda Síochána and not the expanded numbers the Minister dreams about at times, gardaí are not allowed to spend their time on frontline duty.

**Mr. McDowell:** The Deputy must have misheard me. I said they should have cutting edge technology and that we should explore all these matters. We are reviewing the system a short number of years after it came into operation. I contrast the fact that there is a computerised system now with the situation that obtained during the time the Deputy’s party was in office when there was none of this.

**Mr. J. O’Keeffe:** It began in 1996.

**Mr. McDowell:** The Deputy said the idea of more gardaí was a dream of mine. They are a reality. They are coming now and are a nightmare for the Deputy.

**Mr. J. O’Keeffe:** Is the Minister joining the Minister of State, Deputy Callely, in fantasy world?

**Mr. McDowell:** They are a nightmare for the Deputy because the rattle has been thrown out of his pram and he can no longer bang on about this anymore.

**Mr. J. O’Keeffe:** The Minister should produce the body.

### Community Welfare Services.

60. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform if he will extend the deadline for parents who wish to remain here

with their Irish-born children, due to the difficulties that have arisen between his Department and the community welfare services regarding documentation; and the number of applications received to date. [5306/05]

**Mr. McDowell:** On 15 January 2005 I announced revised arrangements for the consideration of applications for permission to remain made by the non-national parents of Irish born children born before 1 January 2005. One of the requirements is the provision, where appropriate, by applicants of a letter from their community welfare officer stating the period during which they have been in receipt of welfare payments in the State. The purpose of this requirement is to assist in proving continuous residency in the State of the applicant since the birth of the Irish born child.

The demand for these letters initially created local difficulties for some CWOs. However, I am informed that dedicated arrangements have been put in place to deal with the backlog of requests where this has arisen. Provided that these letters have already been requested or are requested in good time, all will be issued before 31 March 2005, which is the closing date for receipt of applications under the revised arrangements. The need to extend the deadline does not therefore arise. By 11 February 2005, a total of 5,843 applications for permission to remain under the revised arrangements have been received and around 1,100 decisions to grant permission to remain were made.

**Mr. Cuffe:** I am delighted that 1,100 parents have been given the opportunity to remain in Ireland with their children, who are Irish citizens. It seems extraordinary, in this e-Government, that the Department of Justice, Equality and Law Reform and the community welfare officers cannot come to an agreement to submit information electronically to the Department. I understand there was a Mexican stand-off between the two Departments, because there was a need for a piece of paper to be issued to the applicant that would then be sent off to the Department of Justice, Equality and Law Reform. It would surely be much easier for the community welfare officer to send the information electronically. There are thousands of people out there who are still waiting—

**An Leas-Cheann Comhairle:** What is the Deputy’s question?

**Mr. Cuffe:** Can the Minister confirm that there are thousands of people still waiting to receive their letter from the community welfare officer, even though they might have applied for this many months ago? I understand that up until a few days ago, the letters were not being issued in Galway. People are still genuinely concerned that

[Mr. Cuffe.]

they will not get the letters in time to make the application by the end of March. Is the Government serious about electronic government? Is it serious about using information technology in a correct manner? Will a very vulnerable group of people in Ireland receive information in good time so that they can make an application?

**Mr. McDowell:** I am glad that the Deputy welcomes the extraordinary success and progress in implementing this scheme, where 1,100 people have received a favourable response weeks after it has commenced.

If community welfare officers were to transmit data electronically to Dublin, it would become separated from the application received in my Department. It would then be someone's business to try to associate particular e-mails to data that comes in.

**Mr. Cuffe:** It is not rocket science.

**Mr. McDowell:** Political correctness does not dictate that it is impossible for someone to obtain a piece of paper from a CWO with whom he or she deals, and then submit it with the other pieces of paper required.

**Mr. Cuffe:** I only hoped the Minister might wish to take this on-board.

**Mr. McDowell:** The CWOs of Ireland, for whose professionalism I have the greatest respect, are well equipped to issue a piece of paper if they are capable of sending an e-mail. There is such a thing as a printer and these things are printed out. I want a workable system that does not become chaotic. Each applicant is required to submit a form which incorporates a statutory declaration and has a number of things attached to it. One of them is this letter. It is not a difficult thing to do. Although I accept the Deputy's proposition that many of these people are vulnerable, this is not an unreasonable requirement. This is an extremely generous offer by the Irish State, which is being run in a very effective way. No other state in Europe has made an offer of this kind. I have to ask that the applicants comply with a basic step, which is to obtain a letter from their CWO where that is applicable, identifying the fact that they have been in this State in the period since their child was born.

If the Deputy wants to know why that is required, it is because a considerable number of people came to Ireland, had a child and went abroad. This scheme is not for them and they are not eligible to apply for it. It is only for people who claim that they have resided in Ireland since the birth of their child and who ask to continue to live here. People who had an Irish citizen child and who went elsewhere are not allowed to come back to Ireland and to pretend that they have

been resident here since the birth of their child. A letter from a CWO is a very simple verification of this. It is not beyond the wit of man or woman to produce that letter to support a genuine case.

**Mr. Cuffe:** Some countries are reported to be charging several hundred euro to supply identity details for passports for individuals. Can the Minister speak with his colleagues in the Department of Foreign Affairs to try to address the very high charges extracted from this vulnerable group of people in order to obtain confirmation of their identity from the country that they left to come to Ireland?

**Mr. McDowell:** I have read in newspaper reports and have been told personally by the applicants that they consider the charges made by their own countries' embassies for supporting identity documentation to be excessive. I will draw to their attention my view that people in these circumstances should not be charged an unreasonable fee in order to provide identity documents.

**An Leas-Cheann Comhairle:** I have to remind the House that questions are limited to six minutes. The Minister's reply is limited to two minutes, while supplementary questions and answers are limited to one minute each. I ask Members to bear that in mind.

### Other Questions.

#### Prisoner Complaints Procedures.

61. **Ms B. Moynihan-Cronin** asked the Minister for Justice, Equality and Law Reform the number of cases for compensation lodged to date by serving or former prisoners arising from the lack of in-cell sanitation; the details of his response to the claims lodged; when all prisons will be fully equipped with in-cell sanitation; and if he will make a statement on the matter. [4936/05]

**Mr. McDowell:** Approximately 400 letters have been received in my Department from solicitors representing former and serving inmates in this State alleging that their clients' human rights have been violated due to the practice of slopping out. The majority of cases relate to inmates imprisoned in Cork, Limerick and Portlaoise Prisons. I have instructed the Irish Prison Service to contest these claims vigorously.

Construction on a new accommodation block for 150 inmates at Portlaoise Prison will commence shortly and be completed by 2007. As the costs and operational issues of retrofitting in-cell sanitation in Mountjoy and Cork Prisons is prohibitive, the Irish Prison Service is looking to develop new state of the art prison facilities on

green field sites. In the case of Mountjoy Prison, a site has recently been purchased. With regard to Cork Prison, my officials and the Office of Public Works are examining plans for a new prison development on Spike Island.

**Mr. Costello:** That is essentially the same answer the Minister gave me when I asked this question six months ago. Is he saying that there have been no further applications received by his Department in more than six months? The figures given in the media have been double that. I would like to get some idea of a breakdown for the various prisons mentioned, so that we can get a proper picture of the situation there. The inspector of prisons called for the closure of the prisons due to a lack of in-cell sanitation in recent years. The Minister has still not published the last report by the inspector of prisons. Can he tell the House when he intends to do so? The European Committee for the Prevention of Torture also condemned Irish prisons. What advice has the Minister received from the Attorney General regarding the cases that are now being taken against the Government on this matter?

**Mr. McDowell:** While I will obviously not discuss in detail the advice of the Attorney General on any matter, the State is contesting these cases vigorously. Perhaps the Deputy is aware that a decision was handed down by the High Court the other day which dismissed a claim. It did not receive much publicity.

While I agree with the Deputy that independent observers are appalled by slopping out, as am I, the difference is that I am doing something about it whereas predecessor Governments did nothing about it. I am tackling a problem about which others have only talked and am glad of Deputy Costello's support. I am also glad that he reminded me of independent calls for the closure of Mountjoy Prison and of support for my plan to close it and replace it elsewhere, which comes from an independent source.

**Mr. Costello:** The Minister has been saying it for a long time.

**Mr. McDowell:** It is a view wholly different from that advocated constantly by Deputy Costello and people close to him.

**Mr. F. McGrath:** The Minister is identified with it.

**Mr. McDowell:** I am taking every step which is reasonably open to me to end the practice of slopping out which I find offensive in this day and age. I intend to pursue the matter.

**Mr. J. O'Keeffe:** To provide us with an idea of the extent of the problem within the prison system, will the Minister indicate the total

number of cells under his domain and the number which do not have in-cell sanitation? Will he also indicate the amount of the award given by the European Court of Human Rights in the relevant Scottish case, to give the House an idea of the potential bill with which we might be confronted if that court upholds claims?

**Mr. McDowell:** The Scottish case turned on its own facts and did not involve an ordinary prisoner who claimed the offence of slopping out entitled him to damages. There were special considerations relating to his medical state which justified the complaint in the case.

**Mr. J. O'Keeffe:** It was £5,000 sterling.

**Mr. McDowell:** The Deputy is suggesting——

**Mr. J. O'Keeffe:** The purpose of the question is to obtain information.

**Mr. McDowell:** I do not recall what the claimant received.

**Mr. J. O'Keeffe:** It was approximately £5,000 sterling.

**Mr. McDowell:** I refer Deputies to the report of the European Court of Human Rights in Strasbourg. I am sure the information is available to them separately.

**Mr. Costello:** We are concerned about the cost to taxpayers.

**Mr. J. O'Keeffe:** What is the extent of the problem? How many cells are involved?

**Mr. McDowell:** Our prison system has traditionally operated on the basis of slopping out, which I regard as unacceptable. I reiterate that no Minister holding my office acted as decisively as I have to bring the practice to an end. I welcome support for ending it but regard it as slightly ironic that every step I have taken to do so has been criticised viciously by those who now huff and puff about their worry regarding the cost to taxpayers.

**Mr. Costello:** When does the Minister expect to deal with the problem?

**Mr. J. O'Keeffe:** Will the Minister answer the question and stop bluffing?

**Mr. Costello:** The Minister knows we all oppose slopping out, but we disagree with the way he is addressing the matter. The Minister can upgrade prisons.

**Mr. McDowell:** It is sad to see a Deputy who is doing his best to prevent the modernisation of

[Mr. McDowell.]  
the Irish Prison Service posing as someone who is worried about prisoners' rights.

### **Garda Code.**

62. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform the reason for his decision not to supply this Deputy with a copy of the Garda code. [5101/05]

**Mr. McDowell:** I am informed by the Garda authorities that the Garda code is a confidential publication which, as is stated in the code, "must be carefully preserved and its contents in whole, or in part, should not be disclosed to any unauthorised person". The most recent edition of the code was prepared in 1995.

Members of the Garda Síochána, officials of my Department and officials in the offices of the Chief State Solicitor and the Director of Public Prosecutions are authorised by the Garda Commissioner to be provided with the code. The Garda code covers all areas of Garda duties including operational, security and administrative matters. Every member of the Garda is issued with a personal copy of the code which is retained for the duration of his or her service. The Garda Commissioner is of the view that it is necessary to maintain confidentiality in respect of the code to maintain the operational effectiveness of the Garda Síochána. I act on his advice.

This is a case in which there must be a trade-off between openness, transparency and accountability and effectiveness. I want an effective police force.

**Mr. Cuffe:** It appears that while there is a code, it is one of silence or what the Italians would call "*omerta*". We need transparency and openness and to know a little more about the operating methods of the police force. From what I have heard, the code contains antiquated and Victorian stipulations on the operations of the Garda.

**An Leas-Cheann Comhairle:** The Deputy is making a statement when he should be asking a question.

**Mr. Cuffe:** I would be grateful if the Minister would confirm whether such stipulations exist. Will he confirm that there is a requirement within the code whereby a garda shall not live within ten miles of a relative? The definition of "relative" not only includes siblings but extends to cover cousins. Will he further confirm that if a garda marries, he or she may not live within ten miles of his or her spouse's relatives? Such restrictions relate more to the barracks life of a garda in the 1920s than to the reality of 21st century Ireland.

I am at a loss as to how to proceed further with this question. All I hear from the Minister is a complete rebuttal of what I believe to be a very

reasonable request regarding the operating methods of the Garda. Gardaí operate under conditions of great stress and their operating manual should be dragged into the 21st century. I would be grateful if the Minister would consider putting into the public domain a copy of the code under which gardaí operate.

**An Leas-Cheann Comhairle:** I must point out that supplementary questions are limited to one minute.

**Mr. McDowell:** With respect, if asked to choose between the judgment of the Commissioner or the Deputy on this matter, I am inclined to accept the views of the former. I have never seen the Garda code and am not in a position to confirm or deny the statements made by Deputy Cuffe. He may well be right, but he may also be wrong. I do not know. I am told the last edition of the code was produced in 1995 and am sure the strategic planning which follows the enactment of the Garda Síochána Bill will ensure the code is kept modernised while any redundant or antiquated material is omitted.

**Mr. J. O'Keeffe:** Does the Minister agree that he has neglected his duty by failing to examine the code to determine whether it can be improved?

**Mr. McDowell:** I do not accept that. Perhaps the difference in view between Deputy Jim O'Keeffe and me explains why so little was accomplished when his party was in office.

**Mr. J. O'Keeffe:** Here we go again.

**Mr. McDowell:** My predecessors in those days spent their time reading the Garda code instead of getting on with their jobs.

**Mr. Costello:** The red herring is being dragged along.

**Mr. J. O'Keeffe:** The Minister should answer the question, look at the code and do his job.

**Mr. Cuffe:** Does the Minister intend to request the reformation or scrapping of the code? From what I hear anecdotally, it seems the current wording of the code is a Victorian anachronism. I suggest respectfully the Minister should obtain a copy of the code, examine it and rewrite or scrap it in consultation with the commissioner.

**Mr. McDowell:** I will convey the views of the Deputy to the commissioner.

### **Courts Service.**

63. **Mr. Quinn** asked the Minister for Justice, Equality and Law Reform the reason he has announced the establishment of a second division

of the Special Criminal Court, especially in view of his statement on appointment as Minister that he wanted to see the gradual phasing out of the court and the maximization of jury trials in criminal cases; the number of cases currently awaiting hearing by the court; the average waiting time for trials and the way in which this compares with jury trials in criminal cases; and if he will make a statement on the matter. [4946/05]

**Mr. McDowell:** Last December, I sought and received Government approval to establish an additional Special Criminal Court with seven members. My reasons for seeking the establishment of a second court are twofold. First, dissident republican groups continue to pose a serious, active threat to the State. I am determined to ensure that persons intent on challenging the legitimacy and authority of the State and charged in relation to criminal offences are brought swiftly to justice. In this context, the speedy resolution of trials before the Special Criminal Court will serve to demonstrate the State's resolve to deal seriously with any activity which is a threat to the State. I am also mindful of the need to avoid any difficulty or challenge arising on the basis that a person has been held on remand for a lengthy period pending trial.

There are five cases before the Special Criminal Court, dates have been assigned in respect of four cases and a date has yet to be assigned in respect of the fifth in which the book of evidence has yet to be served. The earliest date available for a new trial in the Special Criminal Court is October 2005. However, cases coming before the Special Criminal Court can be complex and lengthy and, with only one court available, even one or two extra cases can greatly increase delay.

The Supreme Court, in the case of Colm Maguire and the Director of Public Prosecutions, in a judgment handed down on 30 July 2004, confirmed that on an application for bail, the question of when a trial would take place is an admissible and important consideration and stated that a long-deferred trial might lead to bail being granted where it would otherwise be refused. The law was changed to allow evidence to be adduced against granting bail on the basis that the accused would be likely to avail of liberty to commit further serious offences. The gravamen decision of the Supreme Court was that the particular ground for objecting to bail had to be put to one side if the State was going to incarcerate people for lengthy periods prior to trial owing to the absence of a venue in which to try them. In those circumstances, I was left with a situation whereby people were effectively caught red-handed committing serious offences such as assembling bombs, operating training camps and preparing for major acts of terrorism on this island. The fact they were caught red-handed and appeared to be members of an unlawful organisation could not result in their being kept in custody pending their

trial, despite the probability that their release would enable them to commit further serious offences that their organisation was dedicated to carrying out.

**Mr. Costello:** The Minister made an amazing announcement on New Year's Eve with regard to the establishment of a second Special Criminal Court. The Special Criminal Court was set up under legislation in 1939 on the grounds that ordinary courts were not adequate to deal with the process of justice. The Minister has just told us that the main reason for its establishment is dissident republican groups and that therefore there is a backlog. Surely there is not more paramilitary activity now than in the thirty years of the Northern Ireland Troubles during the 1970s, 1980s and 1990s. The Minister is saying that dissident republican groups are causing so much concern that he must set up a second court. Of what do the five cases in the backlog consist? Are they all related to paramilitary activity or are they non-scheduled cases which could equally be dealt with in the ordinary courts?

How does this tally with the Good Friday Agreement, when we, as co-sponsors, agreed to review our special legislation, including the Special Criminal Court, with a view to its dismantlement? The British authorities have already dismantled the Diplock courts. We are a stable democracy but in what direction is this country going when a second criminal court and emergency legislation dominate the area of serious crime?

**Mr. McDowell:** The Deputy will be aware that a number of years after the Good Friday Agreement was entered into, it is still not functioning properly. There are groups on this island still engaged in paramilitarism, not merely dissident republicans but also the provisional IRA. That organisation has proved in the past to be ruthless in its intimidation of people involved in the criminal process. I need only mention circumstances in which witnesses were intimidated arising from the killing of Detective Garda Jerry McCabe in Adare in 1997. Witnesses were extensively intimidated by members of the IRA into retracting their statements which resulted in a manslaughter verdict rather than one of capital murder.

It is by no means fanciful. There is active paramilitarism on this island and people who believe, when they kill policemen or beat up, torture or murder people, rob banks or extort money etc., that they are acting with a mandate from history and that their actions do not amount to crimes. They believe they are justified in intimidating those who testify against them against in courts. Unfortunately, while that is going on, the ordinary courts will continue to remain incapable of dealing with such serious organised intimidation. As somebody who believes passionately in the



[Mr. McDowell.]  
 system of jury trial, it is my fervent desire to restore fully, as quickly as possible, the system of jury trial in Ireland. Let us keep our moral compass clear on this issue. The fault does not lie with Government. It emphatically lies with those groups who reject our police force, our courts — both jury and non-jury — and the concept that any of their actions are criminal in the eyes of our law. Those groups have proven that they are murderous in their capacity to intimidate witnesses, and I will not back down in the face of these groups or allow this country to become a no-go area as far the enforcement of law is concerned.

**Mr. F. McGrath:** Incident rates are going down.

**Mr. J. O’Keeffe:** As long as subversive groups which do not accept the rule of law operate on this island, we will continue to need the Special Criminal Court. History shows they are quite prepared to intimidate not just witnesses but also jurors. In that situation, the ordinary system cannot apply. We all want to see an end to the Special Criminal Court, but that will only happen when we see an end to racketeering, criminality and all activities of the provisional IRA and other subversive groups. The Minister should accept from my remarks that he has the full support of Fine Gael in doing what is necessary with regard to bringing such people to justice.

**Mr. McDowell:** I am very grateful.

**Mr. Costello:** Why do we need a second criminal court? Five cases hardly present a need for such a court. What is the make-up of the five cases? It has been the custom over recent years to take the easy option and bring in cases which could be dealt with by ordinary courts. That might be the reason we have a backlog. What is the position regarding Mr. Justice Hederman’s report presented almost two years ago in terms of the Special Criminal Court?

**Mr. McDowell:** In its review, the majority of the Hederman committee stated the threat posed by paramilitaries or organised crime is sufficient to justify the retention of the Special Criminal Court. There is no advantage for me in organising a second Special Criminal Court. The Supreme Court stated in respect of people charged with serious offences that the fact they are likely to commit further serious offences while on bail does not constitute a ground for denying them bail if they are facing a lengthy period of incarceration prior to their trial. I must deal with that situation.

I fully agree with the Deputy that it seems strange as we move towards comparative improvement in security that trials seem to take longer and the backlog seems to get greater. That

seems egregious, but I cannot direct the courts on how they carry out their functions. I cannot tell judges to hurry up and speed up cases. I do not have that function with regard to the criminal justice process. We have an independent Judiciary. All I can do is provide the country with a system which guarantees an early trial for those facing trials in such circumstances.

The Deputy asked me to specify the charges in respect of people whose trials are pending in the Special Criminal Court. I am not in a position to do that. However, the Director of Public Prosecutions conscientiously opts for jury trial whenever he considers that appropriate. I have confidence both in the courts and in the Director of Public Prosecutions not to abuse the Special Criminal Court to deprive somebody of the right to jury trial. The grounds on which a person is tried in the Special Criminal Court are well known.

### Deportation Orders.

64. **Mr. Penrose** asked the Minister for Justice, Equality and Law Reform the number of occasions since June 2002 on which aircraft have been chartered to facilitate the deportation of persons from this country; the total cost involved in such charters; the number of persons deported in this way and the number who were children; the total overall costs involved, including Garda man hours; and if he will make a statement on the matter. [4943/05]

**Mr. McDowell:** From January 2002 to the end of December 2004, 12 charter flights were engaged for the purpose of deportation of persons illegally residing in the State. A total of 341 persons were deported in this way at a total cost of €1,363,201. Details of these charter flights, that is, dates, destinations, numbers deported — broken down into adults and minors in so far as this information is available — and individual costs are as shown in the table that will be circulated to Members.

The costs include Garda expenses associated with these removal operations. I am advised by the Garda Commissioner that, given the wide range of immigration duties performed by the Garda Síochána and the Garda national immigration bureau, in particular, it is not possible to identify the pay and overtime costs incurred by the Garda on these charter flights. However, the commissioner informs me that charter flights involve a lower ratio of Garda escorts to deportees than is the case using conventional schedule flights, resulting in savings to the Garda budget.

There are two main categories of repatriation charter flights. Smaller charters that are organised to remove disruptive deportees that commercial airlines will not take on account of previous disruptive behaviour on board aircraft and bigger

charters organised to return larger numbers of deportees in a more efficient way than using scheduled flights. Ireland does not have direct flights to the destinations where these charters have taken place, for example, Romania and Nig-

eria. The alternative to chartering is transiting through hub European airports involving longer transfer times, more inconvenience to deportees and the attendant risk of deportees absconding in transit.

No. of non-nationals deported.

Date	Destination	Adults	Minors	Total	Cost Euro
					€
9 January 2002	Algeria	2	Nil	2	29,833
28 March 2002	Nigeria	6	Nil	6	241,250
14 November 2002	Nigeria	N/A	N/A	12*	191,730
18 November 2003	Romania and Moldova	N/A	N/A	24*	92,490
28 November 2003	Romania and Bulgaria	N/A	N/A	20*	31,989
12 February 2004	Romania	N/A	N/A	62*	93,609
20 February 2004	Gambia	1	Nil	1	50,200
31 March 2004	Romania	49	4	53	71,590
6 April 2004	Nigeria	26	3	29	146,500
26 August 2004	Nigeria	24	1	25	248,610
17 November 2004	Romania and Moldova	56	10	66	82,700
15 December 2004	Romania and Moldova	39	2	41	82,700

\*Note: A breakdown of the numbers deported between adults and minors is not readily available for four of the flights. To attempt to provide such a breakdown would require the gardai revisiting each of the 118 cases involved, which would involve a disproportionate use of time and resources.

**Mr. Costello:** The Minister did not mention the number of deportees who were children. Perhaps he will give that figure. The figures I was given previously for 2004 showed that people had been deported to three countries. A total of 181 were deported to Romania in 2004. Romania is likely to become a member state of the European Union in 2007 so the major emphasis on that country seems strange, given that the majority of people coming to this country do not come from Romania. The second category was Nigeria, with 54 deportees, and the last category was Gambia, with one deportee. The charter to Gambia cost €50,000. Will the Minister comment on those figures? What is the procedure at present with regard to countries that are likely to become member states of the European Union within a few years?

**Mr. McDowell:** A total of 341 persons were deported, of whom 20 were children.

**Mr. Costello:** What about Irish born children?

**Mr. McDowell:** On a handful of occasions, parents who were deported brought their Irish born children with them.

**Mr. F. McGrath:** That is a disgrace.

**Mr. McDowell:** There is nothing disgraceful about that.

**Mr. F. McGrath:** It is a disgrace, rounding up families like that.

**Mr. McDowell:** If it is a disgrace, it is a disgrace that is common to all Europe.

**Mr. F. McGrath:** There are 6,000 illegal Irish in America.

**Mr. McDowell:** I do not see the Deputy's point.

**Mr. F. McGrath:** It is an over-reaction.

**Mr. McDowell:** I am satisfied that for the proper and effective conduct of our immigration law it must be understood by people who illegally come to Ireland and attempt to remain here that the State will deport them. If we had a system under which I decided it was not worth a candle to send them home, the result would be catastrophic. More and more people would come to Ireland, effectively challenging the Government to send them home.

The credibility of our immigration system requires deportation. The great majority of Irish people, as opposed to a small clique in the House, support my position.

**Mr. F. McGrath:** They supported your racist referendum as well.

*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 Durkan — the ongoing board-

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room dispute in the ESB now likely to lead to industrial action with consequences for continuity of supply and the economy; (2) Deputy O'Dowd — to discuss the archaeological matters relating to the proposed M3 project in County Meath and when a final decision will issue; (3) Deputy Broughan — the urgent need to re-examine the proposed closure of Greendale community school, Kilbarrack, Dublin 5; (4) Deputy Shortall — the urgent need to make regulations to require specific planning permission for change of use for retail premises in the case of off-licences; (5) Deputy Boyle — the reason the redevelopment of Cork Airport is being allowed to occur without the construction of air bridges; (6) Deputy Cowley — if the Minister is satisfied that a quantified risk assessment has been carried out on the onshore section of the Corrib gas pipeline; (7) Deputy Fiona O'Malley — to discuss the implications on traffic management of the Minister's decision not to raise the height of the Dublin Port tunnel; (8) Deputy Gormley — the Minister's plans to deal with the judgment handed down by the Supreme Court on the Health (Amendment) (No. 2) Bill 2004; (9) Deputy Upton — the Minister's views on proposed reforms to address the problem of children under 16 years being induced into signing contracts for services; (10) Deputy Neville — the construction of a new school at Kilfinane; and (11) Deputy Morgan — that the Minister outline the reasons the board of the EPA is not attending the hearings into the granting of a draft licence for a municipal waste and toxic waste incinerator at Ringaskiddy in Cork.

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

### **Social Welfare and Pensions Bill 2005: Second Stage (Resumed).**

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

**Mr. McHugh:** I wish to share time with Deputy Finian McGrath and Deputy Boyle.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Mr. McHugh:** As this Bill provides for a number of measures announced in the budget, it is reasonable to refer to the budget. The budget was generally well received and, for that reason, I supported the Finance Bill. However, lest the Government believes it can claim the glory, I firmly believe the credit for the generally acceptable budget goes to the electorate, which voted in the European and local elections in a determined manner to express its displeasure with the performance of the Government. That action shows how well informed the electorate is and that it is disposed towards using the mighty weapon available to it, the ballot box. Long may that continue.

I welcome the provisions in the Social Welfare and Pensions Bill 2005 and I congratulate the Minister, Deputy Brennan, on the impact he has made in this Department in a short time. Indeed, I was sorry to see the Minister leave the Department of Transport, where he was making progress. He was willing to make decisions. At all times, he implemented Government policy so it was a surprise when he was moved. I am wandering a little from the subject under discussion but that decision conveyed a clear signal, regretfully in my view, about who was in charge in this country and who makes the decisions. I wish the Minister well in the Department of Social and Family Affairs; I am sure he will make his mark there.

I wish to refer to the 16 social welfare cuts introduced in the Social Welfare Act 2004 and to acknowledge the current Minister's attempt in this Bill to ease those cuts. His actions in this regard show his commitment to the less well-off. The financial provision being made for people with disabilities is welcome. For years, people with disabilities were badly treated by successive Governments. They were a weak lobby and could be easily ignored, so they were ignored. That is a shame for our society and successive Governments.

People with disabilities and parents and guardians of persons with disabilities have felt isolated, neglected and betrayed by Government and society for many years. Their sense of betrayal has led to a mistrust of Government and to them treating Government promises with suspicion. A firm commitment of financial provision is now being made and I welcome it. I look forward to the roll-out of that allocation so the people who have been neglected for so long can benefit.

I am disappointed with the provision for carers. Carers have done this country a great service and the Government should formally recognise their extensive contribution. An inclusive national strategy should be developed to put a support structure in place. A minimal investment in this area will result in actual savings in the health budget. I referred earlier to the feelings of isolation and betrayal on the part of people with disabilities. Carers also experience those feelings.

I welcome the Minister's recent announcement about the lone parent benefit and his resolve to make that allowance a more family friendly payment. This change of direction in bestowing a positive aspect to the lone parent allowance is most welcome and will bring about many benefits, not least by saving the Exchequer the cost of paying the Department's inspectors who were employed to ensure that lone parents were living without partners. The new approach will also have a positive effect resulting in more single parents being encouraged back into the workforce. The benefits are twofold. First, lone parents' quality of life will greatly improve and, therefore, their sense of self-worth will be enhanced. Second, there will also be a benefit to the economy. This news comes at a time when

lone parents need a boost following the deeply insulting, ignorant and rude comments in *The Irish Times*, which described single mothers as mothers of bastards.

**Mr. F. McGrath:** I thank the Leas-Cheann Comhairle for affording me the opportunity of commenting on the Bill. It is important for everyone to wake up to the reality that pockets of poverty throughout the State need to be tackled. I welcome this debate on issues such as child, disability and carer's benefits.

The article by Kevin Myers and the Ed Walsh school of right-wing ideology have prompted a positive reaction from society at large. It shows that the country has not lost its compassionate side or its caring image. The reaction to Mr. Myers's disgraceful article amounted to a people's revolution. The reaction of people displayed an understanding and caring for lone parents that was not long in shutting up Mr. Myers and his ilk. It showed that Ireland was not going backwards. The people's quiet revolution on this issue gave me great hope for the future. We must be on our guard, however, against right-wing ideology emanating from the University of Limerick and other such places. Such ideology exists but it is up to everyone involved in public life to ensure that a bunch of neo-conservatives never gets control of this country. Sadly, we have seen what has happened in the United States so we must be vigilant.

The Bill provides for a number of measures announced in the budget, including increases in child benefit, an increase in the amount of capital disregarded for the purposes of certain means-tested schemes, an improvement in carer's benefit and the respite care grant scheme, and an enhancement of the disability payment scheme, including the introduction of a weekly payment for persons who do not qualify for disability allowance solely because they are resident in an institution.

The Bill also provides for a number of amendments to the Pensions Act 1990. Section 3 provides for an increase in the monthly rate of child benefit as announced in the budget. The lower rate of benefit payable in respect of each of the first two children is increased by €10 per month, from €131.60 to €141.60. The rate for the third and each subsequent child is being increased by €12 per month, bringing the rate from €165.30 to €177.30. These increases will come into effect from 1 April 2005. They constitute an important part of the legislation as they focus on the issue of child poverty.

I welcome the Minister's recent comment that he will examine seriously the possibility of targeting resources for the most needy in society. Within poor, low-income families there are approximately 65,000 children living in serious poverty. People often wonder who these children are given the considerable wealth in the State. I know many of them myself having spent 20 years working in a school in a disadvantaged area on

Dublin's north side. Such children come from very poor and often dysfunctional families. Many of them attend junior infant classes without having eaten breakfast. Happily, many creative schools, with the support of the Department of Education and Science and the Department of Social and Family Affairs, have initiated breakfast club projects. Sadly, such children must attend breakfast clubs to make a proper start to the day. It should be remembered that children cannot learn in an educational environment if they are starting off hungry at nine in the morning. I commend all those who are involved in such worthwhile projects. They provide a valuable service not only for children but also for the State.

Many of these children come from disruptive, problem families and are often ignored. Many of them are great children against the odds. I have been amazed by the number of children I have come across over 20 years who come from poor, dysfunctional families, yet they are able to accomplish a day's work at school. It is unbelievable what they can do. It is our role as legislators to ensure such children receive the maximum support. I challenge those in society, including people in political parties who do not accept that reality. Such children exist and they need our help. It is important to recall these facts in dealing with section 3.

As regards disability benefits, we must accept that there are thousands of people with disabilities in our society. The budget was a major step in the right direction in providing funding to reduce waiting lists for day care and respite places. I sound a note of caution, however, because many families have been waiting for such places for a long time. Consequently they have become cynical while waiting for such services to come on stream.

While the Bill contains positive aspects, I encourage the Minister to target resources at those who are most in need of them.

**Mr. Boyle:** The Bill's timing and much of its contents are almost automatic in that they form part of the annual legislative programme. However, its timing is useful when combined with the ongoing controversy about *The Irish Times'* recent opinion piece, a term that is fast becoming an oxymoron because who would want an opinion like that.

This week, the One Family Group highlighted the role of such families and the type of support the State should offer them. In addition, a recent presentation by the End Child Poverty Coalition to the Joint Committee on Social and Family Affairs put poverty and those affected by it into context, as well as focusing on the role of the State, if any, in counteracting poverty.

The Minister's speech contained a phrase which may have been unintentional but seemed to signify something that encapsulates the Government's philosophy. He said the Department's role, and indeed his own, is to stop the descent towards poverty. That phrase, however,

[Mr. Boyle.]

indicates a lack of belief that poverty exists on an ongoing basis in any case. It also amounts to holding up one's hands and stating that many in society are in a downward spiral. I do not believe that is the Minister's belief but the phraseology indicates a type of thinking within the Department and the Government that must be challenged.

Poverty — it is a relative poverty — is a reality in Ireland. Recent EU reports have stated that 23% of children are either living in poverty or at risk of doing so. There are similar statistics relating to women. It seems that the young, the elderly and women in particular are more at risk of becoming poor in our society. While that is the challenge facing the Government, I am afraid it is also the effect of ongoing Government policies. Those policies may not all be attributable to the Minister for Social and Family Affairs but we need to recognise that whatever the Minister and his Department try to do, other policies are being effected by other Ministers and Departments that are pulling the Government in the opposite direction. The proof is that the disparity between wealth and poverty in Ireland is greater than in other European countries. As the economy grows, those statistics appear, sadly, to be worsening rather than improving. Until someone explains to me how that circle can be squared by the Government, I will continue to presume that the policies being followed will make the situation worse.

Child benefit is the first issue dealt with in the legislation. The Government continues to trumpet about the fourfold increase in child benefit but it is still less than the commitment entered into by the Government in social partnership agreements. This gives a lie to the assertion that children are being treated better than others in society.

I refer to the debate on the Kevin Myers article and his colourful use of language and, more importantly, the original lecture by Dr. Ed Walsh, which was much more insulting, as it was portrayed as a pseudo-intellectualism that belied a sense of the reality of being a lone parent with one child living on €168.10 a week. When Dr. Walsh is hosting dinners and fundraising for the University of Limerick, those who make donations pay that for the wine bill alone, yet people must live on this amount every week of the year. We must not tolerate this lack of reality, which does not relate to how people must conduct their lives. Child benefit, prior to the decision relating to Irish-born children of asylum seekers, was a universal payment but it does not tackle the issue of poverty among one-parent families.

The Bill seeks to assert the Government is meeting the needs of carers. There has been a wide ranging and successful lobby in this area but the limited measures proposed by the Minister will only bring 1,000 additional carers into the net

while 2,500 will benefit from the increase in respite care. The Government should be honest enough to admit these increases go nowhere near covering the number of carers recognised by the Carer's Association. The Government needs to be more radical in its proposals.

The disability allowance for people living in institutions is presented as an advance. Although these people were entitled to the payment in the past, they did not receive it. I am concerned about inequity between people who receive the full rate and those living in institutions who will receive a new reduced rate. Given the Supreme Court decision on the Health (Amendment) Bill 2004 earlier, this issue of discriminatory payments needs to be examined closely on Committee Stage. I wonder whether the provision of such payments might tempt the State to give with one hand and grab more with the other, as it did in regard to nursing home care.

The legislation also covers occupational pensions and the Minister stated he would pay more attention to this issue during his stewardship of the Department. While there is a need to encourage people to make extra provision for their retirement, I fear that insurance companies and investment trusts are leading the debate to create a sense of panic, as they assert that invested-led pension schemes are better than sinking fund pension schemes. The promotion of one over the other means there is a fear State provision will be reduced in the future. I do not want that to happen and that will ultimately be self-defeating.

Domestic pension fund managers performed worse than the market in the past year while the national pension fund is not meeting its targets. If inflation and the cost of administering the national fund are taken into account, it is questionable whether it has made money. That is why the emphasis on sinking pension funds and State provision should be increased. It is incredible that the value of concessions on private pension arrangements is greater than State pension provision. That is a sad state of affairs. If the Minister wishes to encourage such activity, he will not have my support or that of my party.

He also indicated there is potential to encourage foreign pension funds to establish in Ireland. While this would provide employment opportunities, questions need to be asked about where this money is invested. For example, is it invested in armaments or environmentally sustainable goods? If such industries are encouraged and we turn a blind eye to these activities, the wealth generated will scar us all and it will not ultimately benefit future generations.

**Mr. McGuinness:** I wish to share time with Deputy Haughey.

I welcome the legislation and I wish the Minister well in the Department. I am glad he declared his socialist credentials at an early stage and provided for the redirection of social welfare provision in the 2005 budget. Previous speakers stated the redirection followed the results of the

2004 elections but many Government backbenchers questioned the direction the Government was taking and requested a change. I am glad the policy outlined in the budget reflects our contribution. I encourage the Minister to do more in this regard.

The significant budget of €12 billion at his disposal will fulfil many wishes and deliver many increases in benefits but the demands of social partnership and the commitments entered into will lead to expenditure of further billions. These commitments should be front-loaded and they should be met later this year through further social welfare increases. I agree fully with the Minister's statement that one size welfare does not fit all and I encourage him, given that he has been a reforming Minister in other Departments, to act on that statement and review the various benefits provided, which have been in place for many years and are in urgent need of an overhaul. There is no time for complacency in this regard.

The lecture by Dr. Walsh and the article written by Kevin Myers provide a starting point in the lone parents debate. I welcome the Minister's recent views on the issue. I condemn both Dr. Walsh and Kevin Myers for their comments. The Myers article, in particular, was highly insulting and his apology fell well short of the mark. Lone parents should be given the opportunity to play an extended role in the workforce and to improve their education while bearing their responsibilities in mind.

Far too often in our clinics we must listen to people trying to tailor their lives to the criteria set down by the Department rather than the Department trying to tailor its benefits and payments towards the development of the human being. It is essential the Department does this because this has a bearing not only on the recipient, but on the child or children in the equation. I urge the Minister to take up this point from this debate and lead the way in the context of the supports needed in terms of payments received by lone parents or with regard to the break they need to get on with their lives and improve their lot.

The same can be said with regard to fathers. More often than not we direct our attention towards lone mothers rather than considering the rights of fathers also. This is an issue that has been addressed in comments from the Department, but I would like to see the Minister lead a deeper debate on the rights and benefits of lone fathers.

I am glad the Minister addressed the issue of last year's cutback in widow's payments. That was a despicable act. As backbenchers we had to go along with it, the unfortunate part of democracy and how it works in Dáil Éireann. I am delighted that cut has been reversed. Widows are a section in the social welfare benefit area and we must address the issues of what they receive, how they live etc.

I came across the case of a lady who started nursing in 1950 but who had to retire in 1960 because of the marriage ban, a ban later found unconstitutional in 1972. That woman now has to rely solely on her husband's pension because she is not entitled to one, even though she had to retire because of the ban. She had made her contributions, but they were given back. This woman is now almost a non-person. She is in limbo and not recognised by the Department. She feels discriminated against. This issue was addressed previously by a former Minister for Social and Family Affairs, Deputy Dermot Ahern. The current Minister should take up the issue and explore how many people were affected and why. He must examine whether we can restore some status to these people in the context of the social welfare code.

The non-contributory widow's pension must also be addressed, particularly in the context of the amount of the pension and the responsibilities of the widow. Some widows are left with families to rear and with children at college. They must be both mother and father in the house and must deal with the difficulties of life on a low income. I urge the Minister to do something to improve the situation for both of these categories.

The Government of 1997-2002 made it clear that it would raise pensions to €200 per week. When that statement was made, €200 was a reasonable amount of money. Now those headline statements on benefits need to be revisited. We should set out for those on benefit our vision of what they should receive over the next few years. We should set goals for ourselves in the Department and within Government, and clearly and boldly state those goals. Notwithstanding any economic downturn that may happen here because of world economics, or any other excuse, we should stick to these goals and deliver to every receiving benefits a reasonable payment every week. Only by stating our goals will we tie ourselves economically to what needs to be done.

On the issue of old age pensions and long-term benefits of that kind, we should strike some deal with the Department of the Environment, Heritage and Local Government on the issue of differential rents. This issue has been bandied about in my time in local authorities over the past 25 years. No sooner do we give an increase in benefit, particularly to old age pensioners, than a differential rent form drops through their letter box to be filled. As a result of that, most of the increase is reclaimed for the State through the Department of the Environment, Heritage and Local Government. I urge the Minister, in conjunction with that Department, to set a bottom line rent for those people and to disregard increases above that received by pensioners. This is a small amount of money in today's terms or in the context of the spend of the Department of the Environment, Heritage and Local Government. However, this simple measure would be a huge boost to the people directly affected.

[Mr. McGuinness.]

With regard to the disability allowance which will be paid to people in institutions, I would like to see the Minister make some arrangement with the Department of Health and Children to ensure that those entitled to the allowance receive it. In some cases, as we found out in the Committee of Public Accounts, the money goes into their account but is later used by hospitals and institutions to purchase furniture or other improvements they may need for their stay in the institution. That is grossly unfair. This does not happen in isolated cases, but throughout the country and in all the old health board areas. The practice should be stopped and institutions should have to account for the money and show it is paid directly to recipients.

These are just a few of the measures I ask the Minister to consider. The changes would affect people's lives in a direct, positive and tangible way.

**Mr. Haughey:** I congratulate the Minister on the work he is doing in the Department of Social and Family Affairs and on this Bill and the Social Welfare Bill enacted before Christmas. The Minister confounded his critics in the media on his appointment and has clearly demonstrated that he adheres to a caring social philosophy. He has demonstrated himself to be a reforming Minister in the Department. I look forward to many more innovations from his Department in the years ahead.

In budget 2005 the Minister reversed many of the measures introduced in budget 2004. I welcome the reversals relating to the rent allowance, diet and crèche supplements etc. As economic growth has increased again, the Minister has recognised that these cuts were unnecessary. I welcome the fact that he has looked at the measures in an imaginative way, introduced reform and, in some cases, reversed them.

I appeal to the Minister to simplify the social welfare system which is enormously complex. As a public representative, I admit I am still not familiar with all the provisions of the Social Welfare Acts. From time to time, I must research an issue for a constituent and the more I go into it, the more I realise how complex the system is. I advise the Minister to simplify and consolidate the system as he proceeds. No doubt he will consider this proposal favourably.

This Bill makes provides for increases in child benefit from 1 April, with a €10 per month increase for the first and second child, giving up to €141.60 per month for each child. It also makes provision for a €12 per month increase for the third child and subsequent children, giving up to €177.30 per month. I welcome these increases. Since 1997, the Government has identified child benefit as a way of dealing with the issues of child care and child poverty. The commitment is clearly there in this budget and in previous budgets. I welcome the Government's approach to child

care and the selection of child benefit as the major plank in dealing with this major issue.

I also welcome the improvements in the annual respite care grant scheme that will come into effect from June. Carers, in particular, have sought to have the means test for the carer's allowance abolished. Deep down, everybody knows we do not have the resources to do that, at least in one fell swoop. Beefing up the respite care grant is another step in the right direction of making help available to people not in receipt of carer's benefit or carer's allowance. I am not familiar with the regulations regarding qualification for this extended grant scheme but I hope they will be simple and easily understood by all concerned. Many more people will be able to avail of this grant scheme, which is to be welcomed. It is a step in the right direction towards the ultimate ideal of doing away with the means test for the carer's allowance.

The Bill makes provision for an increase from €12,697.38 to €20,000 in the amount of capital disregard for the purposes of the means tested social welfare schemes, other than the supplementary welfare allowance. This provision will come into effect in April 2005 for the purpose of the carer's allowance, and in June 2005 for other relevant means tested schemes. The disregards relating to the carer's allowance should be looked at every year, which I know the Government has done. It too is a step in the direction of the abolition of the means test. It is an ideal that may never be reached but we must always strive towards it. I am glad the disregards have been looked at in this Bill.

I am a board member of the Northside Partnership set up to tackle long-term unemployment on the north side of Dublin. A number of similar projects, which operate under the aegis of ADM, exist throughout the country. Last year it produced a document entitled, Policy Issues Inhibiting the Client Base of the Northside Partnership. The report is based around a series of case studies that illustrate the policy and administrative blockages that inhibit people from making the often difficult transition from welfare dependency to gainful employment. I recommend the document to the Minister and his officials. It is a practical document that deals with actual case studies and outlines the stupidity of certain provisions that inhibit various groups from getting back to work.

The Northside Partnership deals in particular with the following categories of people; the long-term unemployed, women returning to work, lone parents, young people at risk of unemployment, people with low levels of education or skills, ex-drug misusers, ex-offenders, Travellers, people with disabilities, homeless people and refugees.

I will refer to one or two of the number of suggestions that were made in the document. It was suggested that disabled people should be guaranteed retention of their medical cards when

they return to employment. It was also suggested that places on Youthreach programmes should be increased to meet demand and that age restrictions be changed to facilitate access to students aged 12 to 16 years who have left mainstream schools and are without a training allowance. Another suggestion was that non-EU school leavers who are residents would be provided with the same access to third level education as their EU counterparts. The classification of students as EC/non-EU should be uniform across the third level sector and adjusted over time according to their number of years' residence. It was also proposed that one year of unemployment should be the standard definition for labour market programmes but flexibility should be provided to give officials the ability to case conference. The document contains several other suggestions to which I hope the Minister's officials will give serious consideration.

I welcome the Minister's comments on single-parent families. Again, it was a breath of fresh air. He says he wishes to facilitate the entry of lone parents into the education system or the workplace and that the system, where possible, should facilitate two parents in child rearing. The Minister is a brave man to look into this issue but it needs to be addressed. We must aim for a system that guarantees equality across the board in the social welfare system for all claimants. If that involves going down the individualisation route then we need to start on that process. It is a complex issue. The Minister will touch on many vested interests as he proceeds. I welcome his comments and look forward to reforms in that area.

The group, One Family, which represents single parents, published a position paper yesterday, which clearly stated that official figures contradicted recent claims that it was financially rewarding to become a single parent. All of us on the ground know that.

It is a very good social welfare Bill and I wish it a speedy passage through the House.

**Mr. Ring:** Before Deputy Haughey leaves the Chamber I want to say that I know he does not believe the spin from the Department of Social and Family Affairs. I know the Minister has a good spinner because he is from Mayo, and if there is one thing we are good at in Mayo it is spinning. The Minister has been good at one thing since coming to office and I compliment him and congratulate him on that; his spin doctors have never worked as well. However, when one looks at the reality, nothing is there.

I want to give Deputy Haughey some examples, as I heard him refer to one a moment ago. Because a review is taking place, there has been no change in the diet supplement. If there is one thing the Government has been good at, it is reports and reviews. It should set up a Government magazine called, 'Review', because everything is reviewed. A great deal of money has been spent on spin doctors and programme managers.

I do not blame the officials. I compliment the officials. I have worked with them for years and know they do an excellent job. The problem is they are not heeded and the spin is sent out by the spinners.

I agree with Deputy Haughey's point in regard to lone parents. As a public representative I am sick and tired of listening to people say at political meetings, clinics or whatever, how well people are doing on social welfare, especially lone parents. Deputy Haughey is right, that is incorrect.

We are all aware of the outrageous attack Mr. Myers and Professor Walsh recently made on lone parents. Mr. Myers had to retract his original article. It created a debate in the country and that was no harm. Most lone parents are on €170 per week and one can add another couple of euros for each child. I challenge any politician in this House to live on €200 per week.

I have never had as many elderly people in my clinics since Christmas who have concerns about the free schemes. There is total confusion, not with the Department of Social and Family Affairs, but in regard to the ESB. The ESB has increased its charges and people who were able to get by on the allocation of free units can no longer do so. The ESB appears to be overcharging people or ripping them off in some way. I have never had as many complaints from people on this matter.

I also wish to raise a few other issues. The first relates to the three different payments of child dependent allowance, an issue I raise every year and will continue to raise. I have asked before that this issue be referred to the Equality Authority for it to make a judgment on the matter. There should not be three different kinds of payments. Children are supposed to be equal under the Constitution. Why then does the Department of Social and Family Affairs continue to pay different rates for different groups of children? Rather than carrying out a review in respect of this issue, the Government should do the right thing and bring all the payments up to the €21.60 rate rather than paying three different rates.

In light of today's Supreme Court judgment on patients' pension deductions, the Department of Social and Family Affairs needs to address the manner in which it deals with the affairs of elderly people. A person might live to 90, 91, 92 or 93 years of age and be cared for by his or her family; or alternatively he or she might live alone with a carer looking after him or her, doing a bit of shopping and paying the few little bills. When the person dies, if he or she is in receipt of a non-contributory pension, it can cause problems. For example, I am aware of a case in which a person in her 90s in her lifetime had saved €16,800. She had lived in a residential home for the last few years and when probate was carried out, the State claimed she should not have had any savings. I accept that a non-contributory pension is supposed to be means-tested but surely to God the



[Mr. Ring.]

State should not track back for 20 years to take account of the old rather than the present-day disregard and seek to recoup more than €10,000 from the family to the Department of Social and Family Affairs. A group that had a case before the courts previously and is preparing to take it before the courts again contacted me. If a 90 year old leaves €16,800, surely to God the State should not claim €10,000 from the family, particularly if the person was sick and could live within his or her pension. Will the Minister tell the House how a woman of 90 years of age and who might not have been means-tested for ten or 20 years would know to telephone the Department of Social and Family Affairs to inform the officials that she has €10,000, €12,000 or €15,000 in the bank? It is an issue that must be examined by the Department quickly.

**Mr. Ellis:** If the person saved that much, it demonstrates how good the pension is.

**Mr. Ring:** That demonstrates how ignorant the Deputy is of the facts. Some of these people might be sick, have Alzheimer's disease, be in full-time care or have a neighbour looking after them and they are asking the State for very little other than a non-contributory pension. In such cases they might be able to save a few euros. Old people have always been good at planning for the rainy day and always put away a few pounds for it no matter how bad things were. One must remember that there were many bad days in this country and these are the very people who saw out those bad days. They helped to build up the State and it is wrong at this stage of their life for the Minister and his Department to target their families when they have just €16,000 left at the end of their days and seek to draw back €10,000. The matter will have to be examined.

I wrote to the Minister during the week about a case involving a person with a disability. Some of the Minister's staff are very good, some are excellent and others are not so good, which is the way it works in all parts of society. In every job there is the good, the bad and the ugly. In this respect, the Department of Social and Family Affairs is no different to any other. A man in receipt of disability benefit, who cannot read or write and is a member of the Travelling community contacted me. A social welfare officer had paid him a visit because he had seen him on the previous Sunday with his two sons selling a few flags at a football match and the official suspended his payment.

That kind of behaviour is not acceptable to me. It is not acceptable that a person who cannot read or write would be placed under that pressure and forced to go to the health board the following day to seek community welfare allowance. I am speaking from memory since the Minister has the details in the letter. However, I understand that the man's mother died when she was 30 years old and he reared 13 members of his family. The

man's father and one of his brothers committed suicide, there having been a family history of depression. This man cried in my office a fortnight ago because of the manner in which he was treated.

I attended an appeal recently, the details of which I will not reveal in the House but of which I will inform the Minister privately. It is time some of his officials were taken to task. There are some excellent officials in some of the offices throughout the State, but some are not so excellent and it is time Members of this House stood up and represented the people who elected them by stating that officials should not have treated people in the manner in which they have been treated.

There seems to be an attitude in the Department of Social and Family Affairs that officials should take whatever they can from people. I do not know whether they are being rewarded for this activity or not, in regard to which I have tabled parliamentary questions recently. Some officials were being rewarded for their suggestions for saving money for the Department of Social and Family Affairs. There is nothing wrong with that as long as the money is not being taken from the poor, the weak, the illiterate or the sick. I have written to the Minister in regard to the case to which I referred and I want him to investigate the matter. If he does not, I will raise the matter in the House on the Adjournment and on the Order of Business. The Ceann Comhairle will rule me out of order but I will raise the issue anyway. I will highlight the issue and show the media what is happening in this country. It should not happen. I tabled a parliamentary question on the matter again today in regard to which the officials have stated that they are waiting for information. How can one use information about a person selling a few flags at a football match? Surely to God we are not that bad.

There is an anomaly in the pensions legislation, which the Government will have to examine. The House will remember that a scheme was introduced a few years ago for farmers and other self-employed people whereby they could pay contributions and claim a contributory pension. If they had ten years' worth of stamps they could qualify for a full contributory pension and part of the pension was also available to people who had not served the full time, although they were not permitted to buy into the system when they should have been.

There was also a category of people who availed of the scheme at that time and who had a full ten years' worth of stamps from paying their contribution. This category of people, because they worked in the 1930s, 40s or the 1970s and 80s and at some stage broke their PRSI contributions to the State, received less than a quarter or a half of the contributory pension because the contributions which were used to calculate the pension varied over the 20 or 30 years involved. On the other hand, some people who only made

the ten years' worth of contributions were able to draw down a full contributory pension. I acknowledge that it is costly to address this problem but this must be dealt with.

This affects a minimal number of people. Everyone in the system is paying his or her contributions and will have their ten years' worth of stamps. The people to whom I refer must be looked after quickly to be fair to them. I have been made aware of a number of such cases. I ask the Minister and his Department to start examining these anomalies; it is only right. If the Minister deals with these issues, he can put out the spin and I will be the first person to rise in this House and congratulate him for doing something that is right and justified. This must be done because these people worked and paid some, although not all, of their contributions. However, if they had paid no contributions at all, they would be better off because they would have received their full contributory pension. I ask the Minister to examine this issue.

The Minister also needs to talk to the Minister for Finance because I can see a major difficulty arising in the next few years. In this week's edition of *The Western People*, the editor, Mr. Laffey, wrote a good article about the IDA, Enterprise Ireland and the Minister for Enterprise, Trade and Employment who, having made a mess of the health portfolio, will go on to make a pure mess of his present job. I could not believe the Minister told a State grant-aided manufacturing industry in Ireland to take its manufacturing business out of the country. This will lose Ireland thousands of jobs and the people involved will have to claim social welfare payments.

I do not know why Fine Gael did not take up this point. Going to China seems to be the fad of the moment. The Ministers went out on this charade. I must table a question to see what the trip cost, who travelled and to where. Whatever happened out there, whether it was the altitude or the flight, it went to all their heads because I listened to Ministers and the Taoiseach encouraging Irish manufacturers to go to China instead of staying in Ireland and making it competitive. They should put an end to the stealth taxes occurring daily.

We have a number of industries in this country which want to stay here but which are being targeted by IDA and Enterprise Ireland to relocate their manufacturing, which will create major unemployment. We will then go back to the bad old days and the Minister for Social, Community and Family Affairs will have difficult decisions to make with regard to resources which will disappear if we do not realise what is happening.

The Minister needs to talk to the Minister for Enterprise, Trade and Employment, Deputy Martin, and to the Taoiseach. I listened recently to a former Mayoman of the year who created major employment in Belmullet by establishing Selc Ireland which manufactures top lighting con-

trol products sold throughout the world. In Westport, Allergan will lay off 300 or 400 people, possibly in April. McHales in Ballinrobe and other companies all find things difficult because of the stealth taxes in this country. The only suggestion the Government has for such firms is that they take their manufacturing operations from Mayo to China. We are not talking of Chinese restaurants, although we have them as well. We do not want our manufacturing industries moved abroad because the situation is not that simple. It is time that the Government began to consider how to make this country more competitive again.

I do not know how the Minister will deal with the issue of the carer's allowance. I welcome the increase and I would like to see full-time carers get more. However, I compliment the Minister. He is making an effort in the area and has further increased the allowance this year. I will not take that away from the Minister. He has also increased the respite grant, on which I also compliment him.

I would like to see the details of how applications can be made by full-time carers who, because of means or whatever else, do not receive the grant. Those details should be made available as quickly as possible by the Department because there is a great deal of interest in them. I think the Minister has under-calculated in this area and will have many more people applying than he expects. Over the years, people who are full-time carers have come to me as a practising politician. They would not have made an application to the Department at the time because the husband or wife, whichever was to be the carer, was working and earning a good salary. I know that the Minister has increased the earnings threshold. That is good and I welcome it. The Minister expects about 9,000 applications but I believe there will be many more. What he will have otherwise is many disappointed people who feel they are full-time carers. We are told that there are 50,000 more full-time carers than calculated by the Minister. I hope that these people will get some kind of reward.

The Minister has begun to address the carer problem and has done reasonably well. Although improvements can be made, we cannot always be critical. I know we have raised the issue many times and I am aware of the cost factor, but there must be a recognition of the people who look after their loved ones 24 hours a day, seven days a week with no State recognition. I hope the Minister will deal with that.

I will speak later about the judgment in the Supreme Court this morning and keep my powder dry until then. I think the Minister may be promoted again out of the Department of Social, Community and Family Affairs. If there is any justice, fair play, dignity or gumption in this country, the Tánaiste and the Minister for Enterprise, Trade and Employment, Deputy Martin, must resign. The Taoiseach would never resign but he

[Mr. Ring.]

must go too on the basis that the Government made a very bad judgment regarding the case in question.

I listened to the Minister, which is why I commented to Deputy Haughey about spin. When I heard the Minister speak on the day he got his new job, I said I would give him a chance because he was talking sense. The Minister mentioned a particular category of people, widows, and said his widowed mother would be in touch with him. I intend to write to the Minister's mother to tell her to put some pressure on him. Widows are the forgotten category in this country. I will ask the Minister's mother to talk to him and put pressure on him to look after our widows. He could start next year by assisting young widows. He should include them in the free schemes which would be a great start for them and would give them some help.

I do not mind saying that widows have been let down by all governments over the years. I do not know why. Last year, when we had the savage 16 cuts, the first attack was on the widows. As practising politicians, we have seen young husbands and wives left widowed with five or six children. In all fairness to them, they have struggled and worked hard. It is an awful shock to lose the main earner in a household or to lose a partner. The remaining partner must then make a decision. The husband must decide whether to stay at home full-time or go out to work and bring in someone to help raise the family. A widow must try to raise a family and perhaps do some part-time work. She is looking over her shoulder to see if the Department of Social, Community and Family Affairs is keeping an eye on her. The widowers and widows of this country, but in particular the widows, must be complimented. They did a great job over the years. They were housewives and workers and they raised their families with very little support from the State.

Will the Minister consider this matter with his Department and officials? I have worked with those officials and there is a bit of heart in them. I know they want to help on Committee Stage because I have talked to them. They only want the Minister to make the decision. They will make recommendations but the Minister must make the political decision, and that must be to look after widows.

**Mr. Ellis:** I propose to share my time with Deputy Curran.

**An Ceann Comhairle:** Is that agreed? Agreed.

**Mr. Ellis:** The Bill gives us an annual opportunity to review the social welfare system. That the Bill also deals with pensions is important to many people.

We are all aware that the social welfare spend has increased by 60% in the past four years and I believe it has doubled since 1997. When we look at the increase and at the number of people in

receipt of social welfare *vis-à-vis* the numbers in the early 1990s, we see the enormous ground gained. The rate of unemployment has dropped from 10% to 4.3%, although in my opinion and that of many others the rate is much less than the official figure because many of those counted as unemployed are unable to take up full-time employment and cannot hold down full-time jobs. We are as near as possible to full employment.

We also see that over the past decade there has been a major increase in social welfare payments and industrial. The latter have risen by 71% while the former have increased by between 87% and 95%, which is important. Some of the best schemes, certainly for the people I represent, have been the farm assist programme and the carer's benefit because they have been of enormous assistance in many cases, especially in rural Ireland.

When we talk of unemployment we must also look to the future. We must accept that we will have more non-nationals working in this country if we are to maintain the growth we have had. The projections show that we will need between 30,000 and 40,000 non-nationals annually added to the workforce along with our own people entering the workforce to maintain the economy at its current rate.

Child benefit is very important. That payment goes directly to mothers and it is money they can spend wisely to the benefit of their children. It now accounts for 66% of child income support. Only ten years ago, it amounted to less than €30. That is very important. The increases that we will see in child benefit are to be welcomed, and the Minister should be complimented on the way he has dealt with this matter in the budget.

We all welcome the changes proposed regarding the number of contributions required to receive disability benefit, but I still feel that there are several anomalies that may need to be examined regarding the entire disability sector and benefit recipients. In many cases, people are finding that because of minor technicalities they are debarred from receiving a payment. That is not in the best interest of people forced, in many circumstances through no fault of their own, to apply for disability benefit.

The increase in the carer's allowance of €14 per week is definitely welcome, as is the change regarding means. The carer's allowance has enabled many people to remain in their family homes and be looked after by relatives or friends. In doing so, it makes an enormous contribution to the quality of life they can expect. The savings made through not having those people in residential care in beds costing anything up to €1,500 per week have meant that they can be looked after by their families for a fraction of the cost and in an environment in which they wish to remain.

If we consider the number of full-time carers, we see an enormous increase. I have no doubt that, as time passes, we will see a further increase. The rise in the respite grant from €835 to €1,000

is to be welcomed, and the 33 full-time carers will very much appreciate that. I am inclined to agree with Deputy Ring on one matter, namely, that the numbers are greater than we appreciate. Many people are still ignorant of the fact that they may qualify, even for a reduced carer's allowance, and a national campaign to explain to people their entitlement as carers might be beneficial, both to them and to the economy, with a long-term financial saving to the State.

The assessment of capital for non-contributory schemes must be reviewed. I welcome the Minister's decision to increase the amount from €12,690 to €20,000. It will allow those with SIAs and so on to use them without being crucified and suffering a loss of means. However, at the moment the assessments made, mainly against capital means, are totally out of line with the return on that capital. We are all aware that the limit regarding receiving even a reduced pension is €76,000. That would return only approximately €13,000 per annum, which is the equivalent of €25 per week. However, those people are being debarred from non-contributory entitlements.

In many cases, part of that money may have been acquired over years or retained as the nest egg that Deputy Ring talked about being set aside for a rainy day. All capital should be assessed on market value. If a challenge were mounted in the courts regarding the assessment value of capital by social welfare, the Department would lose and find itself in a very awkward situation. One can only assess means against the actual value of something. I ask the Minister to review that and put a realistic value on capital for those in receipt of non-contributory pensions.

We must also examine the entire pensions system. I do not speak of the State pensions system. This Bill examines pensions operated by the various insurance companies, banks and so on. The solvency and liquidity of some schemes must be examined. Some of the funds are deficient, and there is currently a row in the ESB, which has a deficit in its pension fund. There is a problem for people in many such funds that the returns have recently been much lower than expected. The result is that some who had looked forward to very reasonable pension rates now find that they may not receive those when they reach the prescribed age. Those cases must be looked at.

However, there is also a need for the Department of Social and Family Affairs or some other Department to consider introducing a new type of pension, namely, one to which people could contribute an annual percentage of their income for a private pension other than through PRSI. That could be done. I compliment the NTMA on its return last year in comparison with private funds. The cost of maintaining some of those private funds and the charges levied on participants are not acceptable, either to me or to those who participate in them. Perhaps the Minister will look at that when he has time.

I welcome the Bill, which does a great deal and implements the changes made in the budget. However, there is a timely warning to everyone here that pensions must be reviewed and that we must examine other means of maintaining our current high standard of social welfare payments for those dependent on them while ensuring that there is no abuse.

**Mr. Curran:** I am pleased to speak on the Social Welfare and Pensions Bill 2005 this afternoon, which implements many of the measures announced in this year's budget. The total package is worth €870 million, a very significant amount. That brings the projected level of social welfare expenditure for the year to over €12.25 billion, an increase of €1 billion, or 9%, on the previous year. With inflation at approximately 2%, an increase of 9% represents a real increase for recipients and must be viewed in that light.

I compliment the Minister for Social and Family Affairs, Deputy Brennan, who is present this afternoon. Obviously, in the run-up to any budget, there are competing interests, and the Minister certainly engaged with various interest groups, his Cabinet colleagues and the Fianna Fáil parliamentary party. We had numerous discussions on this area. It was as a result of his clear understanding and the areas that he prioritised that the increased funding in the budget was realised in the measures contained in this Bill.

On average, almost 1 million people receive a weekly social welfare payment. Another way of looking at it is that almost 1.5 million people, including dependents, benefit from such payments. Earlier I listened to several speakers, including, not so long ago, Deputy Boyle, who briefly referred to child benefit, saying that if it were increased more it might help subsidise crèche payments. He also said he would like to see increased payments for carers. There is not a Member in this House who disagrees. We can go through every single social welfare payment, and every Member will agree with increased expenditure. However, that is the luxury of opposition — to highlight aspirations.

The difference on this side of the House is that those aspirations must be delivered, something that happens in this Bill. There is also a cost involved. It is very easy for people to stand up and say that they would like to increase X, Y or Z. We have provided for increases in this Bill, but in a balanced manner, while at the same time providing funding for other areas in the budget.

I would like to deal with several specific provisions in the Bill, the first being child benefit, which has increased significantly in recent years. Previously, it could not have been said to have made up a meaningful payment to families, but now it can. In the Bill, the increase for the first and second child is €10 per month, from €131.60 to €141.60. For the third child and subsequent children, the increase is €12 per month, from €165.30 to €177.30. Those increases are real and substantial. For example, for a family with three

[Mr. Curran.] children, the total monthly payment is now just under €450. I have often heard commentators and others suggest that the incomes of those in receipt of child benefit should be capped and so on. A person's income is not the significant figure. What is often more important is the disposable income available to that family.

Debate adjourned.

### Health (Amendment) (No. 2) Bill 2004: Statements.

**Tánaiste and Minister for Health and Children (Ms Harney):** Today, the Supreme Court has brought clarity and finality to a matter that has been left fester for 29 years, the legal basis for the policy of 11 Governments and as many as 40 health boards that people in long-term care should make a contribution towards their living costs. Today, we have clarity about the law, certainty about payments and confidence about the way we can now proceed.

The Government welcomes the clarity the Supreme Court decision has brought. People in long-term care and their families will also welcome this clarity. They now know what has been obscure for 29 years, whether and on what basis they should contribute towards certain costs. They, the Government and the Oireachtas will have confidence that continuing the policy of contributions towards shelter and maintenance is not only fair but consistent with the Constitution.

We are a society ruled by law. We must be so, and remain so, in every detail of public policy and administration. Today also demonstrates that our institutions of State work. Only when Government, the Oireachtas and the courts address issues clearly, exercise their powers and meet their responsibilities can we achieve the confidence and clarity that citizens of a state ruled by law deserve.

The problems arise when real issues are left unaddressed, basic problems are finessed or fudged and policies are not fully grounded in law. From the moment this issue was brought to my attention by Deputies Kenny and Perry, I sought to find out what was the precise legal position and to put policy on a sound legal footing.

The Government accepted that it was our responsibility to deal with a 29-year legal problem, and we have acted to do so. The Oireachtas played its part, as did the Council of State, the President and the Supreme Court.

The fundamental failure that has been corrected today has been the failure to implement properly a Supreme Court decision of 29 years ago, in 1976.

**Ms McManus:** May I interrupt the Minister for one moment? Will we get a copy of the Minister's speech?

**Ms Harney:** Yes, I believe it is on the way. That it took so long is deeply regrettable. That we have a definitive resolution now is highly welcome.

Deputies will be in a position now to study the Supreme Court ruling in detail but I would like to summarise key elements of its decision. They are as follows. The provisions of the Health (Amendment) (No. 2) Bill 2004 that provide for prospective charging of inpatients are constitutional. There is no constitutional prohibition on implementing a charge in the future for inpatient services. The Bill was not contrary to Article 15(5) of the Constitution in that it was not within the prohibition of retrospective legislation in that Article. This is because that Article is confined to rendering something unlawful that was at the time of its commission not unlawful. The Bill is unconstitutional in regard to the property rights of citizens. While taking away a property right without compensation can be justified under the Constitution, it can only be justified to avoid an extreme financial crisis or a fundamental disequilibrium in public finances. The Supreme Court did not consider the exposure of the State or the sums involved — in the order of €500 million — to meet that criterion.

The Government has acted responsibly and reasonably since the Attorney General provided legal advice to me on this matter last November. We brought forward the Health (Amendment) (No. 2) Bill to put the charges on a sound legal footing. We knew that whichever way we addressed the issue of retrospective payments, other than by the course of action we took in the Bill, it was likely that many individual legal challenges would be taken. Older people in long-term care and their families would have been put through the stress of months of legal argument.

I do not believe that the Government could have acted faster or better to achieve the clarity we have today. Had we decided to make payments back for one year, claims would have been made for payments for two years or more. Had we decided to make payments back for two years, claims would have been made for three. Even if the Government had decided to make repayments within the timeframe of the Statute of Limitations, that would in all likelihood have been tested also. The way the Bill has now been tested has been the fastest, most cost effective and least burdensome on families and people in long-term care.

That is why the Government welcomed the President's decision to refer the Bill to the Supreme Court. As the Taoiseach said in the House this morning, he and I gave advice to this effect to the President at the Council of State meeting, fully respecting her absolute discretion in this matter.

There was simply no easy way to deal with the long-standing legal problem the Attorney General advised us about in November. At that time, there was considerable uncertainty about the extent of legal advice given since the Supreme

Court judgment of 1976. That is one of the reasons I appointed Mr. John Travers, the former chief executive officer of Forfás, to carry out a thorough investigation into the way this issue was handled over the years in the Department of Health.

Had we waited to legislate until we knew everything, we, and especially people in long-term care, would not have been in any better position than we are now. We would now, on 16 February 2005, still be many months away from legal clarity on the matter. Litigation or challenges would have been inevitable whenever we acted. This source of funding available to our health services would also have been in continuing doubt. The situation today would have remained very unsatisfactory.

No Member in the House last December suggested an easy way forward. Few seemed to remember that the policy of charging for shelter and maintenance was supported and implemented by 11 Governments and many health boards, of which many Deputies were members. No political party, to my knowledge, ever took a stance or sought a mandate since 1976 to remove these charges. If political parties wish to assign political blame, it must surely be on an inclusive basis since 1976.

**Mr. P. McGrath:** The Ombudsman advised the then Minister, Deputy Martin.

**Mr. Connaughton:** The Minister should wake up and smell the coffee.

**An Ceann Comhairle:** Please allow the Tánaiste to speak. Members will have an opportunity to make their contributions.

**Ms Harney:** I will only make the point that they and the Governments they served implemented the policy. It is only fair for all political parties in the House who participated in those Governments to accept that fact.

**Mr. McGinley:** The Minister should carry the can.

**Ms Harney:** If people would listen, it might be helpful. I wish to make it clear that I am not saying that any or all of these Ministers acted in the knowledge that the charges were not on a sound legal footing. I am confident that Mr. Travers's forthcoming report will give the definitive position, since he is carrying out a thorough and comprehensive analysis of the files in the Department and is interviewing many people.

At this point, however, I would like to make one comment. In my statement to the House last December, I stated that the charges had been levied in good faith. The Taoiseach made similar statements, both of us on advice and on the basis of the information available to us at that time. It was reported to the House that the Department

acted throughout on the basis that the charges were legally defensible.

The Supreme Court decision today does not make a judgment whether the charges were made in good faith or bad faith but in the light of the Supreme Court judgment, and in the light of information that came to light in preparing for the hearings at the court but not available in December, I would not now characterise the levying of these charges in the way I did last December. For example, legal advice was provided in 1978 by then senior counsel Keane and McCann that the basis of charges was not sound.

I intend to await the report of Mr. Travers to reach a definitive assessment on the issue. We can only make judgments on the basis of all the facts, and I would ask Members of the House to do so also. I will, as I have undertaken, make available Mr. Travers's report to the House as soon as possible after I and the Government have considered it. I am confident that his report will help us address some important reforms in the way we do business in the public service and to learn the lessons from what has been a significant failure of public policy.

We will now study the court's judgment in detail. We will take on board all the consequences for policy and law arising from today's judgment. We will make repayments in the order of at least €500 million, as indicated by the court, to people who were charged illegally and to their estates. Together with the Minister for Finance, we will work on a method of repayment that is efficient and non-contentious.

We intend to continue the policy of making charges to cover some of the costs of shelter and maintenance and we will do so through primary legislation. We will also seek to ensure that services for older people are funded in a sustainable manner. We have already begun detailed work addressing the wider issue of how to achieve a more integrated programme of long-term care that is financed into the future. We will continue to orient policy towards care in the community. This is the clear preference, particularly for older people with dependencies who want to live at home if at all possible. Anyone who favours this will recognise that we should make it as easy financially for people to opt for care in the community rather than institutional care. It would be unfair and contrary to people's wishes to create a dominant incentive for institutional care over care in the community. It would also be unfair to people who supported themselves at considerable cost by living at home.

A responsible policy must balance many people's different needs, rights and wishes. This is an important day for clarity, certainty and confidence in respect of the legal basis for one aspect of policy on long-term care. I reiterate that the Government welcomes the Supreme Court's judgment.

**Mr. Allen:** On a point of order, the Tánaiste has finished her contribution and Members have

[Mr. Allen.]

not yet been given copies of her speech. Is it not possible for her to get her act together and provide copies for the House?

**An Ceann Comhairle:** I understand copies of the script are on their way.

**Ms Harney:** Distributing copies is not a matter for me.

**Mr. Connaughton:** Will we be obliged to go to the Supreme Court to obtain copies?

**Dr. Twomey:** When the legislation in question was originally introduced, the Tánaiste almost blamed elderly people for imposing charges on taxpayers. On this occasion she has, at least, come before the House and declared that this is a case of *mea culpa*. She has indicated that this matter is a problem for the Government and that the legislation lies in tatters. I am glad the Minister for Enterprise, Trade and Employment, Deputy Martin, is present. If the Tánaiste cannot be held responsible to some degree for this debacle, he and the former Minister of State at the Department of Health and Children, Deputy Callely, should provide the House with an explanation of what happened during the years since the issue of illegal nursing home charges came to light.

I hope later Government speakers will clarify the position. Questions were raised when the legislation was put through the House on 16 December but we have yet to receive a clear and concise answer from any member of the Government as to what was happening during the three years since these issues were first raised. Before Christmas, an attempt was made to try to muddy the waters by involving the 11 Governments that have held office since 1970. However, this issue only reached the public domain and became a problem for the political masters of this country when the 2001 legislation was introduced. Nothing has been done about it in the interim.

The Tánaiste referred to a legal opinion sought in 1978. To the best of my knowledge, that opinion was not placed in the public domain. Neither is the 80-page legal document to which the Minister for Enterprise, Trade and Employment, Deputy Martin, once referred. If we could read this document, we would be able to discern the thinking of the health boards in 2002 when they stopped charging some nursing home patients who queried the charges.

Regardless of what the Tánaiste said earlier about the illegal nursing home charges imposed on a substantial number of patients, there is still a great deal of ambiguity about this matter. This issue, particularly in terms of the moral authority attaching to it, does not date back to 1970. The Supreme Court may have declared that these charges have been illegal since 1970. To some degree, however, we were not aware of them until 2001. That is the point Fine Gael has continually made when raising this issue. Nothing has been

done since 2001 when the illegality of these charges first came to light.

When the Health (Amendment) (No. 2) Bill was introduced, it was stated that the retrospective effect of charges would be a major imposition on the patients involved. The Taoiseach, ten days before it was published, stated that the legislation would have no retrospective effect. Why did the Tánaiste's officials include such a retrospective effect when the Taoiseach had stated that it would not be included? The legislation was published only 24 hours before being rushed through the Dáil. The legal opinion sought by Fine Gael at that stage indicated that this retrospective element would be unlikely to survive a High Court challenge because of the number of people and the costs involved. However, the retrospective element was very much at the core of the legislation. Why was that the case? Did the Tánaiste seek legal advice in respect of it before the legislation was put through the House? We were always of the opinion that it would never survive a challenge.

Will the Tánaiste indicate clearly that she will not invoke the Statute of Limitations in respect of this issue? This point is highlighted in the Supreme Court judgment which states: "Taking into account the right of the State to limit its liability by reliance on the Statute of Limitations, it was said that the figure to be repaid for the past six years could be of the order of €500 million." Will the Tánaiste confirm that she is definitely not going to invoke the statute?

**Mr. P. McGrath:** The Tánaiste should answer yes or no.

**An Ceann Comhairle:** Deputy Twomey should be allowed to continue, without interruption.

**Dr. Twomey:** Before Christmas, the Taoiseach indicated that there would be no retrospective element. Now it is stated that the Statute of Limitations may be invoked. The core point in this debate is whether that statute will be applied and whether everyone involved will be repaid the money they are expecting. The Tánaiste pointed out that if the Statute of Limitations is invoked, anybody wishing to make a claim will be obliged to obtain a High Court judicial review. It is difficult to say whether the patients involved would be able to mount such a challenge. I do not believe that anybody involved would be able to mount an individual challenge to the Statute of Limitations. It is important that the Tánaiste should make clear the position before she or the other Government members leave the House.

The Supreme Court judgment only gives patients the right to go to the High Court as individuals to reclaim these charges that have now been deemed illegal. We need to know how the Tánaiste intends to repay the patients in order that they will not be obliged to take a High Court case. The legal costs of taking such cases would completely dwarf the moneys being reclaimed by

the patients. Some of the amounts of money involved would not be large, particularly if they refer to 1974 or 1975. However, legal costs will have to be paid in current terms and will, as a result, be quite substantial. The Tánaiste should indicate what mechanism the Department plans to put in place to make repayments. If members of the legal profession get their hands on this, particularly as 275,000 patients or their estates are supposed to be involved, the legal charges imposed will dwarf any of those that applied in respect of hearing impairment claims in the Army or abuse scandals in the churches. The Tánaiste must indicate how this matter will be dealt with.

Those are our main concerns about the legislation and its failings. The Tánaiste knew the Bill would never survive a Supreme Court challenge. We should take this opportunity to investigate what else the Government is doing in respect of care of the elderly. We now know that patients will be charged in future. What can they expect from the Government in respect of their care? Any elderly person or other individual who might potentially need care in the future, whether in public or private accommodation, must know what awaits him or her.

We should reflect on the health strategy which has been in place since 2001. This was going to be the basis of a health policy of which we could all be proud as we headed towards the next general election in 2007. It is worthwhile commenting on a number of aspects of the strategy, particularly as they relate to care of the elderly. There was supposed to be an integrated report aimed at meeting the needs of older people and an action plan in respect of dementia was supposed to be implemented. I visited County Clare yesterday and I was informed about the serious deficit in the service relating to care of the elderly there. The position is the same in my county and others I have visited such as Cavan and Monaghan. The Government has not made the investment in the care of the elderly that was indicated in the health strategy. There have been many fine words but little has been done.

I raised with the Tánaiste last week the fact that nursing home subvention rates have not increased since 2001. Instead, patients have been forced to beg for extra subventions from health board chief executive officers. They are being left at the mercy of public servants as regards whether they can even stay in private nursing homes. Here we see they were illegally charged in public nursing homes. This is a disgraceful way to look after elderly people.

Another point that I believe was close to the Tánaiste's heart on which we still await a final report is concerned with Government policy on care of the elderly for the future. This report was supposed to have been published at the end of 2002. The Government said it was receiving submissions from a number of organisations before taking a decision on this question. There has been absolutely zero movement on this within the past

two years. This is something else that should now be addressed by the Tánaiste in order that the House can know what is going on.

This whole issue has revolved around the charges made to patients in public nursing homes. Before this issue is finally put to bed, the Tánaiste should examine the situation as regards patients in private nursing homes, especially those denied access to public beds because they were not available. Will there be more and more court cases in the future, starting with the mess that has been allowed to develop as regards this judgment of the Supreme Court? There are far too many problems and difficulties for the elderly population. This legislation has served to highlight just one issue, illegal nursing home charges. We know an enormous cost will be incurred by the taxpayer.

We are extremely disappointed that the Government did not deal adequately with the measure when it arose. It could have spared a great deal of concern for the elderly patients involved and it could have saved the Tánaiste a great deal of trouble because over the next two years she will have to find the money to pay for this. Unfortunately, I believe the same elderly people will have to suffer the consequences of this action as well, because that is where the funding will have to come from to pay back the illegal charges.

There are already sufficient deficits as regards the care of the elderly and no magic ten-point plan or anything else will cure these problems. It is time the Government made a serious attempt to redress what has been done. I hope all our questions will be answered, mine and no doubt those that will be raised by a great many Members tonight, as regards what has gone wrong and why it happened.

**Ms McManus:** The findings of the Supreme Court that this Bill is unconstitutional is a stinging rebuke of the Minister for Health and Children and her Government for their handling of this entire issue. It exposes a gross incompetence on the part of the Government and a callousness towards people in the care of the State because of infirmity and age. Listening to the Minister for Health and Children, Deputy Harney, make her speech just now, I can only give her full marks for brass neck and zero for humility. I remind her that there was a comprehensive report on this issue in 2001, and in early 2003 the South Eastern Health Board prepared legal advice, running to approximately 80 pages, advising the Government of the illegality of these charges, but these reports were ignored.

This Bill was rushed through the House before Christmas and it attempted to do two things, one of which was to legitimise charges for public nursing home care into the future. The other was to transform illegal charges that the Government recognised had no legal basis, going back over years, to somehow make them legal. The rejection by the Supreme Court of the Tánaiste's



[Ms McManus.]

attempt to retrospectively validate an unlawful charging regime is particularly welcome. The decision points to the danger of rushing important legislation such as this Bill through the Dáil without giving Members, or indeed the public, the time required to fully assess its implications. No adequate time was given to consider the Bill prior to its passage through the House and each stage of the debate was guillotined, as the Government tried desperately to cover its tracks and retrospectively legalise illegal actions, whereby the State enriched itself for years by stealing from elderly and vulnerable people.

All this was avoidable. Had the Minister for Health and Children only listened less to her legal advisers and more to Members of this House, she would have saved herself much embarrassment. However, her pigheadedness has damaged her reputation as well as undermining public confidence in her ability to manage the health service. She cannot say she was not warned. On Second Stage, I proposed an amendment on behalf of the Labour Party which stated:

That Dáil Éireann, having regard to the fact that the Bill proposes a retrospective liability contrary to the constitutional rights of persons thereby affected, declines to give a Second Reading to the Bill.

Had we been listened to, the Government would have saved itself some grief. As it turned out, we were somewhat conservative. The Supreme Court went further in its judgment, which states that it is “an impermissible interference with the property rights of the residents that money that was in law properly theirs, and that they had a right to recover, was now to be placed beyond their reach”. The Government’s role in safeguarding the public finances, in the Supreme Court’s view, could not justify it encroaching on the constitutional rights of these citizens. The principle of social justice could not be used to facilitate the Minister for Health and Children in stealing money from the elderly. Public policy considerations relating to finances were found not to be equivalent to the constitutional term of social justice.

We now have a situation where the Government has approximately €500 million which does not belong to it, but rather to individuals who are entitled to have their money back. Is it conceivable that the State will force these people to go into court to prove their case? I certainly hope not. It would be foolhardy if the Government was to compound its error by insisting on court proceedings. It would not protect the interests of the taxpayers because it would mean the taxpayer would have to pay, not alone for the elderly, but also for legal teams which would add to the cost significantly. I mentioned €500 million because this was the figure used in the court case.

A fair and speedy system must be put in place to transfer this money back to its rightful owners. I was disappointed at not hearing the Govern-

ment’s intention in this regard, because it is important to know what mechanisms are to be established to give back the money that was purloined. There are already significant data on the persons who are or will be in receipt of the miserly €2,000 with which the Minister tried to fob off the elderly. The normal records and accounts in public facilities will presumably inform the Minister and her Department who is owed what. This type of fieldwork is not impossible. It is as nothing compared to trying to trace who was in a residential institution in the 1930s and 1940s and how much compensation they might be owed. Some estimate of the overall figure has been published and I would like to hear whether it is the correct amount or if it should be more. It is important to know whether the court route will be forced on these people and whether the Statute of Limitations applies. I hope we get an answer to that. It seems an obvious question and I am surprised it was not in the Minister’s speech.

The Supreme Court found that proposing charges for nursing homes in the future is permissible. Again, we need to know what the Government intends to do as regards that part of the judgment — this was referred to in the Minister’s speech. No one is currently being charged for public nursing home care, or at least no one should be. However, the Government may not impose such charges without legislation and the House needs to have some details in that regard, because the track record is not good.

The Government made serious mistakes before as regards health legislation. When medical card cover was extended in an opportunistic political manner to the over-70 year olds, the House was told by the previous Minister for Health and Children that this initiative did not require legislation, but of course it did. That whole exercise grew to be enormously costly. When the current Minister announced the new “yellow pack” medical cards, she said legislation would not be required. As we now know she was wrong about that too, but we still do not know when that legislation will be finalised, the record is not encouraging.

There is a great deal of confusion as regards what health boards can and must provide free of charge. This confusion has been exposed yet again with the recent establishment of the Health Service Executive, which has created a certain amount of upheaval within health board structures. Regrettably, even though changes have been made at administrative level, there is still no clarification as regards what services the reorganised HSE structure is to deliver and the conditions of eligibility those seeking such services must fulfil. We have a delivery model but no clarity on what that model is to deliver. I raised this point on Committee Stage of the Bill under which the HSE was set up. Regrettably, the Minister did not accept an amendment at that time.

It is important that we refer back to one report published in 2001 by the then Ombudsman, Mr.

Kevin Murphy. It was referred to recently by the current Ombudsman, Ms Emily O'Reilly, who issued a statement when the nursing home controversy arose. She stated:

My predecessor, Kevin Murphy, during his term of office, received a considerable number of complaints about the issue of nursing home charges and subventions. In 2001, he published a report of an investigation into the issues arising from these complaints, entitled *Nursing Home Subventions*. One of his key conclusions was that everybody resident in the State was eligible to be provided with in-patient services, where necessary, by the relevant health board. The services could be provided directly by a health board in one of its own hospitals, or in another publicly funded hospital, or by way of contracting out arrangements between a health board and a private institution. Such latter arrangements were provided for in section 26 of the Health Act 1970 and are required to be in accordance with such conditions as the Minister for Health and Children may specify.

The point made by the former Ombudsman was that people had a right and an eligibility but this is being challenged by the Department. The position it has taken is that one may be eligible but that does not mean one will get anything. That is why the HSE legislation avoided the issue of services to which people are entitled. This is an issue that will not go away. The current Ombudsman will not let it go. She went on to state:

The current controversy has focused solely on the question of patients in public institutions. It does not deal with the issue of those patients, both medical card holders and non medical card holders, who have been directed by the health boards towards private care, without in any way acknowledging their own responsibilities in the area. I remain of a similar view to my predecessors in relation to the legal situation in this regard, *viz*; everybody resident in the State is eligible to be provided with in-patient services, where necessary, by the relevant health board.

As she points out, the current legislation does not deal with this issue. There is an issue of eligibility but that does not mean in any way that the State cannot charge or bring forward legislation to charge. However, it does raise the issue about a person's right to access care when he or she needs it.

I reiterate the point I have been making. This is a problem of the Government's own making. It was warned that this legislation was flawed, that it was in contravention of the Constitution, yet it drove it through the House at speed. It has now been struck down by the Supreme Court. The President took advice. We should all be very grateful that she referred the matter to the Supreme Court and did not leave it to elderly people to defend their rights through the courts system. We have to look after elderly people who

had money taken from them by the State. They are entitled to get it back. As their representatives, we are entitled to hear what the Minister for Health and Children is proposing to process that payback in a way that is fair, accessible and speedy. Many of the people concerned are very old, frail and vulnerable.

This whole experience shows that we have a Minister for Health and Children who does not appear to be able to manage the problems in the health service. The whole issue is not of her making but nobody would ever suggest this. Her predecessor who is sitting next to her certainly received a lot of advice on what to do but clearly did not act on it.

**Mr. Neville:** There was €30 million spent on reports.

**Ms McManus:** The record will still show that the Minister forced a Bill through this House, despite the advice that she had received in this Chamber that it would be deemed unconstitutional. She disregarded—

**Ms Harney:** The Deputy's advice was wrong.

**Mr. Howlin:** It was correct.

**Mr. P. McGrath:** It was confirmed today by the Supreme Court.

**Ms McManus:** The problem is that the Minister chose to listen to so-called experts instead of looking at the basic philosophical point which was that it was wrong to try retrospectively to turn an illegal Act into a legal one and that people would be hurt by it.

**Ms Harney:** The Supreme Court found that it was not wrong. The Deputy is wrong and I will respond to her.

**Ms McManus:** The Minister had her chance. The rights of these citizens would have been damaged. That is what is the Supreme Court stated today. It stated their property rights were not being protected as the Constitution required.

**Ms Harney:** I will explain in one minute.

**Ms McManus:** If the Bill was in line with the Constitution, we would not be having this debate.

**Mr. Connaughton:** The Tánaiste could not explain it when she should have done so.

**Ms McManus:** I do not want to tell the Tánaiste, "I told you so", because that is far too easy.

**Ms Sexton:** The Deputy never said that.

**Ms McManus:** However, the record shows that there was a clear choice put to the Minister to withdraw the Bill to ensure no damage would be

[Ms McManus.]

done. Rather than having all this argy-bargy, the important point to remember is that thousands of elderly people had money taken from them to enrich the State. This was done illegally. The people concerned are entitled to redress. We do not know what the Minister proposes to do to give them justice. How will they be repaid in a way that is fair, respectful of what happened to them and which lives up to the responsibilities laid on the Government by the Supreme Court? The Supreme Court has vindicated the rights of elderly, frail, vulnerable and powerless people against the State that illegally wielded its authority against them.

**Caoimhghín Ó Caoláin:** I welcome today's ruling by the Supreme Court without reservation. The bottom line is that elderly people have been illegally charged. They must now be reimbursed with the minimum of delay and bureaucracy. The Government needs to start work right away on a scheme that will see the people concerned reimbursed and without recourse to expensive legal proceedings.

The Health (Amendment) (No. 2) Bill was rushed through this House on 16 December 2004, the last sitting day before the Christmas recess. Despite the warnings of Members in the Dáil and in the Seanad, the Government pushed on. It was cautioned against bringing forward such a retrospective Bill. In concluding my brief remarks on Second Stage I appealed to the Minister to return to the principle that the State had a duty of care and a responsibility to ensure the rights of the most vulnerable in our society were protected. I said the legislation did not measure up to this responsibility and should be withdrawn and redrafted or fundamentally changed. The Minister ploughed on regardless, with the result we see today.

This ruling has exposed the Government's arrogance in its approach to legislation. In ramming it through both Houses without sufficient debate or scrutiny, the Minister's actions have resulted in a legal debacle for the Government. However, it is a welcome judgment for those thousands of elderly people on whom charges were wrongfully imposed.

Many are naturally concerned at the impact of this judgment on the public finances. While the judgment must be studied closely, it must be stressed that this repayment is not only obligatory on the State, it is also manageable. The Supreme Court judgment puts the sum involved at around €500 million, dating back to 1999, but that is not the whole picture. What of the money due for the years preceding 1999? Does the Government intend to invoke the Statute of Limitations? The Minister should tell us, spell the matter out and share with the House this evening the full story of the Government's intent.

The tragedy in all of this is that the State's shabby treatment of older people under successive Governments has caused a great deal of dis-

ress. The Minister's actions have caused enormous confusion and worry, especially among elderly people in residential care and their families. The matter must be resolved as speedily as possible and proper, adequate information made public to ensure the confusion is ended. Repayment of moneys owed should proceed with minimum bureaucracy and without thousands of people having to go through the courts. The issue has raised many questions about the way the State supports or fails to support elderly people in long-term residential care. For example, how does the Minister justify the wide variation in subventions among various regions? The question has never been satisfactorily answered, let alone addressed.

What of property rights? I will share with the Minister for Health and Children and her immediate predecessor, both of whom are present, an example from my constituency. I dealt recently with the case of an elderly constituent who had devoted her life to rearing her family and looking after their modest home. In her twilight years she was widowed while her children had either emigrated or lived in other parts of Ireland. She suffered ill health and underwent a long hospital stay. She faced the prospect of being unable to return to the home in which she had been self-dependent for many years and required long-term residential care. The State deemed that she did not qualify for a place in a State-run home or subvention as she owned her small, terraced house which was valued at approximately €150,000. Her children had to sell the family home and dispose of their mother's remaining possessions to pay for her long-term private residential care. It was for that family as if their mother had died. The case is characteristic of what is a savage system over which to preside. In such cases, there is a bounden duty to address every element of care for the elderly in our society.

**Dr. Cowley:** The referral of the Bill to the Supreme Court by President McAleese proves the value of an independent Presidency. She acted independently despite the embarrassment of the Government which it was obvious would result. It is certainly obvious in the Chamber this evening. The President has done well by referring the Bill to the court and the result will give all of us a renewed confidence in the legal system.

For a long time, lip service has been paid to older people and the need to support care in the community, but the confounding factor has always been a lack of funds. As has been borne out today, it has been a case of being penny wise and pound foolish. While the Tánaiste speaks fine words, which I know she means, about the value of community care, the road to hell is paved with good intentions. Many others have spoken such words and meant them but older people have suffered. Today's ruling provides a very good example. There have been many major problems in trying to get money to run health services. The

funds provided for home help have always been severely restricted resulting in the severe restriction in hours of service provided. Home help is the most obvious way to support older people within their communities. The fund to provide aids and appliances has always been seriously depleted also. Services in this area have always constituted a poor relation.

The Department of Health and Children contends the problem was that health boards reallocated moneys intended to provide services for older people, but wherever the fault lies people have suffered. It must come back to the Department and central government which has failed to provide sufficient resources for services for older people. I hope the Government learns from this experience although it has yet to learn from the last one. Political opportunism meant an arm and a leg was spent providing medical cards to the over-70s. While the Government says in its defence of the Bill under discussion that addressing the issue would divert money from services for those who are currently ill, I do not see why it should blame older people. The fault does not belong to older people, but to the Government which has failed to look after the people it should. There is money for everything else, including electronic voting and all sorts of queer shenanigans, but not for the people experiencing real need.

We have seen too much convenience legislation introduced to save the skins of the Government parties and rushed through the Dáil in the absence of any element of consensus. It is time certainty was reintroduced in the system and the Government practised what it preached. Resources must be provided to support the community alternatives which can return people from institutional care.

**Mr. Connolly:** It was established today in the Supreme Court that the policy which obtained was illegal. The phrase “to get law, not justice” comes to mind. While there are many families who are willing to pay for care, the graver issue involves the number of people who cannot even get a bed or make a contribution from their pensions. A great deal of money of the order of €800 million to €1 billion is at stake. Where people have owed a health board money in the past, a system of compound interest has been used to determine the charge to be imposed. Given that £1 in 1976 is now worth in excess of €9, the potential level of claims may have been undervalued. If the same system is used to pay money back to people as is used to obtain money from them, the sums involved may be significant. There are many examples of people from whom money was taken who had to leave work because of the marriage bar. When they attempt to purchase years for superannuation, they are charged a phenomenal sum of money. While pensions were pretty low in 1976, at approximately £11 per year, if one imposes compound interest the sums involved will be very expensive to pay back.

I have no doubt that when people spend money, the lawyers will be delighted. Attempts to retrieve the money involved will lead to family wrangles and disputes. A quick solution which is acceptable to the people is therefore necessary. It is also urgent to address the circumstances of people who are still alive and paying for beds. While pension rates have increased incrementally, the value of a 1976 pension has almost been maintained. That implies that there is a difficult time ahead for the families involved and the lawyers will be the winners. Where families fight for a few euro, lawyers will put their arms in and encourage them to go all the way. It is incumbent on the Tánaiste to provide a formula in this context.

The €2,000 provision constituted a drop in the ocean and failed to match to any degree the sums owed. If it were provided as some form of recompense for those families still paying for nursing home care for their loved ones, it would soften the blow to an extent. A formula must be designed and a decision come to as to how the sums owed will be calculated. Will we use the 7% up to 84% rate or the 6% per annum rate used by the Health Service Executive? The service is tight with money and slow to act. I ask the Minister to ensure that some form of special funding is made available.

**Mr. Gormley:** Today’s Supreme Court judgment makes this a bad day for the Tánaiste and the Government of which she is a member. It is a good day, however, for the elderly people on whom the Tánaiste dumped with the Health (Amendment) Bill 2004. The judgment demonstrates that the Government is arrogant and does not listen. We told the Tánaiste repeatedly in the House that the legislation rode roughshod over the constitutional rights of what I called “the most vulnerable people in Irish society”.

**Mr. S. Power:** The Deputy also told her not to go to Israel.

**Mr. Gormley:** The Supreme Court used the same phrase in its judgment. That is the phrase I used, and it is a phrase also used by the Supreme Court. The most vulnerable people in Irish society are not at the top of the Progressive Democrats’ agenda. There are times when the party does not even believe in society. Instead, like Margaret Thatcher, it believes in individuals. The Tánaiste’s speech is disingenuous because this legislation was not designed to help these people; it was designed to minimise the State’s liability. The Tánaiste knows that. She rushed it though in the same way as her parliamentary colleague, the Minister for Justice, Equality and Law Reform, has rushed legislation through here time and again. I once referred to him as a binge legislator, and the Tánaiste could also be called one. That is not the way this House should do business, and the Tánaiste has come a cropper as a result, rightly so. I referred to this on Committee

[Mr. Gormley.]

Stage when we were considering the role of the Health Service Executive. That legislation was also rushed through. I have no doubt the flaws in it will eventually come to light.

The sum of €500 million going back to 1999 is quite small in the overall context of the situation, especially when considered by comparison with the amount of money spent on spin doctors by the Minister for Transport, Deputy Cullen, or the amount spent to store electronic voting machines. Will the Tánaiste invoke the Statute of Limitations? Many of us remember the manner in which victims of Dr. Michael Neary were treated, as well as victims of episiotomy and infected blood products. They have all been put to one side, and the Department of Health and Children has dragged out the situations. It has not given a single thought to the victims. It has always been about minimising liability to the State.

The message is clear today: the honeymoon is over. The Tánaiste has enjoyed a honeymoon. She has enjoyed a very good relationship with the media and many on this side of the House have given her the benefit of the doubt. However, the record is clear—

**Ms Harney:** The Deputy attacks me at least once a week. He even did it on day one.

**Mr. Gormley:** The Tánaiste deserves it. She has presided over the worst accident and emergency crisis ever, worse than during the tenure of her predecessors, Deputies Martin and Cowen. Approximately 422 people were on trolleys while she was on holidays. If it was a Fianna Fáil Minister, he or she would have been excoriated for doing that. The primary care strategy is in tatters and MRSA is rampant.

*(Interruptions).*

**Mr. Gormley:** The Tánaiste could not retain the chief executive of the Health Service Executive. The health strategy has been forgotten, the Hanly report has been ditched to one side and everything is gone. Where are the 3,000 beds? They will not materialise.

**An Leas-Cheann Comhairle:** The Deputy should conclude.

**Mr. Gormley:** What about medical cards? Where are the cheap doctor-only medical cards? They have not materialised. Where is the legislation? We were told none was required, but now we are told it is. The Tánaiste is presiding over a complete mess. She should get her act together, and she can do so by listening to the Opposition.

**Minister of State at the Department of Health and Children (Mr. S. Power):** It is very important that charges for long stay care are put on a sound legal basis and this is what we are endeavouring to do. In this regard it is good to note that the

Supreme Court has not found the approach to the proposed charges in the Bill repugnant to the Constitution.

This judgment only deals with the charges issue in long stay. It does not deal with the overall issue of eligibility and entitlement which was previously raised by the Ombudsman and which must be the subject of further consideration as a separate issue. The Department is committed to an overall review of eligibility generally with regard to the health services and this can be tied in with the key programme of reform being implemented at present to produce a much more effective and efficient health service in the future underpinned by a sound legal basis. The Supreme Court judgment will help us in that regard.

It has been the policy of successive governments to endeavour to help older people maintain themselves in the community while at the same time providing for residential care which is not prohibitively expensive. The policy of the Government, in terms of development and delivery of services for older people, is to maintain them in dignity and independence at home for as long as possible in accordance with their wishes, as expressed in many research studies; to restore to independence at home those older people who become ill or dependent; and to encourage and support the care of older people in their own community by family, neighbours and voluntary bodies. It is clear, therefore, that the roles of all community care services are vital to the implementation of this policy.

Long stay charges represent approximately 10% of the total cost of medical care and maintenance in the public residential homes involved. However, it still remains important that some contribution is made by patients to the cost of maintenance as this can help free funds towards services and initiatives that will also serve the key objective of helping older people remain at home in their communities wherever possible.

As with investment in health services in recent years, there have been very significant investments in the services for older people generally. Additional revenue funding of €17.228 million was provided in 2005 for these services, including palliative care. Between 1997 and 2004, total additional funding allocated was approximately €287 million. This includes nursing home subvention spending, which increased from £28 million in 1997 to over €115 million in 2004. A further €5.7 million was allocated in 2005, targeted at increased service provision. Over €126 million was provided in 2004 to develop the home help service and train home helps. A further €5 million was allocated in 2005 to relieve service pressures. Since 1997, additional consultant geriatricians have been appointed with appropriate staff support. There are now 57 approved geriatrician posts, nine of which were approved in 2004. The working group on elder abuse presented its report in November 2002. A national implementation group has been established and a further

€0.9 million was allocated in 2005 to continue with the implementation of the recommendations in the report.

The Health Service Executive, HSE, areas have been piloting home care grant schemes as an alternative to long-term residential care to assist older people living at home in the community. Older people who are being discharged from the acute hospital system and those living in the community are being targeted under these schemes. People have been discharged from acute hospitals under the Slán Abhaile and Home First pilot projects in the HSE eastern regional area. The Department has been working with the HSE to develop a national home care grant scheme. A draft of the scheme is being finalised by the HSE for presentation to the Department. Funding of €2 million has been allocated to the HSE in 2005 to introduce the scheme.

The national implementation group to monitor the implementation of the recommendations in the elder abuse report has commenced its work. The working group to review nursing home subvention has been established and the group has received a number of written submissions and heard a number of oral submissions on this topic. Funding was provided in 2004 to develop models of good practice in the care of older people and the HSE has undertaken a number of pilot projects. The HSE has introduced personal care packages for older people as an alternative to long-stay residential care. Personal care packages, including home care grants for older people, are specifically designed for the individual concerned and could possibly include the provision of a home help service, home subvention payments, arrangement for attendance at a day centre or day hospital and other services such as twilight nursing. Personal care packages allow older persons the option of remaining living in their own home rather than going into long-stay residential care.

In November 2004, the Tánaiste announced additional funding of €70 million to implement a ten point action plan to improve the delivery of emergency services. The Tánaiste has met senior management of the HSE and the Department of Health and Children is working closely with the HSE to ensure early implementation of these measures. These include the transfer of 100 high dependency patients to suitable private nursing home care, negotiating with the private sector to meet the needs of 500 people annually for intermediate care of up to six weeks and an expansion of home care packages to support 500 additional older people at home.

Funding of €16.8 million was made available to the former Eastern Regional Health Authority which will result in over 600 patients being discharged to more appropriate settings. A total of €5 million was also provided for the Southern Health Board under the delayed discharges initiative in 2003-04 to facilitate the discharge of patients from the acute hospital system. Total funding of

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€21.8 million has been provided under the delayed discharges initiative to assist with the discharge of older people from the acute hospital sector.

This is the context in which the issue of long stay charges must be seen. The principle that people should contribute to the costs of their maintenance when in long stay care has operated over the lifetime of 11 Governments and nothing in the Supreme Court judgment is at variance with that principle. Charges in this regard can only help in the provision of services for older people.

I have listened to the contributions to this debate. When the Tánaiste took office and following the legal advice of the Attorney General, we acted swiftly and took the best legal advice available in introducing the legislation. We must accept the decision of the Supreme Court. We will act immediately to introduce new legislation and to provide compensation to the people from whom money was illegally taken.

**Mr. Neville:** The Government would not listen to the House.

**Mr. Perry:** I am delighted to speak on this important ruling. Democracy has worked well to deal with an illegal charge. With regard to the retrospective legislation, the Supreme Court has stated categorically that the State is liable to make a refund.

Only this week I tabled a parliamentary question to the Tánaiste with regard to the eligibility criteria for the refund of €2,000 for hospital charges for the elderly and the avenues open to families or next of kin to seek payment in respect of persons who were deceased. I was disappointed with the reply I received. It stated that the scheme does not apply in the case of persons who are in long stay care in the institutions in question who died before 9 December 2004. If, however, individuals died on or after this date, payment would be made to the executor or person who had taken out the grant of administration.

**Ms Harney:** I announced that when I introduced the legislation in the House.

**Ms Lynch:** The legislation has fallen.

**Ms Harney:** I know.

**Mr. Perry:** This is the caring and sharing Government. The reply referred to people who died before 9 December and said that no payment would be made in those cases. If the individuals concerned died on or after this date, a payment would be made. If somebody died on 8 December, the €2,000 would not be paid. A number of people contacted my office about not getting the €2,000 due to the death occurring on 8 December.

[Mr. Perry.]

The Minister referred to the statute bar. If this is the opinion when dealing with the €2,000 compensation, I am most concerned. I hope the 500 beds allocated to nursing homes to alleviate the crisis in accident and emergency services under the intermediate health plan are being allocated on a geographical basis. Is this the case or are the 500 beds being allocated to Dublin and Cork and not to the areas of most need? This issue has been discussed over the last few weeks so perhaps the Tánaiste would clarify that point.

According to the Supreme Court ruling, the Health (Miscellaneous Provisions) Act 2001, amending section 45 the Health Act 1970, had the effect of placing beyond doubt any question of the legality of charging for the relevant services. It provided that a person who is not less than 70 years of age and is ordinarily resident in the State shall have full eligibility for the service. This was accepted by the then Attorney General and current Minister for Justice, Equality and Law Reform, Deputy McDowell. On 1 July 2001, there was no possible room for doubt that the health boards were not entitled to impose any charge for in-patient services on persons aged 70 years or over.

While many in this category would not previously have qualified for full eligibility, a significant number obviously did. Thus, from the entry into force of that provision, all persons aged 70 years or more were automatically and by that fact alone deemed to be fully eligible. Therefore, any charge imposed on such person was indisputably imposed in direct contravention of the Act, yet it was confirmed to the court that the practice continued. It is, of course, the admitted purpose of the Bill to render lawful what was thus unlawful.

There was ambiguity about it until 2001 but the 2001 Act conferred an entitlement on everybody over the age of 70 years. It is astonishing that the Attorney General's advice was so wrong. This was brought to the attention of the then Minister, Deputy Martin. Mr. Travers will show this in his report.

**Ms Harney:** The Supreme Court held that it was not unconstitutional under Article 15.5, which was the point raised in this House and which the Deputy is raising now. It was held unconstitutional under the property rights provisions, which are different. In other words, it was not the retrospective nature of the Bill that was a problem but taking property without compensation. It is important to make that point.

**Mr. Perry:** I accept that. The point was made that the introduction of the entitlement to a medical card for people over 70 years took place prior to the last general election. That is when the floodgates opened on this. When it was brought to the Department's attention, it was concealed. There was a major cover-up. This came into the public domain in October but according to my

information, and I hope Mr. Travers will verify it, it was known to the previous Ministers since 2001 that the Department was on shaky ground. They were not entitled to impose these charges but nothing was done about it. That is the issue.

Furthermore, if somebody died before 9 December, the Tánaiste was not prepared to give them the €2,000 in compensation. People have come to my office with regard to people who died on 5 December and whose estate is entitled to nothing. This is the caring, sharing Government. If the persons had died after 9 December, their estate would get €2,000. I sincerely hope the Tánaiste will not introduce a statute bar on this and that people will get their entitlements. It would be outrageous to introduce a statute bar. We are delighted with the Supreme Court's decision but last week the Government was unwilling to give a mere €2,000 for somebody who had died on 8 December whereas the estate of somebody who died on 9 December would get it. I hope that will not continue.

I also hope Mr. Travers will produce a detailed report. This was a cover up. The Government has been in power since 1997. The interpretation here is that it involved all governments and includes the 1956 Act, the 1970 Act and the 1987 Act. The Ombudsman also brought this into the public domain. This was known by the Government. The Tánaiste might suggest that it was unknown but it was known to the most senior people in the Department. The Accounting Officer in the Department was well aware of it. The problem is that it was concealed.

We welcome the Supreme Court decision. However, if this matter had not been brought into the public domain people would continue to be illegally charged today. It is clearly a case of being caught with the hand in the till and that is the difficulty. It is regrettable that retrospective legislation was debated in the House. It was questioned everywhere but it was rushed through the House. The President would not sign the Bill, which was important. I give her full credit for not doing so. She called in her advisory commission to give its opinion and then she referred it to the Supreme Court.

The facts must be put on the record. Yes, there is ambiguity which dates from 1970 but there is no ambiguity since 2001. The Department knew about it and the Ministers since 1997 were well aware of it but they concealed it.

The Tánaiste must remember that when the scheme began in 2001, it introduced full eligibility for medical care for everybody over the age of 70. The Department assumed there were 35,000 people aged over 70, whereas there were 80,000 such people. Since inaccurate figures were used, the Department assumed it would cost €19 million but it cost €80 million. When the flood-gates opened, the Department realised the charges were going beyond the predicted levels. If full entitlement was provided for those in long-term

care, the €80 million estimate could have risen to €200 million.

The blame for this situation rests firmly on the shoulders of the Government that concealed it. There has been a major cover-up by the State which has reimbursed those affected with a miserly €2,000 in a so-called generous gesture without any liability. The Supreme Court has now clearly established the fact that the State is liable. I am putting down a marker that if the Government places a statute bar on this, Fine Gael will oppose it all the way because the charge was illegal.

I am aware of certain cases involving people in nursing homes who did not have enough money to pay for their funeral arrangements, including the erection of a proper headstone. That is how much was taken from some elderly people by the Government. While the liability goes back over successive Administrations, it was brought to the attention of this Government which concealed it for two and a half years, although the facts were known by Ministers at the highest level. They are responsible. I sincerely hope, therefore, they will not introduce a statute bar and state that they will not pay beyond a seven-year limit. Everybody who makes a claim should be paid in full.

**Dr. Devins:** The Supreme Court's decision in the matter of Article 26 of the Constitution and the Health (Amendment) (No.2) Bill 2004 brings clarity to the matter of the provisions of the Bill. Clearly, the decision is a complex one that will have to be examined in detail in order to ensure that there is a clear understanding of the full implications involved which will, in turn, inform an appropriate response. In considering the background to this matter, it is important to note that what is at issue is the legal basis for the imposition of charges for those receiving in-patient services in public long-stay institutions. The principle of imposing charges is not at issue.

As has been noted by previous governments going back over 30 years, it is fair and reasonable that all those in receipt of publicly provided, residential, long-term care should make some payment towards accommodation and daily living costs, if they can afford to do so, just as they would if they were living in the community. For example, those living in the community in receipt of the non-contributory old age pension are obliged to meet all their living costs — food, heating and other household costs — from the payment, whereas, in the case of such individuals in public nursing homes, all such requirements are provided.

This principle was most recently underlined in the health strategy entitled Quality and Fairness — a Health System for You. It supports the aim to provide as high quality a service as possible, making the most equitable use of resources and thus helping to maximise the availability of these services. It is recognised that quality care is expensive and that the bulk of the cost of providing a high standard of quality care should be

borne by the Exchequer. It is estimated that the charges imposed on those in public nursing homes represent approximately 10% of the overall cost of care. It therefore represents a modest contribution towards the total cost of treatment and maintenance.

The services provided to people in long-stay care are a valuable part of the health services. It is essential that these services are protected and maintained. The charges in question are embraced by the concept of what is in effect a co-payment, which is common throughout the health service. This is based on the principle that where individuals are in a position to contribute a modest amount to the cost of their care, it is reasonable that they do so. Other examples include the in-patient overnight hospital levy. In the latter case, the charge is currently at the rate of €55 per night, subject to a maximum of €550 in any 12 consecutive months. Those availing of private or semi-private accommodation in public hospitals are also charged.

In bringing forward the Health (Amendment) (No.2) Bill 2004, the provisions were informed by the policy that it is reasonable that charges should be made and that they should be on a sound legal basis. The Bill provided, among other matters, for a legal basis for the imposition of charges on persons to whom long-stay, in-patient services are provided, irrespective of their eligibility status. In this general area it is significant that the Supreme Court found today that:

The prospective provisions of the Bill, that is to say those provisions which require the imposition of charges for in-patient services to be provided in the future, concern matters for which the Oireachtas has power to legislate. The power to regulate and impose such charges delegated to the Minister by section 1(a) of the Bill falls within the principles and policies of the Bill and, in the view of the Court, is compatible with Article 15.2.1° of the Constitution. Having regard to the maximum level of charges and the discretionary provision concerning the imposition of charges in individual cases, the Court does not consider that those charges, either in principle or in themselves, could be considered an infringement of any constitutional right.

This will allow for the introduction of a new Bill to provide the legal basis for charges for in-patient services in long-stay institutions. It is the position currently that charges are not being imposed. Following receipt of further advice from the Office of the Attorney General on 8 December 2004, the Department of Health and Children instructed the former health boards to cease imposing any financial charges on fully eligible people in receipt of in-patient services in public long-stay care institutions, with effect from 9 December 2004. Additionally, by way of a goodwill gesture, the Government agreed to have *ex gratia* payments of up to €2,000 made to those



[Dr. Devins.]  
with full eligibility who have paid charges and who were alive on 9 December 2004.

Where persons have been charged anything less than €2,000, they will be refunded the amount they have paid. The Health Service Executive, which has assumed responsibility for the delivery of health and personal social services since 1 January 2005, is making the necessary arrangements with regard to the *ex-gratia* scheme, and payments to those currently in public long-stay care commenced some weeks ago.

Today's judgment clarifies the legal position on a situation that has obtained for nearly 30 years. The principle of those in long-term care under the auspices of the State having to pay a proportion of the cost of their care and maintenance, if they can afford to do so, has been maintained by this judgment. I commend the Tánaiste for the speed with which she has moved to bring clarity to what was, in effect, a confused situation.

I would also like to mention my constituency colleague, Deputy Perry, who, in his previous role as Chairman of the Committee of Public Accounts, first highlighted this issue. I welcome the Tánaiste's comments that she will move to speedily resolve this problem and put it on a sound legal basis as soon as she has all the relevant reports.

**Mr. Neville:** I wish to share my time with Deputy Ring.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Mr. Neville:** I welcome the judgment of the Supreme Court, which means that tens of thousands of pensioners have been illegally charged by the Government and have a justifiable claim for compensation. One of the issues that now arises concerns how the procedure will be undertaken. The Supreme Court has decided that the people affected have a right to compensation and that the Government has a duty to pay them. The matter should not be delayed by procedural matters, including claim forms. The information concerning those who are eligible is in the domain of the Health Service Executive. The names are available and those people should be compensated. In his reply to the debate, I hope the Minister of State will clarify that those who have a justifiable claim will be compensated and there will not be delays over claim forms or who is eligible to claim. People are entitled to receive their money.

Last year, this issue was highlighted by Fine Gael. Were it not for the efforts of Fine Gael, and Deputy Perry, people would still be subject to illegal charges in nursing homes. It is clear that legislation introduced by the Government in 2001 created a major legal doubt about the legality of those charges. The Government and especially the previous Minister for Health and Children, were given repeated warnings but ignored them.

The Department was informed by at least one health board in 2002 that the imposition of nursing home charges was legally questionable. The South Eastern Health Board had obtained legal advice on the issue and submitted an 80 page report to the then Minister for Health and Children which did not arouse concern. I wonder why. The charges ceased for patients who queried them in at least one health board area but continued for those who did not. How could this be equitable? Ministers were briefed in December 2003 by senior health board officials on the problem but did nothing. Why not?

The Government has handled this issue badly from the moment it was raised in the House by Deputies Perry and Kenny. The Taoiseach stated in early December 2004 that legislation was being drafted to deal with the problem which would not be retrospective. He stated, "There is no retrospective factor in the legislation, which is never the case. Anyway, we do not have retrospective legislation." One week later the Tánaiste and Minister for Health and Children published a Bill which attempted to retrospectively apply charges.

Following questions surrounding the legality of the legislation, the President referred the Bill to the Supreme Court. While it is not politically correct to congratulate the President, her independent role in ensuring this issue was addressed should be recognised. The judgment must be studied but it means anybody charged has a right to recover payment and the Government has a duty to repay. Tens of thousands of pensioners should not be put in a position where they will have to go to the courts to vindicate their rights. The Minister must clarify how she intends to repay the moneys owed.

The charges imposed on those with medical cards and who were resident in private nursing homes are also an issue. The Minister should clarify this issue which has been raised since the Supreme Court decision was announced earlier. The people concerned may also be entitled to refunds.

I refer to enhanced nursing home subvention. The maximum subvention in the north western Health Service Executive area is €38.09; in the eastern region it is €680; in the mid-western region, it is €50; in the north eastern area, it is €413 and in the southern area, it is €360. There is no logic to the differences between regions. The lack of equity in enhanced nursing home subvention is unfair. The Health Service Executive and the Minister must examine this issue to ensure equitable and realistic payments are made.

**Mr. Ring:** This is another fine mess the Government has got us into but the sad thing about it is the taxpayer will have to clean up the mess. The Tánaiste and Minister for Health and Children, the former Minister for Health and Children, Deputy Martin, and the Minister for Transport, Deputy Cullen — the three greatest disasters that have ever hit this country — should resign. They are robbing the taxpayer because

money will have to be paid back as a result of this decision. The Minister for Transport, Deputy Cullen, will also cost the taxpayer because of the way he dealt with e-voting.

I congratulate the President and the Council of State on referring the legislation to the Supreme Court. The people know the Government is a disaster. Eight Supreme Court judges have said it is a disaster because it bullied the legislation through the Houses during Christmas week. Fianna Fáil and Progressive Democrats backbenchers voted with the Government, even when they knew there was a doubt about the Bill. Who advised the Government and what advice was given? How much were the advisers paid by the taxpayer?

I raised this issue on many occasions with the Ombudsman whom I congratulated at various meetings of the Oireachtas Joint Committee on Health and Children because it was pointed out that every person in the State who had a medical card was entitled to a State bed. What will happen? The next court challenge will involve the relatives of medical card holders who had to provide the money to place them in nursing homes because the State did not have a bed for them. They will also have to be compensated.

The Minister outlined how much she would repay. When people had offshore accounts, the State charged them four times more than they should have paid. The Minister will repay €2,000 to those affected, regardless of what they are owed. We cannot have two laws in this land. If the three Ministers I mentioned were in office in Britain, they would be out the door this evening. The Prime Minister would not ask them, as they would go themselves. They would put their heads down because they would know they had done wrong and would resign but in this country one would nearly have to shoot them to get rid of them. It does not matter because the Government is arrogant.

Will the Travers report be published before the by-elections? When will it be placed before the House? The Government has handled this issue badly in recent weeks. The Minister for the Environment, Heritage and Local Government is in my constituency on a sitting day. The Taoiseach and his Ministers are more interested in public relations and spinning themselves around the country than in attending the House to examine legislation.

The Minister for Health and Children and her predecessor should have done what they were told by legal advisers instead of robbing people but it was concealed. When the offshore accounts were concealed, people had to pay a price. The Government must pay a price. The Tánaiste and Minister for Health and Children and her predecessor, Deputy Martin, should resign immediately because they have made a mess of this. They were told they had made a mess of it. The Supreme Court told them earlier they had done so. It is time for them to go. The Travis report should

outline all the facts and the legal advice given to the Department.

Please do not bring the old people of this country down to the Four Courts because legal people have got enough money from the Government and we do not want to see any of these cases settled in the courts. An injustice has been done. The State robbed the elderly and the poor. The Government should pay back what it owes immediately. Let us not have the people going before the courts.

The Minister of State, Deputy Seán Power, is new to the Department. He should do the right thing for the people. What is happening is terrible and the people are outraged. The Government parties took a belting at the polls in the recent local elections. They better hold on for the next three years because the people are angry and waiting for them. The opinion polls did not show this before the local elections but the same will happen when the general election is held. The Government Members are like the kings and queens of England. They think they will never be put out of power. They are so long in power they have become stale, arrogant and aggressive and it is time to get rid of them.

I recall when I entered the House that the Tánaiste and Minister for Health and Children used to lecture Fine Gael when we were in government. She was nearly crying every morning on the Order of Business. She was telling us how it should be done and the way it should be done. She has had an opportunity, not for two months or two years, but for more than seven years, even though she has only been in the Department of Health and Children for a short time. However, she is part of a Government which has made a mess of this issue. It is time the people responsible moved out.

**Mr. Moloney:** I am glad to have the opportunity to contribute to the debate. The issue has been of concern not only to Members but also the public. As many hospitals and nursing homes in my constituency provide beds for the elderly, I am naturally concerned about the use of subventions.

It is worth reflecting on the findings of the Supreme Court and referring to some of the submissions made here. I do not see it as an issue of resignation for the Tánaiste.

**Mr. Ring:** Fianna Fáil members do not know how to resign.

**Mr. Moloney:** The health budget and the Department of Health and Children are in safe hands with the Tánaiste, as the record proves.

I again wish to refer to the Supreme Court decision because the findings have not been clearly and properly dealt with. It is important to reflect on one particular point. The provisions of the Health (Amendment) (No. 2) Bill 2004 that provide for prospective charging of inpatients are constitutional. There is no constitutional prohib-

[Mr. Moloney.]  
 ition on implementing a charge in the future for inpatient services. We must be very honest with the public. Contending there is a likelihood that people can attend as inpatients in hospitals free of charge is nonsense. There is no point in pretending or wishing that was the case. Clearly, that is not the issue. We must welcome the fact that the Government, through the Tánaiste, recognised that the Bill would be tested in the Supreme Court and welcomed that process which has brought clarity to an issue of concern for years.

Another point lost in the spin is that it has been made out that it was the Government which created the problem. We must be honest on this issue and with the people about whom the Opposition is, allegedly, so concerned. I resent the accusation that we have been stealing from the elderly. The reality is that previous Ministers, in all Administrations, did not recognise the gap.

**Mr. Neville:** They knew about it since 2001.

**Mr. Moloney:** I am aware of that and will come to that matter shortly. The people who now take upon themselves the responsibility of being the only saviours of the elderly, should have held this position all along and recognised what resulted from the Supreme Court judgment on nursing home subventions in 1976. There have been 11 Ministers and 40 different health boards since.

**Mr. Neville:** The Government knew about it in 2001.

**Mr. Moloney:** That is four years ago. I did not dare butt in a few minutes ago when Deputy Ring was expressing his concerns. I was going to suggest that it was the by-election that was driving this new found care. The Deputy mentioned the by-election and hoped the Travers report would be out before it was held.

**Mr. Neville:** Deputy Ring does not need a by-election.

**Mr. Moloney:** I see this as an issue to which he is hanging on in the hope it will embarrass the Government. I do not see it as such.

The Government has acted responsibly since the Attorney General provided legal advice last November. Therefore, I do not see the issues as the source of embarrassment. I welcome that there is now clarity and have no difficulty in congratulating the President. Referral to the President was never an issue. When the Bill was referred to her, it was referred on the supposition that the issue would be cleared up once and for all. We are now in a position to move on.

I have visited hospitals for the elderly in my constituency. The Tánaiste visited one of them last Friday when I saw her genuine concern for the elderly. I have heard it said this evening that the Progressive Democrats have no interest in individuals. I spent three hours with the Tánaiste

in the hospital. I have often watched dignitaries and Ministers visit hospitals. I saw the Tánaiste take time out to visit people in moving from ward to ward. She did not have bags of votes behind her but met elderly people on their own. That can certainly not be considered a window-dressing exercise.

The Tánaiste recognises there is an issue. Let us have it cleared up. It is not a matter of providing care for the elderly free of charge, as if the Government was against it and everybody else in favour. We must recognise that hospitals for the elderly are providing a vital and necessary service. In that regard, there is an issue of payment. We are not dissatisfied but very satisfied with the Supreme Court judgment and recognise that we must now move on to regularise the position. We must also remember that the issue did not first arise in 2001. It should have been dealt with back in 1976. Many Administrations had the opportunity to deal with it.

I heard somebody refer to the Tánaiste as being pig-headed. The comment was also made that the Department of Health and Children was going nowhere fast. I attended a meeting last week at which people were quite satisfied with the level of health spending, although we can never be fully satisfied. However, we recognise the favourable OECD report, increased capital expenditure and improved care of the elderly which I have seen in the midlands. The elderly are being recognised through increased funding as can be seen on the ground in the funding of care centres for the elderly and those suffering from Alzheimer's disease. It is not good enough to say not enough money is going to the health service. I recognise that many areas are supported.

**Mr. Neville:** The Deputy is Chairman of the Joint Committee on Health and Children, yet he does not seem to know about the problems associated with subvention.

**Mr. Perry:** We have had 15 years without an increase.

**Mr. Moloney:** I know there are problems. I have been a member of a health board for years. I was a member back in the 1980s and early 1990s when there was not only no subvention but very few places available for the elderly. I have seen the number of placements increase steadily over the years. In my county where there are three hospitals for the elderly facilities second to none have been provided and capital expenditure has increased year on year. That is what I see happening on the ground.

There was a day when care for the elderly simply meant a bed and meals in a hospital. There are now day care centres and backup services such as chiropody, hairdressing and leisure facilities. Nobody should tell me I am not aware of what is happening; I am. I am also delighted there is somebody in charge of the Department of

Health and Children who is aware of the issues. Subvention has been increased. The Deputy may not be aware that it was increased just four years ago, in 2001.

**Ms Lynch:** Did the Deputy just find that out? Was that what was written in the note he received?

**Mr. Moloney:** I was asked if I would meet the Minister later regarding further funds for Mountmellick hospital, something about which I am pleased.

I am pleased with all the areas being funded under the health programme. This issue has been made a little more thorny because we are heading into a by-election. We cannot be accused of robbing the elderly when the facts suggest otherwise. Many of our hospitals have been modernised. I often wonder how the Opposition can close its eyes to this. The level of demand for health services has changed. Many working couples have sought care for their elderly relatives. As lifestyles have changed, people are not at home to provide care as much as they used to be. This does not mean the budget for health has not increased.

I welcome the investment of €11 billion in the health service this year. The capital investment programme is worth €585 million. The success of the economic strategy means we are able to increase resources in the health service. Suggesting otherwise makes one think the health budget has been reduced but the opposite is the case. The latest comparable OECD data which relate to 2002 show that the level of public health expenditure in Ireland as a percentage of GDP increased from 4.8% in 1997 to 5.5% in 2002, an increase of 14.6%. In comparison, the average percentage increase for the rest of the OECD was 8.6%.

I am pleased with the way the Tánaiste has handled this issue. I am convinced she will be able to allay the fears of the elderly and sure the Government's commitment to the elderly will continue.

**Mr. Sherlock:** I wish to share time with Deputy Lynch.

**An Leas-Cheann Comhairle:** Is that agreed? Agreed.

**Mr. Sherlock:** How is it that the leaders and members of the Government parties are not ashamed with what we have heard from the Supreme Court about the way vulnerable and elderly people have been treated? Yesterday evening in north Cork a public community hospital told a family to take home a 90-year old man whose wife was ill at home. No other family member resides in his house, yet his family were told to take him home because there was no bed for him in a public hospital. When they asked if he could be cared for in a private hospital, they

were told the maximum subvention they could get was €190. Let us think about how far that would go. Elderly people are being badly treated. This has been the case for years.

Today's rejection by the Supreme Court of the Tánaiste's attempt to retrospectively validate an unlawful charging regime is especially welcome. The plight of public patients in private nursing homes is an issue I have highlighted on numerous occasions in this House since I was first elected in the 1980s. I am, therefore, particularly happy that the Supreme Court has made this ruling today.

The decision also points to the dangers of rushing legislation through the Dáil without giving Members time to fully assess the implications. All Stages of the Bill were guillotined, despite the protests of the Labour Party.

The meagre offer from the Tánaiste of a payment of up to €2,000 to compensate for a gross breach of constitutional rights was an insult to elderly and vulnerable citizens who deserved a great deal better from the Government. The Attorney General's ruling vindicates the view I stated often in this House during the years, that older people with medical cards were entitled to free nursing home care under the terms of the 1970 Health Act.

Due to the shortage of beds in public nursing homes many elderly people were referred to private nursing homes. Families were advised to accept this option on the basis that a subvention of €190 was available. I was told today that no moneys were available for an enhanced subvention in the southern area. I am aware of a number of cases where families were forced to sell their homes in order to pay for private nursing home care for loved ones in need of long-stay care, even though they met the eligibility criteria for public care.

This issue could and should have been dealt with in October 2001 when the Government was made aware of it, or in early 2003 when, as was pointed out by other speakers, the South Eastern Health Board provided an 80 page legal opinion, of which the Tánaiste is well aware. There is growing evidence that the illegality of the charges was well known long before that date. The pattern appears to have been that where elderly residents were compliant, the money was taken from them but if they resisted, it was not. When nursing home residents complained to the Ombudsman, their money was inevitably returned to them.

I am delighted with the Supreme Court ruling. Today's decision is a stinging rebuke from the highest court in the land to the approach of the Tánaiste to this entire issue. She must now outline the steps she will take to address the serious injustice done to nursing home residents.

**Ms Lynch:** I thank Deputy Sherlock for sharing time with me. I have listened to him consistently raise this issue for the past 15 years. The unfortunate thing is that he was not listened to.

[Ms Lynch.]

I have never heard a speech as passionless as that of the Minister of State, Deputy Seán Power. He clearly did not believe what he said. He just rattled off a departmental script. At this stage, instead of hanging their heads in shame and admitting they were wrong, Government speakers have come in to spin the usual lies. The level of investment in the health service has been trotted out while reference has been made to how many nursing home places there are for the elderly without once dealing with the kernel of the problem, that there are not enough places for the number of elderly in need of full-time care and attention. That is the difficulty.

As Deputy Sherlock stated, today's Supreme Court decision — thank God for it — only deals with a small portion of those who have been forced to die as paupers as a result of the State's inaction. In one case, a geriatrician employed by a health board who was a prominent adviser to the previous Minister for Health and Children advised that a female patient was in need of full-time care and attention but as no space was available, she had to go to a private nursing home for a few years at a cost of between €500 and €700 per week. Her house was sold, as a result of which her family were impoverished, yet the State insists that the only people for whom it has responsibility retrospectively in regard to money, according to the Supreme Court, are those cared for in State nursing homes.

The Government has a responsibility to those who needed full-time care and attention, to whom the State refused to supply public places and who, accordingly, had to go to private nursing homes when the burden was financially greater. In spite of this, we have to listen to the old spin — how much the Government is investing in the health service and how many nursing home places were provided. The Government should take a look at Cork city and county where there are very few public places available but a booming private sector nursing home industry, of which 99% are doing an excellent job which the State should be doing. We should look at this aspect of the problem.

Deputy Sherlock, the Ombudsman and a plethora of others had told the Government that what it was doing was wrong. It is similar to institutional abuse with children; everyone appeared to know it in hindsight but nobody did anything about it. The next big investigation will be how we treated the elderly.

This is just another one of the land mines the former Minister, Deputy Martin, left behind. If I were the Minister, I would tread very carefully because he has left an entire Department full of them. He did nothing but publish reports. He did absolutely nothing else. This is the consequence of one of them. He knew it better than anyone else.

**Ms O'Donnell:** I welcome the opportunity to say a few words in the time available. There has

been a degree of unwarranted criticism of the Tánaiste and the Government's handling of this issue. We should be grateful that the Tánaiste, in characteristic form, took upon herself the responsibility of seeking clarity on the issue. When the matter was brought to her attention, she immediately sought clarity and brought forward reforming legislation in the House. Questions had quite rightly been asked by the Opposition. As I understand it, she was made aware of the matter when she took office, as was her predecessor. Information was available in the Department on the legality or otherwise of the deductions. The Tánaiste decided to confront the matter head-on and bring forward reforming legislation, about which she was very open in the House. She set up an inquiry in her Department as to how the matter had continued for so long and why it had not been dealt with at departmental level. She has stated the inquiry headed by Mr. John Travers has yet to report. Quite apart from all of the emotive issues which have been raised today about the care of our elderly in long-term care and the legality or otherwise of the deductions, no political party opposed the making of these charges over the years. Some 11 successive Governments found no fault in these charges, although individual Deputies have raised questions, including Deputy Sherlock, who stated that he has been doing so for 15 years. Given that the Labour Party was in Government with Fine Gael and others between 1992 and 1997, why did the party not take action then?

The kernel of tonight's debate is to be found in the Tánaiste's statement. Perhaps no one noticed that the Tánaiste, when she made her statements to the House last December when this legislation was initiated, stated that the charges had been levied in good faith and on the basis of information available to us at that time. The Taoiseach also made similar statements. The Tánaiste is now stating that she could not characterise those statements in the same way. In other words, the Tánaiste is saying that she could not say now that the charges were legally defensible and that the Department of Health and Children acted on the basis that they were. These are serious matters of public accountability which fall to this House to examine in due course, following on Mr. Travers's report.

Members who have been in this House for any length of time will recall that on previous occasions tribunals have been established by this House because of a failure to give Ministers correct information to account to this House for questions which were raised.

**Mr. Neville:** They did not want to answer the questions.

**Ms O'Donnell:** This is true in the case of the Department of Agriculture and Food in regard to the establishment of the beef tribunal. It was stated in the beef tribunal report that had questions in the Dáil to the relevant Ministers and

Departments been properly replied to, there would have been no cause for the tribunal.

**Mr. Neville:** Exactly.

**Ms O'Donnell:** Similarly, I sat here for 25 debates on the hepatitis C issue in which case Ministers were misled by misleading information given to them by Departments.

**Mr. Neville:** Surely the Ministers would have had the cop-on to question that.

**Ms O'Donnell:** In this case, successive Ministers were kept in the dark about the questions around the justifiability of these deductions.

The Tánaiste must be commended for seeking clarity on this issue, for being straightforward in characteristic fashion and for being honest with the House in so far as she was made aware of the truth of the situation. In her speech tonight, she has indicated that she was not aware that legal advice was provided in 1978 by senior counsels Keane and McCann to the effect that the basis of the charges was not sound. In other words, legal opinion had been given the Department of Health and Children over the years but the information was not given to successive Ministers. Therein lies the kernel in terms of public accountability and good governance. There are serious issues of bad administration or maladministration and it is in the public interest that the Travers report should come forward with its recommendations and clarity. I hope the House will in due course be made fully aware of what has happened in respect of this matter.

It now transpires that the court has in its wisdom decided that these charges were not legally justifiable. They will be so in the future if the Government decides to legislate to make such charges, which have never been imposed by any political party, and that will be acceptable to the Supreme Court. The Supreme Court has adjudicated that it is acceptable for the State to seek a contribution, where it is appropriate, from elderly people in long-term care. However, it found that these charges were not defensible and cannot be made lawful retrospectively. At long last we have clarity but serious questions arise for the Government and the House in terms of maladministration in the Department of Health and Children.

**Tánaiste and Minister for Health and Children (Ms Harney):** The principle of what was involved in this case, namely, the charging for shelter and maintenance in public institutions, was held by the Supreme Court to be constitutional. The issue which is not constitutional is the taking away of someone's property rights without adequate compensation. When the debate took place before Christmas, I told the House that I believed the charges were levied in good faith. In other words, those who levied the charge felt it was legally

defensible. As I said in my earlier statement, I would not now stand over those comments.

This issue goes back to 1976. On the one hand Deputy Twomey states that this goes back to 2001 and, on the other, asks if I intend to use the Statute of Limitations which covers the past six years. In the McInerney case in 1976, the Supreme Court upheld that it was unconstitutional to levy these charges without legislation. The manner in which it was sought to get around that was the use of a circular. Whatever about the good faith of doing so in 1978, we now know, as a result of the discovery during the preparation for this case, that the former Chief Justice, Mr. Ronan Keane, and a counsel called Mr. McCann, gave legal advice to the contrary.

Since then there have been 11 Governments and at least 12 or 13 Ministers for Health and 40 health boards. I took legal advice when the issue was raised by Deputies Kenny and Perry and I acted immediately on that legal advice. However, according to Deputy Ring I am supposed to resign. I am further accused of not listening to the Opposition. However, Deputy McManus, an Opposition Deputy, stated in her letter to the President that this was unconstitutional under Article 15.5, but the Supreme Court ruled that it was constitutional under Article 15.5 but that it was unconstitutional under property rights provisions. Even if the debate in this House had gone on for months——

**Ms McManus:** The Supreme Court went further.

**Ms Harney:** The Deputy argued the case under Article 15.5. She stated that under the Article, the provision was unconstitutional.

**Ms McManus:** The Tánaiste argued that it was constitutional and we argued that it was not.

**An Leas-Cheann Comhairle:** Allow the Tánaiste to give her reply.

**Ms McManus:** Who was right at the end of the day?

**Ms Harney:** I am obliged to take the advice given to me. That advice was given to me not just by the Office of the Attorney General but also by outside counsel. I told the House that this issue would be tested in the Supreme Court. When the President called a meeting of the Council of State, as the Taoiseach stated this morning it was his and my view that the sooner there was legal clarity, the better. That is a fact. It was better that it was done by an Article 26 reference than to force an individual, an old person or someone in a long-term place, to take legal action.

**Ms McManus:** Of course it was.

**Ms Harney:** We acted as quickly as we could. Nonetheless, I am not satisfied that this practice continued for 28 or 29 years because it shows systemic maladministration. That is why in December I asked John Travers to carry out an inquiry to report to me by 1 March as to why, with so many Administrations and Ministers, we could have acted illegally since 1976. I await his report.

**Mr. Perry:** It is since 2001.

**Ms Harney:** It is not 2001, but rather 1976.

**Mr. Neville:** That is when it was brought to the Government's attention.

**Ms McManus:** The Minister of State at the Department of Health and Children, Deputy Tim O'Malley, was at a meeting when this matter was discussed.

**An Leas-Cheann Comhairle:** The Tánaiste must be allowed to make her reply.

**Ms Harney:** I ask Deputies to await Mr. Travers's report before rushing to judgment.

**Mr. Neville:** When will we have it?

**Ms Harney:** In the next couple of weeks.

**Ms McManus:** It is on the record. The Tánaiste gave us the minutes of that meeting and the Minister of State, Deputy Tim O'Malley, was at it. The then Minister for Health and Children, Deputy Martin, was out of the room, but the Minister of State was in attendance. The Tánaiste gave us the record.

**An Leas-Cheann Comhairle:** The Tánaiste should be allowed to make her reply without interruption.

**Ms Harney:** I also stated that legal advice was to be sought as a result of that meeting and I do not know why it was not sought. These are among the reasons I have asked a person to carry out the inquiry because I want to know who knew what and when.

**Ms McManus:** Why does the Tánaiste not ask the Minister of State?

**Ms Harney:** We are all entitled to know because the taxpayers will be paying back at least €500 million. If we could have had this issue dealt with five years ago, the amount would have been much less because we could have legally raised the charges. For every week we cannot raise these charges, it costs the health service €2.5 million.

We have serious issues in regard to long-term care. Every year, 12,000 more people are reaching the age of 65 and 1,500 more reach the age of 80. The demographics of our population are such that we will have to think strategically about a

whole host of issues. How do we support people, particularly in their own homes and communities, and how do we support older people in our society?

**Ms McManus:** How will these people be paid back the money?

**Ms Harney:** I have to take advice about the best way to do it. I do not know whether the State Claims Agency or the HSE is the appropriate body but I will put in place as quickly as I can a mechanism to ensure we identify the individuals, their personal representatives or families and make these payments. I will do this as conscientiously and as quickly as I can.

**Mr. Perry:** We recognise that.

**Ms Harney:** I cannot do it tomorrow. Obviously, I will have to put a mechanism in place.

I am happy we have had this debate in the House as at one level it shows the institutions work. This matter was raised by the Opposition and I checked it out with the Attorney General. We acted in good faith at the time to bring forward legislation to give legal status to what had been happening illegally for nearly 29 years. The Supreme Court has now brought clarity to it. While we can charge in the future, we cannot take people's property rights away without a legal basis and consultation.

#### Private Members' Business.

#### Domestic Refuse Charges: Motion (Resumed).

The following motion was moved by Deputy Gilmore on Tuesday, 15 February 2005:

That Dáil Éireann:

- calls on the Government to introduce a uniform national waiver scheme for domestic refuse charges in view of:
- the way in which the decision of the Government in 2003 to transfer responsibility for setting waste charges from democratically elected councillors to local authority managers has led to a very significant increase in the level of charges;
- the fact that these charges can result in financial difficulties for pensioners and others on low incomes, or those who have large families or exceptional household circumstances; and
- the great variation in waste charges and existing waiver schemes operated by

local authorities and the total absence of any waiver scheme in some areas.

Debate resumed on amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

“(i) notes:

- that the operational details of waste management services have never been the responsibility of central Government;
- that local authorities have received record levels of discretionary general purpose grants from the local government fund in the current year;
- the very significant investment which has been made by the Government in developing modern integrated waste management infrastructure and services;
- that the costs of maintaining these services must be met;
- that many local authorities have availed of the existing statutory provisions which allow for the operation of waste waiver schemes; and
- that the introduction of use based charges is a more equitable way of meeting these costs and encouraging waste reduction and recycling;

(ii) supports the continuing discussions within the social partnership process which seek to identify and address any inequitable impact which the charging system may place on the disadvantaged.”

—(Minister for the Environment, Heritage and Local Government).

**Mr. Nolan:** I wish to share my time with Deputies O'Connor, Carey, Fiona O'Malley, Callanan and Devins.

I welcome the opportunity to speak on the motion. The growing economy and growing wealth of the country have been mirrored in the waste we produce. Over the years, particularly in the past eight years, successive Governments have acknowledged the difficulties we face in the management of our waste. The “reduce, re-use, recycle” campaign, currently very active, is being taken on board by householders. Recycling centres, bottle banks and so on are now part and parcel of every local authority and town. Villages now have their own recycling centres. All that is evidence of the genuine concern and worry of the public about our environment.

However, one of the areas of concern to all legislators and indeed the managers of our Government and local authorities is the cost of dealing with the mounting waste. Many years ago one saw what are now termed landfills but which everyone aged over 30 will recall as dumps. They

were by the side of the road, normally uncovered. Every kind of vermin was around. The dumps usually had fires burning in them which seemed to go on forever. All that has now changed, and rightly so. With the police powers of the Environmental Protection Agency we now see state-of-the-art landfills throughout the country.

One of the difficulties faced by local authorities lies in acquiring new landfills and getting extensions to existing landfills. In that regard, the Department of the Environment, Heritage and Local Government has set down waste management strategies for various areas and it sees landfill as only part of the strategy.

**Acting Chairman (Mr. Sherlock):** I will interrupt the Deputy briefly. I am obliged to read the following for the observation of all. Before commencing the Private Members' business debate this evening I remind Members that the motion before the House specifically proposes the introduction of a waiver scheme for domestic refuse charges and therefore the debate should be kept closely to the matters raised in such motion, and Members may not extend the debate into the area of refuse charges generally. Deputy Nolan appears to be heading in that direction so I want to remind Members of this.

**Mr. Nolan:** I thank the Acting Chairman for his guidance.

I welcome the opportunity of speaking to the motion. In terms of a waiver for service charges, local authorities in the main have decided to privatise their waste service and in that capacity it is difficult for local authorities to impose a waiver on private contractors. I know that some local authorities are still carrying out waste collections and they have the wherewithal to provide a waiver if they so wish. However, most local authorities have decided that it is better policy to employ private waste collectors and in that context it is not easy for a government or a local authority to apply a waiver system.

If the Government were to look at the matter in general, the only manner such a system could be accommodated would be through an increase in child welfare benefit because large families would have a bigger waste problem than smaller families, or in the case of old age pensioners, perhaps through the social welfare system.

The motion as presented by the Opposition is unenforceable and unworkable. I commend the amendment tabled by the Government.

**Mr. O'Connor:** If I stray from the subject I know the Acting Chairman will rein me in. This is an interesting debate and it is interesting that the Acting Chairman should try to control it with the directive given. I listened to the debate last night and to the otherwise excellent speech by Deputy Gilmore.

**Mr. Gilmore:** I thank the Deputy.



**Mr. O'Connor:** This is a subject which people talk about, no less in my constituency than anywhere else. I represent a constituency where the community in Bohernabreena in the greater Tallaght area had to tolerate the problems associated with Friarstown dump for many years. We are still putting a lot of pressure on the council as we go to it every day to talk about waivers. We are trying to ensure that the council finally does something about that dump, clean it up and integrate it back into the environment.

This is an interesting debate and an interesting motion. My colleague, the Minister for the Environment, Heritage and Local Government, Deputy Roche, is a former resident of Tallaght and spent a little time correcting the historical record last night so I will not add to the discomfort of Deputy Gilmore.

**Mr. Gilmore:** It is no discomfort at all.

**Mr. O'Connor:** I know the Deputy listened very carefully and that he understands the points made.

I have sympathy with the notion that the Government would look at how our local authorities are dealing with the waste problem. At the same time we must understand their position. Deputy Gilmore would be the first to say that. Local authorities are entitled to their independence and to make their own decisions. I suppose it is a bit confusing in the Dublin region where all the local authorities seem to be going in different directions to some extent. There are some differences between them regarding the operation of the waiver schemes. The Minister may have a role to play in bringing all the local authority managers together, particularly in the Dublin region, to get some conformity so that people will understand the issues.

I have been associated with the south Dublin area since I was first elected to the council there in 1991. The council then broke away as a result of the Local Government Reform Bill 1994 and South Dublin County Council was founded. That council is very progressive with regard to waste management and the waiver scheme. I am not patronising the council. When I need to attack my local council I do so and when I need to bring concerns to its attention I am not afraid to do so.

I can speak for my own area, and it is important to understand that the waiver scheme seems to be working. I will always make the case that we should consider people who cannot pay for one reason or other. One of the difficulties I have with the current waiver scheme of South Dublin County Council is that households paying tax, which may include people on pensions and so on, are not entitled to such a waiver up front. There is a clause to the effect that if the manager believes a family is in need of a waiver, it is considered. Managers should look at that. Having listened to Deputy Ring make the point last night I am sympathetic to the view that if families are entitled to various benefits and claims, we should

take into consideration their ability to pay for the disposal of waste.

I have a great deal to say about the success of the green bins, the need for recycling and the whole notion of helping families pay for things easily, but, having looked at the clock, I will leave that for another night. I look forward to supporting the Government amendment.

**Mr. Carey:** Ba mhaith liom labhairt ar son leasú an Rialtais freisin. I am pleased at the opportunity to say a few words on this matter. As previous speakers have said, it is difficult to stick to the Chair's ruling, but I intend to do so.

**Mr. O'Connor:** As we do.

**Mr. Carey:** We have constantly talked about the need for local authorities to be given the freedom to act independently. We talked *ad nauseam* about the important principle of subsidiarity — that no one should attempt to do what someone can more appropriately do for him. I am an awful critic of the document Better Local Government, which has only eroded the roles and functions of local authority members. Like others here, I was a member of such an authority for some years, a function that I enjoyed. However, the work of councillors has been eroded progressively, and that has not led to better governance.

The targets set in waste management plans throughout the country are being met very slowly. We still lag far behind our counterparts, particularly in such northern European countries as Denmark and Sweden. On the day the Kyoto Protocol takes effect, we should not be proud of the tardiness with which many of our targets are met. That said, there has been a great increase in the number of recycling sites. For example, there has been significant improvement in management of construction waste. Like Deputy O'Connor, I represent an area that has had to live with landfill sites of one sort or another since the late 1940s. For example, the city will have to pay approximately €1.7 million this year to extract methane from a badly managed landfill site. Some of the methane has already been extracted from Dunsink tip head and sold off to the gas grid, which is good.

With regard to the waiver, when I headed the Fianna Fáil group on the city council, we spent a great deal of time trying to fashion a waiver scheme, and we were successful. We developed a scheme where those dependent on social welfare, outside the tax net or in difficulties could be granted a waiver. I am pleased to know that it has stuck. I see no reason other local authorities cannot do it, regardless of whether they are using a privatised service.

The principle of a national waiver scheme implemented locally is good. People talk about the difficulties of implementation. It could be implemented like to the national fuel scheme, which gives a top-up payment made through social welfare. That cannot be beyond the bounds

of implementation. It does two things: it alleviates difficulties people on low incomes experience and it encourages the drive to recycle.

The waiver scheme will not be the entire reason, but here in the city, 53% of householders put out their black bin, known in Dublin as a “grey bin”, only every second week. That is great progress. If one goes to city recycling centres at weekends, one sees that there are now often queues to enter. It is an awful pity that the green bins in Dublin are not under the operational control of Dublin City Council. That whole industry is now a major cash generator, and it could be for local authorities.

Incidentally, local authorities, including those in Dublin, have often failed to crown themselves in glory in the way they have introduced recycling centres. Deputy Gilmore will know about the one in St. Anne’s Park on the north side of the city. There is also Collins Avenue in my constituency. If something is foisted on a community without adequate discussion, groundless fear can be created. However, that fear is nonetheless real. Local authorities must learn more about the principle of consultation.

I suspect that I have very little time left, but I wish to throw this out to the “four horsemen of the Apocalypse” who are absent from across the way, Deputies Gregory, Joe Higgins, Healy and Finian McGrath. I would like to hear their contributions on how they propose to run a waste management system. The very final part of their motion calls for major investment in a genuine waste management plan involving comprehensive reduction of waste at source and comprehensive facilities for recovery and recycling. I thought the waste management plans around the country were all about that. What are they talking about? I have heard those four Deputies go on about a great deal *ad nauseam*.

When it comes to the “polluter pays” principle, we are slowly getting there. I hope the discussions going on in the context of Sustaining Progress will produce a mechanism that will alleviate financial difficulty for people while promoting a high level of participation in recycling, reuse and recovery.

**Ms F. O’Malley:** We are making very good time. We must have instilled great fear in people. I intend to stick to the motion, but I also wish to address some issues raised in the debate last night.

In his contribution yesterday evening, the Minister concluded with a plea for honesty on waste charges and that the sentiments expressed here and nationally might follow through locally, particularly in areas where the Labour Party holds the balance of power. However, they have failed to act accordingly. In my area of Dún Laoghaire-Rathdown, the so-called “dream team” of Labour and Fine Gael is in power. Without so much as a murmur of complaint or reservation, they voted through the waste management system, including the waiver system that now applies in the county.

**Mr. Gilmore:** That is not true.

**Ms F. O’Malley:** It is absolutely true. Last night Deputy Gilmore said that it was wholly untrue that parties holding power in any local authority could be held responsible for the introduction of charges introduced under their control.

**Mr. Gilmore:** That is right. The county manager does it.

**Ms F. O’Malley:** That is blatant nonsense. With respect to the Deputy — and he knows that I have a great deal of respect for him — you will learn now, as you exercise power, that with power comes responsibility.

**Mr. Sherlock:** The Deputy will address her remarks through the Chair.

**Ms F. O’Malley:** You cannot abdicate responsibility for decisions that your party takes — the party which holds the chair.

**Mr. Gilmore:** The charge had already been levied.

**Ms F. O’Malley:** For a political party to be taken seriously, it must adopt the policy locally that it espouses nationally. I need hardly remind Deputy Gilmore that the most important annual decision for councillors is probably the agreement of the estimates. In the case of Dún Laoghaire-Rathdown County Council, Fine Gael and Labour councillors endorsed the county manager’s proposals without any effort to create a more acceptable waiver system. In 2005, the Labour Party members voted for a system that was less generous. That reeks of hypocrisy. Deputy Gilmore also knows that councillors have an opportunity to influence policy at estimates time, and they can refuse to adopt one. That also means that wheeling and dealing with the manager can operate, as it has in Dublin City Council, until a compromise is struck that is agreeable to both the manager and the councillors.

**Mr. Gilmore:** What section of the Act was that in?

**Acting Chairman:** Deputy Gilmore, please allow Deputy O’Malley to continue.

**Ms F. O’Malley:** Thus it happened that, for the first time in the history of Dún Laoghaire-Rathdown County Council, the Labour Party agreed an estimate. I request that Deputy Gilmore not undermine the authority of his local representatives on the council by criticising their decision to adopt such a charge. The other objectionable feature of the motion before us is the centralist approach. I have already said that Deputy Gilmore’s wealth of experience and knowledge is acknowledged in this House and outside it.

**Mr. Gilmore:** Will the Deputy give way?

**Ms F. O'Malley:** I will not give way because my time is limited. Frequently, Deputy Gilmore has bemoaned the fact that not enough power resides with local councils.

This attempt by the Labour Party to have a waiver system applied locally would counteract the notion of subsidiarity and decisions being taken at as local a level as possible. It is both confused and confusing. I am aware Deputy Gilmore is passionate about local government but I do not believe he has thought through this measure.

**Mr. Gilmore:** I have thought it through better than the Deputy when——

**Acting Chairman:** Deputy O'Malley, without interruption.

**Ms F. O'Malley:** The honourable history of Labour Party Ministers was not to apply a centralised system. Both the former Tánaiste, Dick Spring, and Deputy Howlin, when they were Ministers with responsibility for this area, determined that charges and waivers should be applied locally.

The cost of dealing with commercial and domestic waste is soaring. I welcome the Minister's indication that he is considering the application of a regulator to this area because we must all be careful about these soaring charges. I reject the Labour Party motion because decisions must be made as locally as possible. I am surprised at the notion of removing more decisions and power-making from local councils.

**Mr. Callanan:** I intend to stray briefly from the subject matter of the debate but Members will understand the reason when they hear what I have to say. I am delighted to speak on the motion to provide for a national waiver scheme for refuse charges and other aspects of waste management. A waiver scheme for the elderly, widows and people on social welfare to reduce the charge for refuse collection is very necessary. There are many ways of providing waivers, however, and it should be left to local authorities to provide them.

The cost of waste collection has increased considerably in recent years. Each local authority has the power to introduce a waiver scheme where it is the service provider or to make appropriate arrangements with the private sector to provide waivers. Local authorities are now in a better financial position than they have been for many decades. That is due in large part to the establishment by the Government of the local authority fund.

In 2005, local authorities got a record level of general purpose grants from this fund. This year, the discretionary block grant, which local authorities can use as they see fit, amounted to a staggering €817 million. That represents an increase

of 9% on 2004, and far exceeds the rate of inflation. In anybody's language that represents a tremendous boost for local authorities and enhances the ability of local authorities to provide quality service, including the operation of an appropriate waiver scheme, to their customers.

Galway city and Ballinasloe town operate a waiver scheme but Galway County Council does not. When the pay by weight system comes into operation, which I welcome, it should reduce the costs, especially for the elderly as they would not have a large amount of refuse. However, a waiver scheme will still be necessary.

The overall cost of collection and disposal of waste is now huge. The Committee on Enterprise and Small Business, of which I am a member, was informed a few weeks ago that waste management costs in Ireland are two and a half times greater than those in Britain. In fact, representatives of the grocery trade told the committee that waste management costs were their third highest costs after wages and insurance.

We must reduce and recycle more of our waste. The tax on plastic bags was a major success, and we must look at other means of reducing waste. There is a problem in agriculture in that the black plastic from silage bags has not been collected for recycling. We must keep as much of our waste as possible away from landfills.

Galway County Council has what is called the Connacht waste management plan which recommends one landfill in east Galway and one in the north Mayo-Roscommon region. Already, this plan has been ignored as Galway County Council has proposed a site for a landfill at Cross, New Inn, Ballinasloe, while Greenstar has got planning permission for a landfill site in the next parish, Kilconnel, which is my parish, to accept waste from Galway County Council and Galway city for the next ten years. Will the Minister ensure fair play so that only one landfill is allowed in east Galway?

I congratulate Galway County Council for the way it transformed the landfill in Ballinasloe. The proceeds from the landfill have given the local council the funds to put in place a very generous waiver scheme. I would like each local authority to introduce a waiver scheme that suits each individual local authority but a national scheme is not necessary.

**Dr. Devins:** I am delighted to have this opportunity to speak on this Private Members' motion. It is a topic of immense importance as it affects every householder in the country.

Last night, the Minister outlined clearly the reason charges for collection of waste should remain the prerogative of local authorities. We hear many complaints about the fact that this country is becoming a very centralised State and that local authorities have very little power. That is a premise with which I do not agree. In fact, I strongly support the right of local authorities to govern their own areas. Traditionally, local auth-

orities have had control of waste collection and it is important that continues into the future.

It would appear that different local authorities are using very different systems for waste collection. The area I know best is Sligo where Sligo County Council privatised the collection of waste some years ago. It is a system that is working well but only for the reason that the public have actively embraced the principles of reuse and recycling.

The Minister stated clearly that he is fully behind the polluter pays principle. In my experience, most members of the public agree with that principle and, as a result, the frequency with which a household needs to have its waste collected and the amount of waste it puts out for collection has dramatically reduced in recent years.

It is noticeable also that there has been a significant increase in the number of people using their local recycling depots. In that regard, the depot on the deep water quay in Sligo has become very busy. However, some users have complained to me that the recent imposition of a nominal charge of €2 per car load, which is by no means a heavy burden, has acted as a deterrent to some people. This is especially true of elderly people who are living alone and are in the habit of taking small loads to the recycling depot. I appeal to the owners of that depot and to Sligo County Council to revisit this issue and perhaps devise a more equitable system that can take account of all situations.

I commend the Government on the massive increase in the local government fund, which this year is a staggering €817 million. This fund is described as discretionary because each local authority has discretion to use the fund as it sees fit. In that regard, it is a suitable vehicle for the application of the various waiver schemes to ensure that those who cannot afford to pay for their waste collection are not unfairly penalised.

I thank the Minister for providing funding to Sligo County Council recently to enable a green recycling area be established at Ballysadare. In conjunction with a local community council, which is providing much needed sports facilities, a state-of-the-art facility for green waste will be operational very soon and will provide a much needed facility for the people in my constituency. I commend the Minister's amendment to the motion to the House.

**Mr. Morgan:** I wish to share my time with what would appear to be half the Members of the House, namely, Deputies Gregory, Joe Higgins, McHugh and Boyle.

**Acting Chairman:** Is that agreed? Agreed.

**Mr. Morgan:** Sinn Féin firmly believes that waste services are core services that must be provided by the State through local authorities and paid for through the central taxation system. Our opposition to service charges is well recorded.

They are aggressive and unjust. We made our commitment to the issue clear when we tabled the Waste Management (Amendment) Bill 2003 to amend the Waste Management Acts on the collection of waste and the imposition of charges for waste services and to return the powers for the making of waste management plans to elected members of local authorities. The real motivation behind the introduction of service charges across the State has not been environmental in nature. On the contrary, cash-strapped local authorities have grasped these charges as one of the few finance-raising mechanisms available to them.

There is widespread misunderstanding and malicious representation of the meaning of the polluter pays principle. Its purpose is not to meet the cost of dealing with waste but rather to act as a prevention mechanism against unnecessary waste production and to encourage conservation of resources. It should be primarily targeted at the producers of waste such as manufacturers who produce non-recyclable, non-biodegradable goods and excess packaging, who are involved in the wasteful use of resources and who are responsible for damaging emissions. These producers, not householders, are the real polluters.

If service charges are to be part of a polluter pays system, they will only make sense if the infrastructure is put in place to enable the householder to divert the maximum possible amount of waste from their residual waste collection. There would be no basic or flat charge. Householders would merely be charged on a literal pay-by-weight system for residual waste which cannot be recycled, reused or composted. This is not the case, however, and in the absence of proper regulations and infrastructure to enable reduction, reuse and recycling, householders do not have the ability to divert waste from the residual waste stream.

While we do not accept service charges, we believe that, in light of the refusal of central Government to abandon the current inequitable system, the plight of low income families must be addressed as a matter of urgency. As they stand at present, service charges are an added burden on families already facing financial hardship. These charges, which are increasing dramatically on an annual basis, make low income households relatively worse off than high income households.

The Combat Poverty Agency published a report, *Waste Collection Charges and Low-Income Families*, in November 2003. Upon its publication, the then Minister for the Environment and Local Government promised to consider the report's findings. In the report, the Combat Poverty Agency stated: "the cost of waste collection charges and other public utilities can be a major financial burden, often associated with an increased risk of indebtedness". It also stated: "Waste collection charges exclusively based on the 'polluter pays' principle are inevitably regressive, posing a major burden for low-income households, especially those with children

[Mr. Morgan.] and other dependants.” The report went on to state:

Central government subvention is directed at better-off income tax payers [imagine that] rather than welfare recipients and other low-income households. As a result of this national policy vacuum, low-income households are vulnerable to financial variability depending on where they live, rather than social need or amount of waste produced.

The agency recommended that a national waiver scheme for waste collection charges, which would be administered by the relevant local authority and which would be available from all refuse collection operators, be introduced. A similar compensation scheme was proposed by the ESRI, in a report, *Carbon Taxes: Which Households Gain or Lose?* which it prepared for the EPA, as a method of compensating low income householders if carbon tax is introduced.

Much of the groundwork on this subject has, therefore, already been well covered and the case has clearly been made. Let us now have some action from the Minister. That is all that is missing.

**Mr. Gregory:** It appears from the Labour Party motion and the amendment thereto from the Green Party that the political parties which facilitated the introduction of the bin tax at local authority level are now having second thoughts and are crying crocodile tears for the disadvantaged and vulnerable in our society, including pensioners, whom this unjust tax is hitting hardest. The position of the Government parties, which are primarily responsible for the bin tax, is similar, and they are, according to their amendment, supporting the continuing discussions within the social partnership process to address the inequitable impact of the tax on the disadvantaged.

I opposed this tax from the outset because it is inequitable, is not based on people’s ability to pay and hits lower income groups hardest. That was always clear and was for me a basic reason for opposing the tax. While Fianna Fáil councillors were whipped in to tow the line at Dublin City Council and propose the tax, Opposition party councillors made no genuine effort to stop this unjust tax and, to a greater or lesser degree, they facilitated its introduction.

I will recall the estimates meeting at which Dublin City Council voted in this tax. A majority of councillors representing Fine Gael, the party opposed to stealth taxes, voted in favour of the bin tax. The Labour Party was, as usual, in turmoil and several of its councillors, including the Lord Mayor, voted for the tax. Another Labour councillor went missing. The Green Party, not wanting to be outdone, seconded the proposal on the estimates to introduce the tax. Sinn Féin, the party the media constantly informs us is doing trojan work in disadvantaged urban areas, had four city councillors at the time and, as part of

the deal to get this unjust tax imposed on Dublin city, two of the four went missing. When I and Deputy Finian McGrath, who was a councillor at the time, requested a roll call vote to expose this arrangement, we could not obtain the support of a single councillor from any party and the most important decision of the city council as regards its estimates for the year was rushed through on a quick show of hands.

The dishonest and hypocritical arrangement to which I refer continued to hold sway in Dublin City Council right up to the most recent estimates meeting held on 29 November last, when a majority of the council was composed of councillors from Labour and Sinn Féin, in particular, who were elected at the recent elections to oppose the tax. These two parties did not even make an effort at the meeting, with Labour again in disarray and some of its councillors voting in favour of the tax, and the ten Sinn Féin councillors colluding yet again to prevent a roll call vote.

**Mr. Morgan:** That is not so and the Deputy knows it.

**Mr. Gregory:** Only the three independent councillors, one of them elected as part of the anti-bin tax campaign, stood firm against the tax.

In this evening’s vote, I will be opposing the Government’s amendment. However, I am grateful for the opportunity to place on record my disgust at the hypocrisy of all the political parties, with the sole and honourable exception of the Socialist Party, in respect of this issue of inequitable stealth taxes.

**Mr. J. Higgins:** The EPA audit of waste in 2001 showed up the complete sham of a policy over which the Government has stood for years when it reported a complete failure to significantly reduce waste or to put effective recycling programmes in place. All we had were gestures and posturing. The latter were particularly represented in the so-called “Race against waste” television advertisements when, quite fraudulently, householders, who account for only 15% of waste going to landfill, were portrayed as being responsible for the waste crisis in this country. It was only recently we discovered that a crony of the Minister, to whom he paid hundreds of thousands of euro of taxpayers’ money, was partly responsible for that advertising campaign.

If I had been presented only with the Labour Party motion, I could support it in so far as it goes. However, it does not go very far. Deputy Gilmore correctly attacked the undemocratic amendments to waste management structures introduced by the then Minister, Deputy Cullen, in 2003. The problem did not arise in 2003, however, it first emerged 20 years earlier in 1983 when the former and unlamented leader of the Labour Party, Dick Spring, introduced the possibility of implementation of waste and water charges. During the period in question, there was a crisis of national and international capitalism

and the Labour Party, in conjunction with Fine Gael, decided the working class should pay to extricate the system from crisis in which it had become mired. This was at the same time when billions of euro were being salted away, untaxed, in offshore accounts by millionaires, speculators and the rest of them. Working people always recognise a sham and a scam when they see it. They reacted from the beginning against this double tax policy and that opposition continues. They fought against it relentlessly and I was proud to have been part of the leadership of a fight against an aspect of that local taxation in the mid-1980s during the anti-water charges campaign when we forced the Government to retreat and abolish them at that stage. If we had not and the huge campaign of opposition and boycott had not achieved that victory, what would households now be paying in terms of waste and water charges combined? At least €1,000 would now be demanded. In 1996 there was even a sewage charge in some counties, a charge to have the toilet flushed, no less. That was how far it was going. The agenda is, of course, to ratchet up waste charges relentlessly and to bring in water charges. If that were done every household would quickly face a charge of €1,000 for what in reality would be a new local tax. Communities in Dublin have reacted against this tax and that will continue. Unfortunately, when we brought this fight to a head in 2003, and 21 decent citizens were sent to prison, including myself, Labour, Fine Gael and the rest of them gave cover to the Fianna Fáil Government because they did not support that campaign. We could have brought down the tax at that stage if we had received genuine support right around the country.

**Mr. McHugh:** This motion is about the introduction of a national waiver scheme for domestic waste charges to apply to householders with low incomes. That is exactly what the motion is about and I fully support it because it is appropriate and urgent, requiring the immediate attention of the Minister to introduce such a national scheme. It is regrettable, though, that almost everything, including the kitchen sink, is being brought into the debate on this succinct motion. By ignoring the motion's parameters, speakers have undermined its focus to a degree and allowed the Minister and Government to muddy the waters and obscure its urgency. The central tenet of the motion is the urgent need to introduce a national waiver scheme, because the situation is so chaotic throughout the country and is manifestly unfair and inequitable.

My own County Galway is an example. In the Galway city area waste is collected by the city council and a waiver system applies. In the Galway County Council area the waste collection system is privatised and no waiver system applies. That shows the total inequity of the system. People on low incomes or social welfare in Galway city get a waiver while the same category of persons in Galway County Council's functional

area cannot get a waiver. That is the clearest way I can find to explain the inequity. The Minister and Government must act immediately to introduce a national waiver scheme. Otherwise, they are complicit in supporting a gross act of inequality that impacts on the most vulnerable in society. It is just not good enough for the Minister to say it is a matter for the various local authorities because there is considerable doubt as to whether it is legal for councils to provide waiver schemes in their functional areas if the waste system is privatised.

There may be a view in Government, and perhaps the Minister shares it, that people in the anti-bin charges campaign and those totally opposed to waste charges are headbangers and consequently cannot be allowed to succeed or be given any concessions. That is another example of where issues are being brought in to muddy the waters. The motion, let us be clear, is calling for the introduction of a national waiver scheme. The reason the waiver scheme is being sought is that there are people who genuinely cannot afford to pay their waste charges. They are not necessarily opposed to paying them in principle. They are simply people on low incomes or on social welfare who have not got sufficient means to pay the charges. Just because of their location they find themselves lumbered with waste charge demands while their neighbours in the adjoining local authority have waivers. The Minister has direct responsibility in this area. He and the Government have a moral responsibility to remove this inequality in our society. There is no way the responsibility may be shifted on to local authorities. The Minister should act now.

**Mr. Boyle:** An amendment in the name of Green Party Deputies reads as follows:

In line one, to delete "uniform national waiver scheme for" and substitute "waste allowance, akin to the existing fuel allowance, to be made available to social welfare recipients and State pensioners to assist in meeting the cost of".

We tabled the amendment, not because we disagree with the substance or even analysis of the original motion. However, the Green Party believes another funding mechanism is needed and would be more effective in dealing with the problem that the poor application of policy from the Government has brought about. The Green Party believes in waste charges. We believe there has always been a need to identify the cause, source and potential problem the creation of waste presents and the management of its safe disposal. We have never argued that such a scheme should be introduced in a manner whereby those least able to pay cannot do so. We have argued for free waste allowances and the introduction of a waste collection social welfare scheme in much the same way as the smokeless fuel ban allowances were dealt with when that initiative was introduced in Dublin and sub-

[Mr. Boyle.]

sequently in Cork and other urban areas. It was catered for under social welfare and pension payments. This would be easier to put into effect than a waiver scheme because by its nature the latter would be costly to administer. It also gives power to all citizens to act as consumers with the added income, to ensure that they spend any or all such moneys in dealing with the waste problems experienced in their own particular households.

The difficulty with the manner in which the Government has introduced the current waste charges around the country is that there is no consistency. There is no sense of a level playing pitch between one local authority area and another in terms of a recycling infrastructure or whether a council assists or even encourages local households to recycle, segregate at source and have such waste collected. Because of the structures of the various local authorities there are wide variations in the rates of payment. In my constituency in Cork city, residents pay a standing charge of €255 as well as a €5 weekly charge. I must inform my colleague, Deputy Gregory, that we have lived with waste charges in Cork since 1985. It is not a recent phenomenon. The difference is that we pay the €255 standing charge and €5 a week while in Dublin the annual charge is €80, with €5 as the pick-up charge. That inconsistency between local authorities is not being addressed by the Government. The possibility of a national waiver scheme means the degree of subsidy as between one local authority and another will have less of an impact, depending on where one lives.

The Green Party is all in favour of a wider debate on this issue, but let us accept that a set amount of waste is unavoidable per person per household. Let us put in place the type of charges that would discourage the emergence of excess amounts of waste per person and per household. We have limited evidence that even with this poor scheme, the level of waste being presented in urban areas compared to that presented in 2004 is 40%. We have yet to see whether that means that 40% of the 2004 waste level is being produced. Anecdotal evidence suggests it is not.

I found it depressing in this evening's debate to hear people opening old sores and re-introducing council debates that belong in the local authorities concerned. Some Members do not appear to realise the extent of the powers elected local authority representatives have as regards the waste issue. I heard Deputy Fiona O'Malley speaking of the situation in Dún-Laoghaire-Rathdown. The Minister might nod but it was his Government which altered those powers. This Government decided it was council managements that should make the decision as to what the waste charge should be in each local authority and whether the residents should pay it in each case, while removing any role for elected representatives in the process. Because that demo-

cratic accountability does not exist, the Government washes its hands of it in Dublin, saying it is the responsibility of the local authorities, and tries to spread the blame locally. We all know the decisions are being made and implemented by unelected, unaccountable officials who are fomenting the type of crisis I see in my city with the Cork city manager, with uncollected waste and the creation of unnecessary waste hazards. As a result, we have a crisis that would not have existed if we had a sane and sensible approach to this issue.

**Mr. Stagg:** I thank Deputy Gilmore for introducing this straightforward motion to the House, which would allow for a waiver scheme for people who cannot afford to pay waiver charges. I hold the Minister for the Environment, Heritage and Local Government, Deputy Roche, in fairly high regard. However, his speech last night was the most dishonest speech I have heard in this House for a long time. His Government introduced legislation that removed from councillors the right to make charges at local level and gave it to county managers. Yet the Minister berated councillors in different councils for not kicking up against the charges levied by managers when he knew that the law introduced by his Government prevented them from doing so.

There is a very wide acceptance among the public and in my party of the principle that the polluter should pay and that there should be a reasonable charge. The Minister said that the charge must meet the full cost, which is also part of the law that his Government passed. The county manager is also bound to have charges that will meet the full cost and the councillors are prevented by law from interfering with that. I do not want to hear any more nonsense from the Minister on that matter. Unelected and unaccountable county managers, who are well organised nationally, are effectively setting policy for this country at that level. The last group of people that had that type of unelected power were Russian commissars and they are long gone by the board. This Government transfers more and more power from the elected representatives to these county managers every day of the week.

If the charges in my constituency were proportionally related to income, and given that old age pensioners living alone in Naas have to pay €350, then the county manager would have to pay €4000 per annum. However, the county manager sets the charges, so he pays the same as an old age pensioner living alone. The elected majority of councillors in Naas, made up principally of Fianna Fáil, Progressive Democrats and a few so-called Independents from the Fianna Fáil gene pool, privatised the refuse collection in 1998. They sold off the refuse lorries, made the workers redundant and left the citizens of Naas to the tender mercies of largely unregulated private sector operatives. One of these cowboys, and I use the word advisedly, subsequently served a jail sentence for illegally dumping rubbish that he col-

lected in Naas and dumped in County Wicklow. Despite the best efforts of my colleagues, Councillors Pat McCarthy and Paddy McNamara, the old scheme of waivers was abolished by the same motley crew of Fianna Fáil, Progressive Democrats and Independents. That situation has continued to this day.

Who are the citizens affected by this decision and how are they affected? An old age pensioner on a non-contributory pension of €150 per week must pay €350 in Naas or he will receive no service. If he does not pay it, he must explain to the authorities why he will not do so and where he has put his rubbish. He will get no waiver as no waiver scheme exists. A widow with two children on €194 per week in Naas town must also pay €350 and she will get no waiver. A disabled person on €134 must pay €350 to get their bin collected in Naas town and that person will not get a waiver. A blind person on €134 per week must pay €350 and that person will not get a waiver. A person on carer's allowance of €139 per week will pay €350 in Naas town and no waiver is available. For the long term unemployed on €134 per week, the charge is still €350 and no waiver is available in Naas town. However, for a county manager on €2,000 per week, the charge is still €350 and the manager will get a discount for early payment and a tax credit if he pays exactly the same.

Fianna Fáil, the Progressive Democrats and like minded Independents do not have a majority in Kildare, outside of Naas. In the rest of Kildare, a waiver scheme exists to allow free service to all the categories that I have mentioned. Thanks to Councillor Paddy McNamara and his colleagues, the battle to retain the waiver of refuse charges has again been won this year in the rest of the county. In Sallins, Kill, Clane, Maynooth, Celbridge, Leixlip and Kilcock, all the categories of deserving and needy families effectively enjoy a free refuse, as they should. I congratulate Councillor McNamara and his colleagues for ensuring that senior citizens and others in these areas are treated with justice and fairness. In Naas, Fianna Fáil and the Progressive Democrats sold out the old people to their sacred cow of privatisation while pensioners and other deserving families are penalised by paying the same rate as the county manager. Tonight's motion will make the case for these people in Naas and in other areas that have been described by other Deputies. It must be done and it must be done in this Parliament.

**Ms O'Sullivan:** I commend my colleague, Deputy Gilmore, for tabling this motion. This is about trying to get a uniform system throughout the country that will be fair and equitable. In particular, the motion addresses the issue of inequality for our most vulnerable citizens. There are disparate charges throughout the country. Some county and city councils have no waiver schemes while others have relatively generous schemes, but there is no uniformity. Despite this, we are asking senior citizens and other vulnerable people to pay charges they cannot afford. We are

talking about people with very limited fixed incomes who are trying to come up with the money from those limited incomes. For them, it is a question of not being able to afford to pay.

My colleague in Limerick, Deputy Power, had an article in the local media last week calling for a national waiver scheme and he indicated that he had spoken to the Taoiseach about it. He also wrote that he would propose it within the Fianna Fáil Party, so I welcome that support. I hope the same support will be forthcoming when it comes to the vote tonight. I think many Members from Fianna Fáil would support a national waiver scheme, but because the Labour Party is proposing it tonight, I doubt that Fianna Fáil will vote for it. The national waiver scheme makes sense and is equitable, and if such a schemes existed, we would be more likely to avoid the kind of situation that exists in Cork city. The capital of culture, on show to the rest of Europe, has mountains of filth in various parts of it. The reason this happens is because people object to a system that they see to be inequitable. If we had a fair system, there would be much more co-operation and compliance.

Part of the problem is that local, elected public representatives have been sidelined and city and county managers have all the power. In Limerick, we had a situation where the legal validity of providing a waiver system was questioned during the estimates process in the city. The city manager received a legal opinion from the Office of the Attorney General, advising that it was illegal for Limerick City Council to pay money to private collectors in lieu of payment for customers who qualified for a waiver. The system is privatised in Limerick city.

When Labour Party councillors refused to pass the estimates without the inclusion of a waiver scheme, a second legal opinion from the Office of the Attorney General decided that such a waiver could be implemented.

*8 o'clock* The question then arose as to whether a local authority could provide recompense to a number of different private collectors for waived customers or be forced to put the collection of refuse of waived households to tender. The matter is currently before the courts. I raise the matter as it demonstrates the need for a national scheme. We have national schemes in other areas, including the free schemes of the Department of Social and Family Affairs, the back-to-school clothing and footwear allowance and concession travel. As precedents exist, it makes sense to introduce an element of fairness in the collection of service charges.

The Minister spoke last night about a regulator which is something I suggested in one of the national newspapers recently. I would welcome regulation in this area should the Minister introduce it. Ultimately, the issue involves fairness and the real need and inequality of senior citizens in particular and other social welfare recipients who cannot afford to pay the charges involved. In the



[Ms O'Sullivan.]  
interest of equity, the same system should apply throughout the country.

**Mr. Penrose:** I compliment my colleague, Deputy Gilmore, on bringing forward this important motion to ensure the Government takes cognisance of the issues and introduces a national waiver scheme in respect of the various domestic refuse charges. The Government should have learned its lesson from today's Supreme Court decision and the electronic voting fiasco over which the Ministers, Deputies Cullen and Noel Dempsey presided. It is time the Government took cognisance of what people have to say on this side of the House. If it does, it will no longer end up in court spending significant sums of money which could more profitably be expended on ordinary people throughout the land. Just because an idea comes from the Opposition does not mean it is bad. There is no reason to assume a voluntary organisation cannot have some inspiration about how to administer various schemes more effectively and efficiently.

A waiver scheme has always existed in Westmeath. Irrespective of legal advice, we put the scheme in place to ensure that ordinary working class people, especially pensioners and those on invalidity payments, received a waiver. We always supported the idea that refuse collection should remain within local authority control. This is the context in which part of the problem arises. When services are privatised, people contend that a waiver system cannot be implemented. When Westmeath introduced a tag system some years ago, the Labour Party members of the local authority ensured a waiver system remained in place. We put two structures in place. If a person is over 75, he or she need not furnish evidence of income to receive a waiver. It is applied on submission of a birth certificate. If a person is under 75 and in receipt of old age pension, invalidity payment or any social welfare benefit, he or she receives a certain number of tags.

Thank God, Fianna Fáil lost control of the council last June. Previously, the party used its one-vote majority by bringing a person from a sick bed to push through the private contracting of the refuse collection service. The Labour Party stuck to its guns and said that while Fianna Fáil could privatise the service, it could not allow the waiver system to fall. People over 75 now receive 24 refuse tags, 12 of which are for the recycling system. Each tag is valued at €8 so for those who get 18 tags the waiver is €144. People under 75 can receive 12 tags divided between ordinary and recycled refuse. We ensured those provisions were enshrined.

In Meath, where we thankfully have a strong candidate in Councillor Dominic Hannigan, the average refuse collection charge is approximately €380 per year but no waiver system exists. Meath always crowed about being better than Westmeath at football, but we have reversed that. Thankfully, we are better than Meath when it

comes to ensuring that ordinary working class people are looked after. They have paid for services and continue to be willing to pay.

I was raised in a household as the eldest of ten children. We did not have running water and used a dry toilet, but we still had to pay rates. My father was a council worker and ours was a working class family. My father and mother reared two pigs each year, one of which was sold in June and one in December to pay the rates. Working class people do not resist paying for services once they see some value for money.

The Government must take cognisance of the fact that people on low incomes do not have disposable money to throw around like confetti unlike well-heeled people. It is time to rectify the anomaly in this area. My colleague, Councillor Dominic Hannigan, is articulating this viewpoint strongly on behalf of the Labour Party. We will take our message across the Meath constituency to ensure that people are treated equally in each county. It is our job to articulate the Labour Party policy on which we will stand in a general election. We have been proved with our Fine Gael colleagues to have been right on many issues.

It is time for the Government to take common-sense advice from these benches instead of firing money at consultants and legal advisers. Our candidate is effective and efficient and will give the people of Meath the advice they need. We encourage the implementation of a national waiver scheme to ensure the same rules apply whether one lives in Dublin, Cork, Donegal, Westmeath or Meath.

**Ms McManus:** I thank Deputy Gilmore for tabling this very important motion. I represent County Wicklow. When Fianna Fáil appointed a Minister from the county for the first time in Deputy Roche great pride was taken among many who may not have voted for him. They felt it was good for the constituency. His appointment as Minister for the Environment, Heritage and Local Government was considered appropriate given the many major environmental issues which affect Wicklow. Anybody from County Wicklow would have listened with dismay to the self-serving, hypocritical speech the Minister made last night.

**Mr. Gilmore:** Hear, hear.

**Ms McManus:** It was disappointing and demonstrated how quickly someone in the Minister's position can forget about the people who support and depend on him. This is especially true of older people on pensions and those on fixed incomes who are still reeling from the increases in waste management costs. The reason they have experienced such massive increases in costs is that Fianna Fáil county councillors, with the support of Fine Gael, privatised the service in a way which left no protection for many people on low incomes, including the elderly, the unemployed and those in receipt of disability benefit. The

Labour Party fought tooth and nail against the privatisation of waste collection services in Wicklow and argued that it would create a monopoly, increase charges very significantly and lead to illegal dumping. That has been the exact outcome of a disastrous decision in rural and urban areas of Wicklow.

Very limited waiver schemes apply in Wicklow, one of which is in Bray. A waiver scheme must be applied nationally to ensure the provision of support to everyone entitled to it. This is exactly what is happening in health in respect of which the Government argues every day for centralised, uniform national benefit schemes. Waste collection is another area in which a need has arisen. Despite the fact that it is at least in part the result of Government policy and the exorbitant increases in charges from which people now suffer, the Administration has walked away from the issue. Deputy Roche does not deserve the title of Minister for the Environment, Heritage and Local Government when he walks away from an issue in his county as central as waste management. Serious illegal dumping has occurred in Wicklow but the Minister has turned his back on a petition by hundreds of people in the Blessington area which he received yesterday. All they seek is to ensure that Roadstone requires a planning application to create a new dump close to their houses. It is disappointing, but also revealing. It is clear there is no understanding on the Government side. I do not have as much confidence in the matter as Deputy O'Sullivan. Fianna Fáil does not seem to have an understanding of what is happening to older people and those on low incomes. An elderly pensioner came to me and said she did not get a waiver but a littering fine. An envelope with her name on it was found ten miles away from where she lives. The envelope was part of a very large amount of rubbish collected, which included a fridge and a snooker table. This lady could not afford a snooker table, and she certainly could not afford the fine levied against her. The reason she cannot afford it is because she must pay waste charges that are beyond her income level.

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O'Keeffe):** Waste is an inevitable consequence of human activity and its treatment in a sustainable manner is important for our well-being and that of the environment around us.

**Mr. Stagg:** That is a fantastic discovery.

**Mr. B. O'Keeffe:** Ireland has witnessed a rapid moving away from circumstances in which we had little regard for the way in which we handled our waste. We are now progressing to a situation in which we will have waste management services that match best international practice. As my colleague, the Minister, Deputy Roche, stressed in the House last night, this comes at a price. Successive Governments have reached a correct con-

clusion that the fair way of meeting the cost of waste services is by charging those who use these services. This is not only fair; it is in line with a proper application of the internationally accepted polluter pays principle.

Once this principle of charging is accepted, it becomes a matter of determining the best and most equitable system to operate. Concern has been expressed in this debate with regard to a number of aspects of charging policy, including the variances which can occur in charges. While such variances occur, they are a reflection of the particular circumstances and costs faced by individual service providers, be they local authorities or private operators. The service providers, as required by Government policy, are moving to a pay by use system of charging. This is generally accepted as a more equitable approach in that it rewards those who act in an environmentally responsible manner by maximising the amount of waste they recycle.

**Mr. Stagg:** What about the people who cannot afford to pay?

**Mr. B. O'Keeffe:** These factors combined inevitably mean the charges will reflect both local circumstances and the individual choices and this is as it should be.

**Mr. Stagg:** The Minister of State should address the issue.

**Mr. B. O'Keeffe:** The concern at the centre of this debate is the issue of waiver schemes. Let me be clear about the facts. Local authorities are empowered to provide such schemes where judged necessary.

**Mr. Stagg:** It is county managers.

**Mr. B. O'Keeffe:** Local authorities who provide a waste collection service directly have traditionally provided waivers.

**Mr. Stagg:** They have not.

**Mr. B. O'Keeffe:** It is important to stress that such waivers are not uniform in character.

**Mr. Stagg:** There are no waivers for old age pensioners or others.

**Mr. B. O'Keeffe:** They vary in scope between local authorities which reflects local judgments about local circumstances. While waiver schemes have not been a significant feature in areas served by private operators, local authorities have the power in such circumstances to make appropriate arrangements to deal with cases of hardship. This issue has not been pinpointed as part of the debate.

As with charges in general, the position on waivers takes full account of the principle of subsidiarity. Waste management is, as it always has

[Mr. B. O'Keeffe.]

been, an essentially local service deserving predominantly local management. In regard to the cost of waste collection for those on low incomes and households, discussion has taken place and is continuing between my Department and the Department of Social and Family Affairs.

**Mr. Stagg:** The bills have already arrived. Discussions will not help these people.

**Mr. B. O'Keeffe:** These discussions are as a consequence of the issue being raised under social partnership arrangements and Sustaining Progress. It is to be hoped that there will be an early conclusion to this dialogue.

**Mr. Stagg:** It should be backdated.

**Mr. B. O'Keeffe:** We have an increasingly sophisticated and effective waste management system. These services are progressively being funded by those who benefit most from them based on the pay by use principle. The charges reflect the actual cost of providing waste services in individual localities, and the Government has long recognised that the waiving of charges in certain limited circumstances may be appropriate. The Oireachtas has legislated to provide local authorities with the power to do so. Decisions of this nature are best made locally, but through the medium of social partnership process, consideration is being given to any necessary supplementary steps.

A number of issues have been raised, particularly by Deputy Stagg. Last night the Minister, Deputy Roche, said that when elected representatives agree on an estimate, they do so knowing the estimate is based on the charges set by the manager. Inherent in their acceptance of, voting for and agreeing to the estimate is the knowledge that they are accepting the charges that are being set. They therefore vote in the estimates. If the charges were not in place, the estimate would be very different. The Minister made the point that on the basis of the Dún Laoghaire-Rathdown County Council issue, those Labour and Fine Gael councillors were aware of the charges being levied, the income that would be derived and that they allowed the manager to proceed—

**Mr. Stagg:** That is not what the Minister said.

**An Leas-Cheann Comhairle:** The Minister of State should conclude.

**Mr. Gilmore:** He is trying to correct the record for the Minister.

**Mr. B. O'Keeffe:** I take issue with Deputy Higgins who cited statistics from 2001. He was selective with regard to recycling. Recycling of municipal waste has increased from 9% in 1998 to 28% in 2003, and packaging waste recycling has increased from 15% in 1998 to 42% in 2003.

**Mr. Rabbitte:** I will share my time with my colleague, Deputy Eamon Gilmore. It is bad enough to hear Fianna Fáil backbenchers not knowing what the powers are in this matter, but when a Minister of State does not know the powers and in so far as he does he differs with his Minister, one wonders what is really happening in Government on this issue. My colleagues have clearly set out why this is a simple straightforward issue of inequity which imposes severe financial hardship on many low income families and households. The extent to which it can vary from one part of the country to another and differ a mile down the road is simply unjustifiable.

What we are seeking in this motion is no more and no less than to introduce a uniform national waiver scheme. As my colleague, Deputy O'Sullivan, said, something similar has been argued for in local newspapers by the Fianna Fáil Deputy, Peter Power. Unfortunately, he did not repeat that on the record of the House. However, he is on the record in Limerick and his position is very close to ours. Fianna Fáil Deputies have bad habits in Limerick and it is not the first time a Limerick Deputy said one thing in the House and another down in Limerick. The late Deputy, Jim Kemmy, said mighty mouse in the constituency and church mouse in the Dáil. That could apply to Deputy Power. He may have picked up bad habits from the Minister of Defence, Deputy O'Dea. However, he is right. It is possible to implement a national waiver scheme.

My colleague, Deputy Gilmore, when he presented this motion, clearly set out three ways it could be done. For pensioners, the waste waiver could be added as an additional free scheme. For others on social welfare and pensioners who do not qualify for free schemes, the waiver could be paid as an additional payment, like the living alone allowance or the fuel allowance. For workers on low incomes, the waiver could come as a tax credit. Contrary to what is said on the opposite side of the House, there is no difficulty in it being done if the will is there. The motion refers to ongoing discussions with the social partners to tackle the inequity the Labour Party is addressing tonight. When I asked the Taoiseach about it at Question Time today, he did not appear to know anything about it. He said there are many committees and it could be under examination in one of them. I have no doubt that a majority on the Fianna Fáil benches acknowledge the hardship being unnecessarily imposed on people with low incomes as a result of the discrepancies that have grown so dramatically since these charges were first implemented.

Deputy Gregory's contribution got my attention. It is rarely that Deputy Gregory not just visits this House but visits the country. He appears to think he can attack the Labour Party with impunity. I heard him spread his miserable bile tonight to distort this motion. I am surprised he is in the House. I read in this morning's newspapers that he will travel to the by-election con-

stituencies in search of an independent candidate he can help. If it is true that Deputy Gregory is travelling — and he is more travelled than any public representative in Ireland inside or outside the Dáil — that independent candidate should know that he will expect to get paid for it.

For Deputy Gregory, as somebody who was so recently a member of a local authority, to pretend that he does not know what the powers are and that he does not know the former Minister, Deputy Cullen, introduced a law which removed power from the elected local representatives and conferred it on the city and county managers as an executive function, is to be untruthful and deliberately to misrepresent the position. Deputy Gregory knows that. He is now all in favour of Labour Party councillors collapsing the council and refusing to agree an estimate. When he was a member of the local authority he was not so quick to recommend the collapse of the council.

My friend, Deputy O'Connor, is present and all he is concerned about is being on the side of the angels and mentioning Tallaght as frequently as possible in his speeches.

**Mr. O'Connor:** If the Deputy was from Tallaght, he would do the same. I am not ashamed of where I live.

**Mr. Rabbitte:** Absolutely, Deputy O'Connor. I do not know what the Deputy is saying but I agree with it.

The issue in this debate is straightforward. In a country as small as this, where 21 of the larger local authorities have privatised waste collection and where there is a question of clarity about what the law permits in terms of a waiver scheme in the case of private collection, serious hardship is being unnecessarily visited on people on low incomes. I do not know why the Government wants this to happen. An overwhelming majority of people accept “the polluter pays” principle and are willing to pay a reasonable charge to have their waste collected. They know it encourages reduction, recycling and so forth. Why allow a situation to prevail where the county and city managers are obliged to exert the full economic cost and, as a result, impose this hardship on people on low incomes?

Debate adjourned.

### Visit of Delegation from Lesotho.

**An Leas-Cheann Comhairle:** Before proceeding with business, I wish, on my behalf and on behalf of the Members of Dáil Éireann, to offer a sincere welcome to the Prime Minister of Lesotho, Mr. Mosisili, who is in the Distinguished Visitors Gallery. I hope, Mr. Prime Minister, you and your delegation will find your visit enjoyable, successful and to our mutual benefit.

### Private Members' Business.

#### Domestic Refuse Charges: Motion (Resumed).

The following motion was moved by Deputy Gilmore on Tuesday, 15 February 2005:

That Dáil Éireann:

- calls on the Government to introduce a uniform national waiver scheme for domestic refuse charges in view of:
- the way in which the decision of the Government in 2003 to transfer responsibility for setting waste charges from democratically elected councillors to local authority managers has led to a very significant increase in the level of charges;
- the fact that these charges can result in financial difficulties for pensioners and others on low incomes, or those who have large families or exceptional household circumstances; and
- the great variation in waste charges and existing waiver schemes operated by local authorities and the total absence of any waiver scheme in some areas.

Debate resumed on amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

“(i) notes:

- that the operational details of waste management services have never been the responsibility of central Government;
- that local authorities have received record levels of discretionary general purpose grants from the local government fund in the current year;
- the very significant investment which has been made by the Government in developing modern integrated waste management infrastructure and services;
- that the costs of maintaining these services must be met;
- that many local authorities have availed of the existing statutory provisions which allow for the operation of waste waiver schemes; and
- that the introduction of use based charges is a more equitable way of meeting these costs and encouraging waste reduction and recycling;

(ii) supports the continuing discussions within the social partnership process which

seek to identify and address any inequitable impact which the charging system may place on the disadvantaged.”

— (Minister for the Environment, Heritage and Local Government).

**Mr. Gilmore:** I thank the Members who participated in this debate, including those with whom I do not agree. I particularly thank Deputy McHugh who, at an appropriate time, reminded the House of the intent of the motion. This motion is about pensioners, people on social welfare, workers who are on low income and people who cannot afford the waste charges bills they are getting from either their local authority or the private bin collectors. The motion simply asks the Government to introduce a national waiver scheme on their behalf.

When I proposed this motion last night, I did so without political rancour and with the minimum of political comment in the hope of persuading the Government to introduce a national waiver scheme. I did not seek to blame the Government or to engage in political confrontation. The pensioners, the people on low income, low income workers and the people who are worried about the bill they have received from their local authority or private bin collector deserve better than the type of smart ass speech the Minister for the Environment, Heritage and Local Government gave last night.

The Minister, Deputy Roche, might consider it clever to send a political assistant or perhaps a media consultant, at taxpayers' expense, into the archives to discover a speech made 22 years ago by the former Deputy, Mr. Dick Spring, in the hope that it will somehow cause embarrassment to the Labour Party. I can respond with two facts. The Labour Party is proud of Dick Spring's record in public life and there are few who can hold a candle to it. Second, if we wanted to get into the embarrassment game, we would not have to go back 22 years to find something to embarrass Fianna Fáil.

The most serious aspect of the Minister's speech last night is the degree to which it was dishonest and inaccurate. He told the House, for example, that Dún Laoghaire-Rathdown County Council, on the basis of a motion supported by former Labour Party Minister, Niamh Bhreathnach, opted to support the estimates. He effectively said that the Labour Party's support for the estimates introduced the charging regime in that local authority. The estimates meeting in Dún Laoghaire-Rathdown County Council took place on 11 January. The county manager signed the order introducing the waste charges in that local authority on 17 December 2004. This clearly shows that the decision to introduce waste charges and make waiver schemes is made by county managers on the basis of legislation introduced by the previous Minister for the Environment, Heritage and Local Government, Deputy Cullen. Deputy Roche, Deputy Andrews, Deputy Fiona O'Malley and other Deputies who

spoke in those sleeveen terms about this issue all voted for it.

Deputy Fiona O'Malley spoke about the need for consistency. She concluded her speech by saying she opposes a national waiver scheme for waste charges. That does not surprise me. Deputy O'Malley and her party do not have a particularly good record of supporting measures, tax breaks or reliefs that affect poor people, as distinct from people at the other end of the social scale whom they support. However, if she wishes to discuss consistency, she could at least have made a contribution that was consistent with her party's policy. The Progressive Democrats election manifesto for the local elections in 2004 states: "We support exemption from waste charges for lower income households, including where bin services are privatised." The next time Deputy O'Malley wishes to lecture me about consistency, she might check her facts first.

**Mr. Rabbitte:** Even the Minister is smiling.

**Mr. Gilmore:** It was interesting that Government Deputies, such as Deputy Nolan, Deputy Carey, Deputy O'Connor, Deputy Callanan and Deputy Devins, could effectively agree with the motion in their contributions. They were arguing the case and discussing the difficulties for pensioners. Their arguments were similar to those of Deputy Morgan, Deputy McHugh and Deputy Boyle. They were, at least, prepared to use the time available to them to make a case on behalf of pensioners and people on low incomes. It is interesting that they could do that and that Deputy Gregory and Deputy Joe Higgins, in the course of their entire contributions, had nothing to say about pensioners or the people who are affected by this.

**Mr. J. Higgins:** There would be no charges except that the former leader of the Deputy's party, Deputy Spring, brought them in with Fine Gael. Let us have some honesty. Who brought them in? Dick Spring brought them in.

**Mr. Stagg:** That is rubbish.

**Mr. J. Higgins:** Who gave them the weapons to use? Dick Spring gave them the weapons.

**Mr. Stagg:** Rubbish.

**Mr. J. Higgins:** Deputy Gilmore was in the Workers Party when it denounced Dick Spring, and he comes in here tonight and lauds Mr. Spring, whereas he hated him as a member of the Workers Party.

**Mr. Stagg:** The Deputy is a liar.

**Mr. S. Ryan:** Deputy Joe Higgins has been found out.

**Mr. Stagg:** He is a liar.

**Mr. J. Higgins:** In the 1980s he voted against everything.

(Interruptions).

**Mr. S. Ryan:** Deputy Joe Higgins should vote against the motion.

**Mr. J. Higgins:** Vote for bringing in waste charges. Come on.

**An Leas-Cheann Comhairle:** Order, Deputy Gilmore, without interruption.

**Mr. Gilmore:** When the Labour Party comes here to make a case on behalf of the poorest

people in this society it is bad enough that we have to deal with the Government without being stabbed in the back by Deputy Joe Higgins.

**Deputies:** Hear, hear.

**Mr. J. Higgins:** Who stabbed whom in the back? Deputy Gilmore cannot lecture anyone on stabbing people in the back.

**Mr. S. Ryan:** Deputy Joe Higgins should vote against the motion tonight.

Amendment put.

The Dáil divided: Tá, 65; Níl, 58.

Tá

Ahern, Michael.  
Andrews, Barry.  
Ardagh, Seán.  
Brady, Martin.  
Brennan, Seamus.  
Browne, John.  
Callanan, Joe.  
Carey, Pat.  
Carty, John.  
Cassidy, Donie.  
Coughlan, Mary.  
Cregan, John.  
Curran, John.  
Davern, Noel.  
de Valera, Síle.  
Dempsey, Tony.  
Dennehy, John.  
Devins, Jimmy.  
Ellis, John.  
Fahey, Frank.  
Fitzpatrick, Dermot.  
Fleming, Seán.  
Glennon, Jim.  
Grealish, Noel.  
Hanafin, Mary.  
Haughey, Seán.  
Healy-Rae, Jackie.  
Hoctor, Máire.  
Jacob, Joe.  
Keaveney, Cecilia.  
Kelleher, Billy.  
Kelly, Peter.  
Kirk, Seamus.

Kitt, Tom.  
Lenihan, Conor.  
McDowell, Michael.  
McEllistram, Thomas.  
McGuinness, John.  
Martin, Micheál.  
Moloney, John.  
Moynihan, Donal.  
Moynihan, Michael.  
Mulcahy, Michael.  
Nolan, M. J.  
Ó Cuív, Éamon.  
Ó Fearghaíl, Seán.  
O'Connor, Charlie.  
O'Donnell, Liz.  
O'Donoghue, John.  
O'Donovan, Denis.  
O'Flynn, Noel.  
O'Keefe, Batt.  
O'Keefe, Ned.  
O'Malley, Fiona.  
O'Malley, Tim.  
Parlon, Tom.  
Power, Seán.  
Roche, Dick.  
Sexton, Mae.  
Smith, Brendan.  
Smith, Michael.  
Treacy, Noel.  
Wallace, Dan.  
Walsh, Joe.  
Wilkinson, Ollie.

Níl

Allen, Bernard.  
Boyle, Dan.  
Breen, James.  
Breen, Pat.  
Broughan, Thomas P.  
Connolly, Paudge.  
Costello, Joe.  
Coveney, Simon.  
Cowley, Jerry.  
Crowe, Seán.  
Cuffe, Ciarán.  
Deasy, John.  
Deenihan, Jimmy.  
Durkan, Bernard J.  
Enright, Olwyn.  
Ferris, Martin.  
Gilmore, Eamon.  
Gormley, John.  
Harkin, Marian.

Higgins, Joe.  
Hogan, Phil.  
Howlin, Brendan.  
Kehoe, Paul.  
Lynch, Kathleen.  
McGinley, Dinny.  
McGrath, Finian.  
McGrath, Paul.  
McHugh, Paddy.  
McManus, Liz.  
Mitchell, Gay.  
Morgan, Arthur.  
Moynihan-Cronin, Breeda.  
Murphy, Gerard.  
Naughten, Denis.  
Neville, Dan.  
Noonan, Michael.  
Ó Caoláin, Caoimhghín.  
Ó Snodaigh, Aengus.

Níl—continued

O'Dowd, Fergus.  
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.  
Sherlock, Joe.  
Shortall, Róisín.  
Stagg, Emmet.  
Stanton, David.  
Timmins, Billy.  
Twomey, Liam.  
Upton, Mary.  
Wall, Jack.

Tellers: Tá, Deputies Kitt and Kelleher; Níl, Deputies Stagg and Kehoe

Amendment declared carried.

Motion, as amended, put and declared carried.

### Adjournment Debate.

#### Consumer Protection.

**Dr. Upton:** I thank the Ceann Comhairle for allowing me to raise this matter, especially since I had to do a little toing and froing to find a home for this debate. It is often difficult to assign departmental responsibility to matters relating to children. While the Minister of State with responsibility for children is attached to the Department of Health and Children, matters affecting children cross over many Departments.

I refer to the problem of young people and children inadvertently agreeing to contracts for services with ringtone providers. I hope the Minister for Enterprise, Trade and Employment can clarify what obligations rest with such service providers to ensure subscribers are aware of age restrictions. I received a complaint from a constituent whose son, aged ten, received a new Nokia polyphonic mobile phone for Christmas with €60 free credit. Like many young people, this boy was attracted by a glossy advertisement in a football magazine to the services of Jamster, a provider of ringtones, mobile phone wallpaper and games. The ten year old was able to join one of the Jamster clubs, thereby agreeing to a contract with the provider. This club entitles a subscriber to a number of new ringtones and wallpaper per month. The boy was not aware as he joined the club that he was agreeing to a contract. He was not asked his age nor did the company stipulate that a subscriber must be at least 16 years.

One can download the contract agreed by subscribers at [www.jamster.ie](http://www.jamster.ie). This outlines that a contract agreed with a person under 16 is void. This is the current statement of the legal position. However, the ringtone provider should also inform all potential subscribers that they must be at least 16 to agree to a contract. I joined the same Jamster club over the Internet and at no

stage was I asked to confirm that I was over 16 or informed that I was agreeing to a contract.

Jamster is owned by the iLove company based in Berlin, Germany. The company provides different mobile phone accessory services aimed at different customers. Jamster is aimed at children and the latest pop songs are offered as ringtones, as well as the well known "Crazy Frog" ringtone. Jamster offers colour cartoon wallpaper and games and its services are marketed to children. Advertisements are placed in magazines heavily bought by children and teenagers. Jamster earns a great deal of its revenue from illegal contracts with children and young people who are completely unaware they have agreed to them.

The subscriber pays a fee on joining a Jamster club. This is €8 per month, for example, for the polyphonic ringtone club or the super games club. This allows the subscriber to one free ringtone and an entitlement to download further ringtones. However, a subscriber pays more than €8 to avail of the club. A sum of €1.65 is charged for every text alert received. This charge is levied when the subscriber uploads the GPRS connection on a text alert received. My constituent's son spent most of his €60 free credit on uploading such text alerts, which comprised new ringtones. A subscriber is sent text alerts on ordering a new ringtone and he or she can also receive unsolicited messages.

I contacted Jamster at the 1890 number provided but its representative was unwilling to provide clarification on its pricing structure. I was referred to the mobile phone provider, Vodafone, which I contacted, but it was unable to offer assistance. The corporate blurb on Jamster's website boasts of its ability to reap financial rewards from its customer base and of the free ringtone offer as a great teaser to derive response. It also boasts of what it calls high conversion and high payouts, listed as €2 for every sale.

I would be grateful if the Minister and relevant State agencies would look into the pricing structure of this service. This company is preying on the attraction of young people and children to their mobile phones, especially their ringtones, logos and games.

Jamster is aimed at young people. It induces young people to sign subscription contracts with-

out letting them know that they must be 16 or that they are even signing a contract. The pricing policy is unclear, but from the information I have it appears to be exploitative. I urge the Minister to bring in guidelines to protect children and young people availing of the new mobile phone technology. It is often the case that parents are not aware of the cost of such contracts and downloads.

**Minister for Enterprise, Trade and Employment (Mr. Martin):** I thank the Deputy for raising this issue. Her contribution and complaint have enlightened me and the House about the nature of the case. A number of Departments wondered which Department should take up this concern. Eventually we looked at it under the issue of company law and have drawn up the following reply. I ask the Deputy to discuss the issue further with my officials in terms of the details she has ascertained.

The Deputy refers to a telecommunications service whereby mobile phone customers can purchase and download ringtones for their handset. She is concerned, and rightly so if it is true, about the high incidence of children using this service and paying high prices for the product in question. This is not a matter about which I had knowledge prior to today and my officials have had a limited amount of time to research the matter.

I understand that the service works as follows. The customer makes a call or a series of calls on his or her mobile phone as a result of which a website address is sent by text message to the phone. The customer can then download the ringtone required from the website in question and load it on to his or her mobile phone handset. Payment for this service is levied by means of a charge on the customer's mobile phone bill or, in the case of pre-paid customers, by a deduction from their available call credit.

One of the Deputy's concerns is that at no point in the transaction is any indication given of the price which will be charged for downloading the ringtone. There is at least one company providing this service and I expect that there may be others. It appears, on the basis of the research conducted by my officials this afternoon, that this is a matter which raises a number of complex legal issues that merit further investigation. The Deputy will appreciate that I may not be able to give definitive answers to some of her questions this evening. However, I would be pleased to receive whatever detailed information the Deputy might have on the matter that might assist my Department in its inquiries. If the Deputy has such information or if I have misunderstood her concerns on this matter in any way, she should communicate directly with my office.

My Department is responsible, through the Director of Consumer Affairs, for the administration and enforcement of the distance selling directive, which is basically an EU law governing what are called distance contracts or contracts

concluded, for example, by telephone, over the Internet or by mail order. In the case of such contracts there are legal obligations on the supplier of the product or service in question to indicate to the purchaser in advance the terms and conditions, including in particular the price applying to the purchase. In certain circumstances, there are also provisions for what is known as a cooling-off period, whereby customers may cancel the contract without penalty if they change their mind. At this point I cannot say whether the type of service to which the Deputy refers constitutes a distance contract within the meaning of this directive. I will, however, make further inquiries to establish the precise position. These inquiries may involve seeking legal advice in the matter.

My Department has participated in negotiations in Brussels on a new unfair commercial practices directive, which is currently before the European Parliament and has not yet been adopted by the European Council of Ministers. The draft directive, which will in due course be an important addition to our body of consumer law, purports to outlaw a wide range of activities which are regarded as constituting unfair, misleading or aggressive sales practices. I have also asked my officials to examine the terms of this draft directive to ascertain whether the practice of concern to the Deputy is comprehended by its terms.

There may also be a possibility that the service in question is a premium rate telecommunications service. While this is not a matter for me or my Department, I am advised that such services are the subject of a code of practice administered by Regtel, an independent, not-for-profit limited company which is financed by means of a levy on the telecommunications industry. Regtel operates through a strict code of practice which must be observed by all companies or individuals offering premium rate services in Ireland. Again, however, I will have to make further inquiries to establish if Regtel has any function in this matter. I will also raise the matter with my colleague, the Minister for Communications, Marine and Natural Resources, to establish if any responsibility arises under his remit.

This matter appears to raise issues of contract law and perhaps even common law in so far as it might apply to the conclusion of contracts involving minors. I confirm again that I have asked my officials to make further inquiries and I will certainly communicate with the Deputy in the matter at an early date. No doubt we can facilitate an exchange of information between the Deputy and my officials.

#### **Industrial Disputes.**

**Mr. Durkan:** I thank the Ceann Comhairle for the opportunity to raise this issue. This issue began just a few weeks ago with a simple boardroom dispute which has now escalated. I do not want to get into the details of the dispute, but its escalation will have serious consequences for the



[Mr. Durkan.]

ESB, its consumers, both industrial and domestic, and the economy. What may have seemed like a simple disagreement initially has taken on far more serious proportions and is in danger of expanding into unofficial, or perhaps official, industrial action which will have serious consequences throughout the country.

I also raise this issue for another reason. There have been a number of “accidents”, for want of a better description, in State companies in recent times where what seemed a simple issue initially turned into a major issue later. In one or two cases the issue caused both sides to go to the brink of industrial action. In the case of Aer Lingus it led to even more serious consequences.

I am concerned that what is happening with the ESB, small as it may have been initially, has the propensity to escalate into a larger and wider issue with significant consequences for the ESB. This is a particularly sensitive time because of deregulation. I urge the responsible Minister to take immediate steps to ensure that whatever difficulties that have arisen are made known to all parties concerned. The difficulties must be resolved and the ESB must discharge its responsibilities to the public and to the domestic and industrial consumer with due regard to the need to protect the economy.

**Minister of State at the Department of Foreign Affairs (Mr. C. Lenihan):** I am addressing this issue on behalf of my colleague the Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey.

The Minister has asked me to make two specific points at the outset. First, he does not have primary responsibility within the Government for industrial relations issues. Second, the situation currently pertaining at board level in the ESB is an internal matter for the board. I should also preface the remainder of this speech by saying that the Minister is in receipt of legal correspondence in this matter and I must take cognisance of that in what can be said here tonight.

The current boardroom issue has added another dimension to the already complex industrial relations environment in the ESB. The Minister understands that unofficial industrial action has been threatened by ESB shop stewards in the business unit network distribution with effect from Friday, 18 February. It is understood that formal notification of such action has not been served on the ESB in accordance with normal industrial relations procedures.

This is clearly in breach of the spirit of partnership and the commitments regarding industrial peace entered into by all parties under the Sustaining Progress agreement. If the country or any customer was to be left without electricity because of a procedural disagreement at board level it is fair to say that such a development would not be welcomed by the public or the Government.

The Minister understands that the boardroom situation has arisen over the procedure for chairing the meetings of the board in the absence of the chairman. During the course of the last board meeting in January, it appears the chairman had to absent himself for a part of the meeting. A board member, other than the deputy chairman, was selected by the board to chair the meeting during the chairman’s absence. The Minister understands the board relied on the regulations of the board in reaching this arrangement and account was also taken of corporate governance independence criteria.

The July 2003 combined code on corporate governance sets out the principles of good governance and a code of best practice. Companies listed on the Stock Exchange are required to report on compliance with all the provisions of the code.

While ESB is not explicitly bound by the code, the company supports its principles and provisions and endeavours to adhere to best practice in the area of corporate governance while continuing to comply with its other accountability obligations to the Minister and Government. This is clearly stated in the company’s 2003 annual report. The ESB intends to make a further report on its compliance with the combined code in its annual report for 2004, which will be due for publication later this year.

The combined code provides that a chairman should meet independence criteria. Criteria cited as compromising independence are if the chairman has been an employee of the company within the last five years, if the person is a member of the company’s pension scheme and if the person has served on the board for more than nine years from the date of his or her first election to it. In light of this, the deputy chairman does not meet these criteria given his long service in the employment of ESB and his membership on the board for over 20 years. The independence of the chairman is critical if the board is to function properly. The Minister understands that the chairman took full account of the criteria from the combined code in reaching his recommendation as to who should act in his place in his absence.

The Minister also understands that the chairman was of the view that the recent newsletter issued by the deputy chairman may have compromised the deputy chairman’s independence in the chair. The deputy chairman had expounded his views in public on matters which had not yet been discussed by the board.

Some media sources reported that the deputy chairman was “removed” or “dismissed” from his position. This would appear to put a particular negative angle on the procedural arrangements followed by the board when selecting an acting chairman during the January meeting. The current deputy chairman was appointed to that position by the Minister’s predecessor. The Minister has not rescinded that appointment and so the usage of such terminology as “removed” or “dismissed” is not accurate. There would appear to

be a clear and urgent case for the parties concerned to focus on a solution to avoid any unnecessary disruption to power supplies.

### **Offshore Exploration.**

**Dr. Cowley:** I am grateful for the opportunity to raise this important matter on the Adjournment. I received representation from constituents in the Rosspoint area who are concerned about the onshore pipe bringing the gas from the Atlantic Ocean to a terminal which has yet to be constructed. These people are concerned about their health and safety. On their behalf, I am demanding more answers from Government as to whether it should take more steps to ensure the health and safety concerns of residents are adequately addressed. I do not believe that is the case at present.

Serious questions need to be answered before I would be satisfied that residents are being taken seriously. When I sought answers from the Department of Communications, Marine and Natural Resources, I was told a quantified risk assessment had been carried out. I refer to the Andrew Johnson report of 28 March 2002. I was also informed that the Department had employed an independent UK consultant to examine the study and independently assess it. I was further informed the Department was happy with the situation. I met the Shell company today. I had been anxious that the company would meet with the residents of the area but because a judicial review is pending, Shell stated it was not in a position to meet them.

I tabled a parliamentary question to the Minister, Deputy Noel Dempsey, and I am less than happy with the reply I received. The reply states that a QRA was carried out but does not provide any details. It also made great play of the fact that nobody would be closer than 70 m to the pipeline, in other words that they would be safe in their homes. However, that begs the question of how safe would be a person working on his or her farm at a distance closer than 70 m to the pipeline or a passer-by or car driver. The Minister stated the risk is very small but it is my contention that a risk exists.

Residents are also concerned about pressure in the pipes. The Minister stated the design is up to 345 bar and that the pressure in the pipeline would be initially 150 bar, reducing over the life of the gas field to less than that. However, that is cold comfort to the local people who are concerned about pressure in the pipeline.

The Andrew Johnson report gives rise to questions. I have serious doubts that this is a QRA because it refers to recommendations that should be included in a QRA and identifies shortcomings that still need to be addressed such as an adequate leakage system. To date no information has come forward relating to a leakage detection system which would be essential. All design recommendations must be included, and if they

are not included, which according to the report is the case, then safety cannot be guaranteed.

The report is quite confusing. It refers to a separate QRA which implies that the report in question is not a QRA. The report states that the risk is acceptable provided that certain design recommendations are implemented, but page 19 of the report states that the majority of the design recommendations have been incorporated which implies that some recommendations have not been incorporated. How can this be taken as a complete resolution of the matter? The Government has not addressed the issue properly. Local people deserve to have their fears properly allayed. I question if a QRA has been carried out. I do not accept that the Andrew Johnson report is a QRA. I hope the Minister will answer this question for me.

**Mr. C. Lenihan:** I am addressing this matter this evening on behalf of my colleague, the Minister for Communications, Marine and Natural Resources, Deputy Noel Dempsey. On the question of the quantified risk assessment referred to by the Minister in a reply to a parliamentary question raised by Deputy Cowley and answered on 9 February last, the assessment to which he was referring to was not the Johnson report to which the Deputy understood it to be. It was a quantified risk assessment report commissioned by the then developers in 2001, namely, Enterprise Energy Ireland Limited, on the onshore pipeline.

A risk is an expression which combines the probability of an event and the consequences of that event. The qualified risk assessment looks at the specifics of the pipeline and of the area the pipeline goes through using statistical data to determine the risks associated with failure. The quantified risk assessment addresses the risks present during the operational phase of the onshore section of the pipeline, that is, the section of the pipeline between the mean low water mark and the first isolation valve upstream of the pig trap in the onshore terminal.

As regards the Minister being satisfied that a quantified risk assessment has been carried out on the onshore sections of the Corrib gas pipeline, that is the case and a copy has been made available to the Department. The quantified risk assessment undertaken for the onshore section of the pipeline, which was intended to identify and assess all risks associated with the operation of the onshore section of the pipeline, included a detailed analysis of the risk of damage to the pipeline and consequences of any such damage.

The report makes recommendations for risk reduction where appropriate and will seek to demonstrate that the residual risks associated with the operation of the onshore pipeline have been reduced to tolerable levels. It showed that even in the worst case of the pipeline being ruptured and the gas being ignited, the occupants of a building 70 metres away would be safe. The design of the pipeline means that the risk of such

[Mr. C. Lenihan.]  
an event or any other type of gas escape is infinitesimally small.

Following receipt of the developers' pipeline consent to construct application, the Minister's predecessor commissioned a pipeline expert, Mr. Andrew Johnson, to carry out a further independent technical evaluation on the information supplied by the developers. Mr. Johnson's report suggested certain updating of the company's quantified risk assessment and the developers duly agreed to carry this out.

Mr. Johnson's report was entitled Report on the Evaluation of the On-shore Pipeline Design Code, and makes a number of recommendations for risk reduction where appropriate. Mr. Johnson's study addressed design, methodology, operating conditions, pipeline commission, public safety, welding and testing, pipeline material and quality and protection from interference. He stated that the onshore pipeline design code had been selected in accordance with best public safety considerations and is appropriate for the pipeline operating conditions.

He further advised that subject to the developer undertaking to comply with a number of conditions to be laid down in approvals and consents granted, the design is generally in accord-

ance with best international industry practice and that the pipeline is considered to meet public safety requirements. In addition, Mr. Johnson recommended that the pipeline should be laid a minimum of 70 metres away from houses and this was included as part of the conditions of the pipeline consent given.

Consent to construct gives the developers the assurance that the pipe can be designed and manufactured to the codes and standards agreed and for the specific route agreed. However, the subsequent installation and commissioning operation for the flow of first gas will be subject to separate approval by the Minister. This will ensure that specific installation operations will be subject to whatever logistical conditions are considered appropriate by the relevant regulatory bodies, in accordance with national and international statutory and other requirements and regulations. The operation of the lines will only be approved — consent for first gas — when the Minister has assurances that the lines, as constructed and installed, are fit for the purpose and have complied with the verification process included in the plan of development approval.

I hope this answers some of the issues raised by the Deputy.

The Dáil adjourned at 9.15 p.m. until 10.30 a.m. on Thursday, 17 February 2005.

## 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 6, inclusive, answered orally.*

*Questions Nos. 7 to 55, inclusive, resubmitted.*

*Questions No. 56 to 64, inclusive, answered orally.*

### Proposed Legislation.

65. **Mr. S. Ryan** asked the Minister for Justice, Equality and Law Reform when he expects that the long promised judicial conduct and ethics Bill will be published; if he has brought proposals to Government on the matter; if the heads of a Bill have been approved by Cabinet; the general approach he intends to adopt; and if he will make a statement on the matter. [4948/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I expect to be in a position shortly to bring the scheme of a judicial council Bill to Government for approval with a view to publishing the Bill itself in the first half of this year. The preparation of the scheme of the Bill is at an advanced stage. I am engaged in a number of necessary consultations on the draft scheme at present.

The Bill will establish a judicial council with responsibility for a number of matters. Among these will be the devising of a code of ethics and the management of a process, to be set out in the Bill, for the investigation of complaints about judicial misbehaviour. An important feature of this disciplinary process will be provisions requiring lay participation, that is to say people who are not judges or lawyers, in the process. Other matters to be included in the council's functions will be responsibility for judicial education and training and the exchange of information among judges on such matters as sentencing. In these regards, the Bill will build on the report of the committee on judicial conduct and ethics chaired by the former Chief Justice Ronan Keane.

It is my intention that when the scheme of the Bill has been approved by Government, I will make it available to the Joint Committee on Justice, Equality, Defence and Women's Rights.

Any views that may emerge from the joint committee can be taken into account during the drafting of the Bill, which will be proceeding at the same time.

### Garda Complaints Procedures.

66. **Mr. Connaughton** asked the Minister for Justice, Equality and Law Reform the number of complaints received by the Garda complaints board in the years 2000 to 2004 inclusive; the number of cases that went through the entire process; the number of cases in which sanctions were imposed on members of the force; the number of cases determined as being frivolous; and if he will make a statement on the matter. [5050/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The information sought by the Deputy and furnished to me by the complaints board is set out in the attached appendix which is being circulated to members with this answer. As the Deputy will see, the annual number of complaints over the period in question has ranged from 1,175 to 1,405, with the figure for last year being 1,232.

Complaints referred to as having gone through the entire process are regarded as those which have been admitted by the chief executive for investigation, investigated by an officer of the Garda Síochána under the direction of the board and formally decided upon by the board. The number of these cases over the period in question has ranged from 373 in the year 2000 to 509 in the year 2003. The figure for last year was 507. It is important to note that the outcome of complaints listed in the appendix refers to work processed under the years in question and this includes complaints on-hand at the start of each year as well as complaints received during the year in question.

The figures for 2004 are provisional and the final figures will be included in the board's annual report which will be laid before the Houses of the Oireachtas in due course.

As regards the sanctions imposed on members of the Garda Síochána, minor breaches of discipline are referred to the Garda Commissioner and these are dealt with under the Garda disciplinary code. Matters of a more serious nature are referred to tribunals. The figures are not yet to hand for 2004 but for the period 2000 to 2003, the outcomes of tribunal hearings resulting in Garda members being found to be in breach of discipline are as follows:

Year 2000	Year 2001	Year 2002	Year 2003
6	2	4	10

\* Detailed breakdown of these figures and other statistics are contained in the annual reports of the board.

## Appendix 1

Year	2000	2001	2002	2003	2004*
Number of complaints received:	1,309	1,281	1,405	1,175	1,232
Cases that went through the entire process:	373	474	444	509	507
Cases referred by the board to the complaints tribunal under section 7(5) (breaches of discipline not of a minor nature):	9	10	16	14	27
Cases referred by the board to the Garda Commissioner under section 7(4) (breaches of discipline of a minor nature):	28	18	15	13	31
Cases that were deemed frivolous by the board or the chief executive:	40	31	1	8	28
Cases that were deemed vexatious by the board or the chief executive:	167	161	50	142	259

\* Provisional figures for 2004 only.

### Garda Deployment.

67. **Ms McManus** asked the Minister for Justice, Equality and Law Reform the number of serving members of the gardaí employed as full time drivers for Ministers, former Ministers and judicial figures; the annual cost in terms of salaries of such drivers; if he will undertake an assessment of whether this is the best use of Garda resources; and if he will make a statement on the matter. [4935/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Ministerial State cars are placed at the disposal of Ministers and others pursuant to a long standing arrangement and are supplied to the following: Taoiseach; Tánaiste; 13 Ministers; President; Chief Whip; Ceann Comhairle; Attorney General; Director of Public Prosecutions; Chief Justice; former Taoisigh and Presidents.

There are no set rules as to when ministerial cars are replaced but, in general, those which are two years old and-or have a mileage in excess of 100,000 miles are considered for replacement.

I have been informed by the Garda authorities, which are responsible for the detailed allocation of resources, including personnel, that there are currently 73 gardaí attached to the ministerial pool of which 56 are allocated on a full time basis as drivers for the ministerial fleet. The remaining 17 gardaí are on a relief panel and cover periods of absences through annual leave and illness. I am further informed that the annual costs of such drivers is approximately €5.2 million and includes salaries, allowances and subsistence. These drivers are tasked with providing personal protection, in addition to their driving duties, and there are currently no plans to replace them with civilian drivers.

68. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform the security arrangements the gardaí are planning for the Phibsboro area in view of concerns expressed by local residents arising from a decision that Shamrock Rovers will play its home matches at Dalymount from March 2005 when the new soccer season starts;

and if he will make a statement on the matter. [4955/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Policing arrangements for public events and in locations generally, along with the allocation of Garda resources, are solely a matter for the Garda Commissioner. However, I understand from the Garda authorities that the Garda Síochána is not aware of any decision having been taken in relation to Shamrock Rovers playing at Dalymount Park. As I am sure the Deputy will understand, in the event of this situation arising, a multiplicity of factors will influence the policing arrangements which will arise. Where such events take place, the Garda authorities work closely with the relevant persons in the matter in order to avoid as much disruption as possible for residents in the immediate area and the surrounding community.

69. **Mr. Boyle** asked the Minister for Justice, Equality and Law Reform the action which has been taken in 2005 to address the incidence of prostitution in the Dublin 7 area; the number of plain clothes and undercover gardaí available in the area; the average response time; and the details of the most recent prosecutions under the Breaches of Criminal Law (Sexual Offences) Act 1993 in that area. [5097/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities that within the Bridewell district, which covers the Dublin 7 area, there are two plain clothes gardaí assigned to deal with incidents of prostitution. In addition to this, both regular patrols and district detective units are also involved in dealing with incidents of prostitution in the Dublin 7 area. I understand that response times are immediate in respect of the designated gardaí in the area, but that response times will vary in respect of other patrols depending on other demands at any given time.

I have further been informed that since 1 January 2005, there have been 12 prosecutions under the Criminal Law (Sexual Offences) Act 1993 in the area concerned. As the Deputy may

already be aware, the legislation governing this activity is quite modern with the Criminal Law (Sexual Offences) Act 1993 being the most recent statute. Prostitution is not in itself a crime, but the law seeks to protect prostitutes from exploitation and to protect the public from certain manifestations of prostitution. It is an offence for a person, in a street or public place, to solicit or importune another person for the purposes of prostitution. The offence applies equally to a prostitute soliciting a client, a client soliciting a prostitute or a third party soliciting one on behalf of the other. The same offence and penalties apply to prostitutes, clients or anyone who solicits in a public place. It is also an offence to solicit or importune another person in order to commit certain sexual offences, such as sexual offences with underage persons or to keep or to manage a brothel.

A significant provision is that a member of the Garda Síochána, who has reasonable cause to suspect that a person is loitering in a street or public place in order to solicit for the purpose of prostitution, may direct that person to leave the scene immediately. It is then an offence not to comply with such a direction without reasonable cause. "Loitering" includes loitering in a motor vehicle and this provision therefore also applies to kerbcrawlers. In addition to its other provisions the Criminal Law (Sexual Offences) Act 1993 also extended the law on soliciting in public, which previously applied only to prostitutes and any third parties organising and profiting from prostitution.

#### Site Acquisition.

70. **Mr. Wall** asked the Minister for Justice, Equality and Law Reform the reason his Department purchased a site for the probation and welfare service in Blanchardstown to locate its services; the further reason it sought and obtained planning permission for a probation and welfare centre on the site; the further reason it decided not to proceed with the development of the centre; and if he will make a statement on the matter. [4954/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The old AIB premises at Main Street, Blanchardstown, was acquired by the Office of Public Works on behalf of the Probation and Welfare Service. As the intention was to renovate and extend these premises, using one portion as a local office and the other as a probation centre, planning permission was required. The proposed change in the use of the building would also have required planning permission.

However, before proceeding with the refurbishment project, due to concerns which emerged in the matter, my Department decided to review the suitability of the location in question and examine alternative options in the

Blanchardstown area, including locations near the town centre. It is hoped to have the matter resolved in the near future.

#### Garda Deployment.

71. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform the number of juvenile liaison officers in the gardaí at the latest date for which figures are available; his plans to extend the scheme in view of the proven success of it in dealing with juvenile offenders and in view of the huge work load carried out by juvenile liaison officers who are dealing with more than 17,000 juvenile offenders each year; and if he will make a statement on the matter. [4930/05]

**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 as of 14 February 2005 there were 86 juvenile liaison officer, JLO, gardaí and eight JLO sergeants working in the various divisions throughout the country. In addition to this, the national juvenile office has a staff of one superintendent, two inspectors and two sergeants.

The Children Act 2001, which came into law in May 2002, gave a statutory basis to the juvenile diversion programme which includes a restorative justice aspect. The Garda authorities estimate that in the year 2004, the Garda juvenile office received between 17,000 and 20,000 referrals under the programme. Exact figures are expected to be available in March 2005. Early assessments indicated a very high level of satisfaction from those involved in the process.

Ongoing evaluation of restorative justice practice is being carried out by the Garda research unit. All Garda juvenile liaison officers have received training in restorative justice and over half have received training in mediation skills. It is expected that the ongoing development of restorative justice within the juvenile diversion programme will lead to a significant reduction in the incidence of recidivism.

The diversion programme already exists on a nationwide basis and is delivered throughout the country by specially trained gardaí. Resource implications are constantly under review and applications for additional resources are made on a case by case basis when and where necessary.

In relation to Garda resources generally, the House will be aware that the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis, in line with the An Agreed Programme for Government commitment in this regard. This is a key commitment in the programme for Government, and its implementation will significantly strengthen the operational capacity of the force.

[Mr. McDowell.]

The commissioner will now be drawing up plans on how best to distribute and manage these additional resources, and in this context due consideration will, *inter alia*, be given to the resourcing of the juvenile liaison scheme. Clearly, of course, the additional resources will be targeted at the areas of greatest need, as is envisaged in the programme for Government. The programme identifies in particular areas with a significant drugs problem and a large number of public order offences, but it will be possible to address other priorities as well, such as the need to very significantly increase the number of gardaí allocated to traffic duties as part of the new Garda traffic corps. I have already promised that the additional gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing. They will have a real impact.

### Garda Disciplinary Proceedings.

72. **Mr. M. Higgins** asked the Minister for Justice, Equality and Law Reform the total amount paid out in 2001, 2002, 2003, 2004 and to date in 2005 either in respect of court awards or out of court settlements for claims taken against members of the gardaí in respect of assault, unlawful arrest, or other breach of a citizen's right; the number of cases in which awards were made by the courts and the number of cases which were settled out of court; the number of such cases pending; and if he will make a statement on the matter. [4931/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The information requested by the Deputy in relation to court awards and out of court settlements in actions taken against members of the Garda Síochána in respect of assault, unlawful arrest or other breaches of citizens' rights is set out in the table below.

As of 31 December 2003, there were approximately 750 civil actions taken against members of the Garda Síochána on hand. A detailed breakdown of these actions in the form of the number of allegations of assault, unlawful arrest and other

breaches of citizens' rights is not readily available. However, a database introduced in 2002 for the purposes of recording civil actions taken against members of the Garda Síochána, indicates that in 2003 — the first complete year for which a detailed breakdown is available — of the 142 actions initiated or received in that year by my Department, there were 34 cases of alleged assault recorded and 38 cases of alleged unlawful arrest recorded. The remaining 70 cases recorded included allegations of defamation and harassment. In the year 2004, 127 actions have been initiated-received. They include 40 cases of alleged assault and 26 cases of alleged unlawful arrest. In the year 2005 to date, 19 actions have been initiated-received. They include four cases of alleged assault and four cases of alleged unlawful arrest.

Civil actions may be taken by the general public against members of the Garda Síochána for compensation for alleged wrongs and personal injuries inflicted on them by Garda members in the performance of their duties. The highest percentage of these types of civil actions against the Garda Síochána is in relation to assault and unlawful arrest. The majority of these cases have been settled for less than €25,500. Settlement of cases takes place on the advice of the Chief State Solicitor, the Attorney General and State Counsel.

The Garda Commissioner has informed me that incidents which result in claims against the State in respect of the actions of gardaí are examined as appropriate with a view to identifying and implementing operational strategies to eliminate or reduce similar claims in the future. The Garda Commissioner has also informed me that the Garda Síochána (Discipline) Regulations 1989 are invoked in appropriate cases where the actions of individual Garda members come into question. One of the principal aims of the Garda Síochána Bill 2004 is the establishment of a new mechanism for dealing with complaints against members of the Garda Síochána which will secure public confidence and which will address the acknowledged shortcomings in the existing law and procedures on complaints.

Year (Total Amount)		Assault	Unlawful Arrest	Other
		€	€	€
2001 €1,619,746.83	Awards	1,904.61 (1)	20,950.68(2)	22,220.42 (1)
	Settlements	123,164.59 (5)	33,965.49 (3)	162,782.25 (9)
	Costs	244,665.35	123,199.41	886,894.03
	Total	369,734.55	178,115.58	1,071,896.70
2002 €1,240,388.40	Awards	1,270 (1)	3,809.21 (1)	56,500 (2)
	Settlements	166,924.48 (6)	106,835.58(10)	185,078.82(11)
	Costs	230,769.67	148,714.19	340,486.45
	Total	398,964.15	259,358.98	582,065.27

Year (Total Amount)		Assault	Unlawful Arrest	Other
		€	€	€
2003 €1,276,127.55	Awards	11,000 (1)	10,000 (2)	4,870 (2)
	Settlements	75,000 (4)	303,011 (5)	112,814.84 (4)
	Costs	145,561.70	71,794.28	542,075.73
	Total	231,561.70	384,805.28	659,760.57
2004 (Provisional) €938,799.09	Awards	15,000 (1)	0	3,215.06 (1)
	Settlements	198,697.48 (5)*	73,007 (5)*	50,500 (3)
	Costs	231,646.62	100,019.36	266,713.57
	Total	445,344.10	173,026.36	320,428.63
2005 (Provisional) €449,654.07 as at 11/02/05	Awards		250.00 (1)	
	Settlements		6,113.00 (1)	
	Costs		442,686.07(1)	605.00 (1)
	Total		449,049.07	605.00

The number of cases in which awards were made by the courts and the number of cases which were settled out of court are shown in brackets in each case.

\* Further to the reply given to Parliamentary Question No. 35 on 8 December 2004, following a review of the categories of actions taken, the provisional figures for settlements under assaults and unlawful arrest in the year 2004 have been adjusted.

### Industrial Dispute.

73. **Mr. O'Shea** asked the Minister for Justice, Equality and Law Reform the position in regard to his negotiations with the Prison Officers' Association to resolve the long running dispute; and if he will make a statement on the matter. [4939/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I draw the Deputy's attention to my response to Parliamentary Question No. 692 on 26 January last in which I indicated that officials of the Irish Prison Service had re-engaged in discussions with the Prison Officers' Association at the Labour Relations Commission following on a determination by the Civil Service Arbitration Board on a number of financial issues. The position is that these discussions concluded on 8 February with agreement between the Irish Prison Service and the Prison Officers' Association on a proposal for organisational change which will shortly be put to staff for ballot.

As I have indicated previously to the House, the heretofore dependence on overtime cannot be sustained in a progressive modern prison service. It is my firm belief that the proposal for organisational change presents an important turning point for the Irish Prison Service and it offers a mutually satisfactory way forward for the service. For staff there is a real opportunity to gain improved terms of service, including a guaranteed level of earnings and predictable attendance patterns as well as paving the way for greater staff development. For the Irish Prison Service, there is a real prospect of a more efficient and cost effective method of service delivery. I hope that staff will seize the opportunity they are now presented with and that the proposal for organisational change will be endorsed in the forthcoming ballot.

### Juvenile Offenders.

74. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform the measures his Department has in place to deal with juveniles who are at risk or who have committed offences; the proposals he has to improve the juvenile justice system; and if he will make a statement on the matter. [4959/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Children Act 2001 is a fundamental revision of the law governing the treatment of children in conflict with the law and non-offending children in need of special care and protection. The principal considerations behind the Act are: prevention, through early intervention, is desirable; diversion, where a child has committed an offence, is the preferred option where society would not be adversely affected; community sanctions should be available where it is necessary to bring a child before the courts; and although appropriate in certain cases, detention for children should be a measure of last resort.

The Children Act is comprehensive but complex legislation and, as was envisaged at the time of its enactment, it is being implemented on a phased basis. Responsibility for implementing the Act lies with the Departments of Justice, Equality and Law Reform, Education and Science and Health and Children. Despite the complexity of the legislation, significant progress has been made in its implementation to date. The implementation process is being co-ordinated by the National Children's Office.

A key aim of the Act is to retain the distinction between offending children and non-offending children in need of care and protection by providing two distinctive pathways for addressing their needs: a youth justice route which emphasises diversion and restorative justice; and a welfare route which emphasises care and protection.



[Mr. McDowell.]

As regards the youth justice route, Part 4 of the Children Act providing for a diversion programme to replace the Garda juvenile liaison scheme was brought into operation in May 2002. The objective of the programme, which is administered by the Garda Síochána, is to divert any child who accepts responsibility for his or her criminal behaviour from committing further offences. It is implemented throughout the country by specially trained gardaí working as juvenile liaison officers. The programme introduced the concepts of restorative justice and family conferencing.

In addition to the diversion programme, my Department also funds the Garda youth diversion projects. These projects are community-based, multi-agency initiatives that aim to divert young people from becoming involved in anti-social and-or criminal behaviour by providing suitable activities to facilitate personal development, promote civic responsibility and challenge offending behaviour. The number of such projects has grown from 12 in 1997 to 64 at present, a growth made possible in part by funding under the National Development Plan 2000-06. I am committed to their continuing development and, as resources allow, their expansion.

The probation and welfare service supports 73 projects nationally which offer programmes to offenders and those at risk of offending. Forty six of these projects target young offenders specifically. There are plans to extend the range of projects which offer services to young offenders and children as part of the implementation of the Children Act 2001.

Within the prison system, facilities and programmes for young offenders are centred mainly at St. Patrick's Institution, although young offenders are accommodated at other places of detention. A broad range of services is provided, including individual and group programmes involving education, training, medical and welfare supports.

It is important to emphasise too that a wide range of educational and support services for young people generally is provided by a number of Departments. Although not all these services are targeted specifically in the area of crime prevention, of course, there are linkages and co-operation with other Departments on significant cross-cutting issues relevant to the area of youth justice.

The initiatives put in place by the Government under the national drugs strategy target young people at risk of substance misuse as a priority group and my Department continues to play an active part in the framework established to implement the drugs strategy. My Department is represented on the national assessment committee of the young peoples facilities and services fund. This fund was set up by the Government to attract young people at risk into sports, recreational facilities and activities and to divert

them away from the danger of substance misuse. The Government has provided approximately €75 million to date to support about 450 facilities and services.

The cross-cutting and interdependent nature of the Children Act reflects a well-acknowledged need to begin to join up strategy and operation of services for children. With this in mind, I established a project team in my Department which has been charged with examining the scope for rationalising and restructuring the delivery of the State's services in the area of youth justice. A sound statutory framework for a modern youth justice system has been established with the Children Act, but I consider that some fresh thinking with regard to the institutional and strategic environment in which it is to operate may be helpful.

The project team is consulting with the statutory bodies which have responsibilities for the delivery of services to young people, whether they are offenders or at risk. The team is also meeting with a wide range of non-governmental service providers and experts in the area. An evaluation of certain developments in other jurisdictions is also being undertaken. As I have indicated previously, I expect the project team to report to me before the summer.

#### **Prisoner Reintegration.**

75. **Mr. O'Shea** asked the Minister for Justice, Equality and Law Reform the progress made to date towards implementing the recommendations of the report of the NESF, published in 2002, on the reintegration of prisoners; and if he will make a statement on the matter. [4938/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the Deputy may be aware, the NESF itself has, in November 2004, presented a report to the Taoiseach entitled, Fourth Periodic Report on the Work of the NESF, which the forum had prepared for the purpose of reviewing implementation and follow through, mainly by Departments and State agencies, on several particular reports it had undertaken and submitted over the period 2001-03 and including its January 2002 forum report on the re-integration of prisoners. In compiling this periodic report the NESF had available to it a detailed and comprehensive update on progress in implementing the various recommendations in the 2002 report, as advanced by my Department, the Irish Prison Service, the probation and welfare service, and other agencies in the criminal justice sphere.

In setting its conclusions in its fourth periodic report, the NESF welcomed the progress made in implementing the main thrust of its 2002 report. The NESF had, in particular noted a number of encouraging steps including the establishment of the Irish Prison Service's regimes directorate with a dedicated director of regimes as an important first step in rebalancing the custodial and care-rehabilitations functions of the service and the establishment in prisons, in partnership with the

probation and welfare service, of initiatives in outreach and in-reach services to improve prisoner reintegration. These initiatives have included in-reach initiatives providing advice, referral and support to prisoners on housing, including local authority, private rented and transitional, training and employment, income maintenance, and general social welfare. In the particular context of social welfare, the probation and welfare service has contributed to the information booklet, *What Now?*, published by the Department of Social and Community Affairs and is continuing to develop information and resources to assist prisoners on release from custody through its network of 74 funded community and voluntary projects and initiatives throughout Ireland.

The probation and welfare service has, in conjunction with local communities, funded and fostered the two significant restorative justice initiatives for offenders before courts — restorative justice services in Tallaght, County Dublin, and Nenagh reparation project in County Tipperary. Probation and welfare officers also manage court based family conferencing and the current restorative orders under the Children Act 2001 and will implement further orders provided for in the Children Act 2001 as they are brought into operation.

The NESF Fourth Periodic Report also recognises the establishment of HOST, homeless offenders strategy team, as a notable contribution to the development of the necessary implementation and supportive structure. HOST is a probation and welfare service led multi-agency unit established to address homelessness among offenders. A senior official from Dublin City Council is seconded to HOST, with the support of the Department of the Environment, Heritage and Local Government. Since its establishment in 2002 on foot of the homeless preventative strategy, HOST works at a national level to prevent and minimise homelessness among offenders and to improve access to accommodation by offenders. The work of HOST is informed by Government strategy on adult and youth homelessness.

Among other positive advances noted by the NESF were the inclusion of prisoner integration in future prison business plans and the inclusion of prisoners in social inclusion strategies, such as the national anti-poverty strategy, and developments in relation to meeting the accommodation needs of prisoners on release.

The probation and welfare service has funded and commissioned major research on prisoner homelessness. This research, carried out by the centre for social and educational research at the Dublin Institute of Technology, tracked the progression of a sample of offenders in Dublin through the courts and prison, with particular reference to accommodation issues facing them. The research, which is currently being printed, will

make a valuable contribution to the planning and provision of services in this area.

The Irish Prison Service has taken on board the suggestion made in the Fourth Periodic Report that the option for a pilot positive sentence management project be explored and this approach is being actively reviewed at present in the Irish Prison Service.

In summation, I welcome the NESF's broad conclusion that the essential foundation work is nearing completion. In consequence of which the pace of progress will increase and positive sentence management will become a reality. My Department will continue to advance the relevant recommendations of the NESF Report No. 22 regarding the effective reintegration of prisoners, in partnership with the Irish Prison Service, the probation and welfare service and other services, agencies and community groups.

#### **Crime Victimisation Survey.**

76. **Ms McManus** asked the Minister for Justice, Equality and Law Reform when the promised new national crime victimisation survey will commence; the person by whom it will be carried out; the frequency with which it will be undertaken; and if he will make a statement on the matter. [4934/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In July 2003, the Government approved my proposal that a regular national crime victimisation survey be carried out biennially as a valuable and useful complement to the information on crime already available, which includes the Garda Commissioner's annual report and the headline crime figures which I publish on an annual and quarterly basis. Such surveys would provide a more comprehensive perspective on crime victimisation than is currently available and when undertaken on a regular basis, would provide useful information on emerging trends in crime and so provide input into developing strategies to combat crime.

The expert group on crime statistics, which I established and the report of which I published in July 2004, recommended the establishment of a central crime statistics unit, which would, *inter alia*, examine the collation of information relating to crimes reported to and recorded by the gardaí, examine the collation of information relating to other crimes where the Garda Síochána is not the prosecuting authority, identify the needs of key stakeholders within the criminal justice system and the wider research community and publish criminal justice statistics, based initially on the Garda Síochána PULSE data. I accepted the recommendation that such a unit be established and work is underway on establishing it within the Central Statistics Office.

The report of the expert group strongly endorsed the Government decision to conduct biennial national crime victimisation surveys and recommended that the unit be responsible for overseeing the national crime victimisation sur-

[Mr. McDowell.]

vey and involved in its design and planning. I also accepted this recommendation and work on the survey will be undertaken by the unit as part of its duties.

I understand from the Central Statistics Office that a crime and victimisation survey is to be carried out, either via a dedicated survey or a module of the quarterly national household survey, QNHS, in 2006. This latter approach has previously been used in both 1998 and 2003. The Central Statistics Office expect that dedicated crime and victimisation surveys will be carried out in 2008 and biennially thereafter.

I also understand that the Central Statistics Office intends to develop these surveys in a way that will maximise their utility and their coherence with other administrative data available in the criminal justice system. It is important to note that the data that will result from these surveys will not be directly comparable to the crime statistics based on data recorded by the Garda Síochána as there will be fundamental differences in sources, definitions and classification methodology.

#### **Air Pollution.**

77. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform the latest figures for the prosecution of persons driving vehicles that are exceeding the proscribed air pollution limits. [5095/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Legislation governing road traffic law is a matter for my colleague, the Minister for Transport, and I have been informed by his Department that there is no legislation in place governing air pollution limits for vehicles. However, I have been further informed by the Department of Transport that the Road Traffic (Construction, Equipment and Use of Vehicles) Regulations 1963, S.I. 190 of 1963, requires vehicles to be constructed so as to prevent, as far as reasonably possible, the emission of smoke, visible vapour, noxious gases or offensive odours.

I have made inquiries with the Garda authorities and I understand that since 1 January 2002, there have been 30 prosecutions for smoking exhausts contrary to Article 34(2), Road Traffic Construction, Equipment and Use of Vehicles) Regulations 1963, as amended.

#### **Review of Garda Structures.**

78. **Mr. Gilmore** asked the Minister for Justice, Equality and Law Reform the progress made to date with regard to the recommendations contained in the report of the implementation steering group on the review of Garda Síochána structures; if he is considering proposals for the full closure of some stations and the closure of others during night hours; and if he will make a statement on the matter. [4928/05]

#### **Minister for Justice, Equality and Law Reform**

**(Mr. McDowell):** I have no plans to reduce opening hours or close any Garda station. It is the case that the 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 Garda SMI implementation steering group's final report, which I have laid before the House and 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 in relation to the management and use of all available resources, including Garda stations.

It is also the case, however, that the position has changed significantly since the consideration of these issues under the strategic management initiative, in that the Garda Síochána Bill 2004, which proposes the most fundamental modernisation of the Garda Síochána since the foundation of the State, provides that the commissioner will have enhanced responsibilities in preparing proposals for organisational reform. It would be premature to anticipate at this stage what proposals, if any, might be developed by the commissioner in this context.

#### **Garda Strength.**

79. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extent to which the extra 2000 gardaí promised have been achieved to date; his future plans on the issue; and if he will make a statement on the matter. [5057/05]

92. **Mr. Sargent** asked the Minister for Justice, Equality and Law Reform the number of gardaí in active service at the latest date for which figures are available. [5105/05]

99. **Mr. Broughan** asked the Minister for Justice, Equality and Law Reform the number of members of the Garda Síochána at the latest date for which figures are available; the number expected to be recruited during 2005; the anticipated membership at the end of 2005; and if he will make a statement on the matter. [4922/05]

235. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform when the 2,000 extra gardaí promised will be on the streets; and if he will make a statement on the matter. [5275/05]

#### **Minister for Justice, Equality and Law Reform**

**(Mr. McDowell):** I propose to take Questions Nos. 79, 92, 99 and 235 together.

I have been informed by the Garda authorities, which are responsible for the detailed allocation of resources, including personnel, that the attested personnel strength of the Garda Síochána as 11 February 2005 was 12,151, all ranks. The anticipated attested strength at end 2005 is 12,280, all ranks.

The House will be aware that the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis, in line with the An Agreed Programme for Government commitment in this regard. This is a key commitment in the programme for Government, and its implementation will significantly strengthen the operational capacity of the force.

As a basis for implementing this commitment the commissioner has drawn up a project plan which has three key elements: the recruitment of sufficient additional Garda trainees to achieve the target strength; relocating the in-service training facilities from the Garda college so that the college can concentrate on training recruits; and expanding the facilities at the Garda college.

A new recruitment campaign for the Garda Síochána was launched on Thursday, 25 November 2004 and over 10,600 applications were received. This high level of applications was no doubt aided by the increase in the maximum recruitment age from 26 to 35, as approved by the Government in November 2004 on foot of a recommendation by the commissioner.

For the period 2005 to 2007, around 275 recruits will be taken into the college every quarter. The intake of this first tranche of 275 students to the Garda college took place on the week commencing Monday, 7 February 2005 and arrangements are in place for the current recruitment competition to be progressed further so as to provide for the second intake of 275 students on 3 May this year. It is estimated that 526 Garda trainees will become attested members of the force in 2005.

Taking into account the projected number of retirements, the new recruitment drive will lead to a combined organisational strength, of both attested gardaí and recruits in training, of 14,000 as early as end 2006. The commissioner will now be drawing up plans on how best to distribute and manage these additional resources. Clearly, of course, the additional resources will be targeted at the areas of greatest need, as is envisaged in the programme for Government. The programme identifies in particular areas with a significant drugs problem and a large number of public order offences, but it will be possible to address other priorities as well, such as the need to very significantly increase the number of gardaí allocated to traffic duties as part of the new Garda traffic corps. I have already promised that the additional gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing. They will have a real impact.

### **Victim Support.**

80. **Mr. Gogarty** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the significant disquiet on the part of victims' families at their treatment and exclusion from the legal process in criminal cases

such as that of a person (details supplied); and his plans to ensure that victims' families are better treated in the judicial process. [5099/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In many European jurisdictions, victims have the status of a party to the proceedings and there is a much closer relationship between the civil and the criminal law. This jurisdiction, however, has a common law system, where the victim is a witness to, but not directly a party in, criminal proceedings.

Provision for victims is made by a number of Government agencies as well as non-governmental organisations. The rights and entitlements of victims of crime in Ireland are set out in the victims charter, published by my Department in 1999, following extensive consultations with all relevant agencies, including the courts, the Garda Síochána, the Irish Prison Service, the probation and welfare service, the State Prosecution Service and the Victim Support organisation. Victim Support provides support to victims of crime and their families through a network of volunteers nationwide. My Department has provided funding for its administrative and staff costs amounting to €5.3 million in the five years up to the end of 2004.

The charter makes specific provision for particularly vulnerable victims such as victims of sexual offences, domestic violence, elderly victims, victims with disabilities, and children. It also contains specific provisions in relation to keeping victims informed of the outcome of their complaints, the progress of any criminal proceedings, and the outcome of these proceedings.

Similarly, procedures put in place by the Garda authorities in relation to the victims of crime, which are set out in the Garda charter for victims of crime, provide that the gardaí will inform victims, where a suspect is charged, of the time, date and location of the court hearing of the charges against the accused.

It is my intention to arrange for a review of the provisions of the victims charter in the near future, in order to ensure its continuing relevance and effectiveness in providing for crime victims. As well as administrative and other provisions, the review will critically examine the deployment of resources to ensure that they continue to deliver maximum effectiveness as well as value for money.

The review will also have regard to the EU framework decision of 15 March 2001 on the standing of victims in criminal proceedings, which sets out to harmonise the treatment of victims of crime across the EU, to ensure that Ireland continues to meet its commitments in that regard.

In relation to the case which the Deputy supplied details of, I have had inquiries made into this case on several occasions and I have been informed that the Garda authorities are satisfied that this case was the subject of a full and proper investigation which resulted in a person being charged on the directions of the Director of

[Mr. McDowell.]

Public Prosecutions and subsequently dealt with by the courts.

As the Deputy will be aware, the courts are subject only to the Constitution and the law, independent in the exercise of their judicial functions. I have no function in relation to verdicts of the courts, nor is it open to me to intervene in court proceedings of this kind. I have been informed that the defendant in this case was acquitted on all charges by the jury who returned a verdict of not guilty.

I have also been informed by the Garda authorities that local gardaí have met the parents of the deceased on a number of occasions before, during and after the trial to explain the various legal procedures involved in the case and to assist them generally in any way they can incoming to terms with their son's death. Officials of my Department have also met the parents to explain the legal issues involved. I have no plans to change the law at present in relation to the legal process in criminal cases.

#### Missing Persons.

81. **Mr. Gormley** asked the Minister for Justice, Equality and Law Reform if adequate resources are put into locating missing Irish children and other children that are reported missing in the State; the resources which are available in this area; and the procedure that is followed once a minor is reported missing. [5102/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the same level of investigation is undertaken in respect of all children who are reported missing in the State, regardless of nationality.

When a person is reported missing the local Garda superintendent takes direct responsibility for the investigation and appoints an investigation team to include any specialised unit deemed necessary, for example, the National Bureau of Criminal Investigation or the technical bureau. The Garda authorities have assured me that every effort is made to locate all missing persons and that they consider the current procedures for dealing with missing persons to be adequate. The procedures are kept under constant review.

The Garda Síochána participates fully with all the media outlets, print, radio and television, in highlighting cases involving missing persons, as appropriate. All cases of persons reported missing in suspicious circumstances are subject to ongoing review and investigation. The services of other external agencies such as Interpol and Europol are also available to assist in the investigation. In addition, every Garda district has a specially trained search team that is familiar with the locality.

The missing persons bureau in Garda headquarters is responsible for maintaining data relating to missing persons. All files on missing persons remain open and under continuous review until the person is located or in the case of a missing person who is presumed drowned, a verdict to that effect is pronounced by the coroner. Thankfully, the majority of missing children cases reported to the Garda authorities are successfully resolved.

In September last year, I launched the missing children's website, *www.missingkids.ie*. This is a joint initiative between the Garda Síochána and the International Centre for Missing and Exploited Children. This website enables the Garda Síochána to circulate instantaneously and internationally written details and high quality photographs of children reported missing to other police forces. The Deputy will be aware of the missing persons helpline, which has been operating since October 2002. This is a dedicated helpline which is operated by Victim Support as a counselling and referral service and serves as a primary point of contact for the families of missing persons. The helpline provides advice and psychological support for families of missing persons as well as structured liaison with the Garda Síochána.

I am satisfied that the Garda Síochána gives the highest priority to missing persons cases and that current procedures are in line with international best practice.

#### Documentation Costs.

82. **Ms Lynch** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to reports that an embassy (details supplied) is charging its citizens exorbitant rates to apply for a passport or national identity card, which documents are required by all non-national parents of Irish born children who wish to apply for residency here; and if he will make a statement on the matter. [4957/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I wish to advise the Deputy that I have been made aware of reports that certain embassies may be charging particular amounts for the issue of passports to their nationals. However, the amount to be charged by a foreign embassy in this regard is not a matter for my Department, or for the Government, to determine.

All applicants for permission to remain in the State on the basis of parentage of an Irish born child under the new arrangements announced last month are required to provide adequate proof of their identity by way of a passport or national identity card. Establishing the true identity of an applicant under the revised arrangements is a basic obligation, both on the State and the applicant. In this context, the requirement that an

applicant produces an identity document from his or her country of origin cannot be waived.

### **Garda Deployment.**

83. **Mr. Crowe** asked the Minister for Justice, Equality and Law Reform his plans to make more gardaí available on the streets through civilianisation of Garda posts. [5085/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The position is that the Government increased the strength of the Garda Síochána from under 10,800 in 1997 to 11,750 by June 2002. We have since increased the strength of the force to an historical high of over 12,200. As regards civilianisation, which is but one aspect of making more gardaí available on the streets, the Department is currently, as a matter of priority, reviewing the position with both the Department of Finance and Garda management as to how it will proceed further with Garda civilianisation in the context of the overall constraints on civil and public service numbers.

In relation to Garda resources generally, I am pleased the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis, in line with the An Agreed Programme for Government commitment in this regard. This is a key commitment in the programme for Government, and its implementation will significantly strengthen the operational capacity of the force.

A new recruitment campaign for the Garda Síochána was launched on Thursday, 25 November 2004 and over 10,500 applications were received. For the period 2005 to 2007, around 274 recruits will be taken into the college every quarter. The intake of this first tranche of 274 students to the Garda college took place on 7 February 2005 and arrangements are in place for the current recruitment competition to be progressed further so as to provide for the second intake of 274 students on 3 May this year. It is estimated that 523 Garda trainees will become attested members of the force in 2005. Taking into account the projected number of retirements, the new recruitment drive will lead to a combined organisational strength, of both attested gardaí and recruits in training, of 14,000 as early as end 2006.

The commissioner will now be drawing up plans on how best to distribute and manage these additional resources. Clearly, the additional resources will be targeted at the areas of greatest need, as is envisaged in the programme for Government. The programme identifies, in particular, areas with a significant drugs problem and a large number of public order offences, but it will be possible to address other priorities as well, such as the need to very significantly increase the number of gardaí allocated to traffic duties as part of the new Garda traffic corps. I have

already promised that the additional Gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing. They will have a real impact.

### **Sexual Offences.**

84. **Mr. S. Ryan** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the huge difference between the number of rapes recorded in annual Garda reports on crime and the number of cases coming before the Central Criminal Court; if his attention has further been drawn to the fact that between 1993 and 2003 an average of 355 cases were reported to the gardaí each year while the average number coming before the Central Criminal Court in the same period was just 93; if he has satisfied himself with the rate of prosecutions arising from reported rapes; and if he will make a statement on the matter. [4949/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The tables below show the statistics in relation to rape offences from 2000 to 2004. The statistics for 2004 are provisional and are, therefore, subject to change. Comparable statistics for the years before 2000, which would show the current conviction rate, are unavailable and could not be obtained without the expenditure of a disproportionate amount of Garda time and resources.

The provisional headline crime statistics for 2004 show sexual offences generally decreased by 17% or 329 cases when compared to 2003. I was also glad to note a decrease of 28% or 403 cases in sexual assaults. I was of course concerned to note an increase in the number of cases of rape of a female and rape section 4.

As I have outlined to the House on a number of occasions, there is a high attrition rate in rape cases in Ireland, and a large number of cases reported to the gardaí do not reach prosecution stage for a variety of reasons. As the Deputy is aware, the Director of Public Prosecutions is statutorily independent in the performance of his function and it would, therefore, be inappropriate for me to comment on his decisions.

As I have also outlined, my Department has approved joint funding for comprehensive research into attrition rates in rape cases. This research entitled, *The Understanding of Attrition, Early Withdrawal, the Trial Process and Identifying Possible Changes to Support Complainants in Rape Cases*, is being carried out by the department of law at the National University of Ireland, Galway and the Rape Crisis Network Ireland, and I expect it to be completed in 2006.

This research should provide a greater understanding as to why some victims choose not to report cases to the gardaí, what can be done about under-reporting and why, of the cases that

[Mr. McDowell.]  
are reported, only a relatively small percentage result in a court hearing. Following this, I will

have no hesitation in taking any action, as appropriate, to resolve any issue which may arise.

Rape offences recorded in 2000.

Offence type	Reported	Detected	Proceedings	Convictions
Rape section 4	53	42	15	6
Rape of a female	229	181	63	27

Rape offences recorded in 2001.

Offence type	Reported	Detected	Proceedings	Convictions
Rape section 4	65	49	36	12
Rape of a female	317	197	78	23

Rape offences recorded in 2002.

Offence type	Reported	Detected	Proceedings	Convictions
Rape section 4	84	55	24	12
Rape of a female	407	209	47	44

Rape offences recorded in 2003.

Offence type	Reported	Detected	Proceedings	Convictions
Offence type	Reported	Detected	Proceedings	Convictions
Rape section 4	56	31	16	3
Rape of a female	312	154	66	16

Rape offences recorded in 2004.

Offence type	Reported	Detected	Proceedings	Convictions
Rape section 4	65	21	9	3
Rape of a female	383	110	42	2

**Garda Deployment.**

85. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform the reason no Garda car was available to deal with incidents in Ballyfermot on the afternoon of 9 February 2005. [5087/05]

**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 on the afternoon of 9 February 2005, there was a uniformed patrol car and an unmarked detective patrol car in Ballyfermot available to deal with incidents.

**Garda Strength.**

86. **Mr. Broughan** asked the Minister for Justice, Equality and Law Reform the number of recruits who have graduated from the Garda

training college as full Garda members since 6 June 2002; the number of gardaí who have retired, resigned or otherwise left the force since 6 June 2002; and if he will make a statement on the matter. [4923/05]

**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 1,421 recruits have graduated from the Garda college since 6 June 2002. This figure refers to those members who have successfully completed the student-probationer-education and training programme.

I am further informed that a total of 1,177 members, all ranks, have resigned, retired or otherwise left the Garda Síochána since 6 June 2002. A total of 1,566 recruits have been attested to the Garda Síochána in the same period.

Garda trainees are attested to the force on successful completion of phase three of their training. On attestation, Garda trainees become serving members of the force. Thus the serving strength of the force at any given time includes those who have been attested following completion of phase 3 of their training but have not yet formally graduated — formal graduation takes place following the completion of the fifth and final phase of training. The strength of the force has therefore increased by 389 members since June 2002.

The interim target of increasing the strength of the Garda Síochána to 12,200 was met and exceeded by the end of November 2004 and a recruitment campaign is now well underway to further increase the strength of the Garda Síochána to 14,000 members, in line with the An Agreed Programme for Government commitment in this regard. This is a key commitment in the programme for Government, and its implementation will significantly strengthen the operational capacity of the force.

#### **Omagh Bombing.**

87. **Mr. Rabbitte** asked the Minister for Justice, Equality and Law Reform if it is now intended to publish the report of the Nally group on the Omagh bombing in the light of the acquittal of a person (details supplied) on a number of charges at Letterkenny Circuit Court on 18 January 2005; and if he will make a statement on the matter. [4950/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As outlined to Dáil Éireann on February 2004, the situation remains that I hope to be in a position to publish an edited version of the Nally report in the future. However, as I also indicated in the Dáil, this could not be done while criminal proceedings were outstanding against the person who made allegations to the Nally group.

Notwithstanding the court outcome to which the Deputy refers, it is understood that other criminal proceedings remain outstanding against the person in question and, accordingly, publication of the Nally report in an edited version does not arise until those proceedings are disposed of.

#### **Witness Security Programme.**

88. **Mr. Quinn** asked the Minister for Justice, Equality and Law Reform the progress made to date in the review of the witness protection programme; if he will consider additional measures to support witnesses who may be giving evidence in court cases involving serious charges, but who may not wish to enter the protection programme; and if he will make a statement on the matter. [4944/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the review of the witness security

programme, which operates under the direct control and administration of the Garda Commissioner, is at an advanced stage. The review includes consideration of, *inter alia*: the measures to support witnesses in court cases who may not wish to enter the programme; and current international best practice. I assure the Deputy that, when received, the recommendations of the review will be given full and careful consideration.

#### **Garda Stations.**

89. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform if steps are being taken to address the sub-standard accommodation and facilities in many Garda stations that have in the case of Finglas Garda station led to a threat of a walk-out by members; and if he will make a statement on the matter. [4926/05]

108. **Mr. Crowe** asked the Minister for Justice, Equality and Law Reform the actions he is taking to ensure that Finglas Garda station is brought to an adequate condition and level of staffing to tackle the serious levels of anti-social and violent crime in the area; and if this will be addressed as a matter of urgency. [5082/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 89 and 108 together.

In the case of Finglas Garda station, immediate priority is being given to build a new Garda station there and to that end I understand that the Office of Public Works has identified a suitable site at Mellowes Road, Finglas. I also understand that negotiations to agree terms for the purchase are being progressed by the Office of Public Works with due urgency.

Accordingly, while I cannot at this point state a precise date when construction of the new station will commence, I assure the Deputies that there will be no avoidable delay, and the project will be progressed as quickly as the availability of financial and other resources allow. In the interim period, the Office of Public Works is negotiating a short term lease in Finglas village for additional space to alleviate the accommodation problems at the existing station.

As to the level of staffing, I am informed by the Garda authorities that the personnel strength of Finglas Garda station as at 11 February 2005 was 82, all ranks. Finglas is part of the Dublin metropolitan west division and it is the responsibility of the divisional officer to allocate personnel within his-her division to ensure the optimum use is made of resources within the division.

#### **Site Acquisition.**

90. **Mr. Eamon Ryan** asked the Minister for Justice, Equality and Law Reform if he will report on the process that has been followed in the selection of a site to replace the Mountjoy Prison complex; if he will further report on the weighting given to the issues of sustainability and



[Mr. Eamon Ryan.] cost; and the status of the detailed plans drawn up by the Office of Public Works for the refurbishment and renewal of the Mountjoy complex. [5104/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The information on the process followed in the selection of the site to replace the Mountjoy Prison complex is available from the minutes of the committee which examined potential sites and which have been posted on my Department's website *www.justice.ie*.

I have been advised that while the committee initially attributed a weighting to cost, it was decided at a later stage that this approach was not sustainable. The majority of interested parties provided indicative costings but these did not necessarily reflect the actual price sought when negotiations were commenced and therefore could not be relied upon for objective comparisons. The approach taken therefore was to identify the most suitable sites and only afterwards establish by negotiation the actual price being sought for those particular sites.

As regards the refurbishment of Mountjoy, in late 1999, my predecessor approved the establishment of the Mountjoy complex redevelopment group as a consultative body to plan for the development of the complex and custodial regimes in a redeveloped prison. The group consisted of a multi-disciplinary team and was chaired by the governor, John Lonergan.

The group's second report, which was published in February 2001, contained a number of specific proposals and recommendations for the future development and use of the Mountjoy complex. The proposed development would have provided a maximum of 723 places in addition to the female prison. An estimate, prepared by a firm of surveyors on behalf of the OPW in June 2001 of the capital cost of construction of the proposed development came to a total of €336 million. I have been advised that the current estimate is that it would now cost over €400 million and take seven years to complete the development of Mountjoy as envisaged by that group — a significant multiple of the cost for the development of a prison on a greenfield site.

This level of expenditure was not deemed to be justifiable and in the circumstances following advice and further consultations, I decided to pursue the option of the relocation of the entire complex to a new greenfield site.

### Crime Levels.

91. **Ms Burton** asked the Minister for Justice, Equality and Law Reform his views on the provisional crime figures for 2004; the steps he proposes to take to deal with the continuing high level of sexual offences and gun crime; and if he will make a statement on the matter. [4924/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I was pleased to note a decrease

of 4% in the number of headline offences in the provisional crime statistics for 2004. The statistics show a decrease for the second year in a row. The year on year statistics also show decreases in some of the most serious offence categories. The 2004 figures show that, despite more precise and accurate recordings of crime by the Garda PULSE system, the crime rate has fallen from 28.4 crimes per 100,000 of the population in 1995 to 24.4 crimes per 100,000 of the population in 2004. Despite our population increasing by 400,000 since 1995 we have one of the lowest crime rates in the western world.

The number of violent deaths — murder and manslaughter — recorded in 2004 is down on the number for 2003 by a total of seven, from 52 to 45 and is the lowest number recorded in ten years. The number of violent deaths has therefore declined from 59 in 2002 to 52 in 2003 to 45 in 2004. Parallel with this, the annual number of murders has also been in decline for these three years — from 52 in 2002 to 45 in 2003 to 36 in 2004.

Sexual offences generally show a decrease of 17% — 329 cases. I am glad to note a drop of 28%, 403 cases, in sexual assaults, the largest category of sexual crime, compared with 2003. However, I am concerned about the increase of reported cases of the rape of a female — 65 cases — and rape section 4 — 12 cases. I have previously pointed out on a number of occasions that the nature of the relationship between the number of sexual crimes reported — particularly the most serious ones of rape — and the number of incidents remains a complex one. This is reflected in these figures. This is an area where careful examination of the facts is essential. Ongoing research supported by my Department will help clarify the issues concerned and action will, where appropriate, be taken to resolve any difficulties.

I also noted that the number of assaults causing harm shows a reduction of 1% in 2004 compared with 2003. Thefts from the person are down 14% and thefts from shops down 6%. Overall, thefts are down 4%. Both burglary and aggravated burglary are down, by 3% and 14% respectively. Robbery from the person is down by 14%.

While the number of cases of possession of firearms has decreased, it is a matter of concern to note a further increase in cases of discharge of firearms. However, I am confident that recent initiatives being undertaken by the Garda Síochána in this area together with the legislative changes I am bringing forward in the Criminal Justice Bill will have a positive impact.

I am very conscious of the overriding necessity to ensure that public safety and security are given priority in any review of policy and legislation in relation to firearms. With this in mind I have decided to bring forward on Committee Stage of the Criminal Justice Bill 2004 certain proposals.

Second Stage of the Bill commenced in the House this week and I am examining a number

of proposals, including more severe penalties for firearms offences, set minimum sentences for the most serious offences, the introduction of a new offence of modification of a firearm, for example, the sawing off of a shotgun, and a statutory basis for a period during which firearms may be surrendered to the Garda Síochána.

I understand the commissioner and his senior management team are currently developing divisional plans to identify, profile and target individuals and gangs suspected of organised crime, drug related crime, sexual crime and other criminal activity. The commissioner's plan is to build on his strategy of high visibility policing in locations of identified difficulty. The Garda authorities will continue to use the crime statistics as the foundation for targeted strategies and operational plans designed to reduce the number of crimes, with particular attention being paid to those showing significant increases.

I would like to draw the Deputy's attention to the fact that the figures are provisional and thus subject to change in the ongoing validation process which has not yet been finalised. Once this process is completed, the Garda Commissioner's annual report for 2004 will be published.

*Question No. 92 answered with Question No. 79.*

#### **Garda Disciplinary Proceedings.**

93. **Mr. Rabbitte** asked the Minister for Justice, Equality and Law Reform when the Garda will issue its promised apology arising from the wrongful charging of a person (details supplied) in Dublin 7; the nature of the apology to be issued; the state of the Garda investigation into the crime; if he will publish the results of the internal Garda investigation into the arrest and charging of this person; if he will establish an inquiry into the whole affair; and if he will make a statement on the matter. [4945/05]

201. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform his plans to hold an inquiry into the circumstances surrounding the wrongful arrest of a person (details supplied) for murders committed close to Grangeegorman Hospital on 6 March 1997. [5450/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 93 and 201.

I am informed by the Garda authorities that the Garda Síochána is currently engaged in discussions with the legal representatives of the family of the person referred to by the Deputies with a view to resolving the concerns of the family regarding the charging of the person. It would therefore be inappropriate for me to comment further at this stage.

As the criminal investigation into the murders is still ongoing and no person has to date been convicted in connection with them, the release of the report of any examination of the conduct of the investigation would be inappropriate at this stage.

I am further informed by the Garda authorities that a forensic review is currently being conducted by staff at the forensic science laboratory on exhibits and samples taken from the scene of the murders at Grangeegorman.

I sought and have received advice from the Attorney General regarding requests which were made to establish a public inquiry into this case. Following consideration of the matter, I am not at present satisfied that a public inquiry is required and I have been in direct contact with solicitors involved, inviting them to specify which aspects of the Garda investigation of the murders they consider to have failed to meet the required standard and on what basis they consider they have failed to meet the required standard.

#### **Asylum Applications.**

94. **Ms O'Sullivan** asked the Minister for Justice, Equality and Law Reform the number of applications for asylum received during 2002, 2003, 2004 and to date in 2005; the number of applications upheld by the refugee appeals commission; the number of appeals submitted to the refugee appeals tribunal and the number of such appeals upheld; the number of applications for leave to remain and the number of such applications granted; the number of deportation orders made and the number of such deportations carried out; and if he will make a statement on the matter. [4941/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The information requested is contained in the following tables.

Table 1: Number of applications for asylum received and the number of recommendations by the Office of the Refugee Applications Commissioner to grant Refugee status, at first instance, in 2002, 2003, 2004 and 2005\*.

	2002	2003	2004	2005*
No. of applications received	11,634	7,900	4,766	393
No. of recommendations to grant refugee status (at first instance)***	893	345	430	41

\* as at 31/01/05.

\*\* It is assumed that the reference in the Deputy's question to Refugee Appeals Commission refers to the Office of the Refugee Applications Commissioner.

\*\*\* These recommendations refer to the year in which the recommendations were made and not the year in which the applications were lodged.

Table 2: Number of appeals submitted to the refugee appeals tribunal and the number upheld, at appeal stage, in 2002, 2003, 2004 and 2005\*.

	2002	2003	2004	2005*
No. of appeals received**	5,157	5,014	4,815	314
No. of appeals upheld (granted refugee status)**	1,099	833	702	45

\* as at 31/01/05.

\*\* Substantive and accelerated cases.

Table 3: Number of deportation orders signed and number effected in 2002, 2003, 2004 and 2005\*.

	2002	2003	2004	2005*
No. of deportation orders signed	2,430	2,411	2,915**	146
No. of deportation orders effected**	521	590	599***	19

\* as at 31/01/05

\*\* In addition to the 2,915 deportation orders signed, there were also 237 Dublin II regulation transfer orders signed in 2004.

\*\*\* In addition to the 599 deportation orders effected, there were also 65 Dublin II regulation transfers effected in 2004.

Table 4: Number of applications for leave to remain received from current or former asylum applicants.

	2002	2003	2004	2005*
No. of applications received	6,887	1,272	269**	19**

\* as at 31/01/05.

\*\* In the context of proposed deportation orders under the Immigration Act 1999, the issue of leave to remain on humanitarian grounds is considered, irrespective of whether an application is made or not. Thus, no statistics are kept as to the number of such applications made.

Table 5: Number of applications granted for leave to remain.

	2002	2003	2004	2005*
Parentage of Irish born child	3,113	172	0	**
Marriage to an Irish national	86	132	144	7
Dependent of EU citizen	138	77	112	4
Other grounds	158	86	140	8
Total	3,495	467	396	19

\* as at 31/01/05.

\*\* See Table 6.

Table 6: Number of applications for permission to remain made by the non-national parents of Irish born children born before 1 January 2005 and the number of such applications granted permission to remain.

	2005*
No. of applications for permission to remain made by the non-national parents of Irish born children born before 1 January 2005	2,489
No. of applications for permission to remain granted	305

\* as at 31/01/05.

### Driving Tests.

95. **Mr. Howlin** asked the Minister for Justice, Equality and Law Reform the number of gardaí authorised to drive Garda vehicles; the number of such gardaí who have passed the official Garda driving test; his views on the number of crashes involving Garda vehicles; the steps being taken to reduce such crashes having regard not only to the

death and injury that can be caused to members but also to personal injury claims that can arise from such crashes; and if he will make a statement on the matter. [4932/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that members of the Garda Síochána are allowed to drive official vehicles in two cir-

cumstances: they hold at least a class B driving licence and have been authorised to drive by the chief superintendent or they have completed an official driving course.

The number of gardaí who have passed the official driving course is 5,386. This figure represents those members of the force who have completed the standard car driver course and the standard motorcycle driving course under the guidance and supervision of trained Garda instructors. In addition, the number of Garda personnel who may be authorised to drive by a chief superintendent is 2,094. There were 439, 423 and 397 accidents involving Garda vehicles in 2002, 2003 and 2004, respectively.

Garda management is fully aware of the safety issues surrounding vehicles for members of the force. There has been substantial improvements to vehicles, both in their design and construction, in recent years. All vehicles purchased are now required to have a minimum of four stars in the ENCAP system. These vehicles are specified with safety features such as ABS braking, driver and passenger airbags, power steering, central locking, electric windows and anti-shatter film to all glass which minimises the injury risk to occupants from shattered glass in the event of a collision. These items are specified for all vehicles and can contribute greatly to increased safety.

The steps being taken to ensure the provision of improvements in Garda vehicles are twofold: continuously review the vehicle specifications to ensure that they reflect the needs of the Garda force both in terms of safety and the duties to which they will be assigned. The Garda Commissioner has established a working group, which includes representatives of the GRA and AGSI, to report on the issue of the safety of Garda vehicles, the terms of which are as follows: examine and make recommendations taking into account cost factors and value for money, on the most suitable vehicle(s) for use in the force particularly as patrol cars, including the feasibility of obtaining purpose built or modified vehicles; having regard to the safety of Garda drivers and observers, including others being conveyed in Garda vehicles and also other road users; and in so far as possible incorporate the recommendations of the above working group in vehicle specifications and implement where possible any other recommendations which might contribute to vehicle improvement and safety.

I have been informed that the working group is now due to report to the commissioner and I look forward to its findings.

#### **Disability Issues.**

96. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform when his Minister of State with responsibility for equality issues last met the disability legislation consultation group; if and when he intends to respond to its letter sent to him in October 2004 detailing the ten key concerns of the consultation group with reference

to the Disability Bill 2004; and if he will make a statement on the matter. [5058/05]

105. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform when and if he intends to meet the disability legislation consultation group to discuss with it its concerns with reference to the Disability Bill 2004; if he will report on its ten key concerns that were communicated to him; his views on same; and if he will make a statement on the matter. [5055/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 96 and 105 together.

My colleague, the Minister of State, Deputy Fahey, with special responsibility for equality in my Department, met the disability legislation consultation group, DLCG, on 27 October last, following publication of the Disability Bill 2004. It later forwarded a written submission on the Bill which included ten key concerns. He wrote to the group on 9 December to confirm that its submission was under examination and that he hoped to meet it again before Committee Stage. The group was advised that copies of the submission had been circulated to other relevant Departments for consideration and that if necessary, the Minister of State, Deputy Fahey, would revert to the Cabinet Sub-committee on Social Inclusion. The Minister of State wrote again to the group on 11 January 2005 offering a meeting to update it on progress in relation to its submission. The group replied on 13 January 2005 indicating that the next meeting should be about the Government's comprehensive response to its ten key concerns.

As the Deputy may be aware, the Government referred oversight of preparation of the Disability Bill and other elements of the national disability strategy to the Cabinet Sub-committee on Social Inclusion because of the complex and cross-cutting nature of the issues involved. The Cabinet sub-committee has invested time in making sure that the measures reflect an integrated approach by Government to the range of important policy issues involved and will continue to do so as the various elements of the strategy are put in place.

The process of considering amendments in the context of the Bill is one that requires consultation with relevant Departments and the Attorney General. The process is ongoing. In the meantime, the Bill is still on Second Stage in the House having been debated over a period of several days since early November 2004. Second Stage debate on the principles of the Bill is expected to conclude within the next few weeks. I understand that the Minister of State wrote recently to the DLCG informing it accordingly and indicating that when Government authority for any Committee Stage amendments to the Bill has been obtained, he would be in a better position to discuss the group's ten key issues of concern. He said that he hoped to arrange, as requested, a further meeting with the group in the near future now that Second Stage of the Bill is

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nearing completion and Committee Stage, which will involve debate on amendments, will follow soon afterwards.

### **Omagh Bombing.**

97. **Mr. Wall** asked the Minister for Justice, Equality and Law Reform if he will offer the support of the Government to the survivors and relatives of the Omagh bombing in pursuit of justice through the civil courts; if he will use the powers available to him to transfer public court records from the Special Criminal Court, which are being sought by the families to pursue a civil case in Northern Ireland; and if he will make a statement on the matter. [4956/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I would advise the Deputy that neither I nor my Department can procure the court records the Deputy refers to. However, I can assure the Deputy that the Government and I remain willing to assist the survivors and relatives of the Omagh bombing with their civil action to the greatest extent possible allowed by law.

Section 8(7) of the National Archives Act 1986 provides for the transfer of departmental records to the National Archives which are less than 30 years old. However, section 8(7) also stipulates that any records so transferred shall not be made available for public inspection except in accordance with the Act. It would appear, therefore, that, even with early transfer, the records in question could not be made available for public inspection until and if they are so authorised when they are 30 years old.

In any event, as the Taoiseach outlined in this House recently, the matter is the subject of awaited legal advices from the Attorney General. My preliminary understanding is that jurisdiction in this matter is vested in the High Court.

### **Garda Districts.**

98. **Mr. Timmins** asked the Minister for Justice, Equality and Law Reform his plans to change the geographical boundaries of the Garda districts; and if he will make a statement on the matter. [4831/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The final report of the Garda SMI implementation steering group made a number of recommendations in relation to the regional-divisional-district structure currently in place in the Garda Síochána. The report did not identify which districts, divisions or regions would be affected.

The Garda Síochána Bill 2004, which proposes the most fundamental modernisation of the Garda Síochána since the foundation of the State, provides that the commissioner will have enhanced responsibilities in preparing proposals for organisational reform. It would be premature to anticipate at this stage what proposals, if any,

might be developed by the commissioner in this context.

A preliminary study group under the chairmanship of assistant commissioner, northern region, has recently been established to examine various issues associated with possible new boundary alignments.

*Question No. 99 answered with Question No. 79.*

### **Crime Levels.**

100. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extent to which racketeering, protection and money laundering activities have been identified by his Department; the action taken arising therefrom; and if he will make a statement on the matter. [5056/05]

247. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to racketeering, protection or extortion on an organised basis; the action he has taken or proposes to take in response; and if he will make a statement on the matter. [5287/05]

248. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extent to which his Department is tackling money laundering activities; the success of such actions in the past 12 months; and if he will make a statement on the matter. [5288/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 100, 247 and 248 together.

Ireland has extensive legislation in place to tackle money laundering activities with the main provisions in Irish law relating to money laundering being set out in section 31 of the Criminal Justice Act 1994, as amended by section 21 of the Criminal Justice (Theft and Fraud Offences) Act 2001, sections 32 and 57 of the Criminal Justice Act 1994, and section 23 of the Criminal Justice Theft and Fraud Offences Act 2001.

This legislation defines an offence of money laundering and its provisions include, *inter alia*, placing an obligation on designated bodies and persons to report to the Garda Síochána any suspicion that a money laundering offence has been or is being committed in relation to their business. Furthermore, designated bodies must adopt identified appropriate measures to prevent and detect the commission of a money laundering offence and a money laundering steering committee under the chairmanship of the Department of Finance oversees this aspect of the legislation.

Pursuant to section 57 of the Criminal Justice Act 1994, the money laundering investigation unit of the Garda Síochána receive suspicious transaction reports, STRs, from designated bodies. I am informed by the Garda authorities that all STRs are investigated in full in an attempt to link the subject or funds to any form of criminal activity. In conjunction with this, a number of

suitable or appropriate STR investigations are referred to the Criminal Assets Bureau.

I understand that two persons were convicted for money laundering offences during 2004 and that a number of cases are still presently before the courts. In 1999 Ireland's laws and procedures on money laundering were the subject of a favourable review by the financial action task force, FATF, which is an OECD inter-governmental body whose purpose is the development and promotion of policies both at national and international level to combat money laundering and terrorist financing. Later this year the FATF will conduct a new evaluation of Ireland's anti-money laundering processes. In this regard, Ireland is currently preparing information to facilitate the evaluation.

In relation to the other matters raised, I am informed by the Garda authorities that, over the past 18 months, in excess of €6 million worth of counterfeit products have been seized and a number of arrests made. Members of the National Bureau of Criminal Investigation continue to investigate all matters concerning counterfeit and intellectual property crime.

Furthermore, a number of the cases pursued by the Criminal Assets Bureau through the Proceeds of Crime Act 1996 and the various Taxes Acts arise from money laundering and forms of organised crime, which includes protection and racketeering.

With regard to legislative proposals to strengthen the State's overall response in tackling organised criminal activity, the Deputy may wish to note that I am considering bringing forward a number of amendments to the Criminal Justice Bill 2004 which is currently before the Houses. These include a proposal to provide for criminal offences in relation to participation in a criminal organisation.

#### **Site Acquisition.**

101. **Mr. J. O'Keefe** asked the Minister for Justice, Equality and Law Reform if the contract price agreed for the new prison site at Thornton, County Dublin represents good value and best use of taxpayers' money; his plans for the existing facilities at Mountjoy; the details of the feasibility of constructing a new prison at Mountjoy; and if he will make a statement on the matter. [5081/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The contract signed for the purchase of the 150 acre site at Thornton Hall, The Ward, County Dublin, for the replacement of Mountjoy Prison cost €29.9 million, or just under €200,000 per acre. Land owners were invited by public advertisement to put forward suitable sites for sale in the greater Dublin area. The average asking price of land owners who responded to that advertisement was above €200,000 per acre and some owners sought as much as €500,000 per acre.

Although more than 30 sites were examined only about five were deemed to be suitable for consideration as a site for the new prison facility. Although price was not the sole determining factor, the purchase price of the site finally selected was lower than the asking price for any of the other suitable sites.

I have no indication from the Office of Public Works or CB Richard Ellis Gunne, who were involved in the process, that the price paid could be regarded as exorbitant. I am satisfied that the price was reasonable and represents an excellent long term investment for the taxpayer.

The Mountjoy complex will be kept in operation until the new complex has been completed. After it has been emptied, it is my intention that the entire Mountjoy site would be put on the market for redevelopment. It is not operationally or economically feasible to construct a full scale new prison on the Mountjoy site and in any event the range of facilities that could be provided for prisoners on such a small site is extremely limited. A large number of prisoners would have to be transferred to other prisons during the construction work but there is no spare capacity in the system to allow this.

The issue of redeveloping Mountjoy was looked at by a group established by my predecessor and chaired by governor, John Lonergan. Its report published in February 2001 contained a number of specific proposals and recommendations for the future development and use of the Mountjoy complex. The proposed development would have provided a maximum of 723 places in addition to the female prison. An estimate, prepared by a firm of surveyors on behalf of the OPW in June 2001, of the capital cost of construction of the proposed development came to a total of €336 million.

I have been advised that the current estimate is that it would now cost over €400 million and take seven years to complete the development of Mountjoy as envisaged by that group — a significant multiple of the cost for the development of a prison on a greenfield site. This level of expenditure on redeveloping Mountjoy cannot be justified.

#### **Defamation Law.**

102. **Mr. Costello** asked the Minister for Justice, Equality and Law Reform the position regarding his consideration of the recommendations of the legal advisory group on the defamation law, in regard to the proposals for the establishment of a statutory press council; when he intends to bring proposals on this matter to Government; and if he will make a statement on the matter. [4921/05]

203. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if he intends introducing privacy rules or legislation in relation to the electronic or print media; and if he will make a statement on the matter. [3663/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose take Questions Nos. 102 and 203 together.

I refer the Deputies to the details of my answer to Question No. 407 of 8 February 2005. I have nothing further to add to that reply other than to say that I intend to bring proposals with regard to the reform of the law on defamation to Government in the near future.

#### **Garda Strength.**

103. **Mr. McGinley** asked the Minister for Justice, Equality and Law Reform the Garda numbers attached to the Carrick and Glencolmcille Garda Stations; and if there are plans to increase the number of gardaí to be stationed in same in the future. [5107/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities which are responsible for the detailed allocation of resources, including personnel, that the personnel strength of Carrick Garda station as 11 February 2005 was one Garda. I am also informed that the personnel strength of Glencolmcille Garda station as at 11 February 2005 was one Garda.

In relation to Garda resources generally, I am pleased that the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis, in line with the An Agreed Programme for Government commitment in this regard. This is a key commitment in the programme for Government, and its implementation will significantly strengthen the operational capacity of the force.

The commissioner will now be drawing up plans on how best to distribute and manage these additional resources. In this context, the needs of Carrick and Glencolmcille Garda stations will be fully considered within the context of the needs of Garda stations throughout the country. Clearly, of course, the additional resources will be targeted at the areas of greatest need, as is envisaged in the programme for Government. The programme identifies in particular areas with a significant drugs problem and a large number of public order offences, but it will be possible to address other priorities as well, such as the need to very significantly increase the number of gardaí allocated to traffic duties as part of the new Garda traffic corps. I have already promised that the additional gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing. They will have a real impact.

#### **Garda Investigations.**

104. **Ms Lynch** asked the Minister for Justice, Equality and Law Reform if he has completed his consideration of the report of the senior Garda officer who has been requested by the commissioner to examine all matters featured in a television programme (details supplied) of 8

January 2004; and if he will make a statement on the matter. [4933/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have previously made clear to the House that allegations of serious wrongdoing by members of the Garda Síochána, such as those broadcast on the “Prime Time” programme, are of serious concern to me. Some of the cases featured in the television programme of 8 January 2004 were previously reported and in the public domain. A number of the cases have been dealt with in the courts or by the existing complaints and disciplinary mechanisms. Civil proceedings have been initiated in certain cases, and there may yet be other civil actions, so the House will appreciate that, in the circumstances, I am limited in what I can say on the specific details of individual cases.

On 1 November 2004, I received a report from the commissioner in respect of all matters featured in the broadcast in question. In his report the commissioner reviews the investigation of each case highlighted in the programme, and proposes a number of specific measures with regard to the systems, practices and procedures which operate within the Garda Síochána to ensure the existence of adequate safeguard mechanisms for the mutual benefit of members of the public and the force. In particular, the commissioner has proposed to carry out a pilot project for the installation of digital CCTV recording systems inside Garda stations, which will strengthen the safeguards for members of the Garda Síochána and the community alike. In that regard let me say that very recently my Department obtained Department of Finance sanction to carry out this pilot in two Garda stations, Pearse Street and Store Street, and work will now commence on resolving the various technical, legal and industrial relations issues in order to bring about the pilot without undue delay.

I take this opportunity to reiterate my views that existing law and procedures for dealing with complaints against members of the Garda Síochána are not adequate to the task. Allegations of the type aired on “Prime Time” provoke entirely legitimate unease in the public mind, but can also cause frustration within the force at what is sometimes seen as a lack of balance and fairness. The most fundamental objective now must be to put in place a mechanism for dealing with complaints against members of the Garda Síochána which commands the full confidence of members of the public and the force alike, and which will adjudicate on complaints in a manner accepted by all as authoritative. To this end, a key objective of the Garda Síochána Bill 2004 is the establishment of a fully independent ombudsman commission which will have wide powers to investigate complaints made against members of the Garda Síochána.

*Question No. 105 answered with Question No. 96.*

### Racism Issues.

106. **Mr. Sherlock** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the significant increase in the number of complaints regarding racism reported to the Equality Authority and to the finding in the report of Alliance that Government policies were fuelling racism; the steps the Government is taking to combat racism in society here; and if he will make a statement on the matter. [4951/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** In respect of the report of the NGO Alliance and the steps being taken to combat racism I would refer the Deputy to my reply to Question No. 734 of 26 January 2005.

The Deputy will also be aware that on 27 January last the Government launched the national action plan against racism. The plan provides strategic direction to combat racism and to promote the development of a more inclusive, intercultural society in Ireland. The plan's development included a lengthy consultation process involving a wide range of stakeholders, including Government, the social partners and civil society.

The Equality Authority, whose function it is to combat discrimination and promote equality, reports that in 2003 — the latest date for which full year figures are available — the authority had, under the race ground, 166 case files active arising from enquiries under the Employment Equality Act and 80 arising from inquiries under the Equal Status Act. The equivalent figures for 2002 are 107 and 66, respectively. While the figures for 2003 indicate a rise in the number of cases reported under the race ground, it is important to remember that the cases require investigation before outcomes can be determined and any conclusions drawn. The authority has further informed me that the main types of cases under employment legislation involved working conditions, dismissal and access to employment. The equivalents for equal status legislation involved licensed premises, educational establishments and accommodation.

The Deputy will also be interested to note that the number of criminal incidents with a racial motive reported to the Garda Síochána has fallen from 102 incidents in 2002 to 48 incidents in 2004.

### Electronic Tagging.

107. **Ms Burton** asked the Minister for Justice, Equality and Law Reform his proposals for the electronic tagging of certain offences; the research his Department has done to establish the effectiveness of such a procedure; if his attention has been drawn to a report of the system in Canada that found that the electronic monitoring had no effect on recidivism; and if he will make a statement on the matter. [4925/05]

222. **Mr. J. O'Keefe** asked the Minister for Justice, Equality and Law Reform the role which electronic tagging may have to play in monitoring

persons on the register of sex offenders who are deemed to be at high risk of re-offending; and if he will make a statement on the matter. [5237/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 107 and 222 together.

The use of electronic tagging systems to monitor offenders in other jurisdictions is an issue which my Department has kept under review for some time. My Department has looked at the experience of a number of countries in the operation of these systems. These include the United Kingdom, the United States of America, Sweden and Australia. In addition, my Department is aware of the experience in Canada as outlined in the report referred to by the Deputy. As I have explained in my previous replies to the House on this matter, difficulties have been encountered in other jurisdictions in developing fully effective electronic tagging systems, but recent developments in technology may provide solutions to these. These developments are now being considered by my Department, in consultation with the prison and probation and welfare services, with a view to drawing up an enabling provision in the Criminal Justice Bill which will allow me to introduce electronic tagging in appropriate cases when the technology has advanced sufficiently. Details of the provision will be announced in the normal way. I can say at this stage that it will address the use of electronic monitoring as an alternative to custody in certain circumstances as well as the monitoring of suitable offenders released from prison before completion of their full sentences.

*Question No. 108 answered with Question No. 89.*

### Garda Stations.

109. **Mr. J. O'Keefe** asked the Minister for Justice, Equality and Law Reform his views on whether the station accommodation provided to gardaí is sufficient in all cases to accommodate gardaí who are working under considerable pressure; if the stations are in all cases adequate in size and in optimum condition; his plans to rebuild, rehouse or refurbish deficient Garda stations; his further views on whether there has been an abandonment of the needs of the gardaí in this regard; and if he will make a statement on the matter. [5080/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have already acknowledged that not all Garda accommodation is of an acceptable standard. That said, however, one of my priorities as Minister for Justice, Equality and Law Reform is to ensure, as far as is practicable, that fully adequate accommodation is available for the Garda Síochána. While this is a difficult task, in view of the large number of stations involved and the fact that some of them were



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built before the foundation of the State, every effort is being made, and will continue to be made, to ensure a high standard of Garda premises throughout the country.

In that context, I can assure the Deputy that all Garda accommodation is continually under review to ensure that it meets the operational requirements of the Garda Síochána. Where it does not, then the required refurbishment or construction works are completed by the Office of Public Works with all due urgency, and in accordance with overall priorities within the Garda building programme and the availability of financial and other resources.

This year alone, as in previous years, a considerable investment is being made in improving existing Garda accommodation. Of the order of €10 million is expected to be spent by the Office of Public Works for capital works to Garda properties. This provision does not include one off capital works, such as those recently commenced in Templemore Garda College to ensure that the facilities there are adequate to meet the demands of an expanded force of up to 14,000 over the coming three years.

Finally, in excess of €7 million has been allocated in the Garda Vote for 2005 for necessary maintenance works to Garda premises. As I have outlined previously, I have secured sanction from the Government for a core budget of €1 million per annum for each year of the life of the national action plan against racism 2005-08. This money will be used to further the goals of the plan and in particular to: make strategic interventions in the implementation of the plan; pursue specific research or consultancy projects in particular sectors; undertake public awareness-information initiatives, and grant schemes.

The strategic monitoring group set up to oversee implementation of the plan will have a role in the allocation of this money. I draw the Deputy's attention to section 10.4 of the national action plan against racism where a three pronged funding strategy is identified, in particular, refocusing of existing resources through the development of an intercultural dimension to mainstream public policy; identification of specific resources within the annual budget process for the implementation of the plan; and the commitment to realise aspects of the plan as resources become available.

Within this strategy, Departments and agencies will factor into their budgets the necessary allocations consistent with fulfilling agreed commitments under the plan. I would also point that the Government under the Know Racism programme has already invested considerable resources in raising awareness of racism issues to effectively prepare the ground for the strategic approaches set out in the plan. Under the three years of the programme — 2001-03 — some €4.75 million was spent including a total of €1.3 million in grants allocated to 450 successful projects in all 26 coun-

ties for the development of local anti-racism initiatives or projects.

In addition, a grant scheme in the sum of €250,000 was announced in October last with the aim of supporting projects to underpin the objectives of the plan. The moneys have now been allocated to 44 projects countrywide.

#### **Child Care Issues.**

110. **Mr. Stagg** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the reported finding of the NESC that people here pay almost twice as much for child care as the European average; the steps he is taking to ensure the provision of affordable child care; and if he will make a statement on the matter. [4952/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I understand that the NESC report referred to by the Deputy has not yet been published and therefore I am not in a position to comment on any findings it might contain until such time as it is published and available to me for consideration.

My Department has responsibility for the development of child care to meet the needs of working parents and those in education and training preparatory to labour market participation through the equal opportunities child care programme, EOCP.

In relation to the costs of child care, it is my view that an international comparison of the costs of child care can only be undertaken by looking at the full package of taxation, both central and local, and other supports, direct and indirect, made available to child care providers in each country together with a review of the structure and disposable income of family units in each country and I am not aware of the existence of any thorough and up to date study which shows a valid comparison of the costs of child care in Ireland and in other countries.

The programme for Government and the progress of my Department's equal opportunities child care programme are confirmation of the Government's commitment to developing child care services and to keeping child care at the forefront of its social agenda.

The Government is making considerable progress in increasing the supply of centre based child care places and in enhancing the awareness of quality issues among childminders while affording financial support towards the costs of child rearing through child benefit which has increased very significantly over the past seven years. To date the Government has favoured the use of child benefit for this purpose as it is income neutral and affords parents choices with regard to the arrangements they choose to make in relation to the care of their children.

The Deputy will be aware that there have been significant improvements in the provision of supports for the development of child care over the last number of years. Child care was identified as

an investment priority under the National Development Plan 2000-06. This was a direct response to the recommendations of the expert working group on child care established under Partnership 2000 to develop a strategy for the development and delivery of child care to support parents in employment, education and training.

The equal opportunities child care programme, EOCP, has an equal opportunities and social inclusion perspective and facilitates the further development and expansion of child care facilities to address the needs of parents, in reconciling their child care needs with their participation in employment, education and training and aims to increase the supply of centre based child care places by 55% by programme end.

The programme also has a focus on many of the quality issues which were identified in the child care strategy and aims to ensure that there is a co-ordinated approach to the delivery of child care services throughout the country. Since it was launched in 2000, the funding for the programme for the 2000-06 period has increased from €317 million to €499.3 million or by 57%, the most recent increase being €50 million in budget 2005. The multi-annual capital envelopes announced that day include the injection of a further €40 million in additional capital funding into the EOCP between the programme end and 2009.

The programme provides capital grant assistance to create and enhance new and existing child care facilities, staffing grant assistance to community-based not-for-profit organisations whose child care services have a strong focus on the support of the child care needs of disadvantaged families, and offers supports to the city-county child care committees, to the national voluntary child care organisations, such as Barnardos, Childminding Ireland, the IPPA and the National Children's Nursery Association, and to others who are working to improve the quality of child care in Ireland.

Total funding committed under the EOCP to date will create 33,254 new child care places, and will support 28,839 existing places. Of these, 20,500 new child care places were already in place by June 2004, an increase of 36% in the supply of child care places in four short years. These new places offer parents greater access to child care throughout Ireland as they meet their work and family needs. The EOCP also contributes towards the staffing costs of child care services which support parents who are disadvantaged to enable those services to offer differential fee scales.

The above measures relate to the supply of quality child care. I would also like to draw the Deputy's attention to the recommendations of the expert working group in relation to the demand side of child care. Government policy in the area of child support aims to provide assistance which will offer real choice to parents and which will benefit all children whatever care options their parents choose for them. As I mentioned previously, child benefit is the main fiscal

instrument through which support is provided to parents with dependent children, and it provides support to all parents irrespective of income and employment status. In his 2005 Budget Statement, the Minister for Finance announced further increases of €10 per month to €141.60 per month for the first two children and €12 per month to €177.30 per month for third and subsequent child from April 2005. This means that over the period since 1997, monthly child benefit supports have been increased by more than 380%. This level of increase is unprecedented and delivers on the Government's objective of providing support for children generally while offering real choice to all parents in relation to the care of their children.

Further measures on child care are being provided by the Government in a range of different ways and I have outlined a number of examples for the Deputy's information. In 2001, the Department of Finance allocated €12.7 million capital expenditure for the provision of up to 15 Civil Service creches for the children of Government employees. Five creches are in operation and a further creche opened in January 2005. Proposals for additional creches are being considered. In March 2001, the IDA launched a scheme to provide for the creation of high quality, workplace child care facilities in IDA Ireland Business Parks around the country. Four of these have opened, with another under construction and a sixth at contract stage.

Since the start of 2002, the city and county enterprise boards have approved funding of over €1.6 million to 153 child care centres across the country. This funding comprises mainly of staffing grants, with a small number of capital grants available. Capital allowances for capital expenditure on the construction, extension and refurbishment of a building, which is used for the purpose of providing a pre-school service or similar service. There is also an exemption on the usual benefit-in-kind provisions for employees who enjoy free or subsidised child care facilities provided by their employers. In such circumstances, the employer must be wholly or partly responsible for both financing and managing the child care facility.

The outcomes of the present programme will be monitored closely to inform the forward planning process in order to support the twin needs of quality child care provision and labour market supports. This Government's record in providing enhanced child care services is without parallel and I am confident that we are moving rapidly to ensure that there are quality services available to parents throughout the country.

#### **Prisoner Releases.**

111. **Mr. Sherlock** asked the Minister for Justice, Equality and Law Reform if he has received a report from the parole board on an application for early release from persons (details supplied); if he has made a decision on the appli-

[Mr. Sherlock .] cation; and if he will make a statement on the matter. [4947/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have not, to date, received recommendations from the parole board in the two cases referred to by the Deputy.

#### Victim Support.

112. **Mr. Gogarty** asked the Minister for Justice, Equality and Law Reform if his Department has plans to reduce victims and victims' families alienation from the legal process regarding prosecution of criminal cases through a reform of that process. [5100/05]

202. **Mr. Cuffe** asked the Minister for Justice, Equality and Law Reform if his Department has plans to reduce victims and victims' families alienation from the legal process regarding prosecution of criminal cases through a reform of that process. [5307/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 112 and 202 together.

In many European jurisdictions victims have the status of a party to the proceedings and there is a much closer relationship between the civil and the criminal law. This jurisdiction, however, has a common law system, where the victim is a witness to, but not directly a party in, criminal proceedings.

Provision for victims is made by a number of Government agencies as well as non-governmental organisations. The rights and entitlements of victims of crime in Ireland are set out in the victims charter, published by my Department in 1999, following extensive consultations with all relevant agencies including the courts, Garda Síochána, the Irish Prison Service, the probation and welfare service, the State Prosecution Service and the Victim Support organisation. Victim Support provides support to victims of crime and their families through a network of volunteers nationwide. My Department has provided funding for its administrative and staff costs amounting to €5.3 million in the five years up to the end of 2004.

The charter makes specific provision for particularly vulnerable victims such as victims of sexual offences, domestic violence, elderly victims, victims with disabilities, and children. It also contains specific provisions in relation to keeping victims informed of the outcome of their complaints, the progress of any criminal proceedings, and the outcome of these proceedings.

Similarly, procedures put in place by the Garda authorities in relation to the victims of crime, which are set out in the Garda charter for victims of crime, provide that the gardaí will inform victims, where a suspect is charged, of the time, date and location of the court hearing of the charges against the accused.

It is my intention to arrange for a review of the provisions of the victims charter in the near future, in order to ensure its continuing relevance and effectiveness in providing for crime victims. As well as administrative and other provisions, the review will critically examine the deployment of resources to ensure that they continue to deliver maximum effectiveness as well as value for money.

The review will also have regard to the EU framework decision of 15 March 2001 on the standing of victims in criminal proceedings, which sets out to harmonise the treatment of victims of crime across the EU, to ensure that Ireland continues to meet its commitments in that regard. I have no plans to change the law at present in relation to the legal process in criminal cases.

#### NESC Report.

113. **Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform if he has received the Fourth Periodic Report of the NESF; and if he will make a statement on the matter. [34085/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have received a copy of the report which has been circulated within my Department. I welcome the report and am pleased to note that considerable progress has been made in recent years concerning many of the areas covered by the report such as equality issues, child care and reintegration of prisoners. In the case of other matters referred to in the report, these are being examined by my Department.

#### Citizenship Applications.

114. **Mr. Penrose** asked the Minister for Justice, Equality and Law Reform the number of applications to remain in the State received to date from non-national parents of Irish born children; the number of such applications that have been determined to date, giving those granted and those refused; if there is an appeals process in respect of applications turned down; and if he will make a statement on the matter. [4942/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Up to and including Friday, 11 February 2005, a total of 5,843 applications had been received for permission to remain under the revised arrangements for the consideration of applications for permission to remain made by the non-national parents of Irish born children born before 1 January 2005. Of this number, 1,191 applicants have been granted temporary permission to remain. To date no application has been refused but it should be noted that a number of incomplete applications are currently under examination or are being held pending the submission of documents. The top five nationalities of those applying for permission and of those granted permission up to 11 February 2005 are as follows:

Nationality of applicants under the revised arrangements	Number of Applications
Nigeria	1,492
Romania	635
China	200
Philippines	178
Pakistan	165

Nationality of applicants granted permission to stay under revised arrangements	Number of applicants granted permission to remain
Nigeria	321
Romania	236
Moldova	62
China	59
Ukraine	58

In relation to the issue of appeals, it is anticipated that some of those who may not be successful under this scheme will otherwise have a right to remain in the State, for example, they may be here on work permits or on study visas. However, it is anticipated that most applying under the under the scheme will not have any other right of residence. In a circumstance where such a person has his or her application refused, he or she will be informed by letter, as applies to all persons who have no right to be in the State, of a proposal to make a deportation order in accordance with section 3 of the Immigration Act 1999, as amended.

The person will be given the option at that stage of making representations setting out the reasons why he or she should be granted permission to remain temporarily in the State. The person's case file, including all representations submitted, will be considered under the various criteria set out in section 3(6) of the Immigration Act 1999, as amended, and under section 5 — prohibition of refoulement — of the Refugee Act 1996, as amended.

#### Racism Issues.

115. **Aengus Ó Snodaigh** asked the Minister for Justice, Equality and Law Reform the resources that will be provided to implement the national action plan against racism. [5086/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As I have outlined previously, I have secured sanction from the Government for a core budget of €1 million per annum for each year of the life of the national action plan against racism 2005-08. This money will be used to further the goals of the plan and in particular to: make strategic interventions in the implementation of the plan; pursue specific research or consultancy projects in particular sectors; undertake public awareness-information initiatives, and grant schemes.

The strategic monitoring group set up to oversee implementation of the plan will have a role in the allocation of this money. I draw the Deputy's attention to section 10.4 of the national action plan against racism where a three pronged funding strategy is identified, in particular, re-focusing of existing resources through the development of an intercultural dimension to mainstream public policy; identification of specific resources within the annual budget process for the implementation of the plan; and the commitment to realise aspects of the plan as resources become available.

Within this strategy, Departments and agencies will factor into their budgets the necessary allocations consistent with fulfilling agreed commitments under the plan. I would also point that the Government under the Know Racism programme has already invested considerable resources in raising awareness of racism issues to effectively prepare the ground for the strategic approaches set out in the plan. Under the three years of the programme — 2001-03 — some €4.75 million was spent including a total of €1.3 million in grants allocated to 450 successful projects in all 26 counties for the development of local anti-racism initiatives or projects.

In addition, a grant scheme in the sum of €250,000 was announced in October last with the aim of supporting projects to underpin the objectives of the plan. The moneys have now been allocated to 44 projects countrywide.

#### Departmental Assistance.

116. **Dr. Upton** asked the Minister for Justice, Equality and Law Reform if he will circulate an inquiry line to enable Oireachtas Members to access the services available in his Department; and if he will make a statement on the matter. [4958/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** There are already inquiry lines in place in relation to some of the services available from my Department involving large volume of transactions, such as the Land Registry and immigration, citizenship and visa applications. My Department's website also contains details of the functions of my Department. I have no plans to provide further inquiry lines at this stage. However, I can inform the Deputy that there are plans to improve the Department's website shortly.

#### Search Warrants.

117. **Mr. Stagg** asked the Minister for Justice, Equality and Law Reform if he has received the advice he requested on the possible invalidity of a number of search warrants following a recent Supreme Court ruling; the action he is taking to ensure that all search warrants are issued in accordance with all legal requirements; and if he will make a statement on the matter. [4953/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I assume the Deputy is referring to the Supreme Court judgment in the case of Dylan Creaven, Silicon Technologies (Europe) Limited & Anor v. CAB & Anor. This case concerned the validity of a number of search warrants issued by the District Court. The Supreme Court found *inter alia* that where a district judge issues a search warrant he or she should be sitting within the District Court district to which he or she has been assigned. The Supreme Court went on to find that in this case warrants issued by a District Court judge were not valid because they were issued by the judge sitting outside the District Court districts to which he had been temporarily assigned.

I sought and have received the advice of the Attorney General on this matter. On the basis of that advice I have decided to deal with the particular issue in question by way of a legislative proposal which I will bring forward as an amendment to the Criminal Justice Bill. My proposals in this respect will be announced in the usual way.

#### **Criminal Prosecutions.**

118. **Mr. Gilmore** asked the Minister for Justice, Equality and Law Reform if his attention has been drawn to the fact that fewer than one in six recorded murders since 1998 in which firearms were used has resulted in court convictions; if he has satisfied himself that the gardaí have adequate resources to deal with the problem of gun crime; and if he will make a statement on the matter. [4929/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The number of violent deaths, murder and manslaughter, recorded in 2004 is 45, the lowest number recorded in ten years, despite our population increasing by 400,000 during the same period. I am informed by the Garda authorities that murders involving the use of firearms tend to have lower conviction rates than other murders. This is not unique to Ireland. The worldwide experience of murders linked to organised criminal activity is that it is exceptionally difficult to bring the perpetrators to justice. However, all murders and violent crime are subject to detailed investigation regardless of the circumstances of how they occurred. Firearms are also often involved where offenders take their own lives subsequent to the commission of a murder. In this regard it should be noted that since 1998 the detection rate where a firearm was used in a murder is 53%.

I have decided to bring forward, on Committee Stage of the Criminal Justice Bill 2004, certain proposals. Second Stage of the Bill commenced in the House this week. In this context, I am looking at a number of proposals, including more severe penalties for firearms offences, set minimum sentences for the most serious offences, the introduction of a new offence of modification of a firearm, for example, the sawing off of a shotgun, and a statutory basis for a period during which

firearms may be surrendered to the Garda Síochána.

I am satisfied that the necessary resources are being directed towards the containment and detection of such serious criminal activity. Investigations are undertaken by divisional and district Garda officers at local level. All the necessary national support services are available to supplement these investigations, such as the Garda National Bureau of Criminal Investigation.

#### **Prison Accommodation.**

119. **Mr. Neville** asked the Minister for Justice, Equality and Law Reform the reason no mental health professional was included as a member of the implementation committee to establish observation cells in prison. [4832/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been advised that the Irish Prison Service steering committee which oversaw the development of the special cells referred to by the Deputy had access to the expertise considered necessary for the task assigned to them. The design of these cells was finalised following a thorough examination of all requirements and issues involved.

#### **Property Disposal.**

120. **Mr. Morgan** asked the Minister for Justice, Equality and Law Reform when his attention was drawn to the fact that the Government is precluded from selling the former Shanganagh open prison due to a restrictive covenant. [5083/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been advised by the Irish Prison Service that there is no such covenant in existence.

#### **Sexual Offences.**

121. **Ms B. Moynihan-Cronin** asked the Minister for Justice, Equality and Law Reform the number of persons serving custodial sentences for sexual offences; the number of such offenders who have been offered a place in training programmes designed to prevent re-offending; the number who took up such courses; if he has satisfied himself at the very low rate of take-up; the plans he has to encourage greater take up; and if he will make a statement on the matter. [4937/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As of 15 February 2005, there were 267 prisoners serving sentences for sexual offences. There are three forms of direct therapeutic intervention for sex offenders currently operating within the Irish prison system. These are as follows: individual counselling from the Irish Prison Service's psychology service and from the probation and welfare service; the sex offender programme which has been in operation since 1994; one to one interventions by visiting psychiatrists who provide support to prisoners.

Every effort is made to assist sex offenders in custody who are willing to participate at any level in their personal rehabilitation and relapse prevention. While it is not possible to quantify with absolute accuracy participation in all forms of rehabilitation, many of those in custody for sex offences have availed of one or more of the forms of intervention referred to above.

A total of 106 sex offenders have completed the sex offender programme to date. A further eight men are currently undertaking the programme in Arbour Hill Prison. The total number of places available on the programme at present is eight. While there were 37 applicants for the programme, only eight were assessed as suitably motivated for participation on the programme. The reasons applicants for the programme might be considered unsuitable include: currently on remand, appeal pending, current serious mental health problems, not sufficiently prepared for the intensity of the programme, denial of offence, etc. Consequently, there is no waiting list in operation in respect of participation on the programme. The programme is voluntary and the practice is to invite all eligible sex offenders to apply for a place on the programme when a new group programme is being set up.

The number of offenders undergoing one to one counselling in relation to their sexual offending is difficult to define because of the varied nature of individual counselling provided to sex offenders in prison. Some individuals engage with the therapeutic services initially to seek assistance in adjusting to imprisonment or to address their mental health needs. Following such interventions, the offender is often more open to looking at his sexual offending and a concentrated period of motivational work is conducted to help sex offenders address their offending behaviour. In response to such counselling many offenders, who initially might deny responsibility for their crime or deny any need for treatment, are motivated towards some process of change. For some offenders this results in them undertaking the sex offender programme, for others it results in sustained individual therapy around their offending or engagement in some other programme available in the prison system.

The number of suitably motivated offenders applying for participation on the sex offenders programme has declined in recent years and this is a matter of concern. The Irish Prison Service are currently examining this situation to determine what measures may be taken to increase the number of offenders participating on the programme. A number of additional psychologists have recently been appointed to the Irish Prison Service and further appointments are due to be made over the coming months. These new psychologists will play an important role in working with offenders to address their offending behaviour, including work with sex offenders aimed at enhancing their preparedness for possible participation on the sex offender programme.

### **Metrology Service.**

122. **Mr. Boyle** asked the Minister for Justice, Equality and Law Reform his plans to extend the metrification of distances to the Garda carriage office. [5098/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Taxi meters are currently being modified to reflect distance in kilometres. The legal metrology service checks and verifies the meters are operating correctly after modification. The legal metrology service is a statutory body with the National Standards Authority of Ireland which is under the aegis of the Department of Enterprise, Trade and Employment and is therefore outside the remit of my Department.

### **Drugs in Prisons.**

123. **Ms O'Sullivan** asked the Minister for Justice, Equality and Law Reform the progress which has been made with regard to the implementation of the commitment contained in An Agreed Programme for Government to end all heroin use in prisons here; if he will proceed with plans to introduce mandatory drug testing in prisons; and if he will make a statement on the matter. [4940/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Mindful of the commitments in the programme for Government, a group comprising Irish Prison Service management, prison governors, health authority representatives and clinicians have been consulted in relation to a drugs policy for the Irish Prison Service. The intention is that the drugs policy will facilitate consistent regulatory and operational structures in pursuing both supply and demand reduction.

The policy will have regard to the commitment in the programme for Government to end all heroin use in Irish prisons and my commitment to achieving a drug free prison system. Working to fulfil these commitments will involve implementation of stringent measures to prevent drugs from getting into prisons while, at the same time, continuing to invest in services within prisons to reduce the demand for illicit drugs in the prisoner population and meet prisoners' treatment needs.

Central to supporting future supply and demand reduction will be the introduction of mandatory drug testing as envisaged in the programme for Government. Already, prisoners accommodated in the training unit, the open centres at Shelton Abbey and Loughan House, and in the designated drug free areas of Wheatfield Prison and St. Patrick's Institution in the Mountjoy complex are required to undergo frequent drug tests to confirm their drug free status. Mandatory drug testing will, however, soon operate all across the prison system. It will enable identification and referral of drug abusers to treatment programmes, enable enhanced focusing of resources and act as a deterrent to drug misuse. The new prison rules, which are almost finalised in my Department, will include specific provision

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for mandatory drug testing, and, in this context, it is intended that later in the year, the Irish Prison Service will commence implementation of a new strategy of mandatory drug testing, addiction counselling and treatment, and increased measures to prevent drug usage to provide a more complete system of rehabilitation.

#### **Garda Investigations.**

124. **Mr. Timmins** asked the Minister for Justice, Equality and Law Reform the situation with respect to the investigation into the murder of a person (details supplied); and if he will make a statement on the matter. [1389/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that, in the immediate aftermath of the incident in question, a full Garda murder investigation was launched and a large number of persons were arrested for questioning. Although no person has, to date, been made amenable for the murder, I am further informed that the Garda investigation remains open.

#### **Land Registry Office.**

125. **Mr. Connaughton** asked the Minister for Justice, Equality and Law Reform the reason there are such long delays in processing cases through the Land Registry office; if he has plans to expedite the process (details supplied); and if he will make a statement on the matter. [5051/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Land Registry processes a range of application types and provides a wide variety of services to its customers. The Deputy will be aware that in recent years the volume of demand for these services, consistent with the buoyancy in the economy, has grown considerably. The Deputy will be interested to note that, in the case of the vast majority of services provided by the Land Registry, no delays are encountered.

In relation to Land Registry dealings, the length of time taken by the Land Registry to complete cases is dependent on a number of factors, including the complexity of the case, the requirement for the investigation of title, the completeness of the documentation submitted, the volume of business being transacted, the level of resources available at any particular time and any mapping requirements. The availability of the Land Registry's records in electronic format would also have a bearing on the length of time taken. Where a case is urgent and this is brought to the attention of the Land Registry office, in accordance with its customer service policy, the matter is dealt with expeditiously.

In relation to improvements in the Land Registry, I am sure the Deputy will be aware of the investment that has been made in recent years by the Government in the development of the inte-

grated title registration information system, ITRIS, the electronic access service, EAS, the document imaging project and most recently, the digital mapping project, which is currently at tender stage.

In addition, as part of its business planning and customer service strategies, surveys to ascertain the priorities of customers were undertaken in 2001 and again in 2004. The results of these surveys informed and continue to assist the Land Registry in improving the delivery of services.

In the survey undertaken in 2001 customers identified the ready availability of folios and filed plan maps for inspection and the availability of certified copies of these documents as their main priority. At that time difficulties were being encountered in providing these services. Considerable efforts were focused on meeting this identified demand and now, with the success of the new systems, all folios and filed plan maps together with the appropriate names indices are available for inspection on-line and no delays are encountered. By way of example: 769,058 electronic services were availed of by customers during 2004 — 86% of these were provided instantly; 219,537 certified copy folios and filed plans were issued to customers — of these more than 80% issued within 24 hours of the application being received; and 116,712 land certificates, certificates of charge and official map searches were issued. The vast majority were issued within three days of receipt of the application.

The other major category of case handled by the Land Registry is the area of registrations. This is the most demanding in terms of resources and has been directly affected by the increased volumes in recent years. Nevertheless considerable progress has also been made in this area. During 2004 significant progress was made in increasing outputs to match intake and, despite the ever increasing intake of work, the registry achieved even higher increases in output. The following table outlines the increases in intake and output in recent years that the Land Registry has encountered.

Year	Intake	Output
2000	162,650	105,309
2001	156,379	146,554
2002	152,898	151,717
2003	184,585	171,601
2004	197,534	201,308

The output figures have shown a constant upward trend and 2004 was the first year during this period where a surplus of output over intake was achieved. During January 2005 a record level of output for the month was achieved and a surplus of 3,044 cases were completed which augurs very well for the year ahead.

In 2003 a facility to make an application for registration on-line was introduced and this was further enhanced during 2004. Where this option

is availed of faster turnaround times are achieved than by applying through the traditional methods. During January 2005 over 22% of applications for registration were lodged using this facility.

### Property Disposal.

126. **Caoimhghín Ó Caoláin** asked the Minister for Justice, Equality and Law Reform if he plans to reopen Shanganagh prison; and his other plans for the site. [5084/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have no plans to reopen Shanganagh Castle Prison. Part of the property has been disposed of and I plan to place the remainder on the market later this year.

### Work-Life Balance.

127. **Mr. Morgan** asked the Minister for Justice, Equality and Law Reform his views on whether the introduction of paid parental leave would be a significant step forward in attempts to create work-life balance for workers. [33558/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The introduction of paid parental leave would obviously be attractive to employees who are parents of young children. In considering enhanced work-life balance measures for employees it is also necessary to consider the wider implications for employment and competitiveness.

The question of introducing paid parental leave was considered by the working group on the review of the Parental Leave Act 1998 in 2001 which was convened under the Programme for Prosperity and Fairness social partnership agreement. However, the working group, which comprised representatives from the relevant Departments and the social partners, did not reach agreement on the principle of paid parental leave. In the course of the working group's deliberations, some members of the group expressed concerns in relation to the adoption of any new measures which would result in increased costs for employers, particularly small employers and the need to maintain international competitiveness. In subsequent negotiations on the Sustaining Progress partnership agreement, no agreement was made by the social partners on paid parental leave and the Government does not propose to introduce legislative change which one side of social partnership cannot accept. Consequently, the Parental Leave (Amendment) Bill 2004 makes no provision for paid parental leave.

### Garda Traffic Corps.

128. **Mr. Howlin** asked the Minister for Justice, Equality and Law Reform if he still proposes to have 1,000 gardaí on duty as part of his promised traffic corps; when he proposes to set up this corps; and if he will make a statement on the matter. [4960/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** As the Deputy is aware, I announced the establishment within the Garda Síochána of the traffic corps on 23 November 2004. The Deputy will also be aware that the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis in line with the commitment in the An Agreed Programme for Government. As each cycle of recruit training is completed, the Garda Commissioner will assign these new members to the areas of greatest need with particular regard to certain priorities, which include the traffic corps.

I am informed by the Garda authorities that the number of gardaí assigned to the traffic corps will increase from the current approved level of approximately 530 to 1,200 by 2008. The assignment of gardaí to the traffic corps will be done on the following phased basis in tandem with the recruitment of almost 1,100 recruits in each of the next three years:

2005	563
2006	805
2007	1,030
2008	1,200.

I also published a strategic review of traffic policing on 23 November 1994, which is a blueprint for a transformation in the enforcement of road traffic law. A key recommendation of the strategic review is that a new position of assistant commissioner in charge of all aspects of road traffic law should be created. The Government yesterday approved the appointment of Eddie Rock as assistant commissioner and the commissioner has appointed him to take charge of the traffic corps.

Never before has the enforcement of road traffic law been given this level of priority within the force. The new assistant commissioner is a member of the top management team in the force and he will bring authority and visible leadership to the traffic corps from the outset.

### Commission on Policing and Crime.

129. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform his views on the report of the Dublin Lord Mayor's commission on policing and crime; if he intends to act on the recommendations contained in the report; and if he will make a statement on the matter. [4927/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am currently considering the report and its recommendations, and I will be responding to the Lord Mayor in the near future. The Garda Síochána can operate effectively only if the support and assistance of the community they are policing are forthcoming. Proactive local authorities are vital in bringing this about.

A number of the report's recommendations, such as those relating to the need for more gardaí



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on patrol, echo my own priorities for the additional gardaí who will become available over the next three years, following the increase in the strength of the Garda Síochána to 14,000. These additional gardaí will be put into frontline, operational, high visibility policing targeted at the areas of greatest need. The Garda Commissioner has ordered increased local foot patrolling in recent months, and this has been facilitated by the 140,000 additional overtime hours I made available in November last. I am determined to build on this initiative and to build up the status and effectiveness of community policing which is one of the success stories of law enforcement in recent years.

The report discusses how co-operation between the Garda Síochána and local authorities might be enhanced. The Garda Síochána Bill, currently being debated in the House, aims to enhance the accountability of the Garda Síochána, not only through the Minister for Justice, Equality and Law Reform to Dáil Éireann, but also by way of a direct formal linkage with local government and its institutions. The provisions in the Bill for joint policing committees, where local representatives and the Garda will be able to work together to address local policing and issues within the responsibility of the local authority, address many of the report's recommendations. The committees will be a significant innovation in local democracy which can only strengthen policing at the local level. A number of the commission's proposals are now incorporated in the Bill after it was amended in the other House, and the changes enhance the democratic mandate urged by the commission.

The Garda Síochána Bill confers significant powers on the Minister. It can do this because the Minister is accountable to Dáil Éireann and through it to the people and will exercise these powers democratically. For these reasons I am not convinced of the argument for a national Garda board, as the commission recommends.

A number of issues which the commission raises, such as the lack of a policing presence, problems of police numbers, responsive policing, embedding policing within the community and supplementing the gardaí are the sort of issues I would see the joint policing committees dealing with. I believe in maximising the input of local authorities in matters which impact on crime and anti-social behaviour such as by-laws, design of housing, public spaces, public lighting, estate management and getting the balance right in mixing social and affordable housing and avoiding ghettoisation in communities.

The commission is rightly concerned about the abuse of alcohol and its contribution to public order offending. I have long since shared these concerns and brought forward tough new provisions to deal with alcohol abuse and its effect on public order in the Intoxicating Liquor Act 2003. The commission advocates the increased

use of temporary closure orders. The provisions currently in the legislation in this regard are strong. The Act also gave local authorities a new role in relation to the duration of special exemption orders, allowing them to adopt a resolution regarding the duration of such orders in their areas, which the District Court is then required to have regard to in relation to applications for special exemption orders in the area concerned.

### **Garda Deployment.**

130. **Mr. Eamon Ryan** asked the Minister for Justice, Equality and Law Reform his plans to resolve the potential conflict of interest that arises for Garda ethnic minority liaison officers who are also members of the Garda National Immigration Bureau. [5103/05]

**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 the Garda Commissioner authorised the appointment of liaison officers to ethnic minorities in divisions where the need was identified. The divisional officer assessed the ethnic issue in each division and, in consultation with the district officers, appointed liaison officers according to the need identified. Garda liaison officers were appointed in almost every Garda district.

The role of the ethnic liaison officers is to: liaise with the leaders of ethnic communities; inform and assure the ethnic communities of Garda services and protection. Some of the gardaí appointed as ethnic liaison officers also act as immigration officers. This work is in conjunction with other roles and tasks assigned by district and divisional officers and the Garda authorities do not consider that a conflict of interest arises where gardaí appointed as ethnic liaison officers also act as immigration officers.

Training was provided for 60 ethnic liaison officers during 2004. Seminars on the role of ethnic liaison officers took place throughout the country at regional level. The Garda personnel attending both training and seminars included those on immigration duties.

### **Garda Training.**

131. **Mr. Sargent** asked the Minister for Justice, Equality and Law Reform if the proposed volunteer members of the Garda Síochána will receive full training before they commence their duties. [5106/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Section 14 of the Garda Síochána Bill, providing for the appointment of volunteer members of the Garda Síochána, is an enabling provision only. Such officers provide valuable assistance to the police in other common law jurisdictions. No decision to appoint such members here has been taken by the Government. The Bill has two conditions which must be fulfilled before such members can be appointed.

First, the Garda Commissioner must submit proposals for the training of such persons to the Minister of the day. Second, regulations must have been made concerning their recruitment, training and terms and conditions of appointment.

#### Employment Levels.

132. **Mr. F. McGrath** asked the Taoiseach the number of persons employed in the arts in Ireland. [5301/05]

**Minister of State at the Department of the Taoiseach (Mr. Kitt):** An estimated 42,800 persons are engaged in cultural employment in Ireland in 2002. Cultural employment covers both cultural occupations, such as librarians, writers, etc., irrespective of the main activity of the employer, and all employment in cultural activities irrespective of the person's occupation, such as artistic, administrative, etc. The estimate is based on an analysis of the Central Statistics Office quarterly national household survey using a methodology developed by the European Union Statistical Office.

#### Seachtain na Gaeilge.

133. D'fhiafraigh **Mr. McGinley** den Taoiseach an mbeidh a Roinn ag comóradh Seachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5199/05]

**The Taoiseach:** Tá an Rialtas, faoi mo stiúir, an-ghníomhach ag cur na Gaeilge chun cinn. Titeann freagracht laethúil cur chun cinn na Gaeilge ar an Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta. Tá gach tacaíocht tugtha agam don Roinn sin ina gcuid oibre ar son na Gaeilge. Tá Acht na dTeangacha Oifigiúla 2003 achtaithe anois, chomh maith le iarratas déanta ar stádas oifigiúla oibre don Ghaeilge san Aontas Eorpach.

Maidir le mo Roinn féin, roghnaíodh Roinn an Taoisigh mar cheann de na chéad Rannaí Stáit a bhfuil de dhualgas orthu scéim a réiteach faoi Acht na dTeangacha Oifigiúla 2003. Tá an plean sin á réiteach faoi láthair na huaire, agus faoin bplean seo déanfar soláthar le freastal a dhéanamh ar an bpobal trí mheán na Gaeilge.

Beidh Seachtain na Gaeilge á chur ar aghaidh taobh istigh den Roinn, agus beidh spreagadh á thabhairt d'fhoireann na Roinne páirt a ghlacadh ann. Tuigtear dom freisin go bhfuil plé ar bun ag an Príomh-Aoire maidir le díospóireacht Gaeilge a bheith sa Dáil le comóradh a dhéanamh ar Sheachtain na Gaeilge.

#### Health Services.

134. **Ms Enright** asked the Tánaiste and Minister for Health and Children the reason speech and language therapy for a person (details supplied) in County Offaly has been halved; and if she will make a statement on the matter. [5222/05]

135. **Ms Enright** asked the Tánaiste and Minister for Health and Children the reason speech and language therapy for a person (details

supplied) in County Offaly has been halved; and if she will make a statement on the matter. [5223/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** I propose to take Questions Nos. 134 and 135 together.

The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for the provision of speech and language therapy, for people with a physical and /or sensory disability. Accordingly, my Department has requested the chief officer of the executive's midland area to investigate the matters raised and reply to the Deputy.

#### Inter-Country Adoptions.

136. **Mr. Perry** asked the Tánaiste and Minister for Health and Children the avenues open to a person (details supplied) in County Sligo to adopt children from countries affected by the tsunami disaster; and if she will make a statement on the matter. [5297/05]

**Minister of State at the Department of Health and Children (Mr. B. Lenihan):** Inter-country adoption is governed by the Hague Convention on Protection of Children and Co-operation in Inter-country Adoption, which Ireland has signed. Anyone who wishes to adopt abroad is required to go through an assessment process to determine their eligibility and suitability to adopt. This assessment is carried out by the Health Service Executive, and persons who wish to consider adopting abroad should contact the local office.

As regards children affected by the tsunami disaster, the urgent priority in the countries affected will be to address the children's trauma and to meet their immediate psychological and physical needs. It will then be necessary to identify whether children separated from their families are in fact orphans. If that is the case, the first choice would be to place the children with their extended families or to find appropriate fostering or adoption placements in their native countries. Only after all of these possibilities have been exhausted would the authorities consider inter-country adoption. In the circumstances, it will be many months before the countries affected identify whether, and to what extent, there is a need to place children abroad.

#### Hospital Services.

137. **Dr. Twomey** asked the Tánaiste and Minister for Health and Children the number of acute psychiatric units that are not attached to an acute hospital; and if she will make a statement on the matter. [5187/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** In line with the recommendations of the 1984 report, Planning for the Future, health service providers have developed, and continue to develop, a compre-

[Mr. T. O'Malley.]  
 hensive, community-oriented mental health service as an alternative to institutional care for persons with mental illness. In recent years significant capital funding has been provided towards the development of acute psychiatric units linked to general hospitals as a replacement of services previously provided in psychiatric hospitals. There are now 22 such units in place and two more units are expected to open in the near future at Blanchardstown and St. Vincent's Hospital, Elm Park.

A total of 13 stand-alone psychiatric hospitals continue to accept acute admissions. When the two units at Blanchardstown and St. Vincent's, Elm Park open, St. Brendan's Hospital and Vergemount Clinic will cease to admit acute psychiatric inpatients, leaving a total of 11 psychiatric hospitals continuing to do so. In line with Government policy, plans for the replacement of these hospitals are in place and at various stages of development.

#### Health Services.

138. **Mr. Ferris** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in Co. Kerry will be allowed to see a rheumatologist. [5188/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. As the person referred to by the Deputy resides in County Kerry, my Department has requested the chief officer of the executive's southern area to investigate the matters raised and reply to the Deputy.

139. **Mr. Ferris** asked the Tánaiste and Minister for Health and Children when a person (details supplied) in County Kerry will receive a hip replacement. [5189/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. As the person referred to by the Deputy resides in County Kerry, my Department has requested the chief officer of the executive's southern area to investigate the matters raised and reply to the Deputy.

140. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children if the level of care will be increased for a person (details supplied) in Dublin 9; and if she will give the maximum support and advice. [5190/05]

**Minister of State at the Department of Health and Children (Mr. S. Power):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to

manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for the provision of health services in Dublin 9. Accordingly, my Department has requested the chief officer of the executive's eastern regional area to investigate the matters raised and reply to the Deputy.

#### Health Service Reform.

141. **Mr. Lowry** asked the Tánaiste and Minister for Health and Children the outcome of a meeting (details supplied); the implications on the health service in Tipperary; and if she will make a statement on the matter. [5191/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** I had a constructive meeting with Mr. David Hanly, chairperson of the national task force on medical staffing, on 7 February 2005. We reviewed the difficulties that have hindered the progressing of the task force's proposals due to the refusal of hospital consultants to participate in the process. While the acute hospitals review group will not now proceed, Mr. Hanly has agreed to continue to be available to advise on the reform process.

The report of the national task force on medical staffing is a significant contribution to the development of acute hospital services. I have asked the National Hospitals Office to progress its recommendations accordingly. The Government is committed to the development of acute hospital services, including those at Nenagh General Hospital. I intend to continue with the planned investment in new hospital facilities, new consultant posts in a team-based system and the organisation of services around hospital networks.

#### Seachtain na Gaeilge.

142. D'fhiafraigh **Mr. McGinley** den Tánaiste agus Aire Sláinte agus Leanaí an mbeidh a Roinn ag comóradh Sheachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5200/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** Scaipfear eolas faoi Sheachtain na Gaeilge thar timpeall na Roinne. Freisin, le linn 2005, tá sé ar intinn agam scéim a ullmhú de réir Acht na dTeanga Oifigiúla 2003, chun tuairisc a thabhairt ar na seirbhísí a chuirfear ar fáil trí Gaeilge. Mar chuid den ár ullmhúchán chun an scéim seo a dhreachtú, beimid ag cur cúrsaí teanga gaeilge chun cinn i rith Seachtain na Gaeilge agus i rith na bliana ar fad.

#### Health Services.

143. **Mr. Wall** asked the Tánaiste and Minister for Health and Children the position regarding the complaint and appeal by a person (details supplied) in County Kildare against the Health Service Executive; and if she will make a statement on the matter. [5217/05]

**Minister of State at the Department of Health and Children (Mr. T. O'Malley):** The Health Act

2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for dealing with complaints. Accordingly, my Department has requested the chief officer for the executive's eastern regional area to investigate the matter raised and to reply directly to the Deputy.

#### Accident and Emergency Services.

144. **Mr. F. McGrath** asked the Tánaiste and Minister for Health and Children the number of beds required to end the crisis at the accident and emergency departments in hospitals. [5294/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The delivery of accident and emergency services has been identified as a priority area for attention. Many of the difficulties and delays experienced in accident and emergency departments reflect systemwide issues. It is, therefore, necessary to take a whole system approach, involving primary care, acute care, sub-acute and community care in tackling the problems in accident and emergency departments.

I announced a ten point action plan for accident and emergency services on the publication of the 2005 Estimates. A sum of €70 million is available to the Health Service Executive this year for these initiatives. I have met senior management of the Health Service Executive and my Department is working closely with the Health Service Executive to ensure early implementation of these initiatives.

#### Hospitals Building Programme.

145. **Mr. F. McGrath** asked the Tánaiste and

Minister for Health and Children the position regarding the proposed new wing at the Orthopaedic Hospital in Clontarf, Dublin 3. [5300/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** This project is at design stage and is expected to be completed in the coming months. Progressing the project beyond design stage is a matter to be addressed in the context of the Health Service Executive's national service plan, which will indicate its proposed capital plan for the year. I expect this plan to be presented to me soon.

#### Medical Cards.

146. **Mr. G. Mitchell** asked the Tánaiste and Minister for Health and Children if a person (details supplied) qualifies for a medical card; if not, if this person will qualify for a doctor only medical card; and if their savings in any way will affect their entitlement to rent allowance. [5302/05]

**Tánaiste and Minister for Health and Children (Ms Harney):** The Health Act 2004 provided for the Health Service Executive, which was established on 1 January 2005. Under the Act, the executive has the responsibility to manage and deliver, or arrange to be delivered on its behalf, health and personal social services. This includes responsibility for the assessment of applications for medical cards. Accordingly, my Department has requested the director of primary community and continuing care to investigate the matters raised and reply to the Deputy.

The income guidelines for the full eligibility medical cards and an indication of the income guidelines to be used for the assessment of eligibility for a doctor visit card are contained in the following table.

	Medical Cards	Doctor Visit Cards
	2005 Weekly	2005 Weekly
	€	€
Single person living alone (under 66)	153.50	191.87
Single person living alone (66-69 years)	168	210
Single person living with family (under 66)	136.50	170.63
Single person living with family (66-69 years)	144.50	180.63
Married couple (under 66)	222.00	277.50
Married couple (66-69 years)	248.50	310.63
Married couple (70-79 years)	497	621.25
Married couple (80 and over )	522.50	653.13
Allowance for first 2 children under 16 financially dependent on applicant	31.50	39.38
Allowance for third and subsequent children under 16 financially dependent on applicant	34	42.50
Allowance for first 2 children over 16 years financially dependent on applicant	32.50	40.63
Allowance for third and subsequent children over 16 yrs. financially dependent on applicant	35.50	44.38
Allowance for a dependent over 16 years who is in full time third level education and not grant aided	65	81.25
Out-goings on house: rent/mortgage in excess of	26	32.50
Reasonable expenses necessarily incurred in travelling to work (in excess of)	23	28.75

The person in question should ideally make inquiries at the local Health Service Executive office where all aspects of their entitlement to a medical card can be assessed.

#### Garda Stations.

147. **Mr. Kehoe** asked the Minister for Finance the reason for the delay in the purchase of a site

[Mr. Kehoe.]  
for a new Garda station in Wexford town; and if he will make a statement on the matter.  
[5244/05]

**Minister of State at the Department of Finance (Mr. Parlon):** The Commissioners of Public Works have agreed terms for the purchase of a suitable site in Wexford town. A wayleave to connect to water services is to be secured by the vendor as part of the agreement. The acquisition of the site will be concluded when the wayleave is secured.

#### Revenue Statistics.

148. **Mr. F. McGrath** asked the Minister for Finance the amount of revenue generated by people in the arts field. [5301/05]

**Minister for Finance (Mr. Cowen):** An estimated 42,800 persons are engaged in cultural employment in Ireland in 2002. Cultural employment covers both cultural occupations, such as librarians, writers, etc., irrespective of the main activity of the employer, and all employment in cultural activities irrespective of the person's occupation, such as artistic, administrative, etc. The estimate is based on an analysis of the Central Statistics Office quarterly national household survey using a methodology developed by the European Union Statistical Office.

#### Liquor Licensing Laws.

149. **Mr. Timmins** asked the Minister for Finance the position of the case of a person (details supplied) in County Wicklow; and if he will make a statement on the matter. [5340/05]

**Minister for Finance (Mr. Cowen):** While I have no direct function in the issuing of publican licences, I have been informed by the Revenue Commissioners that a publican ordinary licence was issued to the person concerned on 25 November 2002. This licence expired on 30 September 2003. Under legislation, publican ordinary licences expire annually on 30 September. Although the person was issued a renewal notice, and three reminders including one verbal reminder before the end of the licensing year 2003-04, the person concerned did not submit an application for the renewal of the licence for that year. This being the case, the licence was deemed to have lapsed and a new licence is required to issue.

The Revenue Commissioners are precluded from issuing a new licence without the benefit of a court certificate in such instances. Section 24 of the Courts (Supplementary Provisions) Act 1961, confers jurisdiction on the Circuit Court in all applications for a new licence. A new licence cannot issue to an applicant until the County Registrar's certificate is received by the Revenue Commissioners. The Revenue Commissioners received applications from the person concerned on 30 November 2004 and 28 January 2005 for

the issue of a licence for the year commencing, 1 October 2004. Both of these applications were returned to the person concerned requesting a County Registrar's certificate.

#### Garda Stations.

150. **Mr. Carey** asked the Minister for Finance if agreement has been reached between his Department, the Office of Public Works and Dublin City Council regarding the acquisition of a site for the new Garda station in Finglas; and if he will make a statement on the matter.  
[5343/05]

**Minister of State at the Department of Finance (Mr. Parlon):** A suitable site has been identified at Mellows Road, Finglas. Negotiations between the Commissioners of Public Works and Dublin City Council to acquire a site for a new Garda station in Finglas are at an early stage.

#### Disabled Drivers.

151. **Mr. Deenihan** asked the Minister for Finance the number of persons on the waiting list for assessment by the medical board of appeal under the disabled drivers' (tax concessions) scheme 1994; the average length of time that persons have to wait to be assessed; and if he will make a statement on the matter. [5185/05]

**Minister for Finance (Mr. Cowen):** While I have no direct function in the operation of the medical board of appeal for the disabled drivers' and disabled passengers' (tax concessions) scheme, there are approximately 600 persons waiting for an appeal, as of October 2004. The board of appeal is being reconstituted and, therefore, I am unable to determine the average length of time that persons have to wait for an appeal. However, progress is being made on the reconstitution of the board. Under the previous board of appeal, there was a waiting period for appellants in excess of two years.

An interdepartmental review group was established to examine the operation of the scheme and the group's report was published in early July. Following on from the report's recommendations concerning the appeals process, amendments to the regulations governing the disabled drivers' and disabled passengers' (tax concessions) scheme were drafted to improve the operation of the medical appeals board. These were signed by the former Minister for Finance, Mr. McCreevy, on 23 July 2004.

The amendments provide for changes to the existing regulations as follows by expanding the panel of medical practitioners serving on the medical board of appeal from three to five. They also provide for amending the appeals process by introducing a six month waiting period between an appeal and a subsequent application and the requirement for a second or subsequent application to be certified by a registered medical practitioner to the effect that there has been

material disimprovement in the medical condition since the previous application.

A panel of five doctors should allow for the board to meet more regularly and reduce the backlog of appeals. A further factor in the backlog is that a number of those who are seen by the board, and are dissatisfied with its decision, are re-appealing immediately, causing a build up of appeals. This change should free up the new appeals board, when in place, to deal with existing appeals in the system and subsequent appeals where a change in an individual's circumstance requires a reassessment.

### Seachtain na Gaeilge.

152. D'fhiafraigh **Mr. McGinley** den Aire Airgeadais an mbeidh a Roinn ag comóradh Sheachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5201/05]

**Minister for Finance (Mr. Cowen):** Tá Gael eagrais na Seirbhísí Poiblí mar chuid de mo Roinn. Thug siad tacaíocht araimh anall do Sheachtain na Gaeilge ina n-ionad oibre, ina gcúrsaí oiliúna agus mar áis chomhloireachta do Ranna atá ag iarraidh imeachtaí a reáchtáil i rith na seachtaine seo. I mbliana ina bhfoirgneamh féin tá sé beartaithe ag Gael eagrais trí réamhfhógraíocht don bhaill foirne lá ar leith a roghnú i rith na seachtaine mar lá na Gaeilge. Ar an lá sin eagrófar 'Caife Gaelach'; cuirfear bia chlár an lae ar fáil as Gaeilge; déanfar timpeallacht Gaelach a chóthú le fograí agus Áisitheoirí le daoine a spreagadh pé Gaeilge atá acu a úsáid.

Cuirfear gluais de théarmaí úsáideacha ar fáil mar áis de chomhráite theileafóin, de theachtaireachtaí ríomhphoist agus do chomhfhreagras. I rith an lae ina n-ionad 'buail isteach' i dTeach Lansdúin cuirfear taispeántas de áiseanna foghlamtha, idir CD, físteipeanna agus téipeanna ar fáil mar aon le foclóirí, urscéalta do dhaoine fásta agus beidh gearrscannán a thaispeáint.

### Communications Masts.

153. **Mr. Gregory** asked the Minister for Finance if it is policy that the Office of Public Works should engage in commercial activities with mobile phone companies; if a mobile phone mast has been approved by the Office of Public Works at the water tower in the Botanic Gardens complex; if there are homes within seven metres of the tower and a child care centre within 25 metres; and if this decision will be reviewed in view of recent expert reports recommending that such masts should not be located close to schools and child care centres. [5252/05]

**Minister of State at the Department of Finance (Mr. Parlon):** In August 2003 the Commissioners of Public Works appointed telecommunications consultants, to assess the suitability of the State property portfolio for use in the mobile telecommunications sector. Since then, a standard agreement setting out the terms and conditions under

which operators will be allowed to install equipment on State owned properties has been finalised. Any mobile telephone operator that is granted such a licence will be required to strictly comply with all relevant Health and Safety Acts and will operate within EU standards and regulations and adhere to the guidelines on exposure limits to emissions, issued by the International Commission on Non-Ionizing Radiation Protection. Telecommunications consultants will be carrying out checks on an ongoing basis to ensure that this compliance is continuous. Licensees will also be required to fully comply with normal planning regulations. This compliance with health and safety legislation, etc., is required under the licence agreement and applies to any future relevant legislation regulations and International Commission on Non-Ionizing Radiation Protection guidelines.

In the case of the Botanic Gardens, antennae are being erected not masts, which are exempted developments. It was within this strict framework that a licence was granted to a mobile telephone operator for the installation of antennae on the water tower beside the Office of Public Works depot in Glasnevin.

### State Property.

154. **Mr. J. O'Keeffe** asked the Minister for Finance the sites or undeveloped lands within ten miles of the M50 which have been acquired within the past five years for the purpose of development, and which remain undeveloped; and if he will make a statement on the matter. [5292/05]

**Minister of State at the Department of Finance (Mr. Parlon):** No sites or undeveloped lands within ten miles of the M50 have been acquired within the past five years by the Commissioners of Public Works for the purpose of development and which remain undeveloped.

### Special Savings Incentive Scheme.

155. **Mr. Timmins** asked the Minister for Finance the position on the special savings incentive scheme accounts of persons (details supplied); and if he will make a statement on the matter. [5341/05]

**Minister for Finance (Mr. Cowen):** The question relates to a situation where an special savings incentive scheme saver dies before the end of the five year savings period. The special savings incentive scheme allows savers to subscribe to their special savings incentive scheme account on a monthly basis for a 60 month period and the Government provides a top-up of 25% of the value of subscriptions made in each month. When an special savings incentive scheme account matures, which is at the end of the five-year period under normal circumstances, the saver is entitled to the funds in the special savings incentive scheme account less tax at 23% on the profit made from the investment of both the saver's

[Mr. Cowen.]

subscriptions and the Exchequer contribution, subject to compliance with the conditions of the scheme. For example, in the case of an special savings incentive scheme account that was a deposit account from which no withdrawals had been made, tax at 23% would only apply to the interest earned.

Where the saver dies before the 60 month period has elapsed, the special savings incentive scheme account is treated as maturing on the date of death. When this occurs, the top-up of 25% only applies to subscriptions made up to the date of death. Tax is then deducted at 23% on the profit made from the investment up to the date of death and the balance of the funds are then available for distribution to the beneficiaries of the deceased's estate.

### Port Development.

156. **Mr. F. McGrath** asked the Minister for Communications, Marine and Natural Resources the position regarding plans to in-fill 52 acres at Dublin Bay. [5299/05]

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher):** Consideration of the application made by the Dublin Port Company is ongoing and officials from the Department will be meeting with representatives of the Dublin Port Company in the near future to discuss this and other matters.

### Communications Masts.

157. **Mr. O'Connor** asked the Minister for Communications, Marine and Natural Resources the plans he has to prevent the erection of telecommunication masts in residential areas; if his attention has been drawn to the widespread concern on the matter; and if he will make a statement on the matter. [5176/05]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** Issues relating to the physical siting of telecommunication masts are not a matter for me but for the relevant local authorities under the aegis of the Minister for the Environment, Heritage and Local Government.

### Electricity Infrastructure.

158. **Mr. O'Connor** asked the Minister for Communications, Marine and Natural Resources if he will discuss with the ESB the possibility of the company moving their overhead cables in Tallaght underground; and if he will make a statement on the matter. [5177/05]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** The siting of infrastructure, including the placement of cables, is a day-to-day matter for the management of the ESB and Eirgrid and not one in which I have a function.

### Seachtain na Gaeilge.

159. D'fhiafraigh **Mr. McGinley** den Aire Cumarsáide, Mara agus Acmhainní Nádurtha an mbeidh a Roinn ag comóradh Sheachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5202/05]

**Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey):** My Department's partnership committee will meet next week and the agenda includes ways in which Seachtain na Gaeilge could be celebrated this year.

Beidh cruinniú de choiste pháirtíochta mo Roinne an tseachtain seo chugainn. Beidh bealaí chun Seachtain na Gaeilge do Gaeilge do cheilúradh i mbliana ar chlár oibre na cruinnithe sin.

### Harbour Authorities.

160. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources if he will address the various issues raised in correspondence (details supplied); and if he will make a statement on the matter. [5298/05]

**Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Gallagher):** The Harbours Act 1946 provides the legislative basis for the membership of harbour authorities. Section 7(2) provides that the membership of those harbour authorities which are outlined in Part II of the First Schedule, which includes Sligo Harbour Authority, shall consist of the following eleven members: four members appointed by the local authorities; two members appointed by the chamber of commerce, where mentioned in the third column; two members elected by the qualified electors; and three members nominated by the Minister. Section 11 provides that where the Minister is of the opinion that the number of electors will be so few in number as to render inappropriate the holding of the election, the election shall not be held and the Minister shall appoint two members who are in his opinion representative of payers of tonnage rates.

The Harbour Authorities (Non-Holding of Elections) Order S.I. No 472 of 2004, was made by the former Minister on 20 July 2004. The order provided for the non-holding of elections in the case of a number of harbour authorities, including Sligo Harbour Authority. On 28 September 2004, five warrants of appointment were signed by my predecessor, Deputy Browne, in respect of appointments to Sligo Harbour Commissioners.

### Oifig na bPasanna.

161. D'fhiafraigh **Aengus Ó Snodaigh** den Aire Gnóthaí Eachtracha cén fáth ar diúltaíodh pas a Gaeilge a eisiúint do dhuine (sonraí tugtha) i gContae Dhún na nGall. [5259/05]

**Minister for Foreign Affairs (Mr. D. Ahern):** Fuair Oifig na bPasanna iarratas ar phas ón duine

atá i gceist ar an 7 Nollaig 2004. Scríobh an Oifig ar ais ar an 12 Nollaig de bharr go raibh an t-iarratas neamh-iomlán. D'iarr an t-iarratasóir go n-eiseofaí an pas sa leagan Gaeilge dá hainm, ach níor chuir sí aon fhianaise ar fáil maidir le húsáid an ainm seo, faoi mar is cóir le hiarratas den chineál seo. Tuairiscíodh gur cailleadh an pas a bhí ag an iarratasóir cheana. Eisíodh an pas sin in ainm Béarla an iarratasóra.

I Mír a Dó den fhoirm iarratais, iarrtar ar an iarratasóir an t-ainm atá ar a theastas breithe a chur isteach, agus freisin an t-ainm is mian leis a bheith ar an bpas. Murab ionann an dá leagan seo, ní foláir don iarratasóir gníomhas aonpháirtí a sholáthar, nó fianaise go bhfuil an t-ainm atá i gceist in úsáid ar feadh dhá bhliain ar a laghad, e.g. cáipéis chánach, ráiteas bainc, ceadúnas tiomána, tuarascáil scoile, litir ó fhostóir, etc. Is gá dhá shampla ar a laghad a sholáthar. Is féidir pas a eisiúint freisin, mar shampla, in ainm pósta iarratasóra má chuirtear teastas pósta shibhialta ar fáil.

Chun ionracas an phróisis pasanna a chaomhnú, is soiléir go bhfuil sé tábhachtach go n-eiseofaí pasanna san ainm ar a bhfuil aithne ar dhuine de ghnáth. Sin é an fáth, nuair a iarrann duine pas i bhfoirm seachas an leagan atá ar a theastas breithe, go lorgaítear an fhianaise thuas. Más mian leis an iarratasóir dul ar aghaidh lena hiarratas, ba chóir di iarratas nua a chomhlánú a bheadh deimhnithe ag a stáisiún Garda áitiúil. Más mian léi go n-eiseofar pas di sa leagan Gaeilge dá hainm, ba chóir di fianaise úsáide a thaispeáint. Chomh luath is a chuireann sí iarratas úr isteach, agus má bhíonn sé in ord, eiseofar an pas gan mhoill.

162. D'fhiafraigh **Aengus Ó Snodaigh** den Aire Gnóthaí Eachtracha cad é polasaí na Roinne i leith iarratas ar phasanna as Gaeilge; an fíor go bhfuil polasaí ann iarratais a dhiúltaí do shaoránaigh atá anois ag iarraidh casadh ar an leagan Gaeilge dá n-ainmneacha a úsáid. [5401/05]

**Minister for Foreign Affairs (Mr. D. Ahern):** Sé polasaí na Roinne pasanna a eisiúint san ainm ar a bhfuil aithne ar an iarratasóir de ghnáth. Déantar é seo, is cuma má lorgaítear an pas in ainm Gaeilge nó in ainm Béarla an duine. Tá seo uile leagtha amach sna nótaí a ghabhann leis an bhfoirm iarratais ar phas, agus freisin ar shuíomh gréasáin Oifig na bPasanna, [http:// www.passport.ie](http://www.passport.ie).

I Mír a Dó den fhoirm iarratais, iarrtar ar an iarratasóir an t-ainm atá ar a theastas breithe a chur isteach, agus freisin an t-ainm is mian leis a bheith ar an bpas. Murab ionann an dá leagan seo, ní foláir don iarratasóir gníomhas aonpháirtí a sholáthar, nó fianaise go bhfuil an t-ainm atá i gceist in úsáid ar feadh dhá bhliain ar a laghad, e.g. cáipéis chánach, ráiteas bainc, ceadúnas tiomána, tuarascáil scoile, litir ó fhostóir, etc. Is gá dhá shampla ar a laghad a sholáthar. Is féidir pas a eisiúint freisin, mar shampla, in ainm pósta iarratasóra má chuirtear teastas pósta shibhialta ar fáil.

Chun ionracas an phróisis pasanna a chaomhnú, tá sé tábhachtach go n-eiseofaí pasanna san ainm ar a bhfuil aithne ar dhuine de ghnáth, agus go mbeadh cruthú againn ar seo. Dá n-eiseodh an oifig pasanna gan cruthúnas den chineál sin, b'fhéidir go mbeadh céannachtaí iolracha nó baol calaoise ann. Sin é an réasún go gcaithfidimid an fhianaise thuas a fháil, cibé acu an leagan Gaeilge nó an leagan Béarla den ainm atá i gceist.

#### State Visits.

163. **Mr. O'Connor** asked the Minister for Foreign Affairs the plans he has to meet the new US Secretary of State to discuss her vision for the world; the diplomatic contacts with the US; and if he will make a statement on the matter. [5131/05]

**Minister for Foreign Affairs (Mr. D. Ahern):** I look forward to meeting the US Secretary of State, Dr. Condoleezza Rice, in Brussels on 22 February 2005 when she meets with EU Foreign Ministers during the visit of President Bush. I also look forward to meeting the Secretary of State over the St. Patrick's Day period in Washington.

In recent days Dr. Rice has visited a number of our EU partners and the Middle East. I welcome the positive remarks she has made about the EU and the priority she has given to progressing the Middle East peace process.

During my visit to the United States last week, I had meetings with a wide range of senior figures in Congress and also with members of the Administration, including Asa Hutchinson, Under Secretary for Border and Transportation Security, Andrew Natsios, Administrator of USAID and Dr. Mitchell Reiss, the US Special Envoy for Northern Ireland. These meetings provided an opportunity to update our contacts on a range of issues of mutual interest including recent developments in the peace process, immigration and the tsunami relief effort.

#### Overseas Development Aid.

164. **Mr. O'Connor** asked the Minister for Foreign Affairs the development aid initiatives which are in place in respect of Uganda; and if he will make a statement on the matter. [5132/05]

**Minister for Foreign Affairs (Mr. D. Ahern):** Ireland has had an aid programme in Uganda since 1995. According to the UN's 2004 human development index, Uganda remains a poor country where life expectancy is only 45.7 years, only 31% of adults are literate, 48% of the people do not have access to safe water and 44% of the population are below the poverty line.

The programme in Uganda is one of the larger Irish engagements in sub-Saharan Africa. The programme assists in the fields of education, especially primary education; basic health care; improving quality in the area of justice, law and order; assisting the development of three regions under the national plan for decentralisation; on



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agriculture and production; on the war against HIV/AIDS. The budget for the programme in 2004 was €30.6 million; €32 million has been provided for 2005.

Uganda has made progress in poverty reduction and economic management over the last 18 years. On the political front, the decision to move to a multiparty system and the recent registration of some political parties offer the possibility of greater democratic change in future. However, concerns still remain about some aspects of governance. On the economic front, macroeconomic stability and growth are being maintained, although, mainly resulting from the instability in the north, progress in reducing poverty has slowed and there is evidence that economic benefits are unevenly distributed.

The insecurity in the northern region of Uganda has caused widespread disruption and loss of life. The 17 year old civil conflict, caused by the brutal campaign of the Lord's Resistance Army involving atrocities against the civilian population and large-scale abduction of children, intensified in 2003, resulting in a humanitarian crisis with approximately 1.5 million people displaced. The ongoing conflict represents a major challenge to the Ugandan Government, but there are recent indications that it may be entering its final phase. The Ugandan Government has declared a ceasefire in a region in the north so as to allow an agreed intermediary scope to broker a complete cessation of violence and initiate engagement on a negotiated peace. The process is being assisted by a number of donor countries, including Ireland. There is some optimism that progress will be made.

A key incentive to progress is the recent peace agreement between the Government of Sudan, previously a supporter of the Lord's Resistance Army, and the Sudan People's Liberation Movement. It is assumed this will impact on the sustainability of the Lord's Resistance Army insurgency and will encourage a reconsideration of its campaign.

The humanitarian situation in northern Uganda remains fragile. In mid-September 2004 members of the donor community in Kampala, led by the Irish Embassy, visited northern Uganda to send a message of solidarity to the people on behalf of the international community and to stress the international community's support for the amnesty process and for dialogue and reconciliation as a way to bring finality to the conflict. The Chairman and Vice-Chairman of the Oireachtas Joint Committee on Foreign Affairs also visited northern Uganda in late September 2004. Ireland has provided assistance to both the UN world food programme and to Irish and local NGOs for the benefit of the displaced people in the north.

#### **Emigrant Support Services.**

165. **Mr. O'Connor** asked the Minister for For-

ign Affairs if he will report on Irish abroad assistance being targeted on Brent in London which is twinned with South Dublin County Council based in Tallaght; and if he will make a statement on the matter. [5133/05]

**Minister for Foreign Affairs (Mr. D. Ahern):** I share the Deputy's interest in Brent, which is home to a significant proportion of London's Irish community. During my visit to London in December 2004 I was pleased to include Brent in my itinerary and to meet with the staff and clients of the Cricklewood Homeless Concern.

The Government is committed to supporting organisations in Britain that assist those members of our community in London who may find themselves in marginalised circumstances. In 2004 the Government provided a grant of €215,560 to the Cricklewood Homeless Concern, as well as another grant of €120,000 to the Brent Irish Advisory Service. Government support for the provision of services to our emigrants in Britain continues to grow strongly. In 2004 grants amounting to €4.3 million were made from the Díon Fund, which represented an increase of two-thirds on 2003. Further substantial increases in funding for emigrant services in 2005 have been secured. This year the Díon Fund has been allocated an unprecedented amount of €7 million, a figure that is nine times greater than was allocated in 1997. We will continue to support the organisations in the voluntary sector engaged in critical work that benefits our vulnerable community in Brent and elsewhere in Britain.

#### **Diplomatic Representation.**

166. **Mr. Lowry** asked the Minister for Foreign Affairs the number of officials that represented the State at the UN General Assembly each year from 1997 to 2004; if a youth representative has been included in the delegation for the duration of the General Assembly; if so, the way in which the representative was selected; and if he will make a statement on the matter. [5186/05]

**Minister for Foreign Affairs (Mr. D. Ahern):** Ireland is represented in the plenary sessions, and on the various Committees, of the UN General Assembly by officials from the Department of Foreign Affairs assigned to the Permanent Mission of Ireland to the United Nations in New York. Occasionally, when necessary, representation is temporarily augmented by officials from the Department of Foreign Affairs or from other Departments with direct responsibility for the issues under discussion.

The total number of officials that represented the State at various points during the General Assembly in the years from 1997 to 2004 are, respectively, 30, 25, 37, 47, 40, 44, 47 and 42. These figures represent the total number of officials that were officially accredited at the commencement of the General Assembly session to represent Ireland in the plenary session and at various stages in the six main committees: dis-

armament and international security; economic and financial; social, humanitarian and cultural; special political and decolonisation; administrative and budgetary; and legal. Most of these officials were present only for short periods. The accredited list would typically also include a number of alternate official representatives to cover for such contingencies as the unavailability, through competing obligations, of the officials most directly involved. It is not the practice to include a youth representative in the delegation. I am not aware that this is a widely observed practice among other delegations.

#### Seachtain na Gaeilge.

167. D'fhiafraigh **Mr. McGinley** den Aire Gnóthaí Eachtracha an mbeidh a Roinn ag comóradh Sheachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5203/05]

**Minister for Foreign Affairs (Mr. D. Ahern):** Tá fochoiste bunaithe ag coiste pairtnéireachta na Roinne le haghaidh achán ghné d'Acht na dTeangacha Oifigiúla a mheas, agus an dóigh is fearr leis an seirbhís i nGaeilge sa Roinn a fheabhsú. Beidh an fochoiste fosta ag plé leis an dóigh is fearr le Seachtain na Gaeilge a úsáid chun aidhmeanna na hAchta a chur chun cinn sa Roinn.

#### Consular Assistance.

168. **Mr. G. Mitchell** asked the Minister for Foreign Affairs if a person (details supplied) will receive the full assistance of his Department for the cremation of their deceased child in London; and if he will make a statement on the matter. [5303/05]

**Minister for Foreign Affairs (Mr. D. Ahern):** My Department has been aware of the case since early last week, when it received a telephone call from a member of the deceased man's immediate family. Following receipt of this call, it has sought to provide all possible consular assistance.

The Irish Embassy in London has informed me that the man's body was found on 16 November 2004. The embassy has contacted the deceased's local council to establish what efforts were made to establish next of kin. The council advised that it had searched his flat but were unable to find any documentation or identification which would enable it to do so. While it had found a diary containing three Christian names followed by six digit telephone numbers, they could not ascertain the nationality of the deceased man or the location of the three persons listed.

The embassy remains in contact with the council about this matter. The man's brother is now in direct contact with the council. The embassy has also contacted the British army's veterans' advice unit about the man's benefits and entitlements. It is investigating the matter and will respond as soon as possible. The embassy also contacted the coroner's office at Fulham and

confirmed that an autopsy was performed. My Department will continue to provide consular assistance to the deceased man's family.

#### Grant Payments.

169. **Mr. Hogan** asked the Minister for Arts, Sport and Tourism if a decision will be made in respect of an application for grant assistance for a club (details supplied) in County Kilkenny; and if he will make a statement on the matter. [5173/05]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The national lottery-funded sports capital programme, administered by my Department, allocates funding to sporting and community organisations at local, regional and national level throughout the country. The programme is advertised on an annual basis. Applications for funding under the 2005 programme were invited through advertisements in the press on 5 and 6 December 2004. The closing date for receipt of applications was 4 February 2005. All applications are being evaluated against the programme's assessment criteria, outlined in the guidelines, terms and conditions of the programme. I intend to announce the grant allocations for the programme as soon as possible after the assessment process has been completed.

#### Film Industry Development.

170. **Mr. O'Connor** asked the Minister for Arts, Sport and Tourism the plans he has to assist in attracting film-makers to Ireland; his contacts in the matter; and if he will make a statement on the matter. [5174/05]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The most critical element of the Government's strategy for the attraction to Ireland of film-makers has been the extension to 2008 of the section 481 incentive for investment in film production, and the increase in the amount that can be raised from €10.48 million to €15 million from 1 January 2005. This incentive is of critical importance to international film-makers. The certainty that exists regarding the future of the scheme is also important, as long planning horizons apply to major international film productions. Not alone can producers be sure that the section 481 scheme is secure for at least several years to come, but the way in which our scheme operates, and its requirements, are already familiar to producers both in Ireland and abroad.

I have returned from a visit to the United States, during which I met the major film studios to make the case for choosing Ireland as a place to make films. While in the US, I floated the idea of basing a representative in Los Angeles to effectively communicate what Ireland can offer as a filming location. This can obviously be better achieved with the kind of relationships that can be built up through a permanent presence on the ground where decisions are made.

[Mr. O'Donoghue.]

The Irish Film Board has responsibility for marketing Ireland as a filming location, and provides a comprehensive liaison with, and service to, prospective film-makers in Ireland. The board has received funding for 2005 that is an increase of over 20% on what was provided in 2004.

### Community Games.

171. **Mr. O'Connor** asked the Minister for Arts, Sport and Tourism his contacts with the community games organisation regarding plans for the 2005 national games, particularly noting the restricted availability of Mosney holiday centre; if will he acknowledge the great work of the community games over the years; and if he will make a statement on the matter. [5179/05]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** I have not received any submissions from the National Community Games relating to the 2005 national games. During 2004, I and officials of my Department had a number of meetings and contacts with representatives of the National Community Games to discuss issues relating to the costing of the annual community games finals in Mosney.

Those discussions led to a situation where my Department, the reception and integration agency of the Department of Justice, Equality and Law Reform, and the National Community Games confirmed their willingness to help ensure that the facilities in Mosney continue to be available to host the games.

The community games representatives expressed their satisfaction with the range and quality of the facilities and services available at Mosney and their suitability for future national events. They also confirmed that there is no other venue in Ireland with the scale and variety of facilities required for their national events as currently structured and also that any question of providing a special, dedicated venue on the scale required, which would be used only a few times a year, would be completely unrealistic.

I am pleased to say that the RIA has confirmed that for as long as the agency continues to use Mosney, the community games can avail of the facilities there. I can confirm that a new contract was signed between Mosney Irish Holidays Ltd and the Minister for Justice, Equality and Law Reform on 18 November 2004.

### Sports Capital Programme.

172. **Mr. O'Connor** asked the Minister for Arts, Sport and Tourism the schedule to be followed in respect of the 2005 sports capital grants and when an announcement will be made. [5180/05]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** The national lottery-funded sports capital programme, which is administered by my Department, allocates funding to sporting and community organisations at local, regional and

national level throughout the country. The programme is advertised on an annual basis.

Applications for funding under the 2005 programme were invited through advertisements in the press on 5 and 6 December last. The closing date for receipt of applications was 4 February 2005. All applications are currently being evaluated against the programme's assessment criteria, which are outlined in the guidelines, terms and conditions of the programme. I intend to announce the grant allocations for the programme as soon as possible after the assessment process has been completed.

### Seachtain na Gaeilge.

173. D'fhiafraigh **Mr. McGinley** den Aire Ealaíon, Spóirt agus Turasóireachta an mbeidh a Roinn ag comóradh seachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5204/05]

**Minister for Arts, Sport and Tourism (Mr. O'Donoghue):** Níl aon phlean ar leith ag mo Roinn chun seachtain na Gaeilge a chomóradh. Tá mo Roinn, áfach, ag ullmhú dréacht-scéim faoi réir Acht na dTeangacha Oifigiúla 2003. Léireoidh an scéim, a bheidh in éifeacht ar feadh tréimhse trí bliana, conas a dhéanfaidh mo Roinn forbairt ar a cuid seirbhísí Gaeilge. Tá sé i gceist go mbeidh sonraí na scéime ar fáil go poiblí thart ar Aibreán 2005, nuair a bheidh an scéim aontaithe agam le mo chomhghleacaí an tAire Gnóthaí Pobail, Tuaithe agus Gaeltachta.

### Job Creation.

174. **Mr. O'Connor** asked the Minister for Enterprise, Trade and Employment if his attention has been drawn to the job creation needs of Tallaght; the concerns in Tallaght at recent job losses; and if he will make a statement on the matter. [5175/05]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** I am very much aware of the jobs situation in Tallaght. The industrial development agencies are continuing to market the Tallaght area for new jobs and investment. Tallaght benefits from having a third level Institute — the Tallaght Institute of Technology — and excellent infrastructural facilities at City West and Grange Castle in Clondalkin.

Wyeth Biopharma has approximately 700 people employed in Clondalkin and this figure is expected to rise to 1,300 by the end of the year. The Japanese pharmaceuticals company, Takeda Chemical Industries, which will employ 60 people, has also begun construction in Clondalkin. At City West, project developments by SAP Support Services — 460 jobs — AOL Technologies Ireland Ltd. — 204 jobs — and Colgate-Palmolive Support Services — 80 jobs — are providing locally accessible employment opportunities.

Following an agreement last year, Enterprise Ireland is supporting the development of business

incubation space at the institute of technology. This facility is expected to generate quality start up enterprises. The development agencies continue to work with existing companies to assist them to move up the value chain and increase employment potential. Companies who have availed of this process, with financial assistance from IDA Ireland, include Sage and Xilinx in City West.

Job losses and job gains have always been, and will continue to be, part of the economic landscape, but our overall unemployment rate is among the lowest in Europe. In the case of job losses, the full services of FÁS, particularly in relation to re-training and up-skilling, are made available to any workers who wish to avail of those services. In addition, FÁS provides a vocational guidance and referral service to all job seekers in the Tallaght area.

I am satisfied that the strong infrastructural support already in place, including the opening of the Luas, will continue to attract jobs to Tallaght and the surrounding area.

#### Seachtain na Gaeilge.

175. D'fhiafraigh **Mr. McGinley** den Aire Fiontar, Trádála agus Fostaíochta an mbeidh a Roinn ag comóradh seachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5205/05]

**Minister for Enterprise, Trade and Employment (Mr. Martin):** Cuirim fáilte roimh an scéim tábhachta seo seachtain na Gaeilge agus tuigim, chun an seachtain a comóradh, molann mo Roinn do gach duine sa foireann an Gaeilge a úsáid chómh mór agus is féidir agus is oiriúnach é í rith seachtain na Gaeilge.

#### Social Welfare Benefits.

176. **Mr. Ring** asked the Minister for Social and Family Affairs when a person (details supplied) in County Mayo will have their claim for unemployment benefit processed. [5125/05]

**Minister for Social and Family Affairs (Mr. Brennan):** The person concerned applied for unemployment benefit on 12 January 2005. One of the conditions for receipt of unemployment benefit is that a person must have sustained a substantial loss of employment and a reduction in earnings.

Information provided by the employer, in this case, indicates that although there has been a reduction in the average number of days per week worked by the person concerned, there has been no reduction in earnings. Accordingly, a deciding officer disallowed the unemployment benefit claim of the person concerned from 12 January 2005, on the grounds that he had not suffered a consequential loss of earnings.

It is open to the person concerned to appeal this decision and a form for this purpose may be obtained from his social welfare local office. Under social welfare legislation, decisions in

relation to claims must be made by deciding officers and appeals officers. These officers are statutorily appointed and I have no role in regard to making such decisions.

#### Official Engagements.

177. **Mr. Stanton** asked the Minister for Social and Family Affairs the official functions undertaken by him since his appointment; and if he will make a statement on the matter. [5192/05]

**Minister for Social and Family Affairs (Mr. Brennan):** The various functions undertaken by me since my appointment are outlined in the following appendix A.

#### Appendix A.

##### 1. Meetings with the following organisations:

Pensions Board officials  
 Carers Association  
 National Association of People with an Intellectual Disability  
 Age Action Ireland  
 Accord  
 CORI  
 Disability Federation of Ireland  
 The British Ambassador  
 Children's Rights Alliance  
 ICTU  
 INOU  
 St. Vincent de Paul  
 Irish Senior Citizen's Parliament  
 Combat Poverty Agency  
 National Association of Widows in Ireland  
 Pavee Point  
 Threshold  
 One Family  
 Crosscare  
 Irish Countrywomen's Association  
 Irish Farmers Association  
 Comhairle  
 Parental Equality  
 Unmarried & Separated Fathers of Ireland  
 Department of Work and Pensions UK.

##### 2. Attendance at the pre-budget Forum, the Presidential inauguration, a Family Support Agency board meeting and a Pensions Board meeting.

Attendance at a Formal EU Council meeting in Brussels and a conference ('A Social Europe') in Rotterdam.

Attendance at the AGM of the Coalition of Immigrant Information Centres in New York. Attendance at the United Nations on the 10th Anniversary of the UN World Summit for Social Development and participation in round table discussions at same.

##### 3. Opening of a conference for One Family, and the "Fathers at Christmas" conference.

##### 4. Launch of the Family Support Agency's annual report 2003, the Pensions Board Trustee Handbook and information book-

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let, “Strengthening Families through Fathers” (Research Project under the Family Affairs Unit’s Research Programme), The Office of Social Inclusion’s Annual Report (NAPS 2003-2005) and Clondalkin Partnership’s Training Publication.

5. Visits to Listowel, Tralee, Finglas, Galway, Coolock, Nutgrove, Carrick on Shannon social welfare local offices and Longford social welfare local and services offices.
6. Hosting of a farewell lunch for the Austrian Ambassador.
7. Address to Network Galway (women’s group), the National Anti-Poverty Social Inclusion Forum and participation in plenary session and the YMCA ball (a fund-raising event).
8. Presentation of awards/certificates to the following; the Accord photographic competition winners, the Open Learning Centre in Colaiste Ide, Finglas, the travel writers awards, the graduation ceremony for Mohill Enterprise Centre and the Eircom FAI awards.
9. Photocall with the Special Olympics athletes for the family support guide.

#### Social Welfare Benefits.

178. **Mr. Eoin Ryan** asked the Minister for Social and Family Affairs if he has put forward a proposal to extend the free travel pass Europe-wide; and if he will make a statement on the matter. [5196/05]

**Minister for Social and Family Affairs (Mr. Brennan):** The free travel scheme is available to all people living in the State aged 66 years, or over. It is also available to carers and to people with disabilities who are in receipt of certain social welfare payments. It applies to travel within the State and cross-Border journeys between here and Northern Ireland.

A variety of travel concessions are granted by most EU member states to retired pensioners. The scope of these concession schemes and the reductions available vary widely from country to country.

In 1997 a report, Towards a Senior Euro Pass, was commissioned by the Social Affairs Directorate of the European Commission. This report recommended that EU states should move towards having a senior euro pass card which would entitle older people to concessions on various services, including travel, cultural and social activities.

My Department submitted observations on the report’s recommendations at the time, as did other Departments and statutory and non-statutory bodies. The introduction of such an initiative would have to be developed at EU level.

However, the Government is committed to the introduction of a system of all-Ireland free travel for pensioners and other eligible category of social welfare customers, to enable pass holders to make onward journeys free of charge in each jurisdiction. Discussions are ongoing with the relevant authorities to progress this issue.

#### Education Schemes.

179. **Mr. N. O’Keeffe** asked the Minister for Social and Family Affairs if he will reconsider an application for a person (details supplied) in County Cork under the back to education allowance. [5197/05]

**Minister for Social and Family Affairs (Mr. Brennan):** The back to education allowance is a second chance education opportunities programme designed to encourage and facilitate people on certain social welfare payments to improve their skills and qualifications and, therefore, their prospects of returning to the active work force.

At present, to qualify for participation in the scheme an applicant must be, *inter alia*, in receipt of a relevant social welfare payment for at least six months if pursuing a second level course of study. The qualifying period for third level courses of study was increased from six months to 15 months for new applicants from September 2004.

The person concerned, started his course of study in September 2004 when the qualifying criteria was 15 months and does not, therefore, satisfy the eligibility criteria for participation in the scheme. It is not possible, in this case, to make a retrospective award of the allowance as the 12 month qualifying condition does not come into effect until September 2005.

#### Seachtain na Gaeilge.

180. D’fhiafraigh **Mr. McGinley** den Aire Gnóthaí Sóisialacha agus Teaghlaigh an mbeidh a Roinn ag comóradh seachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5206/05]

**Minister for Social and Family Affairs (Mr. Brennan):** Eagráitear seachtain na Gaeilge fé choimírce Chonraidh na Gaeilge; is é feidhm na seachtaine an ghaeilge a chur chun cinn trí imeachtaí agus ghníomhaíochtaí a reachtáil ar fud na tíre. I mbliana, mar a dheineadh cheanna, cuirfear seachtain na Gaeilge in iúl do baill fóirne mo Ranna i slíte eagsúla. Foilseófar bailiúcháin suimíúil d’airteagail i nGaeilge, scríofa ag baill fóirne, in iris inmheanach na Ranna. Seolfar an iris seo do chuile dhuine sa Roinn roimh an teachtáin chun aird na leitheoirí a spreagadh sna himeachtaí a bheidh ar siúl i rith na seachtaine agus chun a chur in iúl doibh conas teacht ar tuilleadh eolas ar imeachtaí na seachtaine ar fud na tíre. Comh maith le sin beidh póstaicir Chonraidh na Gaeilge ar imeachtaí na seachtaine á theaspáint in ionad-oibre éagsúla. Freisin tá grúpaí

neamhhoirmiúla sa roinn a labhrann Gaeilge le chéile agus tá se ar intiín acu teacht le cheile i rith na seachtaine chun Gaeilge a labhairt.

### Social Welfare Benefits.

181. **Dr. Upton** asked the Minister for Social and Family Affairs the stipulations which private landlords must satisfy in order to be awarded rent allowance for the rent of their properties. [5243/05]

**Minister for Social and Family Affairs (Mr. Brennan):** Rent supplements are provided through the supplementary welfare allowance scheme which is administered on my behalf by the community welfare division of the Health Service Executive.

Entitlement to rent supplement rests with the tenant, not the landlord. Payment is normally made to the tenant, although a person who is awarded rent supplement may nominate his or her landlord as being the person to whom the payment should issue.

In determining entitlement to rent supplement the executive generally seeks confirmation from the landlord regarding the address of the accommodation being rented, the number of proposed tenants and the level of rent being sought.

General responsibility for enforcing both housing standards and housing registration regulations relating to rented accommodation is a matter for the local authorities. However, the executive may consider that a property is not suited to an applicant's needs if the accommodation does not comply with legislative standards.

It is not a requirement of the rent supplement scheme that the landlord is registered with the relevant local authority. However, under the Residential Tenancies Act 2004, landlords are obliged to register tenancies with the Private Residential Tenancies Board, PRTB. A wide-ranging information campaign was undertaken to promote the introduction of the new board and the requirement of landlords to register. It is a matter for the PRTB to ensure that landlords comply with the requirements of that Act.

182. **Mr. Kehoe** asked the Minister for Social and Family Affairs the position regarding the receipt of the rent allowance by a person (details supplied) in County Waterford; and if he will make a statement on the matter. [5253/05]

**Minister for Social and Family Affairs (Mr. Brennan):** Subject to certain conditions, rent supplements are provided through the supplementary welfare allowance scheme which is administered on my behalf by the community welfare division of the Health Service Executive.

The southern region of the Health Service Executive has advised that it has no record of an application for rent supplement from the person concerned. If he wishes to apply he should contact the community welfare officer at his local

health centre for an assessment of his circumstances and eligibility.

### Public Transport.

183. **Mr. O'Connor** asked the Minister for Transport if he will report on his negotiations with Luas and Dublin Bus to create an integrated ticket system; the merits of such a development; and if he will make a statement on the matter. [5136/05]

**Minister for Transport (Mr. Cullen):** In March 2002, the Railway Procurement Agency, RPA, was given statutory responsibility under the Transport (Railway Infrastructure) Act 2001 (Additional Functions) (Integrated Ticketing) Order 2002 for the delivery of an integrated ticketing system. The contactless smartcard-based integrated ticketing system, which will enable a passenger to use a single ticket on one or more scheduled public transport services, by road and by rail, irrespective of the transport operator involved, is being developed by the RPA and will be introduced on a phased basis, initially in the Dublin area.

A first step was the launch in April 2004, in conjunction with the RPA, of smartcards by a private operator — Morton's Coaches — on its services. In addition, the RPA informed me that the launch of smartcards on Luas services is scheduled to take place within the next few weeks. The RPA project that Dublin Bus will follow, with smartcards on its services later this year.

By early 2006 passengers will be able to travel on both bus and Luas services in Dublin using one smartcard. Integration using smartcards with other operators is projected to follow shortly thereafter. In the interim, Dublin Bus and Luas already offer some combined bus-Luas tickets for passengers who wish to avail of both services.

### Seachtain na Gaeilge.

184. D'fhiafraigh **Mr. McGinley** den Aire Iompair an mbeidh a Roinn ag comóradh seachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5207/05]

**Minister for Transport (Mr. Cullen):** My Department is fully committed to the promotion of the Irish language. With regard to the Official Languages Act 2003 this Department is meeting all of its obligations under those parts of the Act commenced to date and will continue to do so. My officials will explore ways of celebrating seachtain na Gaeilge.

### Legislative Programme.

185. **Ms O. Mitchell** asked the Minister for Transport the timescale envisaged for the implementation of the Air Navigation and Transport (Cape Town Convention) Bill; and if he will make a statement on the matter. [5213/05]

**Minister for Transport (Mr. Cullen):** My Department has recently received a draft of the Air Navigation and Transport (Cape Town Convention) Bill 2005, from the Office of the Parliamentary Counsel. It is my intention to secure Government approval for the text of the Bill and to introduce it in the Oireachtas very shortly.

The Cape Town Convention is intended to reduce the risks associated with financing aircraft and will make aircraft finance available at more attractive rates in the countries that have ratified the convention. I am very pleased that an Irish company, Aviareto, was successful in the competition to operate the international registry of financial interests that is a key element of the convention.

#### **Rail Network.**

186. **Mr. McHugh** asked the Minister for Transport his views on the restoration of the western rail corridor; his further views on whether the restoration of the western rail corridor is vital as an aid to contribute towards the delivery of balanced regional development; and if he will make a statement on the matter. [5254/05]

**Minister for Transport (Mr. Cullen):** Last year, my predecessor as Minister for Transport, Deputy Brennan, appointed a working group to carry out an examination of the proposal to re-open the western rail corridor. The group is under the chairmanship of Mr. Pat McCann, group chief executive, Jury's Doyle Hotel Group. The group is comprised of county managers, directors of the regional authorities, representatives of city and county development boards, the Western Development Commission, West-on-Track and the intercounty rail committee, Iarnród Éireann, the Railway Procurement Agency and my Department.

The working group and its sub-groups have been considering the question of the feasibility of the western rail corridor since June last year and I understand that they may now be nearing the end of their deliberations. Accordingly, I expect to receive a report in the coming months. Prior to the receipt of that report it would be premature for me to make any further comment.

#### **Community Development.**

187. **Mr. O'Connor** asked the Minister for Community, Rural and Gaeltacht Affairs if his will confirm his commitment and support to volunteering; the funding being made available; and if he will make a statement on the matter. [5135/05]

**Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern):** My Department supports the community and voluntary sector through a wide range of programmes and supports. Under the White Paper on supporting voluntary activity funding totalling €600,000 is provided in 2005 for training

and support grants for community and voluntary organisations. In addition, estimated funding for 2005 of €1,827,000 will be provided this year to cover the administration and core costs of federations, networks and umbrella bodies in the community and voluntary sector.

My Department administers funding under the programme for support for national anti-poverty networks. Responsibility for this scheme transferred from the Combat Poverty Agency to my Department in 2004. Funding of the national anti-poverty networks for 2005 will total €1,392,908. My Department assumed responsibility from Comhairle in January 2004 for the provision of supports to Tallaght Volunteer Bureau, Volunteering Ireland and Focus Ireland in the sum of €91,339, €106,139 and €74,520, respectively. I propose to extend this funding in 2005, with a 5% increase, bringing the total amount of funding to €286,314.

Annual once-off for grants for equipment and capital funding for community and voluntary organisations. The estimated funding for the annual once-off grants in 2005 totals €2.9 million.

The community development projects, partnership companies, community groups and LEADER companies which my Department funds provide a large range of indirect supports to the community and voluntary sector. This includes providing meeting facilities, resource centres and phone, fax or photocopying facilities for local community and voluntary organisations. They also involve large numbers of volunteers from their community in their project activities, such as running child care projects, homework clubs, youth clubs, adult learning or other community-based facilities.

Local drugs task forces, LDTFs, funded by my Department also provide indirect supports to the community and voluntary sector and also include volunteers from their communities in their LDTF projects.

As indicated in my reply to Parliamentary Questions Nos. 599 and 609 on 26 January 2005, I hope to be in a position over the coming period to announce a number of further initiatives in support of volunteering.

#### **Irish Language.**

188. D'fhiafraigh **Mr. McGinley** den Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta cad é an mhoill atá le foilsiú Thuarascáil Bhliantúil Fhoras na Gaeilge agus cén uair atá sé ag súil go mbeidh an Thuarascáil ar fáil. [5256/05]

**Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív):** Faoi mar is eol don Teachta, tá próiseas casta le comhlíonadh maidir le foilsiú chuntais agus thuarascálacha bhliantúla don bhForas Teanga, sa mhéid gur gá na cuntais/thuarascálacha don dá áisín-teacht — i.e., Foras na Gaeilge agus Tha Boord o Ulstèr-Scotch — a bheith iniúchta agus formheasta ar dtús, sular féidir iad a chomh-tháthú i gcomhréir leis na forálacha reachtúla agus cuntasáiochta atá

leagtha síos. Is riachtanas sainiúil é seo a bhaineann leis an bhForas Teanga amháin i measc na n-institiúidí Thuaidh-Theas.

Faoi láthair, tá an próiseas comhairleach Thuaidh-Theas d'fhonn na cuntais chomh-tháite don bhForas Teanga don tréimhse dar críoch 31 Nollaig 2000 a ghlanadh ag druidim chun críche agus tá súil agam nach fada go mbeidh said réidh le foilsíú. Cuimseoidh na cuntais chomh-tháite sin na cuntais agus tuarascálacha bhliantúla don dá áisín-teacht.

Maidir le Foras na Gaeilge féin, tig liom a dhearbhuí don Teachta go bhfuil na cuntais bhliantúla do na blianta 2001, 2002 agus 2003 curtha ar fáil ag an eagraíocht don Ard-Reachtair Cuntas agus Ciste. Nuair a bheidh obair an Ard-Reachtair ar na cuntais sin críochnaithe, beidh sé riachtanach iad a chomh-tháthú le cuntais Tha Boord o Ulster-Scotch le go bhféadfar iad a chur faoi bhráid mar chuntais an Fhoras Teanga.

De réir na nósanna imeachta atá leagtha síos, foilseofar tuarascálacha bliantúla na n-áisín-teachtaí ag an am céanna leis na cuntais, sa bhfoirm chomh-tháite atá ceadaithe.

#### Decentralisation Programme.

189. D'fhiafraigh **Mr. McGinley** den Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta cad é an dul chun cinn atá déanta ina Roinn go dtí seo maidir le cur i bhfeidhm pholasaí dí-lárnaithe an Rialtais. [5257/05]

**Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív):** Tuigfidh an Teachta, ar ndóigh, go bhfuil an próiseas díláraithe in aon Roinn Stáit ag brath ar an dul chun cinn atá á bhaint amach ag an nGrúpa Forfheidhmithe Lárnach.

Sa chomhthéacs sin, tá céimeanna éagsúla glactha ag mo Roinnse le tamall anuas. Ina measc: tá Aonad Díláraithe faoi leith bunaithe chun déileáil leis an gceist seo; tá Coiste Díláraithe Roinne curtha ar bun freisin ar a bhfuil ionadaíocht ó bhainistíocht shinsearach agus ó fhoireann mo Roinne; tá oifigeach faoi leith roghnaithe chun teagmháil a choimeád ar bhonn leanúnach leis an Roinn Airgeadais; tionóltar cruinnithe speisialta de Choiste Comhpháirtíochta mo Roinne agus baintear leas as na cruinnithe sin chun an fhoireann a choimeád ar an eolas maidir le gach gné den phróiseas díláraithe; bíonn mo Roinn i dteagmháil leis na ceardchumainn chomh maith agus tá an cheist pléite leo ag an gComhairle Rannúil; tá socrú curtha ar bun chun eolas faoin dílárú a eisiúint go rialta agus cuirtear gach doiciméad atá bainteach leis an bpróiseas díláraithe ar fáil don bhfoireann uile ar na fillteáin poiblí ar an gcóras ríomhphoist; tá mioneoas bailithe maidir le láthair atá i gceist don dílárú ó thaobh mo Roinne de agus tá pacáistí eolais bunaithe ar an eolas sin scaipthe ar an bhfoireann uile; tá obair idir lámha maidir le córais a chur i bhfeidhm chun nósanna oibre sna rannáin éagsúla a chur ar thaifead agus chun múnlaí a fhorbairt d'fhonn aistriú éifeachtach fóirne a éascú

amach anseo; tá Plean leasaithe um Fhorfheidhmiú an Díláraithe á ullmhú faoi láthair le cur faoi bhráid Choiste Forfheidhmithe an Díláraithe; tá iarratas ar dhílárú/spéis i leith dílárú go hAerfort Chnoc Mhuire curtha isteach nó curtha in iúl ag 159 státsheirbhíseach agus 9 seirbhíseach poiblí — Ina theannta seo, tá iarratas ar dhílárú/spéis i leith dílárú go dtí Na Forbacha curtha isteach nó curtha in iúl ag 7 státsheirbhíseach agus 5 sheirbhíseach poiblí; tá ainmneacha na mball foirne i seirbhís a bhéas ag aistriú le mo Roinnse go hAerfort Chnoc Mhuire mar aon leo siúd a roghnaigh aistriú go suímh díláraithe eile curtha ar fáil anois ag an tSeirbhís um Cheapacháin Phoiblí; tá mo Roinn i gcomhcheangal le hOifig na nOibreacha Poiblí maidir leis na socrúithe i dtaobh tógáil foirgnimh cheanncheathrún ag Aerfort Chnoc Mhuire; agus tá socrúithe maidir le síneadh ag Oifigí na Roinne sna Forbacha faoi lán tseoil freisin.

Tuigim go bhfuil struchtúir den chineál céanna chun an próiseas díláraithe a chur chun cinn curtha ar bun ag ADM; tógtar dílárú san áireamh sa pholasaí earcaíochta atá acu agus tá ADM i dteagbháil díreach leis an OPW maidir le cóiríocht ar an gClochán. Maidir le Foras na Gaeilge, tá dílárú sa chás sin faoi réir chomhaontú na Comhairle Aireachta Thuaidh-Theas agus tá plé ar siúl i gcónaí leis na húdaráis ó Thuaidh d'fhonn dul chun cinn a bhaint amach sa chomhthéacs sin.

#### Seachtain na Gaeilge.

190. D'fhiafraigh **Mr. McGinley** den Aire Gnóthaí Pobail, Tuaithe agus Gaeltachta an mbeidh seachtain na Gaeilge á comóradh i mbliana, cad iad na príomh imeachtaí a bheidh ar siúl, an mbeidh an Rialtas páirteach agus an ndéanfaidh sé ráiteas ina thaobh. [5258/05]

**Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív):** Is togra de chuid Chonradh na Gaeilge é seachtain na Gaeilge, a bhfuil maoiniú á chur ar fáil ina leith ag Foras na Gaeilge. Tuigim ón bhForas go bhfuil deontas de €88,102 curtha ar fáil do Chonradh na Gaeilge chun seachtain na Gaeilge a eagrú i mbliana. Tá cóip den lámhleabhar atá curtha i dtoll a chéile ag Conradh na Gaeilge don ócáid seo seolta chuig an Teachta. Cé nach bhfuil freagracht dhíreach ná ról sonrach oifigiúil agam mar Aire i leith sheachtain na Gaeilge, tá cuireadh faighte agam agus glactha agam bheith páirteach in imeachtaí seachtain na Gaeilge.

#### Grant Payments.

191. **Ms Cooper-Flynn** asked the Minister for Agriculture and Food the reason a person (details supplied) in County Mayo did not receive any headage payments in 2001. [5139/05]

**Minister for Agriculture and Food (Mary Coughlan):** The 2001 area aid application of the person named was fully processed with a forage area of 27.54 hectares of which 24.02 hectares was commonage. He did not meet the required mini-



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mum stocking density of 0.15 livestock units per hectare and was so informed by my Department in writing on 21 March 2002. He was given the opportunity to appeal the decision to the headage and premia appeals unit. The case was fully examined by the appeals unit, after which he was allowed payment on his private acreage of 3.52 hectares. He was disallowed payment on his commonage portion as it was destocked and could not be counted as forage area. He was notified of this by letter of 26 September 2002 and a payment of €357.56 in respect of the 3.52 hectares issued on 16 October 2002.

192. **Ms Cooper-Flynn** asked the Minister for Agriculture and Food the reason a person (details supplied) in County Mayo received no headage for 2004. [5140/05]

**Minister for Agriculture and Food (Mary Coughlan):** The 2004 area aid application of the person named was fully processed with a forage area of 28.39 hectares. However, to be eligible for the 2004 area based compensatory allowance scheme, applicants must maintain a minimum stocking density of 0.15 livestock units per forage hectare for at least four continuous months of the year. My Department wrote to the person named on 14 February 2005 to establish the type of farming activity being pursued. A decision on entitlement to area based compensatory allowance for 2004 will be made on receipt of reply.

#### Seachtain na Gaeilge.

193. D'fhiafraigh **Mr. McGinley** den Aire Talmhaíochta agus Bia an mbeidh a Roinn ag comóradh Sheachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5208/05]

**Minister for Agriculture and Food (Mary Coughlan):** Níl aon phlean faoi leith ag mo Roinn chun imeachtaí Gaeilge a chur ar siúl chun Seachtain na Gaeilge a chomóradh.

#### Grant Payments.

194. **Mr. Murphy** asked the Minister for Agriculture and Food the position regarding a reactor grant for a person (details supplied) in County Cork. [5228/05]

**Minister for Agriculture and Food (Mary Coughlan):** The local district veterinary office will process the appropriate valuation payment with regard to the six reactor animals disclosed as soon as the necessary factory receipt and tax clearance certificate is received from the person concerned.

#### Sugar Beet Sector.

195. **Mr. Kehoe** asked the Minister for Agriculture and Food if she has received details of the person who is in full ownership of the beet quota; and if she will make a statement on the matter. [5248/05]

**Minister for Agriculture and Food (Mary Coughlan):** Under the EU sugar regime, each member state has a quota for manufactured sugar. There is no quota for sugar beet nor is there a quota at farm level. The EU regulations stipulate that the quota must be made available to the sugar manufacturing enterprises in the member state. Accordingly, in Ireland the entire sugar quota is processed by Irish Sugar Ltd., which is the only sugar manufacturer in this country. Irish Sugar Ltd. places annual contracts with farmers to grow a specific tonnage of sugar beet sufficient to manufacture the sugar quota.

The EU regulations do not provide for the buying and selling of the quota for manufactured sugar. While the Commission has raised the possibility of cross-border quota mobility in the context of the proposed reform of the EU sugar regime, several member states, including Ireland are strongly opposed to this idea. However, I have asked the Attorney General to examine the issue of ownership of the quota in this context.

#### Food Industry.

196. **Mr. Kehoe** asked the Minister for Agriculture and Food the contact she has had with Greencore since the closure of the Carlow beet factory; if her attention has been drawn to the fact that farmers will have problems with beet transport; her plans for beet farmers; and if she will make a statement on the matter. [5249/05]

**Minister for Agriculture and Food (Mary Coughlan):** The decision regarding Carlow sugar factory was discussed in the course of a meeting I had recently with the company in question. I am aware of concerns about beet transport arrangements consequent on this decision. I have called on the company and the farming organisation representing the beet growers to engage in meaningful discussion on this issue at the appropriate decision-making level. I am confident that, on this basis, the company and the beet growers concerned will be able to work out satisfactory arrangements to deal with the new situation. The company has already announced plans for a new rail depot to be established in the Carlow region to assist beet growers make their deliveries.

#### Grant Payments.

197. **Mr. Kehoe** asked the Minister for Agriculture and Food the reason a person (details supplied) did not receive full payment of area aid; if full payment will be made; if not, the reason therefor; if this decision will be changed; and if she will make a statement on the matter. [5250/05]

**Minister for Agriculture and Food (Mary Coughlan):** The 2004 area aid application of the person named was fully processed with a forage area of 35.15 hectares of which 13.36 hectares is located in the disadvantaged area. Therefore, he was only entitled to payment on the 13.36 hectares under the 2004 area based compensatory

allowance scheme. Arrangements were made to have the 2004 area based compensatory allowance scheme payment lodged to the bank account of the person named on the 20 September 2004.

The person named also applied for arable aid and received payment for 4.84 hectares. The remaining hectares did not carry crops which were eligible for arable aid.

#### Departmental Staff.

198. **Mr. Perry** asked the Minister for Agriculture and Food when a decision will be made on the transfer of a person (details supplied) in County Leitrim; and if she will make a statement on the matter. [5262/05]

**Minister for Agriculture and Food (Mary Coughlan):** The position is that vacancies that arise are filled, in general, in the first instance from the central transfer list. The central transfer list is maintained in order of seniority on a county by county basis. Vacancies are filled on the basis of that seniority.

The person named is on the technical agricultural officer central transfer list for the counties of Leitrim, Sligo, Cavan and Donegal. Should my Department be filling vacancies in any of those counties he will be considered for a transfer based on his seniority on the central transfer list.

#### Farm Retirement Scheme.

199. **Mr. Perry** asked the Minister for Agriculture and Food further to Parliamentary Question No. 680 of 26 January 2005, if the person's entitlements will take priority over any entitlements obtained by the transferee from the national reserve; if the transferee fails or refuses to activate this person's entitlements, if a mechanism will be put in place to preserve and protect the entitlements to keep the farm viable into the future; and if she will make a statement on the matter. [5263/05]

**Minister for Agriculture and Food (Mary Coughlan):** Except in the case of set-aside entitlements, no priority is afforded to any entitlements under the single payment scheme. It should be noted however, that entitlements allocated to an applicant from the national reserve must be used by that applicant each year for five years and may not be sold or leased out during the five years from date of allocation.

If the early retirement scheme transferee does not agree to lease the entitlements from the person named, then it is a matter between the two parties concerned and is not a matter for my Department. The Deputy will appreciate that a lease is a legal agreement between the transferor and transferee. If either party does not meet his or her commitments under the terms of the lease, it is open to the other party to take legal action to enforce the terms of the lease.

If there are difficulties between the two parties and the terms of their lease agreement are not honoured, the person may, if she/he so wishes

and subject to approval by the early retirement section of my Department, obtain a replacement transferee. My Department endeavours to be as flexible as possible where difficulties arise for participants in sourcing a replacement transferee.

I should point out that a farmer may only consolidate entitlements on lands where the lease agreement has expired. This concession will not extend to farmers who terminate a lease before the agreed period.

There is no provision in the regulations governing the single payment scheme to preserve entitlements indefinitely. If entitlements are not activated in 2005, they will revert to the national reserve unless the case is treated as one of *force majeure*.

#### Forestry Sector.

200. **Mr. Perry** asked the Minister for Agriculture and Food further to the EU Commission proposal for a Council regulation on support for rural development 2007-13, if her attention has been drawn to the fact that there are 16,000 persons directly employed in the forestry sector and a further 15,000 persons who own forest plantations; the steps she will take to redress the situation whereby planting grants will be reduced to 40% of eligible costs, farm forest premiums capped at €500 per hectare, a reduction of 31% on current levels, and the premium time span reduced from 20 to 10 years; and if she will make a statement on the matter. [5265/05]

**Minister for Agriculture and Food (Mary Coughlan):** The issues raised by the Deputy relate to the proposed new draft rural development regulation 2007-13, first published by the European Commission last summer.

The Deputy can be assured that I am well aware of the overall contribution of forestry to this country, including the number of people dependent on a thriving forestry sector for their livelihood. I am also conscious of the impact that the proposals, in their current format, would have on our forestry sector.

From the outset, the Irish position on the draft regulation has been clear and unequivocal. We have consistently made clear our opposition to the Commission's proposals, particularly those relating to the reduction in the planting grant rate, the reduction in the premium period and the reduction in the maximum premium payable.

Our position on the proposal has been articulated consistently and forcefully at every level from working group up to the agriculture council. More member states are adding their voices to the concerns we have expressed and we will continue to work at all levels to achieve the best possible deal for Ireland in the admittedly tough negotiations that lie ahead.

To this end, I am heartened by the support we are receiving from all sectors of the industry. Early on in the process, I established a liaison group, comprising representatives from all parts of the forestry sector, which meets regularly.

[Mary Coughlan.]

Through this group, the sector is informed of developments and my Department is supported in its negotiations with the Commission.

At this stage, intense negotiations on the regulation are continuing and a final decision is not expected to be taken by Council of Ministers for several months.

*Question No. 201 answered with Question No. 93.*

*Question No. 202 answered with Question No. 112.*

*Question No. 203 answered with Question No. 102.*

### **Criminal Prosecutions.**

204. **Mr. Broughan** asked the Minister for Justice, Equality and Law Reform the number of occasions on which prosecutions were initiated and prosecutions secured in respect of failure to hold appropriate work permits against employers and employees in respect of each of the past five years; and if he will make a statement on the matter. [33739/04]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that since the enactment of the Employment Permit Act 2003 on 10 April, 2003 there have been 47 prosecutions against employees and 21 prosecutions against employers. The majority of these cases are still before the courts and, as such, it would be inappropriate for me to comment on them. I understand that there are seven recorded convictions concerning employees and three concerning employers.

### **International Terrorism.**

205. **Mr. Sherlock** asked the Minister for Justice, Equality and Law Reform if he has taken action in regard to accusations from the US Government that a charity's Dublin office was being used to help funnel massive financial support to terror groups linked to the network led by Osama bin Laden; and if he will make a statement on the matter. [1505/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that there is no evidence — nor has any been adduced — that any charity based in this jurisdiction is being used to facilitate the activities of terrorist groups.

Ireland remains fully committed to implementing its international obligations regarding terrorism and the financing of terrorism, as set out, *inter alia*, in a number of United Nations Security Council resolutions. In general, these resolutions require UN member states to criminalise the financing of terrorism; to freeze the funds, financial assets or economic resources of

terrorists and terrorist entities; and to prohibit the provision of financial services to terrorists and terrorist entities.

Effect has been given to these UN resolutions within the European Union by means of implementing instruments which have direct application in all EU member states, including Ireland. These instruments provide for the drawing up of a list of groups and entities considered to be involved in terrorism and against which specific restrictive measures, principally the freezing of assets, can be applied. Additions may be made to the EU list on foot of proposals made by EU member states or third countries, including the United States of America.

### **Garda Equipment.**

206. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform if all Garda speed detection equipment has been recalibrated to function on the basis of kilometres rather than miles per hour; the reason there was insufficient time for this task to be carried out prior to the introduction of the new metric speed limits; and if he will make a statement on the matter. [4759/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that as equipment calibrated to kilometres per hour could not be used for speed enforcement before 20 January 2005 the Garda Síochána implemented a plan to calibrate approximately half of the Garda speed detection equipment to kilometres per hour prior to the metrification of speed limits so as to ensure the availability of effective speed detection equipment at all times. As all equipment could not be recalibrated simultaneously, arrangements were put in place to carry out recalibration of the remaining equipment over a period. I understand that all the remaining equipment has now been recalibrated.

207. **Ms Shortall** asked the Minister for Justice, Equality and Law Reform if he has investigated the situation with regard to the validity of hundreds of speeding summonses after it emerged that some of the forms used by gardaí failed to stipulate whether traffic offenders were driving in miles per hour, or kilometres per hour; if his attention has been drawn to the fact that a number of cases were recently struck out of court on this basis; if the situation has been addressed; and if he will make a statement on the matter. [4785/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that all fixed charge notices issued by the Garda Síochána now indicate kilometres per hour. I am further informed that a small number of cases where the type of speed limit was not stipulated were dismissed in the courts. This situation should not arise in the future.

### Criminal Prosecutions.

208. **Ms McManus** asked the Minister for Justice, Equality and Law Reform the circumstances and considerations that led to the pending trial of a person (details supplied) in a court in London for the murder of a person (details supplied) alleged to have been committed in Walkinstown, Dublin in May 2003; if this person's extradition for this offence was sought by the authorities here; if not, the reason therefore the person by whom any relevant decision was made; if the exercise by the English courts of extra-territorial jurisdiction in respect of a murder allegedly committed in this State has any modern precedent; the nature and extent of any co-operation being provided to the English prosecution authorities in relation to the presentation of their case; if assistance will be provided to the family of the victim to meet the additional costs of attending the trial occasioned by the fact that it is taking place abroad; if consular or other assistance will be available to the family during the course of the trial; if he, the Government or the Garda Síochána will have observers or other representatives at the trial; and if he will make a statement on the matter. [5127/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I refer the Deputy to my reply to Parliamentary Question No. 448 of 15 February 2005 on the same topic.

### Citizenship Applications.

209. **Mr. N. O'Keefe** asked the Minister for Justice, Equality and Law Reform the position regarding an application for Irish citizenship by a person (detail supplied) in County Cork. [5145/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** A declaration of acceptance of Irish citizenship as post nuptial citizenship was received in the citizenship section of my Department on 21 October 2004 from the person referred to in the Deputy's question.

The current processing time for such declarations is approximately ten months from the date of lodgement and it is likely that the processing of the declaration of the person will be finalised by the end of August 2005. I will advise the Deputy and the applicant when the matter has been concluded.

210. **Ms Cooper-Flynn** asked the Minister for Justice, Equality and Law Reform the position regarding the naturalisation application of a person (details supplied) in County Mayo. [5146/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** An application for a certificate of naturalisation from the person referred to by the Deputy was received in the citizenship section of my Department on 19 January 2004.

The average processing time for such applications is currently 24 months and it is likely that the application of the person concerned will be finalised around January 2006. I will inform both the applicant and the Deputy as soon as I have reached a decision.

### Ministerial Responsibilities.

211. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform the Ministers of State who are attached to his Department; the reason details of these Ministers of State and their roles and responsibilities are not clearly visible on his Department's website; if he intends to make this information available on his website; and if he will make a statement on the matter. [5148/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** There are two Ministers of State attached to my Department. Deputy Fahey is Minister of State with responsibility for equality matters, particularly disability, and Deputy Brian Lenihan is Minister of State with special responsibility for children, a role which overlaps three Departments, the Department of Health and Children, the Department of Justice, Equality and Law Reform and the Department of Education and Science.

After the recent Government reshuffle the then Minister of State information was taken off my Department's website for updating. The respective details of both Ministers for State are now available on my Department's website.

### Official Engagements.

212. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform the official functions undertaken by his Minister for State for equality issues since his appointment; and if he will make a statement on the matter. [5149/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The official functions which my colleague, Deputy Fahey, Minister of State has attended from 29 September 2004, the day he took office, to 11 February, 2005 are as follows:

Date of Official Function	Function Attended
5 October, 2004	Dublin Rape Crisis Centre — Poster Exhibition — Ballymun
19 October, 2004	National Disability Authority Conference
11 November, 2004	Integration Policy Conference, The Netherlands
13 November, 2004	Launch of First Regional Men's Network 'Men Matter'
16 November, 2004	Launch of ESB Equal Policy
17 November, 2004	Brothers of Charity National Service Users Conference
26 November, 2004	Young Mothers in Education Launch 'New Lives Real Choice'

Date of Official Function	Function Attended
27 November, 2004	Men Overcoming Violent Emotions Ireland AGM
6 December, 2004	Opening of Rape Crisis Network of Ireland/Garda Conference
8 December, 2004	National Disability Information Day
13 December, 2004	Comhdháil Náisiunta na Gaeilge launch of 'First Steps-Early Development of Irish as a Primary Language'
13 January, 2005	Launch of Rape Crisis Network Ireland new website & logo.
27 January, 2005	Launch of National Action Plan against Racism
28 January, 2005	JHA Informal, Luxembourg
2 February, 2005	O2 Ability Awards
3/4 February, 2005	Beijing + 10 Conference and Meeting of Ministers, Luxembourg
10 February, 2005	Garda Graduation Ceremony

### Disability Support Service.

213. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform the details of the most recent Irish national information day on disability; his views on its success or otherwise; when and if the next such day will take place; the theme to be addressed; and if he will make a statement on the matter. [5150/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Irish national information day on disability has been held annually since 1997. It is part of an EU-wide annual programme of national information days in each member state, with the goal of raising disability awareness throughout the Union. Topics of the Irish national information day have included Progress Through Employment and Information Technology — Access for All.

The most recent national information day was held on 8 December 2004 in The Helix, Dublin. Its main focus was the awards ceremony for a nationwide primary school essay competition on the theme Someone like Me. The aim of the competition was to get younger children thinking about people with disabilities and the fact that people with disabilities are more like than unlike people without disabilities.

The awards ceremony was attended by the 26 children who were the county winners, their family members, teachers and friends. The prizes were awarded by the Minister of State with special responsibility for equality, Deputy Fahey. The national winner received €700 worth of vouchers and €12,000 vouchers for her school in Edenderry, County Offaly. The county winners each received €200 worth of vouchers for art supplies, books, audio and video equipment, and €2000 worth of vouchers for computer and audio-visual equipment for their schools. The overall prize fund was in excess of €60,000.

A booklet with the essays of the national and county winners and a DVD featuring an animated series of short stories on the theme of disability is being distributed to national schools around the country. This information is also being distributed to citizen information centres, libraries, various media organisations and local disability networks through People with Disabilities Ireland.

Informal feedback from schools, parents, and the children themselves was positive. It is expected that an evaluation of the event will be prepared for the Department shortly. Another national information day is planned for this year, the theme for which is under consideration.

### Seachtain na Gaeilge.

214. D'fhiafraigh **Mr. McGinley** den Aire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí an mbeidh a Roinn ag comóradh Sheachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5209/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Is féidir liom a chur in iúl don Teachta nach bhfuil aon imeachtaí ar leith bear-taithe chun Seachtain na Gaeilge a chomóradh i mo Roinnse.

Mar a rinne siad blianta eile, áfach, déanfaidh an Garda Síochána aird a dhíriú ar an tseachtain trí fhaisnéis a chur ar taispeánt ar chlár taispeána agus soláthróidh siad leabhráin eolais faoi Sheachtain na Gaeilge a bheidh ar fáil sa mí místéar fáiltithe tosaigh i gColáiste na nGardaí. Déanfar Seachtain na Gaeilge a chur chun cinn, freisin, trí imeachtaí praiticiúla laethúla cuí i gColáiste na nGardaí.

### Legal Aid Service.

215. **Ms Enright** asked the Minister for Justice, Equality and Law Reform the length of waiting lists for legal aid cases in each legal aid area; and if he will make a statement on the matter. [5219/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The information sought by the Deputy is set out in the following table.

I should also mention to the Deputy that the allocation for the Legal Aid Board has been increased from €18.388 million in 2004 to €21.362 million in 2005, an increase of 16%. I expect that the increased allocation will improve the situation on waiting lists for legal aid cases. As per January 2005:

Law Centre	Maximum current waiting time in months
Athlone	2.00
Castlebar	4.50
Cavan	2.75
Cork — Popes Quay	3.00
Cork — South Mall	12.00
Dublin — Blanchardstown	8.25
Dublin — Clondalkin	1.50
Dublin — Finglas	15.50
Dublin — Gardiner Street	8.00
Dublin — Brunswick Street	3.00
Dublin — Ormond Quay	3.00
Dublin — Tallaght	4.00
Dundalk	4.25
Ennis	6.25
Galway	3.50
Kilkenny	7.75
Letterkenny	8.50
Limerick	3.00
Longford	0.00
Monaghan	3.50
Navan	10.25
Nenagh	7.00
Newbridge	16.00
Portlaoise	7.75
Sligo	2.75
Kerry	4.00
Tullamore	1.50
Waterford	3.00
Wexford	6.75
Wicklow	15.50

### Sexual Offences.

216. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the number of persons by county on the register of sex offenders; and if he will make a statement on the matter. [5231/05]

217. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the number of persons by county who have been placed on the register of sex offenders for ten years or more; the number remaining on it; and if he will make a statement on the matter. [5232/05]

218. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform if he will report on the procedures for removing a person from the sex register; the reasons which give rise to such an action; and if he will make a statement on the matter. [5233/05]

219. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the number of persons who have been added to the register of sex offenders in each of the years 2002, 2003 and 2004; and if he will make a statement on the matter. [5234/05]

220. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform if he will provide details on the body of persons with responsibility for maintaining and updating the register of sex offenders; if the system is available through PULSE or is otherwise computerised; and if he will make a statement on the matter. [5235/05]

221. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the use which is made of the information and data stored in the form of the register of sex offenders; the extent to which active monitoring is employed; if persons on the register should be profiled periodically to assess risk; and if he will make a statement on the matter. [5236/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 216 to 221, inclusive, together.

As the Deputy is aware, the Sex Offenders Act 2001, was enacted on the 27 September 2001, and I am informed by the Garda authorities that there are currently 755 persons subject to the Act. The information requested on a county and yearly basis is an operational matter for the Garda Síochána and is therefore not available.

I am informed by the Garda authorities that details of persons convicted for sex offences are recorded on the PULSE system and that the Garda Síochána maintains the information and data at the domestic violence and sexual assault investigation unit. The Garda Síochána monitors all sex offenders in accordance with the Sex Offenders Act 2001 and policing practice.

I am further informed by the Garda authorities that persons are no longer subject to the requirements of the Sex Offenders Act 2001, after their period of notification requirement expires. Persons who are subject to the Act indefinitely can apply under the terms of the Act to the courts for removal from these requirements.

*Question No. 222 answered with Question No. 107.*

### Prisoner Releases.

223. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the circumstances surrounding the imprisonment of a person (details supplied); the details of approaches made to him or known to him to have occurred regarding the person’s early release; if court proceedings have ensued; and if he will make a statement on the matter. [5238/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The person referred to by the Deputy is serving concurrent five year prison sentences on foot of warrants issued at the Court of Criminal Appeal on 20 October 2003. His current remission date stands at 14 July 2006. I understand that the other issues raised by the Deputy are currently the subject of court proceedings and

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accordingly it would not be appropriate for me to comment further at this time.

### Legal Aid Service.

224. **Ms Enright** asked the Minister for Justice, Equality and Law Reform if he intends to sanction more staff to the Legal Aid Board to eliminate the waiting list; and if he will make a statement on the matter. [5240/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I can inform the Deputy that I have no request from the Legal Aid Board for additional staff. I can further inform the Deputy that the funding for the Legal Aid Board has been increased from €18.388 million in 2004 to €21.362 million in 2005, an increase of 16%. The board has informed me that the funding allocated will enable them to employ their full complement of solicitors and support staff and to provide cover for staff absences during the year.

The board has also informed me that the funding allocated has allowed the District Court private practitioners scheme to be expanded in November 2004 to enable the board to provide a service to a greater number of persons. In addition, the board is developing proposals for the use of solicitors in private practice in certain family law cases in the Circuit Court. The board hopes to introduce this scheme in the summer. The board considers that the net effect of these measures will mean that the board can continue to provide a priority service and also move to a position during 2005 to provide a timely service to all other applicants.

### Registration of Title.

225. **Mr. Ring** asked the Minister for Justice, Equality and Law Reform when will dealings be completed in the Land Registry Office for a person (details supplied) in County Mayo. [5242/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Registrar of Titles that the applicants referred to by the Deputy have lodged two applications with the Land Registry: an application for transfer of part which was lodged on 15 May 2000; and an application for transfer of balance of folio and deed of exchange which was lodged on 3 April 2002. Dealing nos. D2000SM004552X and D2002SM003640P refer.

I am also informed that a query was raised with the lodging solicitor concerning dealing no. D2000SM004552X on 9 July 2003 and a reminder was sent on 23 September 2003. Dealing No. D2002SM003640P cannot be completed until this query has been satisfactorily resolved.

However, I can assure the Deputy that as soon as the outstanding query has been resolved the applications will be completed as soon as possible.

### Garda Stations.

226. **Mr. Kehoe** asked the Minister for Justice, Equality and Law Reform if he has given approval for the tender for the painting of the Garda station in Wexford town; if his attention has been drawn to the fact that the tender has been sent out; and if he will make a statement on the matter. [5245/05]

227. **Mr. Kehoe** asked the Minister for Justice, Equality and Law Reform the length of time the application for the building of a new Garda station in Wexford town has been in his Department; when the new building will be complete; and if he will make a statement on the matter. [5246/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 226 and 227 together.

Regarding the painting of Wexford town Garda station, I am informed by the Garda authorities that tenders for this work are currently being processed with a view to the station being painted this year. Regarding the building of a new station in Wexford town, the need for which was identified by the Garda authorities some years ago, the Deputy will be aware from my reply to Question No. 318 of 2 February 2005 that it is first necessary for the Office of Public Works to source and secure a suitable site before construction of the station can start. That office is completing the purchase of a site in the town and when the purchase has been secured every consideration will be given to providing the new station without undue delay.

### Character References.

228. **Mr. Kehoe** asked the Minister for Justice, Equality and Law Reform if there is any ruling within the Garda forces regarding the giving of character references; and if he will make a statement on the matter. [5247/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities that instructions regarding the issuing of police certificates are contained in the Garda Síochána code. Police certificates of character are issued from district headquarter stations on application.

### Residency Permits.

229. **Mr. Perry** asked the Minister for Justice, Equality and Law Reform the progress made on the application by a person (details supplied) in County Sligo; and if he will make a statement on the matter. [5264/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The person in question made an application for residency in the State as the spouse of an EU citizen exercising EU treaty rights in Ireland. The application was approved in September 2004 and notification of the

decision was sent to her current address. Applications for residency in respect of her children have recently been approved.

#### Registration of Title.

230. **Mr. Ring** asked the Minister for Justice, Equality and Law Reform when a dealing for a person (details supplied) in County Mayo will be completed in the Land Registry Office. [5268/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Registrar of Titles that this is an application for transmission of part which was lodged on 24 March 2004. Dealing no. D2004SM002579W refers.

I am further informed that a query issued to the lodging solicitor on 27 May 2004 and that a reminder issued on 11 February 2005. I can assure the Deputy that on receipt of a satisfactory reply to this query, the matter will receive further attention in the Land Registry.

#### Missing Persons.

231. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the total recorded number of missing persons at present; the ongoing activity to identify their whereabouts; and if he will make a statement on the matter. [5271/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the total number of untraced missing persons from 1990 to 2003 is 292. The figures for 2004 are in the process of being validated and, are, therefore, not yet available.

When a person is reported missing, the local Garda superintendent takes direct responsibility for the investigation and appoints an investigation team to include any specialised unit deemed necessary, for example, the National Bureau of Criminal Investigation or the technical bureau. The Garda authorities have assured me that every effort is made to locate all missing persons and that they consider the current procedures for dealing with missing persons to be adequate. The procedures are kept under constant review.

The Garda Síochána participates fully with all the media outlets, print, radio and television, in highlighting cases involving missing persons, as appropriate. All cases of persons reported missing in suspicious circumstances are subject to ongoing review and investigation. The services of other external agencies such as Interpol and Europol are also available to assist in the investigation. In addition, every Garda district has a specially trained search team that is familiar with the locality.

The missing persons bureau in Garda headquarters is responsible for maintaining data relating to missing persons. All files on missing persons remain open and under continuous review until the person is located, or, in the case of a missing person who is presumed drowned, a ver-

dict to that effect is pronounced by the coroner. Thankfully, the majority of missing children cases reported to the Garda authorities are successfully resolved.

In September last year I launched the missing children website, *www.missingkids.ie*. This is a joint initiative between the Garda Síochána and the International Centre for Missing and Exploited Children. This website enables the Garda Síochána to circulate instantaneously and internationally written details and high-quality photographs of children reported missing to other police forces. The Deputy will be aware of the missing persons helpline, which has been operating since October 2002. This is a dedicated helpline which is operated by Victim Support as a counselling and referral service and serves as a primary point of contact for the families of missing persons. The helpline provides advice and psychological support for families of missing persons as well as structured liaison with the Garda Síochána.

I am satisfied that the Garda Síochána does its utmost with regard to missing persons cases and that current procedures are in line with international best practice.

#### Prison Committals.

232. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of persons in prison; the number on day or extended release on average; and if he will make a statement on the matter. [5272/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** There were 3,215 persons in prison custody on 15 February 2005. A further 178 persons were on temporary release of one day or more. The daily average number of persons on temporary release for the first six weeks of 2005, which has been calculated from figures taken each morning at unlock, was slightly less than 169 persons each day. That average number may of course fluctuate during the course of the year.

#### Garda Transport.

233. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extent to which the Garda motor fleet is equipped and sufficiently available to all stations throughout the country; the number of Garda cars on stand-by in the event of an emergency; and if he will make a statement on the matter. [5273/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** While I am responsible for providing the money for investment in the Garda fleet, it is for Garda management to decide upon the allocation of the vehicles.

I am informed by the Garda authorities that they are satisfied that there is an adequate number of patrol cars available in each Garda division to meet requirements. The current profile of the Garda fleet is as follows.



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	Cars (incl. Ministerial Fleet)	Vans	Motor cycles	4 x 4 Vehicles	Other	Total
As at 15/02/05	1,725	250	256	103	68	2,402

Significant investment has taken place in the Garda fleet over the last few years, which has resulted in an increase in the size of the fleet from 1,898 vehicles at the end of 1997 to 2,402 vehicles at present, an increase of 12.7%.

In 2004 over €14 million has been spent on the purchase and delivery of Garda vehicles. Figures for earlier years are as follows.

Year	Total Expenditure
2003	€9.10 million
2002	€9.59 million

I am informed by the Garda authorities that transport resources are allocated by Garda management in a way that best meets operational requirements and the maintenance of law and order. Obviously, not every station is equipped with transport, but the objective of Garda management is to ensure that all have access to transport by strategic allocation or by sharing of those resources.

I am advised that the Garda Síochána does not operate with an official stand-by fleet but that delivery of new vehicles is phased in such a way that there should always be vehicles available to cater for emergencies. The objective of effective fleet management is to extract maximum usage with a minimum of downtime from the Garda fleet. There is always a certain amount of spare capacity built into allocations to key strategic locations. That effectively means that in the event of a national emergency the Garda Síochána will have sufficient vehicles available to meet that emergency.

#### Garda Communications.

234. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extent to which up-to-date communications technology is available to the gardaí throughout the country; the areas deficient in this regard; his plans to deal with this issue; and if he will make a statement on the matter. [5274/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that, with the exception of the Garda national radio network and the public access call-box system, all communications systems in place are relatively modern and up to date. The currency of those systems is reviewed yearly and, subject to the appropriate funding being available, they are upgraded or enhanced as necessary and appropriate to the operational demand prevailing.

With regard to the national radio system, a pilot digital radio system covering the Dublin north central division and traffic section, Dublin Castle, has been completed by the Garda Síochána. The Garda Síochána prepared a detailed business case for the extension of the system nationwide. Following discussions between officials of my Department, the Garda Síochána and the Department of Finance on the technical and implementation options in the business case, it has been agreed that the procurement model to be adopted in respect of Garda requirements will be based on an “outsourced service provision” model, which will involve the bulk of the infrastructure being provided by the private sector with detailed service level arrangements in place with the Garda Síochána. That approach allows scope for participation by the other emergency services in future. In addition, funding for the Garda elements of the project has also been secured. A procurement group chaired by the Department of Finance and with representation from the Garda Síochána and my Department is now actively progressing the project.

In addition, it is planned to commence a national replacement of the public access call-box system during 2005.

*Question No. 235 answered with Question No. 79.*

#### Drug-Related Crime.

236. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of known major drug dealers of Irish origin currently operating outside the country; the action taken to apprehend them; and if he will make a statement on the matter. [5276/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that they are aware of the identity of a number of Irish citizens who currently reside outside this jurisdiction and are believed to be involved in the sale and distribution of illicit drugs. Many of these individuals choose to reside abroad for a variety of reasons not least of which are the ongoing activities of the Garda Síochána in counteracting the sale and supply of illicit drugs within the State.

Although the individuals reside outside this jurisdiction, the Garda Síochána, along with law enforcement authorities in other jurisdictions, continues to target the activities of these individuals, both within and outside this jurisdiction.

The principle ways through which this is achieved is as follows: conducting targeted operations against individuals and organisations

operating within this jurisdiction with known linkages to international drug traffickers, including Irish nationals residing abroad; exchanging strategic and operation intelligence with foreign law enforcement agencies, including Europol and Interpol, in accordance with legislation and operational protocols; collaboration with international law enforcement agencies conducting investigations within this jurisdiction, in accordance with legislation governing mutual assistance in criminal matters; and conducting investigations at the behest of international law enforcement agencies in accordance with international agreements governing mutual assistance in criminal matters.

In order to facilitate the exchange of information and intelligence on criminal matters including drug trafficking, the Garda Síochána has liaison officers posted in a number of locations, namely, the United Kingdom, The Netherlands, Spain and France as well as Europol and Interpol.

In June 2004, the President signed into law the Criminal Justice (Joint Investigation Teams) Act 2004, which provides for the competent authorities of two or more member states to set up by mutual agreement teams to carry out criminal investigations with a cross-border dimension. This Act, which commenced on 1 October 2004, further enhances law enforcement agencies within member states to carry out international criminal investigations.

237. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if the Garda is receiving adequate co-operation from all other European and non-European police forces in the fight against drugs; and if he will make a statement on the matter. [5277/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that international co-operation between law enforcement agencies is achieved in a number of ways including: the exchange of strategic intelligence on the activities and *modus operandi* of criminal networks involved in the international trafficking of controlled drugs; the exchange of operational intelligence on the activities of criminal organisations involved in drug distribution; the conducting of investigations within the State at the request of foreign law enforcement agencies in accordance with legislation governing mutual assistance in criminal matters; and requesting the assistance of foreign jurisdictions in conducting investigations on behalf of the Irish State in accordance with international agreements governing mutual assistance in criminal matters.

In order to facilitate co-operation between law enforcement agencies, the Garda Síochána has assigned liaison officers in the United Kingdom, The Netherlands, France, Spain, Europol and Interpol. In addition, the Garda Síochána has conducted a number of EU funded programmes

designed to enhance co-operation between law enforcement agencies throughout the European Union.

In June 2004, the President signed into law the Criminal Justice (Joint Investigation Teams) Act 2004, which provides for the competent authorities of two or more member states to set up, by mutual agreement, teams to carry out criminal investigations with a cross-border dimension. This Act, which commenced on 1 October 2004, further strengthens co-operation between the Garda Síochána and police forces from other jurisdictions.

I am informed by the Garda authorities that to date the co-operation they receive from other European and non-European police forces in the fight against drugs is both positive and beneficial.

#### Penalty Points.

238. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the monetary value accruing to the State through the imposition of penalty points in County Kildare; and if he will make a statement on the matter. [5278/05]

239. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the monetary value accruing to the State through the imposition of penalty points throughout the country; and if he will make a statement on the matter. [5279/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 238 and 239 together.

I am informed by the Garda authorities that the information requested by the Deputy is not readily available and could only be obtained by the expenditure of a disproportionate amount of staff time and resources.

#### Criminal Prosecutions.

240. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of convictions arising from charges of anti-social behaviour in each of the past three years in County Kildare; and if he will make a statement on the matter. [5280/05]

241. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of convictions arising from charges of anti-social behaviour in each of the past three years throughout the country; and if he will make a statement on the matter. [5281/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I propose to take Questions Nos. 240 and 241 together.

I regret that it has not been possible in the time available to obtain the information requested by the Deputy. I will contact the Deputy when the information is to hand.

### Garda Deployment.

242. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extent to which the number of gardaí in the various stations throughout County Kildare has fluctuated in the past three years; his plans to augment the numbers at each or any of the stations; and if he will make a statement on the matter. [5282/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities responsible for the detailed allocation of resources, including personnel, that the personnel strength — all ranks — of each Garda station in County Kildare as at 1 February 2002 and 1 February 2005, is as set out in the following table:

Station	February '02	February '05
Naas	77	77
Clane	6	6
Kill	3	3
Celbridge	19	19
Maynooth	14	16
Kildare	29	27
Newbridge	29	29
Robertstown	3	3
Kilcullen	3	3
Carbury	2	2
Monasterevin	3	3
Rathangan	2	3
Athy	18	16
Castledermot	1	2
Ballytore	1	1
Ballymore Eustace	1	1
Leixlip	18	26
Kilcock	6	5
Total	235	242

In respect of Garda resources generally, I am pleased the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis, in line with the commitment in An Agreed Programme for Government in this regard. This is a key commitment in the programme for Government and its implementation will significantly strengthen the operational capacity of the force.

The commissioner will now be drawing up plans on how best to distribute and manage these additional resources. In this context, the needs of the Kildare district will be fully considered within the context of the needs of Garda divisions throughout the country. Clearly, the additional resources will be targeted at the areas of greatest need, as is envisaged in the programme for Government. The programme identifies in particular areas with a significant drugs problem and a large number of public order offences but it will be possible to address other priorities as well, such as the need to significantly increase the number of gardaí allocated to traffic duties as

part of the new Garda traffic corps. I have already promised that the additional gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing and will have a real impact.

243. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of Garda stations throughout County Kildare that are open all day, everyday; the number that are open on a part-time basis; and if he will make a statement on the matter. [5283/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities responsible for the detailed allocation of resources, including personnel, that the number of hours each Garda station in County Kildare is open during a 24-hour period is as set out in the table hereunder:

Station	Hours
Naas	24
Celbridge	9
Clane	3
Maynooth	9
Kill	3
Kildare	24
Newbridge	24
Robertstown	3
Kilcullen	3
Carbury	3
Monasterevin	3
Rathangan	3
Athy	10
Castledermot	3
Ballytore	2
Ballymore Eustace	2
Kilcock	3
Leixlip	3

I have also been informed by local Garda management that resources are utilised to ensure that stations are opened for the periods outlined, in conjunction with ensuring that car patrols, foot patrols and all other areas of policing are also addressed.

244. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the number of extra gardaí required in the Finglas, Ballymun, Glasnevin areas to bring policing levels up to international norms or best practice; and if he will make a statement on the matter. [5284/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** It is not clear what “international norms and best practice” the Deputy is referring to in this question.

The interim target of increasing the strength of the Garda Síochána to 12,200 was met and exceeded by the end of November 2004 and a recruitment campaign is now well under way to

further increase the strength of the Garda Síochána to 14,000 members, in line the commitment in An Agreed Programme for Government in this regard. This is a key commitment in the programme for Government, and its implementation will significantly strengthen the operational capacity of the force.

The commissioner will now be drawing up plans on how best to distribute and manage these additional resources. In this context, the needs of the Finglas, Ballymun and Glasnevin areas will be considered within the context of the needs of policing needs throughout the country. Clearly, the additional resources will be targeted at the areas of greatest need, as is envisaged in the programme for Government. The programme identifies in particular areas with a significant drugs problem and a large number of public order offences but it will be possible to address other priorities as well, such as the need to very significantly increase the number of gardaí allocated to traffic duties as part of the new Garda traffic corps. I have already promised that the additional gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing and will have a real impact.

245. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extent to which the number of gardaí in each division or sub-division in Dublin and the greater Dublin area has been increased in the past two and a half years; and if he will make a statement on the matter. [5285/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I have been informed by the Garda authorities responsible for the detailed allocation of resources, including personnel, that the personnel strength of each Garda district in each Garda division in the Dublin metropolitan region as at 1 July 2002 and 1 February 2005 is as set out in the following tables:

D.M.R. North

Station	2002	2005
Coolock	188	191
Raheny	160	175
Santry	213	229
Total	561	595

D.M.R. North Central.

Station	2002	2005
Bridewell	165	171
Fitzgibbon St.	187	204
Store St.	227	263
Total	579	638

D.M.R. South.

Station	2002	2005
Crumlin	138	152
Rathmines	145	160
Tallaght	232	242
Total	515	554

D.M.R. South Central.

Station	2002	2005
Donnybrook	167	179
Kevin St.	183	196
Pearse St.	289	324
Total	639	699

D.M.R. West.

Station	2002	2005
Ballyfermot	173	184
Blanchardstown	284	313
Lucan	162	178
Total	619	675

D.M.R. East.

Station	2002	2005
Blackrock	168	168
Bray	164	172
Dún Laoghaire	210	203
Total	542	543

In respect of Garda resources generally, I am pleased the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 members on a phased basis, in line with the commitment in An Agreed Programme for Government in this regard. This is a key commitment in the programme for Government and its implementation will significantly strengthen the operational capacity of the force.

The commissioner will now be drawing up plans on how best to distribute and manage these additional resources. In this context, the needs of the Garda divisions in the DMR region will be fully considered within the context of the needs of Garda divisions throughout the country. Clearly, the additional resources will be targeted at the areas of greatest need, as is envisaged in the programme for Government. The programme identifies in particular areas with a significant drugs problem and a large number of public order

[Mr. McDowell.] offences but it will be possible to address other priorities as well, such as the need to very significantly increase the number of gardaí allocated to traffic duties as part of the new Garda traffic corps. I have already promised that the additional gardaí will not be put on administrative duties. They will be put directly into frontline, operational, high-visibility policing and will have a real impact.

### **Garda Operations.**

246. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform if the Criminal Assets Bureau has sufficient resources at its disposal to meet its workload; and if he will make a statement on the matter. [5286/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The Criminal Assets Bureau keeps its resources under ongoing review in the light of its workload and any additional requirements, from time to time, are brought to the attention of the Garda Commissioner. The commissioner is responsible for the deployment of overall Garda resources.

The Deputy will be aware that the Government has approved my proposal to increase the strength of the Garda Síochána to 14,000 and the necessary recruitment to deliver this increase in strength is already underway. This will greatly assist the Garda Commissioner in allocating additional Garda resources to areas of greatest need.

*Question No. 247 answered with Question No. 100.*

*Question No. 248 answered with Question No. 100.*

### **Crime Levels.**

249. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the estimated amount taken in various robberies in this jurisdiction in the past 12 months; if the perpetrators have been apprehended; if such robberies were carried out by professionals or other groups; and if he will make a statement on the matter. [5289/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that the value of property stolen as a result of aggravated burglary, robbery from the person, robbery of cash or goods in transit and robbery of an establishment or institution in the past 12 months amounts to €6,665,864. Of the 2,901 offences reported, 33% were detected. An offence is recorded as detected when one or more persons are identified as offenders in respect of a recorded offence. Statistics for 2004 are provisional and are, therefore, subject to change.

I am further informed by the Garda authorities that the information as regards whether the offences listed above were committed by specific groups is not readily available and could only be obtained by a disproportionate expenditure of Garda time and resources.

### **Crime Prevention.**

250. **Mr. Durkan** asked the Minister for Justice, Equality and Law Reform the extent to which action is being taken against criminal gangs; if an examination of their assets have been undertaken; if there are proposals to freeze any such assets; and if he will make a statement on the matter. [5290/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** The use of specialist Garda units in the fight against organised crime, such as the National Bureau of Criminal Investigation, the Criminal Assets Bureau, the Garda Bureau of Fraud Investigation and the Garda national drug unit, all of which operate under the assistant commissioner in charge of national support services, has enabled the Garda Síochána to tackle organised crime, including drug trafficking, in an effective way. I am further informed by the Garda authorities that the National Bureau of Criminal Investigation has a unit dedicated to combating the growing threat posed by organised criminal gangs. A number of these gangs have been targeted and a complex picture of their activities collected.

A number of targeted operations conducted against such criminal gangs in recent times have been successful to date. Large amounts of controlled drugs and firearms have been recovered through these operations which resulted in substantial charges being preferred against major criminal figures.

Where assets belonging to suspects are identified during investigation the information is forwarded to the Criminal Assets Bureau for further examination and seizure. Since its establishment in 1996, the Criminal Assets Bureau has applied its statutory remit against the assets of persons who are directly or indirectly connected to criminal activity. Most CAB actions are taken against the assets of persons suspected to derive from drug trafficking, money laundering, prostitution, fraud, corruption, receiving stolen property and tax fraud. In some of these cases the conduct of the individuals against which the Bureau has acted may be said to be linked to an organised crime gang.

The Criminal Assets Bureau is internationally acclaimed for its success in this regard to date and detailed statistics as regards the moneys seized or collected since its establishment are set out in its annual reports.

The legislative package available to the law enforcement agencies in this country for tackling

organised crime is already deemed to be one of the toughest in Europe. An Garda Síochána has available to it a broad range of legislation to facilitate the fight against serious or organised crime. However, to further enhance the State's overall response in tackling organised criminal activity, the Deputy may wish to note that I am considering bringing forward a number of amendments to the Criminal Justice Bill 2004 which is currently before the Houses. These include a proposal to provide for criminal offences as regards participation in a criminal organisation. I can assure the Deputy that efforts of the Garda Síochána and other relevant State agencies will continue to be rigorously brought to bear against those who would seek to profit from organised criminal activity.

#### Road Traffic Offences.

251. **Ms O. Mitchell** asked the Minister for Justice, Equality and Law Reform the number of motorists fined for driving while using their mobile phone; and if he will make a statement on the matter. [5291/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** I am informed by the Garda authorities that it is not possible to give a breakdown of the number of motorists fined for driving whilst using their mobile phone. The use of a mobile phone may be a factor in the commission of an offence of dangerous driving, careless driving or driving without reasonable consideration. It is not possible to quantify the number of prosecutions for any of these offences which involve the use of a mobile phone.

#### Citizenship Applications.

252. **Mr. Curran** asked the Minister for Justice, Equality and Law Reform when a decision will be made regarding an application for naturalisation by persons (details supplied) in County Dublin. [5305/05]

**Minister for Justice, Equality and Law Reform (Mr. McDowell):** Applications for naturalisation from the persons referred to by the Deputy were received in the citizenship section of my Department in December 2002. The applications were submitted to me in January 2005 and I decided not to grant certificates of naturalisation at that time. The persons in question were informed in writing of my decision on 3 February 2005.

#### Higher Education Grants.

253. **Mr. Connaughton** asked the Minister for Education and Science if a person (details supplied) in County Galway is eligible for a special scholarship which was granted to them by the Song and Dance Academy; if EU law will allow such discrimination against citizens of other EU countries. [5215/05]

264. **Mr. Connaughton** asked the Minister for Education and Science if a person (details supplied) in County Galway is eligible for a special scholarship which was granted to them by the Song and Dance Academy; if EU law will allow such discrimination against citizens of other EU countries; and if she will make a statement on the matter. [5214/05]

**Minister for Education and Science (Ms Hanafin):** I propose to take Questions Nos. 253 and 264 together.

I am making inquiries into the matter raised by the Deputy and I will revert to him as soon as possible.

#### Schools Building Projects.

254. **Ms Cooper-Flynn** asked the Minister for Education and Science when a school (details supplied) in County Mayo will receive an answer to its application for the provision of new school premises. [4817/05]

**Minister for Education and Science (Ms Hanafin):** The school referred to by the Deputy opened in September 1998 with provisional recognition and was granted permanent recognition in 2002. The permanent accommodation needs of the school are being considered in the context of the schools building and modernisation programme and I recently announced the first phase of this programme, providing details of 122 major school building projects which will prepare tenders and move to construction during 2005. This is the first in a series of announcements I plan to make in the coming period that will include details of schools identified as suitable for construction under public private partnerships; an expansion of the number of schools that will be invited to deliver their building projects on the basis of devolved funding; details of schools with projects approved under the 2005 summer works scheme; schools whose projects will further progress through the design process and schools that will be authorised to commence architectural planning. The school authority will be kept apprised of developments regarding its application.

#### Special Educational Needs.

255. **Mr. P. Breen** asked the Minister for Education and Science further to Parliamentary Questions Nos. 213 of 24 November 2004 and 1070 of 26 January 2005, when a decision will be conveyed to the school regarding a person (details supplied) in County Clare; and if she will make a statement on the matter. [5126/05]

**Minister for Education and Science (Ms Hanafin):** My officials are continuing to liaise with my Department's Inspectorate and the National Educational Psychological Service regarding the proposed enrolment of the person

[Ms Hanafin.]  
in question. A decision on the matter will be conveyed to the school at the earliest possible date.

### Health and Safety Regulations.

256. **Ms B. Moynihan-Cronin** asked the Minister for Education and Science the number of primary and secondary schools in each county, that have been assessed for the presence of radon gas; the number of times these inspections take place; the number of primary and secondary schools in each county that have not been assessed for the presence of radon gas; the reason such inspections have not been taken place; and if she will make a statement on the matter. [5128/05]

257. **Ms B. Moynihan-Cronin** asked the Minister for Education and Science the number of primary and secondary schools in each county that have radon concentrations above 200 Bq/m<sup>3</sup>; if remedial action has been conducted in such schools; the amount of funding allocated by her Department in each of the past five years for such work; and if she will make a statement on the matter. [5129/05]

**Minister for Education and Science (Ms Hanafin):** I propose to take Questions Nos. 256 and 257 together.

My Department commissioned the Radiological Protection Institute of Ireland, RPII, in 1998 to commence a survey of radon levels in all primary and post primary schools. Over the course of the survey, 4,072 schools were invited to participate and radon surveys were subsequently completed in the 3,444 schools that responded. Of these, 307 schools had radon concentrations above the workplace reference level of 400 Bq/m<sup>3</sup> and 898 had radon concentrations greater than 200 Bq/m<sup>3</sup>. The schools which did not participate in the original survey were invited to participate in a further survey carried out by the RPII in 2004. The results of this study were made available to my Department in December 2004. Of the schools surveyed 22 schools had radon concentrations above 400 Bq/m<sup>3</sup> and 65 schools had levels greater than 200 Bq/m<sup>3</sup>. The reasons for non-participation in the original survey included failure to respond to the invitation letter, loss of detectors during the measurement period or inability to participate due to structural repairs being carried out in the school at the time.

Approximately 100 schools have not as yet completed a radon survey. My Department has written to the authorities of these schools reminding them that the health and safety of staff and pupils is a matter for the school authorities in the first instance and stressing the importance of the survey and of the need for schools to participate. The RPII is conducting a survey of these schools and will forward the results to my Department in due course.

The radon reference set for the workplace in the Radiological Protection Act 1991, Ionising Radiation Order 2000, S.I. 125 of 2000, is 400 Bq/m<sup>3</sup>. Notwithstanding the fact that the radon reference for workplaces is 400 Bq/m<sup>3</sup>, my Department issues grants to schools for the installation of suitable vents in classrooms where radon levels are between 200 Bq/m<sup>3</sup> and 400 Bq/m<sup>3</sup>. Schools with levels above 400 Bq/m<sup>3</sup> are advised to secure the services of a suitably qualified consultant architect or engineer to carry out all necessary remedial works. Such works are funded by my Department. Following completion of remediation works, post remediation measurements are carried out by the RPII to determine if the remediation has been effective. This process is ongoing and the RPII continues to carry out post remediation testing in schools. Funding under the programme for each of the last five years is as follows:

Year	€
2005	10,398 to date,
2004	608,473
2003	1,163,538
2002	1,273,111
2001	539,862
2000	273,364

The breakdown by county sought by the Deputy will be forwarded as soon as possible.

### School Transport.

258. **Mr. N. O'Keeffe** asked the Minister for Education and Science if consideration will be given to amending a school bus route to include an area (details supplied) in County Cork. [5141/05]

**Minister for Education and Science (Ms Hanafin):** My Department is currently considering the case referred to in the details supplied. The Deputy will be notified in writing of the position as soon as possible.

### Teachers' Remuneration.

259. **Mr. N. O'Keeffe** asked the Minister for Education and Science when payment of arrears will issue to a person (details supplied) in County Waterford. [5142/05]

**Minister for Education and Science (Ms Hanafin):** The person referred to by the Deputy is seeking payment of arrears under the Part-Time Workers Act 2001. Arrears entitlements conferred on part-time and substitute teachers under the terms of the Act apply to qualified teachers only. A teacher in a voluntary secondary school is considered qualified if he or she can be registered as a secondary teacher. This means he or she must have a degree with teaching subjects

and a higher diploma in education. During the period the person referred to by the Deputy carried out substitute teaching work, she was not a qualified teacher and therefore has no entitlement to arrears of pay.

#### **School Staffing.**

260. **Mr. N. O’Keeffe** asked the Minister for Education and Science the position regarding an application for early retirement under strand three in respect of a person (details supplied) in County Cork. [5143/05]

**Minister for Education and Science (Ms Hanafin):** My Department invited applications for retirement at the end of the 2004-2005 school year under the early retirement scheme for teachers by circular letter which issued to schools in October 2004. Strand 3 of the scheme relates to teachers who are in posts which are surplus to requirements. The closing date for receipt of applications under strand 3 was 20 January 2005. The circular letter also advised teachers that decisions on applications from post-primary teachers under strand 3 would be given towards the end of May 2005. All the applications received are currently being processed with a view to meeting this deadline. The person in question will be informed of the outcome of her application at that time.

#### **Schools Building Projects.**

261. **Mr. Lowry** asked the Minister for Education and Science if correspondence (details supplied) has been brought to her attention; if she will include the school which has been waiting since 1999 to build an extension in the small schools initiative in 2005; and if she will make a statement on the matter. [5144/05]

**Minister for Education and Science (Ms Hanafin):** An extension project at the school to which the Deputy refers has been assessed in accordance with the published prioritisation criteria, which was revised following consultation with the education partners and the project is being considered in the context of the school buildings and modernisation programme. The Deputy will be aware that I recently announced the first phase of the 2005 school building programme which provided details of 122 major school building projects countrywide which will prepare tenders and move to construction during 2005.

This announcement is the first in a series of announcements I plan to make in the coming period in regard to the schools building and modernisation programme that will include: details of schools identified as suitable for construction under public private partnerships; an expansion of the number of schools that will be invited to deliver their building projects on the basis of

devolved funding; details of schools with projects approved under the 2005 summer works scheme; schools whose projects will further progress through the design process; and schools that will be authorised to commence architectural planning. The needs of the school referred to are being considered in this regard.

#### **School Staffing.**

262. **Mr. Lowry** asked the Minister for Education and Science if she will conduct a review into the staffing levels in primary schools; her views on the fact that the current system where a one teacher school needs a minimum of seven pupils; a two teacher a minimum of 12; a three teacher a minimum of 50; a four teacher a minimum of 82 is grossly unbalanced; and if she will make a statement on the matter. [5181/05]

**Minister for Education and Science (Ms Hanafin):** The staffing of a primary school is determined by reference to the enrolment of the school on 30 September of the previous school year. The actual number of mainstream posts sanctioned is determined by reference to a staffing schedule which is finalised for a particular year following discussions with the education partners.

The staffing schedule is structured to ensure that all primary schools will operate to an average mainstream class size of 29 pupils. However, the needs of smaller schools are taken into account in deciding on the schedule to be applied to such schools.

#### **Seachtain na Gaeilge.**

263. D’fhiafraigh **Mr. McGinley** den Aire Oideachais agus Eolaíochta an mbeidh a Roinn ag comóradh Seachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5210/05]

**Minister for Education and Science (Ms Hanafin):** Tá mo Roinnse ar cheann de 25 comhlacht poiblí atá ag dréachtadh a gcéad scéimeanna trí bliana de réir Alt 11 d’Acht na dTeangacha Oifigiúla. Leagfar amach sa scéim an chaoi a sílimid ár gcuid seirbhísí trí Ghaeilge a fheabhsú thar thréimhse trí bliana romhainn amach. Déanfar socrúithe mar chuid den scéim chun an Ghaeilge a chur chun cinn laistigh den Roinn agus cuirfear cúrsa oiliúna ar fáil do státseirbhísigh a thug le fios gur mian leo an Ghaeilge a fhoghlaim, nó feabhas a chur ar a gcuid Gaeilge. Cé go mbeimid ag cur Seachtain na Gaeilge chun cinn trí mheáin éagsúla laistigh den Roinn ní bheidh aon imeachtaí ar leith á reáchtáil againn i mbliana.

*Question No. 264 answered with Question No. 253.*



### School Staffing.

265. **Ms Enright** asked the Minister for Education and Science if she will consider the request from a school (details supplied) in County Longford for extra funding to pay for a secretary and a cleaner; and if she will make a statement on the matter. [5225/05]

**Minister for Education and Science (Ms Hanafin):** My Department provides funding towards the cost of secretarial and caretaking services in primary schools under two separate schemes. One scheme is the 1978-79 scheme for the employment of full-time secretaries and caretakers in primary schools, under which my Department meets the full cost of salary. This scheme is being phased out as posts become vacant and no new posts are being created. This scheme has been superseded by a more extensive grant scheme now referred to as the ancillary services grant.

The ancillary services grant provides additional funding for primary schools towards the cost of secretarial and caretaking services. The scheme, by its nature, is flexible and gives boards of management discretion as to the manner in which secretarial and caretaking services are provided.

The particular school referred to by the Deputy receives funding under this scheme. The standard rate of grant per pupil under the scheme, which was increased from €102 in 2002 to €127 in 2004, is being further increased to €133 this year. The amount of grant paid to an individual school is determined by the enrolment in the school subject to a minimum grant of €7,980 in the case of a school with 60 pupils or less and a maximum grant of €66,500 in the case of a school with 500 or more pupils, provided the school in question does not already have either caretaking or secretarial services under an existing Department scheme.

In addition, primary schools' running costs are met by my Department's scheme of capitation grants. These grants are intended to contribute towards the general operating costs of national schools which would include heating, lighting, cleaning, insurance, painting, teaching aids and other miscellaneous charges. The capitation grant has been increased substantially in recent years. Since 1997 the standard rate of capitation grant has been increased from £45, €57.14, per pupil to €133.58 with effect from 1 January, 2005, an increase of almost 134% in the period. I am committed to improving further the funding position of primary schools in the context of available resources.

### Pupil-Teacher Ratio.

266. **Ms Enright** asked the Minister for Education and Science the position regarding the size of two classes at a school (details supplied) in

Dublin 6; the reason the classes are so out of line with the average class size; and if she will make a statement on the matter. [5226/05]

**Minister for Education and Science (Ms Hanafin):** The staffing of a primary school is determined by reference to the enrolment of the school on 30 September in the previous school year. The actual number of mainstream posts sanctioned is determined by reference to a staffing schedule and is finalised for a particular year following discussions with the education partners.

The mainstream staffing of the school referred to by the Deputy for the current school year is a principal and 13 mainstream class teachers based on the enrolment of 372 pupils on 30 September 2003. The school also has a learning support post, three resource posts and two temporary language support posts.

The staffing schedule is structured to ensure that all primary schools will operate to an average mainstream class size of 29 pupils, which is the case in this school. 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. I have requested my Department's inspectorate to monitor the deployment of staff and class sizes and, where necessary, to discuss with school authorities the basis on which school policy decisions in this regard have been made, and to report to my Department, where appropriate.

### Special Educational Needs.

267. **Ms Enright** asked the Minister for Education and Science the reason a person (details supplied) in County Offaly attending school is only receiving a special needs assistant until 2 p.m.; if her attention has been drawn to the fact that the person has to leave the school at 2 p.m.; and if she will make a statement on the matter. [5227/05]

**Minister for Education and Science (Ms Hanafin):** My Department is currently considering the matter referred to by the Deputy. The school in question has applied to have two existing part-time special needs assistant, SNA, posts upgraded to full-time posts to cater for a number of pupils attending the special classes, including the pupil in question. A decision on this matter will be conveyed to the school at the earliest possible date.

I wish to clarify that a full primary school day comprises a period of not less than five hours, 40 minutes. Schools are permitted to reduce the school day by one hour for children in infants and first class.

268. **Mr. Kehoe** asked the Minister for Education and Science if her attention has been drawn to the case of a person (details supplied)

in County Wexford; the plans there are for this person; if this person will receive home teaching; and if she will make a statement on the matter. [5251/05]

**Minister for Education and Science (Ms Hanafin):** I am advised that an application for resources for the pupil in question, who appears to have special educational needs, was made to the National Council for Special Education recently. If it transpires that the school in question is not suitable for this pupil's needs then the parents or guardians may apply to the special education section of my Department for a home tuition grant while a suitable placement is being sought.

269. **Ms Enright** asked the Minister for Education and Science the reason there has been a change in the resources given to a person (details supplied) in County Offaly in view of the recommendations made by their psychologist; and if she will make a statement on the matter. [5261/05]

**Minister for Education and Science (Ms Hanafin):** The special needs assistant, SNA, provision in the school in question was reviewed by my Department's inspectorate in September 2004. Following discussion with the pupil's teachers and observation in the school, it was concluded that the pupil is now able to complete all personal care functions age appropriately and no longer requires the level of SNA support originally sanctioned. My Department subsequently advised the school as to how it might deploy the SNA support available, in order that it may provide care support for all pupils in the school who qualify for such support.

#### Seachtain na Gaeilge.

270. D'fhiafraigh **Mr. McGinley** den Aire Cosanta an mbeidh a Roinn ag comóradh seachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5211/05]

**Minister for Defence (Mr. O'Dea):** Níl sé ar intinn ag an Roinn seo aon imeachtaí a chur ar siúl i rith seachtain na Gaeilge.

#### Housing Aid.

271. **Mr. O'Connor** asked the Minister for the Environment, Heritage and Local Government if he will report on his efforts to assist South Dublin County Council, based in Tallaght, deal with the problem of homelessness; and if he will make a statement on the matter. [5134/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** The second Dublin homeless action plan, Making it Home, 2004-2006, which was published by the Homeless Agency in July

2004, sets out actions and objectives for the four Dublin local authorities for this period. The main elements of the south Dublin plan, drafted by the local authority and agreed by South Dublin County Council and its local homeless forum, are: the effective operation of the homeless forum; appropriate information, advice and referral and placement services; provision of additional units of accommodation for homeless households; appropriate allocation of local authority housing; and, adequate provision for health and welfare needs of homeless households.

Some 90% of the cost of funding the accommodation-related costs is recouped to the council by my Department. The recoupment of care-related costs is a matter for the Department of Health and Children.

The Government is committed to continuing to support local statutory and voluntary bodies in tackling the issue of homelessness. My Department's expenditure for the recoupment to local authorities of 90% of the cost of providing accommodation and related services for homeless persons in 2004 was €45.73 million. This brings to €185.88 million the total expenditure for this purpose since 2000. In the same period, €3.6 million was recouped to South Dublin County Council, including over €510,000 in 2004.

Details of the funding available for the recoupment of expenditure on accommodation and related homeless services will be published shortly in the revised Estimates for Public Services 2005.

#### Fire Stations.

272. **Mr. N. O'Keefe** asked the Minister for the Environment, Heritage and Local Government the position regarding the provision of funding for a project (details supplied) in County Cork. [5151/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. B. O'Keefe):** In May 2004, my Department approved in principle a proposal by Cork County Council for the provision of an extension and the carrying out of refurbishment works to Youghal fire station. However, I understand that Cork County Council does not now intend to proceed with this proposal and is preparing a proposal for the provision of a new fire station. On receipt, this proposal will be considered having regard to the overall availability of resources and priorities under the capital programme.

#### Library Projects.

273. **Mr. N. O'Keefe** asked the Minister for the Environment, Heritage and Local Government the position regarding the provision of a new facility at a town (details supplied) in County Cork. [5152/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** In February 2000, Cork County Council submitted an application for approval in principle for a branch library in Youghal. However, as this proposal did not form part of the already determined 1999-2002 public library capital expenditure programme, it could not be considered for funding. Given the rating afforded to the project in the council's submission of September 2001, it was not included in the 2002-04 public library capital expenditure programme.

In January 2004, local authorities were asked to review their capital programmes for library development and to submit a prioritised list of proposals which they wished to have considered by my Department in its current review of the programme. In its submission, Cork County Council has listed Youghal as fifth in order of priority. Details of the projects to be included for funding in an expenditure programme for 2005-07 will be announced shortly.

#### **Motor Taxation.**

274. **Mr. N. O'Keeffe** asked the Minister for the Environment, Heritage and Local Government the motor taxation concessions which are available to a person (details supplied) in County Cork. [5153/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Under motor tax law, the basis of assessment of motor tax is governed by the construction and use of a vehicle. The level of motor tax determined relates to vehicles and not directly to the users or drivers of such vehicles.

Relevant concessions for disabled drivers, including exemption from motor tax, are contained in the Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994 made by the Minister for Finance and administered by the Revenue Commissioners.

#### **Water and Sewerage Schemes.**

275. **Mr. Neville** asked the Minister for the Environment, Heritage and Local Government if he will respond to submissions made by a group water scheme (details supplied) in County Limerick. [5182/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I understand that the Glenroe scheme is one of 20 group water schemes in County Limerick for which new water treatment facilities are being procured under a single design-build-operate contract. A single contractor will design and construct the treatment facilities and operate them under contract to the participating groups for a 20 year period.

Under the rural water programme, which is funded by my Department through annual block

grants to local authorities, a 100% grant is available to group schemes towards the cost of water treatment and disinfection facilities. Associated works, such as buildings and pipelines, are grant aided at up to 85% of cost, subject to a maximum cost of €7,618 per house. In addition, participating group schemes are eligible for an annual subsidy of up to €196 per house towards their operational costs.

While the level of group water scheme grants and subsidies is kept under continuing review in consultation with the national rural water monitoring committee and the national federation of group water schemes, there are no proposals for any increases at present.

#### **Proposed Legislation.**

276. **Mr. Stagg** asked the Minister for the Environment, Heritage and Local Government if regulations under the Local Government Act 2001 will be established by order to allow town councils to be established; if he is agreeable to meet with a community council (details supplied) to discuss this matter; and if he will make a statement on the matter. [5183/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Part 17 of the Local Government Act 2001 provides that qualified electors of a town having a population of at least 7,500 as ascertained at the last preceding census and not having a town council may make a proposal for the establishment of such a council. Under the relevant provisions of the Act, a proposal to establish a town council is a matter for the local community in the first instance. Thereafter, a decision on such a proposal is a reserved function of the relevant county council, following a public consultation process. The proposal must then be submitted to the local government commission for preparation of a report and recommendations to the Minister. The establishment of a local government commission to enable the commencement of Part 17 is under consideration. I will be in touch shortly with the relevant community council in response to its request to meet.

#### **State Bodies.**

277. **Dr. Upton** asked the Minister for the Environment, Heritage and Local Government the rationale behind the role of an organisation (details supplied) in nominating representatives to state bodies. [5184/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** The organisation named is one of the nominating bodies prescribed under the Planning and Development Regulations 2001 in regard to appointments to membership of An Bord Pleanála. The organisation is one of a number of bodies on the nominating panel which represents "voluntary bodies,

bodies having charitable objects and bodies that, in the opinion of the Minister, have a special interest or expertise in matters relating to the promotion of the Irish language, the promotion of the arts and culture or that are representative of people with disability”, as required under section 106(1)(f) of the Planning and Development Act 2000.

The same organisation is also prescribed in the Environmental Protection Agency (Advisory Committee) Regulations 2004 under one of five nominating panels for the purpose of selecting candidates for appointment to the advisory committee of the agency. Under section 27(5)(d) of the Environment Protection Agency Act 1992, organisations concerned with the promotion in the community of social, economic or general interests are entitled to submit the names of candidates for appointment to the committee and the organisation referred is one such body prescribed under this nominating panel.

In appointing members to the agency’s advisory committee and to An Bord Pleanála, I strive to achieve wide and balanced representation and I am assisted in this by the range of interests and professions included in the nominating panels. I am satisfied the nature of the nominating body referred and the interests it represents makes it appropriate for inclusion in the respective nominating panels.

#### Seachtain na Gaeilge.

278. D’fhiafraigh **Mr. McGinley** den Aire Comhshaoil, Oidhreacht agus Rialtais Áitiúil an mbeidh a Roinn ag comóradh Sheachtain na Gaeilge i mbliana agus cad iad na himeachtaí Gaeilge a bheidh ar siúl sa Roinn i rith na seachtaine. [5212/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** I gcoitinne tá sé mar pholasáí ag mo Roinn seirbhís tré Ghaeilge a thairiscint dóibh siúd gur mian leo é sin a bheith acu. I rith Seachtain na Gaeilge beidh mo Roinn ag cur in iúl do bhaill fóirne na himeachtaí atá á n-eagrú timpeall na tíre. Freisin, beidh an Roinn ag spreagadh daoine an deis a thógáil an Ghaeilge a labhairt. Maidir leis seo cuirfear roinnt cáipéisí ar fail chun tacaíocht a thabhairt dóibh. Chomh maith le seo beidh taispeántas i gCeannáras na Roinne de bhileoga eolais atá ar fáil.

#### Natural Heritage Areas.

279. **Mr. Connaughton** asked the Minister for the Environment, Heritage and Local Government when it is proposed to stop bog owners from cutting their own domestic turf supplied on a bog (details supplied) in County Galway; the position for owners of such bogs who will not accept the new increased compensation packages; if such owners will be allowed to keep on cutting their own domestic supplies after the expiry date

passes; if his Department will provide alternative turbary plots within acceptable and sensible distances from the locations in which they live; and if he will make a statement on the matter. [5216/05]

**Minister for the Environment, Heritage and Local Government (Mr. Roche):** Save in exceptional circumstances, owners of bog or turbary in raised bogs designated for conservation are being allowed to continue domestic cutting on their plots for up to 10 years. For bogs such as Carrownagoppul bog, which was statutorily proposed for designation prior to 1999, people will be allowed to continue to cut until 2008. My Department will then review whether there are particular circumstances in which domestic turf cutting can continue on raised bogs without damaging the bogs. All sales of bog or turbary to my Department are voluntary with a recourse to arbitration, if appropriate. The possibility of my Department providing alternative turbary plots on other bogs has been examined but this has not proved a practical proposition.

#### Local Authority Housing.

280. **Dr. Upton** asked the Minister for the Environment, Heritage and Local Government the plans he has to review the funding limits for the communal facilities grants for voluntary housing bodies; if his attention has been drawn to the current limits of €5,800 per unit are unrealistic, particularly in urban areas and especially in Dublin, due to current building costs; if he will indicate the capital funding which is to be made available to voluntary housing bodies in 2005; the number of units this would allow construction of and the way in which this would compare to 2004. [5296/05]

**Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern):** Grants for communal facilities are available in projects providing accommodation under the voluntary housing capital loans and subsidy scheme, or the capital assistance scheme. While there is no decision to review the rate of assistance payable under the voluntary housing communal facilities grant scheme, it will be included when the grant rates available under the capital loans and subsidy and capital assistance schemes are next considered.

Expenditure under the voluntary housing schemes amounted to more than €180 million in 2004 compared with €92 million in 2000. Provisional figures show that 1,600 units were completed in 2004. The capital provisions — Exchequer and non-Exchequer — for 2005 for the various social and affordable housing programmes, at €1.9 billion, will focus on achieving maximum output under all programmes and it is

[Mr. N. Ahern.]  
expected that some 1,900 units will be completed under the voluntary housing schemes.

Local authority action plans will ensure the significant investment available for these programmes and the benefits of the new multi-annual capital envelope approach should achieve the

desired affect in the long term by tackling real need and breaking cycles of disadvantage and dependency. Local authorities were asked to take account of the role of the voluntary and co-operative housing sector in preparation of these plans, to ensure an integrated approach to meeting housing needs.