

DÁIL ÉIREANN

*Dé Céadaoin, 28 Meitheamh 2006.
Wednesday, 28 June 2006.*

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

*Paidir.
Prayer.*

Leaders' Questions.

Mr. Kenny: This summer Irish audiences are watching with new eyes a dark and divisive chapter in Irish politics. It has been described as spellbinding, heart-rending and harrowing, and has pitted brother against brother, sister against sister, friend against friend. That is the Progressive Democrats Party's contribution to the summer of politics in the letter from its trustees. I understand that "The Wind that Shakes the Barley" is also packing them in.

The Taoiseach might wonder what that has to do with Leaders' Questions and I will tell him. Last night, Deputy Jim O'Keeffe, on behalf of the Fine Gael Party, proposed a simple Bill dealing with home defence to do three things, namely, to remove any question of home owners having to retreat, to prevent intruders to a household from suing a home owner who acts reasonably, and to create the presumption that force used by a home owner in defending his wife, family and home is reasonable.

The Government refused to accept that Bill because the feud in the Progressive Democrats camp sparked by the writing of a Bill for a Progressive Democrats Senator by the Minister for Justice, Equality and Law Reform has been carried into the heart of Government and is affecting its work. The Taoiseach has effectively mollified the sweet 16 people on his own backbenches, at least for the moment, but the recent rumpus within the Progressive Democrats is affecting the work of the Government the Taoiseach leads.

I have three questions for the Taoiseach. Does he believe that a home owner should have to retreat if his home is invaded or subject to intrusion? Does he believe that a home owner should have to prove that the force he used in defending his home is reasonable? Does he think that a home owner should be liable to be sued by someone who breaks into his home by day or night? Does the Taoiseach believe that is reasonable? These are simple questions arising from Deputy Jim O'Keeffe's home defence Bill.

The Taoiseach: The use of force must be proportionate and that is the issue. Obviously a person has the right to defend himself, his property and family, but it must be proportionate.

Mr. McCormack: People do not have that right now.

Ms O. Mitchell: That is the point.

The Taoiseach: That right is in the law. The objection of the Government and others to the Fine Gael Bill as drafted is that it goes too far. A gate-crasher into a party—

Ms O. Mitchell: The Taoiseach should not listen to the Minister for Justice, Equality and Law Reform.

Mr. McCormack: He is worried about a gate-crasher in the Progressive Democrats Party.

An Ceann Comhairle: I ask Deputies to allow their leader, Deputy Kenny, to hear the reply.

The Taoiseach: I must tell the Fine Gael backbenchers that everyone who has read their Bill considers it to be over the top legally.

Mr. Hayes: Did the gang of 12 tell that to the Taoiseach?

The Taoiseach: It is not a suitable Bill to put on the Statute Book. While the issue of somebody defending his property must be proportionate, the Fine Gael Bill is not.

Mr. Kenny: I agree that the use of force must be proportionate, but the point made in Deputy Jim O'Keeffe's Bill is that the home owner should not bear the onus of proof of the use of force. In response to the Minister for Justice, Equality and Law Reform's advice on gate-crashers at parties, recently a perfectly innocent young woman attending a party was shot dead. There are 500 burglaries a week where there are no parties.

At 2 a.m. tomorrow, when a house in this city or any other town is burgled, does the Taoiseach believe that the owner of that house should have to retreat? Does the Taoiseach believe that the owner of that house, in defending, inside his house, his wife, family and property, for which he has paid taxes, stealth charges and so on, should be liable to be sued by somebody who breaks in and trespasses with the intent of evil-doing or stealing or whatever? Does the Taoiseach believe that the home owner should have to prove that his defence of his property and his wife and family was reasonable?

The Minister for Justice, Equality and Law Reform is no stranger to changing Bills that he publishes and presents to the House. For instance, he has tabled 352 pages of amendments to the Criminal Justice Bill that he published. The Taoiseach and the Minister say that in the aut-

[Mr. Kenny.]

umn, or sometime in the future, the Government will bring forward a Bill to deal with these issues.

There are people watching us this morning whose houses were burgled last night, where there were no parties, where the only gate-crashers were the thugs and criminals who broke into their property with evil intent, stealing to feed cocaine habits or whatever else. The Taoiseach meanwhile tells me that Deputy Jim O'Keeffe's Fine Gael Bill goes too far. I will repeat the three questions. Does the Taoiseach believe that a person is entitled to defend his home? Does he believe that the person should have to prove the defence was reasonable? Does he believe that somebody should or can be sued for defending his wife, children and property?

If the answer is "Yes", he should bring the Bill to committee and argue on the merits of the Progressive Democrats-Senator Bill written by the Minister for Justice, Equality and Law Reform and whatever weaknesses or strengths there may be in the Fine Gael Bill. The legal advice we have received is that the Bill is constitutional, does not go over the top and puts back the pendulum slightly so that priority is given to home owners rather than thugs and criminals who break in to violate a person's property which, according to the Constitution, is supposed to be "inviolable" in this country.

Mr. Allen: The Minister for zero tolerance is muttering.

The Taoiseach: The Deputy has asked me three questions. He asked me whether people have the right to be safe in their homes. The answer to that question is "Yes". He asked me whether people can use force to protect themselves. That is defined as reasonable force and is currently in the law. People who are attacked in their houses by intruders or others are entitled to use reasonable force.

Mr. Kenny: Yes, but the presumption is not there.

The Taoiseach: That is the law. The Deputy also asked whether it is right that a person who defends himself or herself has to make his or her own case. He should know that the presumption of the criminal code is that the accused is innocent. The law is based on that presumption.

Mr. McCormack: So there is no need for the Bill proposed by the Minister, Deputy McDowell.

The Taoiseach: No. The Deputies opposite should not try to change legal principles which have been in place for hundreds of years. The presumption of the criminal code is that the accused is innocent. We can refer to all the circumstances we like, but we know we must have

the law of the land. We cannot allow people to feel threatened or intimidated in their homes.

Mr. J. O'Keeffe: We do.

The Taoiseach: The Deputies opposite know my views on these things. If we do not have clear and good law, people will start to take the law into their hands.

Mr. Durkan: We need to improve the law.

Mr. Kenny: There are 500 burglaries a week.

The Taoiseach: We had a controversy about that last year, when an intruder who was retreating from a property was shot in the back with impunity.

Mr. Kenny: That was outside the property.

Mr. N. Dempsey: Is it all right outside the property?

Mr. Durkan: That was different.

Mr. N. Dempsey: Is the Deputy saying that one should wait until intruders leave one's property before one shoots them?

Mr. Kenny: That has nothing to do with the Fine Gael proposal because the incident took place outside the property.

The Taoiseach: We had that debate. How can one write a law—

Mr. Kenny: We have written the home defence law.

The Taoiseach: —that allows the occupant of a house to wait until the intruders have gone out the door and then it is all right to shoot them in the back? Let us be sensible.

Mr. Durkan: That is not fair.

The Taoiseach: I remind Deputy Kenny, who seems to want to make this a populist issue, that people are entitled under the law to use reasonable force.

Mr. Kenny: Is the Taoiseach siding with the thugs and criminals who commit 500 burglaries a week?

Mr. O'Donoghue: Fascism.

An Ceann Comhairle: We cannot have a situation in this House whereby Deputy Kenny can ask his question in silence, but the member of the Government who responds is not allowed to be heard.

Mr. Kenny: Gabh mo leithscéal.

An Ceann Comhairle: The Taoiseach, without interruption.

Mr. McCormack: The Taoiseach is not responding to the points which have been made.

The Taoiseach: I will be brief. I do not intend to stand up and just say populist things.

Mr. Durkan: That is a new one.

Mr. Allen: Every Monday.

The Taoiseach: If Deputy Kenny wants to achieve a position in law whereby, when a person walks into a house, the defence of reasonable force cannot be used any more, or there is no longer a presumption of innocence—

Ms O. Mitchell: Nobody is saying that.

The Taoiseach: —or one is allowed to blast away one's gun at anyone—

Mr. Stanton: Rubbish.

The Taoiseach: —that is not the way the law works and I oppose that.

Mr. N. Dempsey: Hear, hear.

Mr. Kenny: That is nonsense.

Mr. Durkan: The Taoiseach's comments are a fig leaf.

Mr. McCormack: What about the Progressive Democrats Bill?

Mr. J. O'Keefe: This is the wind that could shake the Bertie.

Mr. O'Donoghue: Fascism.

Mr. Rabbitte: In some of this morning's newspapers, the Government has floated the notion of a constitutional referendum on the issue of child rape. Can the Taoiseach confirm that it is the Government's intention to hold such a referendum? Will the proposed amendment differ from the suggestion made after the recent crisis by the Minister, Deputy Dermot Ahern, that the Constitution would be amended to reverse the Supreme Court decision? Is the amendment that is now proposed in line with the Minister's suggestion or is it in line with the amendment to protect children's rights that was proposed by the all-party committee? I would like to ask the Taoiseach about this issue, which plunged the country into outrage and the Government into disarray. Why is the Government prepared to do everything other than allow for an independent investigation of what transpired during the recent period of crisis?

The Taoiseach's website makes it clear that he is responsible for liaising with the Office of the

Attorney General and the Office of the Director of Public Prosecutions. If one examines the guidelines for the Office of the Attorney General, it is clear that it has a responsibility "to maintain not only a strategic viewpoint but to keep client Departments informed of the possible consequences of the litigation for them and for other Departments of State". The Office of the Attorney General did not live up to its responsibilities in this instance.

The country was outraged during the recent crisis because people in authority, who might have been expected to respond to unfolding events, were in a position of knowledge or were capable of responding, did not seem to know what was happening. The Minister for Justice, Equality and Law Reform brought the Criminal Law (Sexual Offences) Bill 2006 to this House, but it was disowned by his Government within 36 hours. Indeed, it was disowned by himself. He claimed more authorship last night of the Defence of Life and Property Bill 2006, which has been introduced in the Seanad by a Progressive Democrats Senator, than he did of the Criminal Law (Sexual Offences) Bill 2006 when it was introduced in this House.

Mr. McCormack: He praised himself.

Mr. Rabbitte: It is admitted that the latter legislation is deeply flawed. I would like to ask the Taoiseach about the proposal to introduce a constitutional amendment and about the all-party committee that will examine these matters on the basis of terms of reference which are the subject of a large measure of agreement on all sides of the House. We do not understand how the issues of child rape and the protection of our children can be examined until it has been clearly and independently established what went wrong in the Office of the Attorney General, what went wrong between that office and the Department of Justice, Equality and Law Reform and what went wrong between that office and the Minister for Justice, Equality and Law Reform. We do not know what went wrong in those instances. We had to take the unusual step last week of writing to the Office of the Director of Public Prosecutions to seek to establish how many cases were struck out as a result of the Supreme Court decision.

If we are to deal seriously with these matters, which were of such gravity that they outraged the people and plunged the Government into disarray that it manifestly has not recovered from since, is it not important that there should be an independent investigation of such matters? I congratulate the Taoiseach on putting down the shortest lived rising since "Slattery's Mounted Fut".

Mr. J. O'Keefe: They are the back-off benchers.

The Taoiseach: I will try to be helpful and move this important issue on by repeating that it would not have made any difference if the Minister for Justice, Equality and Law Reform, the Attorney General or the rest of the Cabinet had known anything about this matter in advance. It would not have influenced the Supreme Court decision in any way and no more preparatory arrangements would have been made. We encountered a difficulty, in a way that can often happen in law, as a result of the Supreme Court decision in the CC case that we had to create a defence of honest belief.

I would like to put on the record the Government's proposed terms of reference for the all-party committee, as I have not done so before now. They are:

- To review the substantive criminal law relating to sexual offences against children;
- To review the substantive law in relation to child protection;
- To examine the issues surrounding the age of consent in relation to sexual offences;
- To examine court procedures relating to child sexual abuse cases;
- To consider the implications arising from the Supreme Court decision of 23rd May 2006 in the CC case including the desirability or otherwise of a constitutional amendment in relation to the outcome of that case;
- To examine the issues of the desirability or otherwise of amending the Constitution to include a general right to protection for children; and
- To make recommendations on the issues not later than the autumn.

The proposed terms of reference are matters for discussion. The Minister for Justice, Equality and Law Reform has given the terms of reference to the Opposition leaders. I saw the Opposition statement that was published at the weekend which, by and large, repeats the issues which have been highlighted by the Government. As Deputy Rabbitte has said, there is total agreement, more or less, on these issues.

I do not think it is necessary for me to go back over the issue again. It would not have made a bit of difference if the Attorney General had been following this case from the time that he and the Director of Public Prosecutions decided to put together a legal team to fight the case. The legal team, which thought it had a good case, did its best. It won in the High Court, but lost in the Supreme Court. Several issues remain such as the constitutional one. I already gave an assurance that these issues will be dealt with by the committee. A good number of bodies have lobbied on the issue of children's rights which should be con-

sidered by the committee. Other constitutional issues should also be considered by the committee. I will pass the views on to the Deputy if he so wishes but they are best dealt with in the committee. While the full judgment of the Supreme Court has not been released, several difficulties arise out of it that we need to deal with quickly. The Government is prepared for its front people to deal with these issues in the early autumn.

The O'Sullivan examination is concentrating on the 1995 procedures. I have already stated there was a breach of one of those procedures which will be reflected in the report. The official dealing with the case did not follow the procedures. I am sure the official does his or her best at all other times. However, in this case procedure was not followed. There is no more to it than that. However, if the procedures had been followed, it still would not have made any difference. The report would have gone to the Attorney General but he could not have influenced the Supreme Court decision. The official was not going to highlight to the Attorney General the need to draft a new Bill.

It is not a question of difficulties between the Minister for Justice, Equality and Law Reform and the Attorney General. The Office of the Attorney General and the Office of the Director of Public Prosecutions were fighting the case. It was their staff which had co-operated on the case. An investigation into the office of the Minister for Justice, Equality and Law Reform, which was not involved in the case, and the Attorney General's office, which was working in co-operation with the joint team, will make no difference. It was only the notification of the procedure, coming from the 1995 report, that the Attorney General should have been made aware of. This will come out in the O'Sullivan report. As we get near to the end of the session, this committee needs to be put in place to get on with the work. There are some substantive issues that have been discussed at great length that must be dealt with by the committee.

Mr. Rabbitte: The Taoiseach claimed he did not want to go back over the events and then he did just that. He knows well the events are not just disputed by me but by persons outside of the House. He also knows the Department of Justice, Equality and Law Reform had possession of this information going back to 2002. I am not interested in tracing the history of it. What happened, happened and we are looking forward with great interest to reading the full judgment of the Supreme Court. I want answers from the Taoiseach on the question of the all-party committee.

Is the committee to be established on a statutory basis? Will a motion be put to the House before it rises for the summer recess? Why is the Government prepared to agree terms of reference with the Opposition on nearly all matters except an independent inquiry into what went

wrong? The administration and oversight of the criminal justice system, especially in so far as it relates to our children, is of such importance that we need to know what happened. Scapegoating an official in the Office of the Attorney General is not adequate given the crisis provoked by the series of events. My first preference would be not to have a commission of investigation style inquiry if it could be done by parliamentary committee.

An Ceann Comhairle: The Deputy's time——

Mr. Rabbitte: I know a Cheann Comhairle. You let the Taoiseach go on for about ten minutes. Do you have to interrupt me in mid-sentence?

An Ceann Comhairle: Deputy Rabbitte, you went on for four minutes. The Taoiseach was given two minutes extra because you took two minutes extra. You cannot go on asking questions for five minutes and then expect the Taoiseach to be cut short.

Mr. Stagg: Will the Ceann Comhairle be quiet? Would he ever sit back and relax?

Mr. McHugh: Who is the boss?

Mr. Howlin: This is an important issue.

Mr. Rabbitte: This is a matter of parliamentary accountability. Ideally I would like the matter to be examined by parliamentary committee. However, the Government has steadfastly refused to refurbish the law since the *Abbeylara* judgment, which was a narrow enough area. Inquiry by parliamentary committee has worked effectively in the past but that option is now unavailable until the Government refurbishes the law. The Government seems prepared to agree terms of reference with the Opposition but is not prepared to have independent inquiry into the crisis that transpired. Is the Taoiseach going to put down a motion to cause the committee to be established on a statutory basis? Will it have compellability powers? Is the Taoiseach just head-hunting Members on this side of the House to establish an all-party committee that will struggle with, admittedly, complex issues but will not look back at the crisis provoked some weeks ago?

The Taoiseach: I do not want to get into a debate. This issue holds the record for the longest Leaders' Question of one hour and 28 minutes several weeks ago. There is not much point in repeating myself. Deputy Rabbitte knows the Supreme Court made a decision striking down an Act in a case which the State lost. As he correctly stated the Office of the Attorney General and the Office of the Director of Public Prosecutions put in place a legal team on the issue in 2002. The Department of Justice, Equality and Law Reform, the Attorney General and the Director

of Public Prosecutions knew about that. A procedure was in place that they should have been kept informed later on but they were not. It would have made no difference to the situation, however. It is no good confusing the issue.

The Government is anxious, as stated four weeks ago, to establish an all-party committee to deal with these issues. The terms of reference for it were released to the Opposition several weeks ago. If the Opposition wishes to engage, through its spokespersons, with the Minister, we would be happy to do so this week to conclude the matter.

Mr. Howlin: What is the basis?

The Taoiseach: Issues arise under section 1 of the 1935 legislation for those who have been convicted before the courts of statutory rape and those in respect of whom prosecutions are pending. In the CC case the Supreme Court struck down as unconstitutional section 1 of the Criminal Law (Amendment) Act. In addition, the Supreme Court ensured that Mr. A, who had been convicted of such an offence, remained behind bars. There are 16 persons in custody having been convicted of an offence under section 1 of the 1935 Act. This cohort of persons are those who are likely to be directly affected by the decision of the Supreme Court in the Mr. A case. There are 42 persons on charges before the courts under section 1 of the 1935 Act. In the CC case, it does not prevent the Director of Public Prosecutions from preferring charges of sexual assault or aggravated sexual assault and, in appropriate circumstances, a rape charge.

Other issues arise from section 2 of the 1935 Act under which three persons have been convicted of an offence and no other offence. A total of 12 persons have been charged but not yet tried under this section. The position is that the offence of rape depending upon the factual circumstances can be preferred and the Director of Public Prosecutions is not prevented by the CC case from making such a charge.

The committee will have to deal with the defence of honest belief. It is a result of the decision of the Supreme Court in the CC case that we have had to create a defence of honest belief. No Member would have ever created a defence of honest belief. At no stage in the past 16 years has anyone recommended the creation of such a defence. No Government ever entertained such a notion.

Mr. Howlin: What about the Law Reform Commission?

Mr. Stagg: The Taoiseach is giving the same old rubbish.

The Taoiseach: The reason for this is obvious because it creates a real and extra burden for the victim of unlawful carnal knowledge. It means the victim can be subject to rigorous cross-examin-

[The Taoiseach.]

ation by counsel for an accused who may transpire to be a sexual predator. The idea of an 11 or 12 year old girl being grilled in the witness box as to her make-up, perfume or style of dress or the manner in which she comported herself, will undermine the effectiveness and prosecutions of unlawful carnal knowledge. Parents and citizens will be horrified by such a prospect. In those circumstances, I wonder whether the existence of the prospect of such cross-examination by experienced counsel will have an effect on such prosecutions.

Mr. Rabbitte: The Government introduced the law that could allow such a scenario.

The Taoiseach: That was because the Supreme Court made a judgment.

An Ceann Comhairle: Allow the Taoiseach without interruption.

Mr. Stagg: The Government made a hames of the Act.

Mr. Rabbitte: What is the answer to the question I asked?

The Taoiseach: The answer is——

Mr. J. O’Keeffe: What about video evidence?

The Taoiseach: The answer to the question is that it is therefore important the terms of reference of the Oireachtas committee are urgently agreed. It must address all the issues, including the sensitive issue of young girls, perhaps 11 or 12 years of age, being cross-examined in court rather than talking about who did what in the Attorney General’s Office. That is irrelevant and we need to get on with that work and quickly.

11 o’clock

Mr. Howlin: What kind of committee will it be?

Mr. Stagg: It is because of a law the Government brought in.

Mr. J. Brady: At least we bring in laws.

Mr. Sargent: A Cheann Comhairle——

Mr. Rabbitte: What kind of all-party committee will it be? The Taoiseach did not answer the question.

An Ceann Comhairle: There is no provision for a further supplementary question in the Standing Order. We have already gone ten minutes over time on that question. I call Deputy Sargent.

Mr. Rabbitte: The Taoiseach took up his entire time——

An Ceann Comhairle: Deputy Rabbitte, I have called Deputy Sargent and I would ask you to——

Mr. Rabbitte: It makes a farce of Question Time if we do not get answers.

An Ceann Comhairle: ——allow Deputy Sargent to speak without interruption.

Mr. Rabbitte: What kind of all-party committee will it be? That is disrespectful to the House.

An Ceann Comhairle: Deputy Rabbitte should resume his seat and allow Deputy Sargent to speak.

Mr. Rabbitte: We are entitled to answers and we did not get them.

An Ceann Comhairle: The Deputy cannot take Deputy Sargent’s time.

Mr. Rabbitte: I am not taking Deputy Sargent’s time. We are entitled to answers.

An Ceann Comhairle: Deputy Sargent has been called. The Deputy will have to find another way of raising this matter.

Mr. Howlin: Will it be a committee with powers? The public needs to know that.

An Ceann Comhairle: Deputy Sargent should be allowed to speak without interruption.

Mr. Howlin: It is clearly a whitewash.

Mr. Sargent: It would be a turn of events if we did get answers but I hope to get an answer to this question. Will the Taoiseach respond to what I heard clearly from a number of teachers at an INTO conference, that in trying to buy a house, even after six years teaching they could only borrow a maximum of €200,000. They were expected to come up with an additional €150,000 from somewhere. I do not know what is the answer to where those teachers can get the additional €150,000 under the Taoiseach’s watch, unless he recommends to them a course of action I would not recommend, namely the Tom and Mick Bailey approach.

According to today’s newspapers, while our earning power is up, a fifth of the population face a poverty trap. The earning power of some of the supporters of Fianna Fáil is extraordinary. What message does it send to people who ask how they are expected to afford a basic house in the Ireland of 2006 when they see Mick and Tom Bailey paying €25 million to the Revenue Commissioners, which is effectively a fine, yet the Taoiseach welcomes them to the Fianna Fáil tent in the Galway Races? What message does it send when a Minister of State like Deputy Fahey is able to avoid tax in building up a multi-million

euro property empire? In 2005 his empire included——

An Ceann Comhairle: The Deputy is moving on to another question.

Mr. Sargent: No, I am asking about Fianna Fáil supporters, be they in Government or out of Government, and whether the example and behaviour of those individuals is something the Taoiseach is endorsing, standing over and recommending for other people to emulate. Twenty properties in Ireland — Minister Fahey — and seven abroad. He owns half a share in a property company and has stocks and work in progress worth €1.4 million. He has a hazy recollection——

Mr. S. Power: A Cheann Comhairle——

Mr. Sargent: ——of receiving donations from Monarch Properties. He failed to declare interests in a Moscow hairdressing business——

An Ceann Comhairle: Deputy Sargent has moved on to another question.

Mr. Sargent: I have not moved on. It is the same question. A Minister of State in the Government——

An Ceann Comhairle: I ask the Deputy to desist from casting aspersions on Members of this House.

Mr. J. Brady: What about Deputy Cuffe?

Mr. Sargent: I would like to ask the Taoiseach whether he is standing over his Minister of State——

Mr. J. Brady: What about chemical Cuffe?

Mr. Sargent: ——who is under investigation by the Ombudsman for giving 75% of total State compensation for fisheries vessels lost at sea——

An Ceann Comhairle: I ask the Deputy to desist from going down that road.

Mr. Sargent: ——to two constituents, and giving half of Ireland's mackerel quota to just one boat, the *Atlantic Dawn*.

An Ceann Comhairle: It is not appropriate to cast aspersions on Members if the Deputy cannot substantiate them.

Mr. Sargent: I am simply reading the record for the Taoiseach's benefit.

Mr. F. McGrath: It is the truth.

Mr. Sargent: I am not casting aspersions or making accusations.

A Deputy: The Deputy is.

Mr. Sargent: I am giving facts to the Taoiseach to help him recollect his position as Taoiseach.

An Ceann Comhairle: Deputy, you have to be careful.

Mr. Sargent: Does the Taoiseach relate to the business incentive saying, "Fortune favours the brave"? Under the Taoiseach's watch——

An Ceann Comhairle: The time has concluded.

Mr. Sargent: ——fortune favours the corrupt and the greedy. Will the Taoiseach change that and will he sack the Minister of State, Deputy Fahey?

Mr. F. McGrath: Hear, hear.

The Taoiseach: I presume the Ceann Comhairle's ruling is on the tax question.

An Ceann Comhairle: I do not know how many questions Deputy Sargent asked.

Mr. Eamon Ryan: The Taoiseach should just answer the question.

The Taoiseach: But under Standing Orders, a Cheann Comhairle——

Mr. Sargent: They are all facts.

The Taoiseach: ——I can only answer one question, the one on tax breaks.

Mr. O'Donoghue: All around the mulberry bush.

Mr. Gormley: I know it is embarrassing for the Taoiseach.

An Ceann Comhairle: On the tax question.

The Taoiseach: I was not sure which question to answer, a Cheann Comhairle.

Mr. Sargent: Standards in public office.

The Taoiseach: I assume the Deputy is referring to the Revenue Commissioners study on the top 400 earners which focused on the problem that has arisen with high earners and low tax due to miscellaneous tax reliefs brought in by all Governments over the past 25 years. The difference is that, unlike others, we have done something about it.

Mr. Gormley: Endorsed it.

The Taoiseach: We have brought in 33 anti-avoidance measures and terminated 17 tax relief schemes provided by the Government.

Mr. McCormack: In 2008.

The Taoiseach: The Minister for Finance took an overall view of the schemes on the Statute Book and has eliminated a large proportion of those, effective from 1 January. It is the greatest overhaul of the tax relief schemes since the early 1960s. Because of all the measures introduced to prevent tax avoidance, in 2002 the top 1% of earners paid 18.6% of all income tax and this year it is expected that those earners will pay more than 20% of all income tax. Because of the changes in the law and the anti-avoidance measures the Government has brought in——

Mr. Gormley: What about the Minister of State, Deputy Fahey?

The Taoiseach: ——the top 1% of taxpayers are now paying 20% of all income tax. In contrast, those earning the average industrial wage, which is estimated to be in excess of €30,000, will pay 6% of all income tax.

Mr. Eamon Ryan: What does this have to do with the questions?

Mr. Stagg: Bluster.

The Taoiseach: In 1997, those earning at or under a far lower average industrial wage paid more than 14% of all income tax. This shows that through the Government's policies, we are now seeing high earners paying not alone a significant amount of tax but also a significant total of overall tax revenue. This shows the effectiveness of the Minister's policy.

If the Deputy has anything to say about breaches by the Minister of State, Deputy Fahey, of the Ethics in Public Office Act, which was introduced ten years ago, I suggest he should talk to Mr. Justice Smith, because he is the appropriate officer.

Mr. Sargent: You are the Taoiseach.

The Taoiseach: If the Deputy has anything to say about the probity of anything else in regard to the Minister of State, Deputy Fahey, he should say it outside the House and let the Minister of State deal with it.

Deputies: Hear, hear.

Mr. Sargent: It is in the newspapers.

Mr. C. Lenihan: Deputy Sargent would not say it outside the House.

Mr. Sargent: It has been said many times by many people to the Taoiseach. There is nothing new in what I say.

Mr. C. Lenihan: Then the Deputy should say it outside the House.

Mr. Sargent: That is what is startling.

Mr. C. Lenihan: That is a cowardly approach.

Mr. Sargent: The newspapers tell us this morning that the Taoiseach got his way with his nervous backbench Deputies, as if he has some influence on the matter.

An Ceann Comhairle: The Deputy should return to the question.

Mr. Sargent: I am asking the Taoiseach——

An Ceann Comhairle: The Deputy is abusing Leaders' Questions.

Mr. Sargent: Far from it. I am trying to get to the heart of what Leaders' Question is for.

An Ceann Comhairle: The Deputy is moving all over the place. He is entitled to one question on one topical issue but he is going outside that.

Mr. Sargent: I am asking the Taoiseach a question and the Ceann Comhairle is interrupting me.

An Ceann Comhairle: The Deputy is not entitled to make allegations against Members in the House that he cannot substantiate.

Mr. Sargent: I would like to see them try and substantiate it because it is well documented.

An Ceann Comhairle: I ask the Deputy not to go down that road.

Mr. C. Lenihan: If it is so well documented then why does the Deputy not say it outside the House?

Mr. Sargent: No problem. Will the Taoiseach stand idly by while dodgy builders in the Galway tent like Mick and Tom Bailey and dodgy builders in Governments like the Minister of State, Deputy Fahey, set the real standards for Government under this Fianna Fáil-Progressive Democrats Government?

An Ceann Comhairle: The Deputy's time is concluded. I ask him to resume his seat and allow the Taoiseach to reply. The Deputy is not entitled to——

Mr. Sargent: This is the standard the Taoiseach is setting and he must answer for that.

An Ceann Comhairle: That has nothing to do with the question about tax.

Mr. Cuffe: It has everything to do with it.

Mr. Sargent: The Government has overseen a rise of 270% in house prices.

An Ceann Comhairle: The Deputy is abusing Leaders' Questions.

Mr. C. Lenihan: A Cheann Comhairle, what are the rights of Members?

Mr. Sargent: I am not.

An Ceann Comhairle: The Deputy is.

Mr. Sargent: Will the Taoiseach sack the Minister of State, Deputy Fahey—

An Ceann Comhairle: That does not arise.

Mr. Sargent: —and is he happy with the standards being set in Government by his Minister? Is he going to ensure that Fianna Fáil, which is continually associated with greed and corruption will—

An Ceann Comhairle: The Deputy's time is concluded. I ask him to resume his seat.

Mr. Sargent: That is what I am asking.

The Taoiseach: From looking at the facts and figures in the recent reports from Revenue, it is clear that it is because of the actions of this Government and the laws we have introduced that people who evaded tax in the past, are no longer doing so, whether they are dodgy builders—

Mr. Eamon Ryan: Or dodgy Ministers.

The Taoiseach: —legitimate builders or any other kind of builders. They are now paying large sums of money to the Revenue. Settlements have led to the tax system being cleaned up. People who had all kinds of systems of evasion, within the country and outside of it, are now being detected because of the extensive laws we have introduced. The data supplied by the Minister for Finance in reply to recent questions shows he has restricted the relief for high earners. A series of measures taken by the Government in recent years, which the Minister has detailed to the House in reply to parliamentary questions, complements this action. A significant amount of tax is now being paid. The highest earners, who comprise 1% of the total number of taxpayers, now pay almost 20% of all income tax.

Mr. J. Higgins: How much have PAYE workers paid over a number of years?

The Taoiseach: The Standards in Public Office Act has been in place since 2001. As Head of Government for the past nine years, I have introduced legislation in this area which some Members believe is unduly strict.

Mr. Gormley: Who believes that?

The Taoiseach: The Standards in Public Office Commission is part of the system for investigating Members. I am not the investigator.

Mr. Sargent: The Taoiseach knows well what went on.

An Ceann Comhairle: The Taoiseach should be allowed to continue without interruption.

The Taoiseach: I am not the investigator of these matters.

Mr. Sargent: The Taoiseach knows well what the Minister of State, Deputy Fahey, has done.

The Taoiseach: Deputy Sargent must either put up or shut up. If he has evidence, he should give it to Mr. Justice Smith. If he does not, he should come into the House tomorrow and withdraw his statement.

Mr. Sargent: I have no difficulty in telling the truth. The Taoiseach knows well that the Minister of State was aware of the situation.

Mr. Gormley: A blind eye is being turned to corruption.

Ceisteanna — Questions.

Social Partnership Agreements.

1. **Mr. Sargent** asked the Taoiseach if he will report on the status of the social partnership talks; and if he will make a statement on the matter. [21672/06]

2. **Mr. Kenny** asked the Taoiseach if he will report on recent developments in the negotiations on a new partnership agreement; and if he will make a statement on the matter. [21677/06]

3. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on his role in the talks on the social partnership process; and if he will make a statement on the matter. [22692/06]

4. **Caoimhghín Ó Caoláin** asked the Taoiseach the reports published by the National Economic and Social Forum since June 2002; the procedures in his Department for responding to such reports; and if he will make a statement on the matter. [22767/06]

5. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on the outcome of the recent discussions on a new social partnership agreement. [23298/06]

6. **Mr. J. Higgins** asked the Taoiseach if he will report on his recent contacts with the social partners. [23318/06]

7. **Mr. Quinn** asked the Taoiseach if he will report on the negotiations that have taken place in regard to the new partnership deal; when the next meeting of the social partners will take place; and if he will make a statement on the matter. [23500/06]

8. **Mr. Quinn** asked the Taoiseach if he will report on progress made by the Government in regard to its commitments under the Sustaining Progress deal with the social partners; and if he will make a statement on the matter. [23501/06]

The Taoiseach: I propose to take Questions Nos. 1 to 8, inclusive, together.

Together with my colleagues, the Tánaiste and the Minister for Finance, I met the social partners on Wednesday, 14 June, following the conclusion of the negotiations on a new social partnership agreement. I welcome the draft agreement, which builds on the significant progress already made under Sustaining Progress and provides an important framework for meeting the economic and social challenges that lie ahead.

A great deal of time and effort has gone into the making of the agreement. This underlines both the importance of the issues under discussion and the importance attached by all sides to maintaining our system of social partnership. I commend the negotiators on all sides for the commitment and leadership they have brought to the task. I previously stated that no deal was better than a bad deal but the end result shows it has been worth the effort.

The Government participated in the negotiations on the basis of its programme and my colleagues and I were happy to approve the terms of the new agreement in that context. If ratified, the Government will pursue the implementation of the agreement in line with available resources and subject to the approval of the Oireachtas in respect of necessary legislation and the voting of the necessary funds in the Estimates process.

In regard to pay, the workplace and employment rights and compliance, the proposals represent a sensible and well considered outcome, striking a fair balance between the need to secure the living standards of those at work and the pressures on the enterprise sector of the economy. A new social partnership agreement is not only about pay, important though that is. It is also about maintaining a supportive macro-economic environment, based on a shared understanding across all sectors of the community of the challenges that we face and of the consistent behaviours that will enhance productivity and competitiveness and build a stronger society. Put simply, it is about mobilising our collective resources to improve people's lives.

I particularly welcome the new approach to social policy that identifies the key issues that might affect the individual at key stages in the life cycle. It is my firm belief that the life cycle approach, as it is called, offers the type of mindset or stepped change required, if we are to deliver effective policies and programmes that support people to realise their full potential. These, however, are not goals that can be achieved during the usual three-year agreement. In this context, the Government and the social partners recognise that a ten-year framework agreement is more appropriate for the type of social dialogue that can be effective.

The final agreement is now subject to ratification in the weeks ahead, in line with the internal procedures within each social partner pillar and organisation. I hope that all concerned will recognise the benefits of the new agreement both for themselves and for the country in its entirety and support it during the ratification process. Talks in regard to the farming sector have not yet concluded and are expected to continue in the days ahead. The farming pillar has, however, participated in the negotiations on the non-pay agreement, which have concluded.

The Government has prepared and published a total of ten progress reports on the implementation of the Sustaining Progress agreement. The considerable progress that has been made in implementing the wide-ranging set of commitments contained in Sustaining Progress is reflected in these progress reports, the special mid-term review reports and the final report on the special initiatives, all of which were laid before the Houses of the Oireachtas.

The National Economic and Social Forum, NESF, has published nine reports since June 2002. These are: Equity of Access to Hospital Care; Labour Market Issues for Older Workers; Equality Policies for Lesbian, Gay and Bisexual People: Implementation Issues; The Policy Implications of Social Capital; Equality Policies for Older People: Implementation Issues; Fourth Periodic Report on the Work of the NESF; Early Childhood Care and Education; Care for Older People; and Creating a More Inclusive Labour Market. This material is readily available in the Oireachtas Library because each NESF report is laid before both Houses of the Oireachtas. Details are also available on the NESF website, www.nesf.ie.

My function in respect of the NESF reports is to present them to Government, not to monitor the implementation of their recommendations. Consequently, there are no procedures in my Department for responding to such reports. I have made this clear on a number of occasions. Any questions in regard to the implementation of recommendations in specific NESF reports should be put to the relevant Minister.

Mr. Sargent: Will the agreement, which provides pay increases of 4.05% per annum over 27

months, take account of the need for a reduction in house prices? Inflation in this sector has been running at 15% per annum, with prices rising by 270% in the past ten years. Is there anything in the agreement that will satisfy the many people who are wondering how it will be possible to afford to buy a house in the future?

When will the 90 labour inspectors be in place under the aegis of the new office of the director for employment rights compliance? Will the Taoiseach explain why it has taken nine years for the Government to agree a national carers strategy and why it will not be implemented until after the next election? Why has there been such a delay in this important area?

Senator Morrissey made a speech in the Seanad on 22 June in which he indicated that Progressive Democrats policy would not be restricted by the social partnership process. Does this view have the imprimatur of the Taoiseach's colleagues in Government? It seems a clear indication that the partnership agreement does not have the support of all Government Members.

The Taoiseach: The carers strategy is an important issue in the context of the social pillar. Carers' representative associations are pleased with what has been done in recent budgets, particularly the last. They have achieved a significant portion of their list of objectives. Likewise, they are pleased to have received concessions on a number of important points in the course of the social partnership process. As resources permit, it is important that we continue to improve the lot of carers, who take on a vital role in society. The Minister for Social and Family Affairs has a full list of the new initiatives worked out between his Department and the negotiators on behalf of carers.

On housing, the Central Bank's most recent financial stability report, published last autumn, shows that mortgage repayments for first-time buyers trended over the past 15 years within a range of approximately 23% to 33% of household disposable income on a national basis. Irish house buyers benefit from a range of supporting factors, including the healthy income growth of the last decade—

Mr. Sargent: It is not keeping pace with house price inflation.

The Taoiseach: —low income tax rates and relatively low interest rates by historic standards, up to nine points below what we had for almost 30 years. Affordability is also supported by the strength of the economy, record employment levels and relatively high saving ratios. The expected shift in the interest rate environment will impact on affordability. This, together with the large increase in new housing supply, will support equilibrium in the market. I have answered questions on many aspects of the housing issue in recent weeks.

In regard to the establishment of the office of the director for employment rights compliance, several legislative changes remain to be implemented. There is an amount of legislative work arising from the agreement and preliminary work has started on that in recent months. If the agreement is ratified, legislative measures to establish the inspectorate will be a priority.

Mr. Sargent: When will that be done?

The Taoiseach: We must wait until the agreement is ratified. None of these measures will be implemented if it is not.

Mr. Sargent: Senator Morrissey has said the Progressive Democrats will not support it.

An Ceann Comhairle: I call on Deputy Kenny and ask Deputy Sargent to allow Deputy Kenny to speak.

Mr. Kenny: Could I ask the Taoiseach—

Mr. Sargent: They are supposed to be in Government together—

An Ceann Comhairle: The Deputy cannot disrupt the business of the House. Deputy Kenny has been called.

Mr. Kenny: I ask the Taoiseach for his view on the democratic deficit that applies in the area of social partnership. The Sustaining Progress agreement was never put before this House for comment. People from all parties and none have pointed out that they heard personalities who were attending the social partnership talks speaking on the radio, outlining the issues that were discussed but the agreement was never discussed in here. After ten years, while recognising that the social partnership process is important for stability and so forth, the time has come for the Oireachtas and the Members elected by the people to have a real opportunity to discuss Towards 2016, Sustaining Progress and other agreements. The democratic deficit is not good for the health of our democracy or for politics.

Arising from the conclusion of Towards 2016, what serious efforts will be made concerning public service reform? We hear much talk from the users of public services about the gulf that exists between the standards and delivery of private services for which they pay and those provided by the public service, for which they also pay but which are not of the same standard. Is that something in which the Taoiseach has an interest? Is he interested in seeing serious public service reform whereby users can expect, demand and receive the best level of service, for which they pay?

The Taoiseach: The issue of a democratic deficit comes up continually and I have answered the question several times. The social partnership

[The Taoiseach.]

process is not anti-democratic because it is based on a recognition of the proper and distinct roles of Government, and the legitimate contribution to public life of the social partners who, in their own right, exercise significant influence over the broad economic and social life of this country. As employers, trade unions, farm bodies and voluntary organisations, they play an enormous role in civil society. In all of the six agreements to date, they have made an enormous contribution in terms of trying to resolve problems, examining new issues and amending the way we do things. Each agreement has evolved from the previous one and all have been based on the assessment by NESF every few years and on reports by the NESF, where there is a strong representation of this House and the Seanad.

Employers, trade unions, farm bodies and voluntary organisations play a huge role in issues every day. Their independent decision making and behaviour has a profound effect on employment, living standards, productivity and quality of life issues. It is entirely democratic to recognise and respect their independent roles and contribution. At the same time, the social partners recognise that the Government in this process is not simply the first among equals. They appreciate fully that the Government must insist on, and exercise fully, its prerogatives within the framework of political accountability. That is not an issue with the social partners and never has been over the last 19 years.

As in the past, the Government has entered the negotiations on the basis of its programme for Government. We have maintained close ministerial contact and oversight of the negotiations throughout. The terms of the draft agreement were approved in every respect by the relevant Minister who is answerable in this House on those issues.

On every agreement, the reports are put before the House. I have answered approximately 400 questions on social partnership and Sustaining Progress and have participated in debates in the Seanad. Even though this agreement is in draft form, there has already been a debate on it in the Seanad. Any money that is spent on the programmes must go through the Estimates process and Ministers are answerable to committees of the House for it.

Admittedly, the negotiations do not take place in this House and Members are not involved in the negotiations but the issues that arise are contained in reports that have been raised here. I do not believe there is a democratic deficit. Having been involved in this process for the best part of 20 years, I would like Members of the House to read about and take more interest in the process. However, that is a different issue. Members are busy, involved in committees and so forth and I understand the pressures on them. Nonetheless, it would be useful for Members to go through the reports laid before the House—

Mr. Sargent: Will the Progressive Democrats abide by it?

The Taoiseach: Yes, everyone will abide by it and—

Mr. Sargent: What about Senator Morrissey?

An Ceann Comhairle: This is not Deputy Sargent's question.

Mr. Sargent: That deserves an answer.

The Taoiseach: Public sector reform is a hugely important issue which has been referred to in every agreement this Government has been involved with, certainly since 1992. We have been seeking further progress, further productivity and more streamlined, efficient and effective ways of doing things. Public servants, under every agreement, have given something as part of the change process. There has been enormous and radical change in this regard. Recently, I presented awards to the public sector based on dozens of new projects and one can see the change that is happening.

Public sector reform remains an ongoing issue. Every Member of this House wants to see quicker turn-around times in getting replies, obtaining information and obtaining briefings. Every parliamentarian wants to see more effective use of resources and speedier replies from officials, Departments and agencies in their dealings with Members of this House. That is important because we are here as elected representatives of the public. We want the public service to be dealing with issues effectively.

Across all Departments and agencies, whether it is the Revenue Commissioners, the Departments of Health and Children or Education and Science, we are seeing fundamental reforms. Perhaps they are not happening quickly enough and I accept that. We would all like to see change happening more quickly but we have seen major changes under benchmarking and under Sustaining Progress and we must continue to see it. We must continue to identify more effective and efficient ways of public servants providing services to the public and Members of this House. They are the kinds of changes we seek and we pay substantial amounts of taxpayers' money so we see reforms happening on an ongoing basis.

The process of change and reform of the public service is never ending. The Government will continue to highlight the areas in which it wants to see change.

Mr. Kenny: I was not suggesting the system was anti-democratic, but that if the agreement was put before the House, it might provide a more complete and comprehensive rounding-off of the process. Who knows what news worthy or profitable comment might come from Members of the House?

The Taoiseach: I have no problem with the current agreement, which has already been debated in the Seanad. In fairness to the Seanad, which perhaps does not have the same pressure of business as——

Mr. Kenny: Perhaps we could have that debate in the autumn.

The Taoiseach: Yes, I would be very glad to accommodate that.

The Seanad, in recent years, has given much attention to the social partnership process. It has had very good debates on the issue because Members of that House come from the employers, trade unions and social pillars. For that reason, the debates tend to be very good. I have no problem with laying the report before this House in the new term, provided it is ratified.

Caoimhghín Ó Caoláin: Is the Taoiseach making a commitment to accommodate a full debate in this House in the autumn, but with no prospect of it being accommodated in the coming week, prior to the summer recess? I would welcome such an opportunity. Is the Taoiseach aware that a recent NESF report found that the richest 20% of the working population in the State earned 12 times as much as the poorest workers? That is among the highest levels of inequality of any OECD country. In that context, how can the Taoiseach say that the new partnership agreement commitment of 10% over two years and three months is generous? That is the phraseology that he and his colleague beside him have used. Do they not realise that 14% of households now classified as being in poverty are headed by someone in employment and that the figure has doubled over the past decade? While one can point to more people in employment, low-pay poverty is a growing problem, replacing unemployment as a key cause of hardship.

An Ceann Comhairle: Is there a question for the Taoiseach?

Caoimhghín Ó Caoláin: That was a question. Can the Taoiseach identify what measures are in the agreement to protect workers' rights over and above the enforcement of existing labour laws? Does he accept that these laws should already be in force and should not now be used as a concession or a carrot on the part of employers or the Government? Sadly, that is the case. Regarding the NESF, does the Taoiseach recall my asking him over a year ago if he had studied the fourth periodic report on the work of the NESF? Does he recall that it updated the position on a number of previous NESF reports, including that covering equality of access to hospital care? I was quite particular in my focus on that. Does the Taoiseach agree with the NESF statement that it is required that a fundamental examination take place of the public private mix in the hospital net-

work and that it is that public private mix in our hospitals that is the key contributory factor to perpetuation of the two-tier system? Will the Taoiseach wrestle with that matter?

An Ceann Comhairle: That question might be addressed to the Tánaiste and Minister for Health and Children, Deputy Harney.

Caoimhghín Ó Caoláin: Question No. 4 in my name is quite specific in its focus on the NESF report. I ask the Taoiseach if he will comment specifically on the recommendations in that report.

An Ceann Comhairle: Detailed questions should be addressed to the relevant Minister.

The Taoiseach: The Deputy raised a number of points. As I said to him in my reply, the Department of the Taoiseach does not monitor NESF reports, whose proposals go to the line Ministers. The Deputy's overall question had two aspects, international comparisons and our model, which he contrasted against those of other EU countries. We have half the rate of unemployment in those countries. Our levels of consistent poverty are now tumbling according to all indices.

Caoimhghín Ó Caoláin: That is not the case.

The Taoiseach: It is the case. The latest reports show that 250,000 people have moved out of consistent poverty. There are still people in poverty, but we have moved a large proportion out. Our flexible workforce has led to strong job creation and we are able to expend resources to assist the less well-off through tackling educational disadvantage. Those reports also show the strong literacy levels in our population when compared with others. A host of indices show that our model is working. There are wealthy people, but I am glad to say that they also pay their taxes.

Following the 2006 budget, the tax rate for a single person on the average industrial wage will be 15%, compared with an average 12% higher eight years ago, when it was 27%. A single PAYE worker on the average industrial wage has seen his or her after-tax income increase by approximately 44% in real terms since 1997 and approximately half of that increase is owing to tax reductions. They receive more money and pay less tax. For those on welfare, contributions have significantly increased. Every report shows that the incomes of those at the lower end of society have increased owing to welfare increases and that 300,000 people who would always have paid tax now pay none whatsoever. All those things show the success of our model.

Caoimhghín Ó Caoláin: What about the new partnership agreement and the important factor of low pay?

An Ceann Comhairle: Please allow the Taoiseach to speak.

(Interruptions).

The Taoiseach: There is the minimum wage. The Deputy quotes European figures, but when I give him the facts in that regard, he abandons Europe.

Caoimhghín Ó Caoláin: That is not the case.

The Taoiseach: That is the case. The Deputy's job is that of an Opposition Deputy, and he quotes Europe at every Question Time, but when we go outside to discuss its benefits, he is against the EU. Does he never wake up in the morning and think that there is a great contradiction in that?

Caoimhghín Ó Caoláin: Does the Taoiseach ever read anything we say? I know that he never listens.

The Taoiseach: I listen to the Deputy all the time.

An Ceann Comhairle: Allow the Taoiseach to speak.

Caoimhghín Ó Caoláin: Perhaps the Ceann Comhairle should ask the Taoiseach to answer the question—

The Taoiseach: The research shows that there are good things about Europe, but the Deputy is against the whole concept.

Caoimhghín Ó Caoláin: —instead of proceeding with this rant against Members. The Taoiseach will not answer the question.

(Interruptions).

The Taoiseach: I have just answered the question.

An Ceann Comhairle: The Deputy will not allow the Taoiseach to answer.

The Taoiseach: I wanted to answer the Deputy's question on the workplace agenda. The Government said that it would deal with several such issues concerning the displacement factor and protection of workers and their rights. In the agreement, we have listed a host of areas where we require legislative changes. We must enforce the existing legislation, but it is also a matter of new legislation. There are several measures, and we must strengthen the labour inspectorate. The Government is anxious to do so and has made clear commitments on which it wishes to act. They cannot all be fulfilled overnight and we have started work on those based on legislation.

Relevant details of the NESF reports should go to the line Ministers.

Mr. Rabbitte: As the Taoiseach well knows, successive agreements traded moderate pay increases against tax reductions, some of them not insignificant, over the years. On a number of occasions the Taoiseach said that the tax-cutting agenda in question has run its course, with that era over. Is that still his view?

The Taoiseach: The Deputy knows my view, namely, that what we have done since 1987 in Governments in which I have been involved has been to cut taxes from their former high rates. We continued to do that until we reached the current position. The only years in which we missed out on that were those of the rainbow coalition, which stopped cutting taxes in 1995 and 1996.

Mr. Cowen: We are very proud of that.

The Taoiseach: I have continually said regarding the lower-paid—

Mr. Cowen: That was the Democratic Left contribution to the Government.

An Ceann Comhairle: Please allow the Taoiseach to speak.

Mr. Durkan: There was no harm done.

Mr. M. Higgins: They stopped building public housing.

Mr. Rabbitte: Will the Taoiseach answer the question?

The Taoiseach: The answer to the question is that I do not think that we should ever stop trying to improve the tax position of the less well-off. That is why there was a considerable reduction in taxes for the less well-off in the last budget, keeping the minimum wage out of the tax net.

Mr. Eamon Ryan: VAT went up by €1 billion.

The Taoiseach: It is good that VAT went up, since we were able to redistribute that money. As the Deputy knows, in this country we do not impose VAT on food, clothing or other goods important to low-paid people.

Mr. Cowen: It was tried once and it did not work.

The Taoiseach: Other countries do that. The Deputy may wish to include those goods and redistribute the money in another manner, but our way is more effective.

To answer Deputy Rabbitte's question, I believe that reductions from now on should be at the lower end. There is no case for reductions at the top end. Obviously, the bands and allowances

must be kept in line, as the Minister achieved in the last budget. The reductions should help people who are working hard and are on incomes that are no longer low but which are relatively low compared with those of others. All the programmes introduced over the last few years have successfully targeted tax reductions at those receiving low pay. This has worked very successfully.

The proportion of taxes of those on the average industrial wage, which is approximately €32,000, has fallen dramatically from approximately 14% eight years ago to approximately 6%. This represents a considerable achievement in bringing about equity in the tax system, which means that the burden is now being shifted from those on the average industrial wage and the amount reduced considerably. This is a considerable rebalancing of the tax system. We should continue to put resources into this area rather than that relating to high earners.

Mr. Rabbitte: I make common cause with the Taoiseach on this issue. If he has any difficulty in the autumn putting through a budget that gives some relief to people on very low incomes, we will be happy to support him. However, his partners in Government have indicated that they wish to cut the top rate of tax for high earners. I am glad to hear the Taoiseach make a commitment that any improvements in the tax code will benefit people on low incomes.

An Ceann Comhairle: Does Deputy Rabbitte have a question for the Taoiseach?

Mr. Rabbitte: My question concerns remarks the Taoiseach made on the radio about benchmarking. Following the recommendation by a number of public sector unions that the new social contract not be agreed, the Taoiseach appeared to make plain that if the contract fell through, the entire benchmarking process would fall through. Is my understanding correct?

The Taoiseach: I thank Deputy Rabbitte for his support. In reducing taxes and, in particular, helping those on lower incomes, we have followed our programme for Government very faithfully. It is incorrect to say that the benchmarking process will fall through if the new social contract falls through. I said that the benchmarking process for next year has already commenced. A preliminary report on it has already been produced. If the agreement falls through, obviously, the terms of the agreement would be subject to entirely new negotiations between the Government as employers and the Civil Service and public sector unions. Work on benchmarking would continue but the ability of the Government to secure an agreement on it and suggest satisfactory conditions would depend on the type of agreement we would end up with on the public sector side.

We are satisfied with the agreement in the draft programme and are satisfied to continue with the benchmarking process, to negotiate to discover what we can and cannot do following receipt of the final report and based on its contents, and to negotiate with the public service unions on how benchmarking pay awards can be paid, whether all of them can be paid and the way in which they can be phased or scaled. This is the agreement as of now, but if we entered an entirely new set of negotiations with the Civil Service unions, it would depend on the resources available to pay awards. We cannot answer this question at the moment because we have had no discussions on this issue with the public service unions on their own. I hope this will not arise but if it does, what I said on Sunday will apply.

An Ceann Comhairle: We must move on because other Deputies have submitted questions.

Mr. Rabbitte: Will benchmarking continue, irrespective of whether the contract falls through?

The Taoiseach: Yes.

Mr. J. Higgins: Does the Taoiseach agree with the argument in the Economic Outlook 2006, published by the Irish Congress of Trade Unions, that profits have risen very rapidly and that the wage-profit share in the economy has been skewed away from labour to employers in a remarkable fashion? Does he accept that the statistics show that national agreements between Government, bosses and trade unions since 1987 have seen the proportion of national income that goes to working people reduced considerably, while the proportion going to speculators, big business and financial institutions has increased considerably? Wages have been held back while no ceiling has been placed on profiteering or speculation.

Does the Taoiseach agree that over a 27-month period, the wage increases envisioned in the deal will barely be ahead of inflation and could easily fall behind it? Does he agree that when it comes to critical areas of expenditure for workers, such as mortgage repayments and child care, inflation at its official rate does not reflect reality? Does he agree that what has been agreed is not an effective check on the race to the bottom and that no effective barrier has been placed in the way of employers—

An Ceann Comhairle: Does the Deputy have a question for the Taoiseach?

Mr. J. Higgins: It is a question. I am asking the Taoiseach whether he agrees that no effective barriers have been placed in the way of employers getting rid of workers in favour of

[Mr. J. Higgins.]

cheaper labour, especially cheaper migrant labour? This question merits an answer.

Does the Taoiseach agree that the entire partnership process, even while it was being negotiated this time around, has been shown again to be a fraud and a con when we witness one of the most profitable institutions, namely, the Bank of Ireland, which made a profit of €1.3 billion, dismantling its defined benefit pension scheme for workers during the course of the negotiations? What kind of partner for workers would dismantle its pension scheme while it is supposed to be part of a partnership agreement?

Is the Taoiseach very pleased that he has got away with it yet again? After months of seemingly tortuous negotiations, from the perspective of workers, the mountain has laboured and brought forth a mouse. The Taoiseach must be very happy that trade union leaders are prepared to put such a useless deal to workers.

The Taoiseach: As usual, I do not agree with anything the Deputy said.

Mr. Gogarty: The Taoiseach said he was a socialist.

Mr. M. Higgins: That is a new position.

The Taoiseach: Pay levels for organised labour across the crafts, construction, manufacturing, financial sector and other grades are well balanced in comparison with their European counterparts or are higher than them. Those who had no jobs in the past are now working so we have moved to a position that does not tally with Deputy Joe Higgins's argument.

As the Deputy knows, the old figures relating to national income revealed that only a proportion of people were working. In addition, the unemployment rate was 18%, labour market growth was only 3% per year and emigration growth was 4%. The statistics from those days bear no relevance to today's figures. Today, labour market growth shows we have full employment and immigration is even higher than labour market growth. People are now employed in relatively good jobs with good protections, including that provided by the statutory minimum wage, which is untaxed up to a high level.

That has been achieved by the negotiating skills of the trade union leaders with whom the Deputy continually disagrees. He denigrates them at every turn, but they have achieved a position in the past 20 years that was not achieved in earlier generations. Not only have they successfully negotiated with the Government of the day, but they have achieved a position of full employment in the country where the working class and every other class is working in well-remunerated jobs with a quality of life that they did not previously have.

I am not satisfied, as I have pointed out a number of times, with the changes made by employers in the pension systems relating to defined benefits. Employers are making their arguments in that respect and the Government has engaged with all of the social partners. It has been a difficult and contentious issue. In the programme, we have spelled out the action we need to take on this issue during the next period. While it is perhaps not the biggest issue on the agenda now, pensions will be enormously important in the future.

We have said that in the short term, we would look at the funding standards and annuity markets with the social partners and pension experts. In the medium term, by committing in principle to providing protections for workers transferring between employments, we are agreeable to transposing the optional provisions in EU law, that is, the transfer of undertakings directive, which deals with pension entitlements in such situations. This was the position of the organised workers and trade union leadership of this country. The matter is by no means straightforward and we have asked the social partners and Departments to work on the issue so that we can finalise consideration by the end of next year.

In the longer term, we have committed to a Green Paper early next year setting out for all concerned the issues about State and private occupational pensions and the optional costs and other implications of choosing various options. The real complexity of this topic means that we must have an informed debate. The Government is committed under the draft agreement to respond to this debate with a comprehensive national pension policy framework. This is something our country has never done, but it is important to do it. Around the world, there has been a change in how employers deal with pension systems.

On the Bank of Ireland situation, I am aware of what the bank proposed and its agreement with its workers on that issue. It is a matter that we must examine carefully.

Visit of UK Delegation.

An Ceann Comhairle: I take this opportunity to welcome the House of Commons Education and Skills Committee, led by Mr. Barry Sheerman, MP, to the House. I hope the delegation has an enjoyable and productive visit which will be to our mutual benefit.

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. F. McGrath: I seek the adjournment of the Dáil under Standing Order 31 to discuss a matter of national importance and concern, namely, the

recent developments in respect of the Dublin port tunnel, where contaminated waste is being dumped at Fairview Park, 261 homes have been damaged along the tunnel's route and another 120 negotiations are taking place; and for the Minister for Transport to urgently do something to protect our park, staff and people's homes.

Mr. Healy: I request the adjournment of the Dáil under Standing Order 31 to raise a specific matter of local and national importance requiring urgent attention, namely, the need for the Government to immediately implement the recommendations of the Oireachtas Joint Committee on Communications, Marine and Natural Resources on the prevention of the erection of equipment creating electromagnetic or radio emissions, including telephone mast transmitters near health centres, schools, densely populated areas and other sensitive sites, such as playgrounds and pitches; and to ask the Minister for Communications, Marine and Natural Resources to make a statement on the matter.

An Ceann Comhairle: Having considered the matters raised I do not consider them to be in order under Standing Order 31.

Order of Business.

The Taoiseach: It is proposed to take No. 19, the Criminal Justice Bill 2004 — Report Stage (resumed) and Final Stage. It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 8.30 p.m. and business shall be interrupted not later than 10.30 p.m. The proceedings on the resumed Report and Final Stages of No. 19 shall, if not previously concluded, be brought to a conclusion at 10.30 p.m. by one question that shall be put from the Chair and that shall, in respect of amendments, include only those set down or accepted by the Minister for Justice, Equality and Law Reform. Private Members' business shall be No. 31, Criminal Law (Home Defence) Bill 2006 — Second Stage (resumed) to conclude at 8.30 p.m.

An Ceann Comhairle: There are two proposals to be put to the House. Is the proposal for dealing with the late sitting agreed? Agreed. Is the proposal for dealing with No. 19, the conclusion of Report and Final Stages of the Criminal Justice Bill 2004, agreed?

Caoimhghín Ó Caoláin: It is not agreed. I cannot agree to the second proposal on guillotining Report and Final Stages of the Criminal Justice Bill at the conclusion of this evening's business at 10.30 p.m. This is a regressive, disproportionate and unnecessary Bill, which is yet another attack on the civil liberties of the citizens of the State by the Minister for Justice, Equality and Law Reform. It is unacceptable.

Here we are in advance of a summer recess once again that is being used as the excuse for a

guillotine to apply. This would curtail discussion on important amendments tabled by my colleague, Deputy Ó Snodaigh, and other Deputies. There should be no limit of time on the debate on the critical need for serious amendment of this legislation. The Bill as proposed should be withdrawn. If that is not to be, there should be no curtailment of time and we should be able to substantively address the matters concerned.

While not on today's Order of Business, it is unacceptable that there is a signal in respect of the Hepatitis C Compensation Tribunal (Amendment) Bill.

An Ceann Comhairle: That matter does not arise under this proposal.

Caoimhghín Ó Caoláin: I know.

An Ceann Comhairle: The Deputy will have an opportunity to speak on it when it is before the House.

Caoimhghín Ó Caoláin: It will be taken tomorrow and concluded by guillotine on Friday, which is unacceptable. I agree with the position——

An Ceann Comhairle: We cannot discuss legislation that will not be before the House until tomorrow.

Caoimhghín Ó Caoláin: ——of the various groups that have lobbied and campaigned for many years on that legislation, namely, that the Bill should be withdrawn.

Mr. Rabbitte: This is not a satisfactory way to do our business. Of 417 amendments, 55 have been dealt with so far. On Committee Stage, there were more than 210 pages of amendments. The Bill bears no similarity to the legislation initially introduced.

My party is alarmed by the information given by the Taoiseach this morning. Given that this is the only criminal justice legislation before the House and we failed to get the information in the space of three weeks, we would like time to reflect on the implications of his casual announcement that there are 42 persons charged under section 1 of the 1935 Act, which was struck down. The implications are alarming. Previously, no one had the slightest indication that the number was anything of that order. One man has walked free, as charges were withdrawn for the rape of an under age girl. The Taoiseach tells the House as it is about to rise that there are 42 persons charged. Have those charges been withdrawn?

An Ceann Comhairle: That matter does not arise under this proposal.

Mr. Rabbitte: Despite its gravity, I do not see any other way in which to address the matter. The Bill is the only criminal justice legislation before the House.

An Ceann Comhairle: We cannot discuss that matter under this legislation.

Mr. Rabbitte: If 42 people have been charged but are awaiting a decision of the courts under section 1 of the 1935 Act, in how many instances have the charges been withdrawn?

An Ceann Comhairle: The matter does not arise out of this proposal.

The Taoiseach: As I said, these issues can be opened. There are 42 cases before the courts under section 1. I informed the House that the CC case does not prevent the DPP from preparing charges of sexual assault, aggravated sexual assault or, in appropriate circumstances, rape. I understand that the Criminal Law (Rape) (Amendment) Act 1990 is being used to deal with those cases and other charges.

Mr. Howlin: Against how many is it being used? Will it deal with all of them?

The Taoiseach: All cases under section 1 and some under section 2. The area I pointed out this morning relates to the other issue. There might be some cases under section 2, but we do not know the position on that section. There is an issue of honest belief. There are other issues as

well. I did not get the chance to inform Deputy Rabbitte this morning but we are proposing a parliamentary committee which will call relevant persons as necessary. The key people — Government, Ministers and Opposition spokespersons — must use the time between now and the autumn to sit down and deal with some of the related issues. I am anxious to make progress on the establishment of the committee, which will be a small committee, to deal with the issues. We have done a lot of work in the past three or four weeks. Pending the final detailed case of the Supreme Court the issue should be addressed. The Government is anxious to set up a parliamentary committee to reach consensus on these issues and deal with them.

The situation cannot be left as it stands. The Supreme Court has made its judgment to strike down the Act and cases are pending on the other section of the Act, which will come up in due course. There is not an immediate difficulty because the cases in question are the subject of other charges. We should reflect on the position and not leave it for the whole summer. We will not have completed it by the end of September but we should try to do so as early as possible in the autumn. We are anxious to progress the matter as quickly as possible.

Question put: “That the proposal for dealing with No. 19 be agreed to.”

The Dáil divided: Tá, 69; Níl, 51.

Tá

Ahern, Bertie.
 Ahern, Noel.
 Andrews, Barry.
 Ardagh, Seán.
 Blaney, Niall.
 Brady, Johnny.
 Brady, Martin.
 Brennan, Seamus.
 Browne, John.
 Callanan, Joe.
 Carey, Pat.
 Carty, John.
 Cassidy, Donie.
 Collins, Michael.
 Cooper-Flynn, Beverley.
 Cowen, Brian.
 Cullen, Martin.
 Curran, John.
 Dempsey, Noel.
 Dennehy, John.
 Devins, Jimmy.
 Ellis, John.
 Fahey, Frank.
 Finneran, Michael.
 Fitzpatrick, Dermot.
 Fleming, Seán.
 Fox, Mildred.
 Gallagher, Pat The Cope.
 Glennon, Jim.
 Grealish, Noel.
 Harney, Mary.
 Haughey, Seán.
 Healy-Rae, Jackie.
 Hoctor, Máire.
 Jacob, Joe.

Kelleher, Billy.
 Kelly, Peter.
 Killeen, Tony.
 Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 McDowell, Michael.
 McEllistram, Thomas.
 McGuinness, John.
 Moloney, John.
 Moynihan, Donal.
 Moynihan, Michael.
 Mulcahy, Michael.
 Nolan, M.J..
 Ó Fearghaíl, Seán.
 O'Connor, Charlie.
 O'Donnell, Liz.
 O'Donoghue, John.
 O'Flynn, Noel.
 O'Keeffe, Ned.
 O'Malley, Fiona.
 O'Malley, Tim.
 Parlon, Tom.
 Power, Peter.
 Power, Seán.
 Sexton, Mae.
 Smith, Brendan.
 Smith, Michael.
 Treacy, Noel.
 Wallace, Dan.
 Wallace, Mary.
 Walsh, Joe.
 Wilkinson, Ollie.
 Woods, Michael.

Níl

Allen, Bernard
 Boyle, Dan.
 Breen, James.
 Broughan, Thomas P.
 Connolly, Paudge.
 Costello, Joe.
 Crawford, Seymour.
 Cuffe, Ciarán.
 Deasy, John.
 Deenihan, Jimmy.
 Durkan, Bernard J.
 English, Damien.
 Ferris, Martin.
 Gogarty, Paul.
 Hayes, Tom.
 Healy, Seamus.
 Higgins, Joe.
 Higgins, Michael D.
 Hogan, Phil.
 Howlin, Brendan.
 Kehoe, Paul.
 Kenny, Enda.
 Lynch, Kathleen.
 McCormack, Pádraic.
 McEntee, Shane.
 McGrath, Finian.

McGrath, Paul.
 McHugh, Paddy.
 McManus, Liz.
 Mitchell, Olivia.
 Murphy, Catherine.
 Murphy, Gerard.
 Naughten, Denis.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 O'Dowd, Fergus.
 O'Keeffe, Jim.
 O'Sullivan, Jan.
 Pattison, Seamus.
 Perry, John.
 Quinn, Ruairí.
 Rabbitte, Pat.
 Ryan, Eamon.
 Ryan, Seán.
 Sargent, Trevor.
 Sherlock, Joe.
 Stagg, Emmet.
 Stanton, David.
 Twomey, Liam.
 Upton, Mary.
 Wall, Jack.

Tellers: Tá, Deputies Kitt and Kelleher; Níl: Deputies Kehoe and Stagg.

Question declared carried.

Mr. Kenny: I am very perturbed by the information given by the Taoiseach this morning in respect of the 42 cases pending under section 1(1) and 12 cases pending under section 2(1) of the 1935 Act. That is a total of 54 cases. On seven different occasions in the House, we asked for this information but it was not provided. It was only when Deputy Rabbitte and myself wrote to the Director of Public Prosecutions that the Taoiseach came into the House today and gave us this information. This is of the utmost seriousness.

Based on what the Taoiseach said this morning, how many of these 54 cases have had charges against them dropped since 23 May because section 1(1) and section 2(1) of the 1935 Act are no longer in force? How many cases, in which these charges have been dropped, have had other charges brought against them? The sense of outrage palpable throughout the country in the past month will surface again because this is truly extraordinary. Why was the Taoiseach not able to provide this information on seven different occasions in the past?

An Ceann Comhairle: The Deputy has made his point.

Mr. Kenny: If the Taoiseach has the information to hand, will he tell us how many of these 54 cases have had charges against them dropped and have had no other charges brought against them? It will be a really controversial issue if charges have been dropped and no others have been brought against them.

An Ceann Comhairle: This issue was raised earlier this morning and the Chair ruled it out of order on the question of the vote. We do not want to get into a debate on it now. The Deputy may make a brief comment.

Mr. Rabbitte: That is very interesting. Having failed to get this information from the Taoiseach over the past number of weeks, and following our letter to the DPP, he gave me this information in the second bite of Leaders' Questions this morning when I could not respond. When the Taoiseach said other charges will be proffered against the 42 persons, surely it is beyond the bounds of probability that in each of the 42 cases other charges will be proffered. Is the Taoiseach saying, in respect of the 42 cases which is far in excess of anything we had anticipated up to now, that in all those cases, other charges will be proffered? In respect of the cases under section 2, is he saying there is less probability of a different charge being proffered?

When was the Taoiseach first alerted to this information which we have been seeking to extract since the crisis broke? The prospect that people charged under section 1(1) of the 1935 Act are unlikely to come to trial, and that it is dependent on other charges in the indictment, will cause alarm. Since I raised the matter this morning, has the Government or the relevant Department considered whether a motion will be brought before the House to establish the all-party committee on an appropriate basis? Are we just engaged in head-hunting to assist the Government in resolving a conflict very significantly of its own making? Will that committee

[Mr. Rabbitte.]

have any statutory basis and will a motion be brought before the House?

The Taoiseach: I dealt with these matters earlier today. I received the information yesterday and I thought it would be useful to provide it to the House. Deputy Kenny wrote a letter to me, to which I hope to reply today giving the full information.

I have already said three times this morning but will reiterate that we are talking about a parliamentary committee to deal with the issues with which we need to deal in these cases. The Government will put forward its most senior people. I asked that the Opposition spokespersons would put forward their justice spokespersons, or relevant senior Members, so we can deal with these important issues.

With regard to the substance of the issues, I will outline my view to will help the debate. Deputy Kenny wrote to me with regard to the issue of statutory rape under sections 1 and 2. I will treat the sections separately. I have already referred to and dealt with what I consider to be the most important issue for us to deal with, namely, the defence of honest belief.

On section 1, there are those who have been convicted before the courts of statutory rape and those in respect of whom prosecutions are pending. As the House is aware, the Supreme Court in the CC case struck down as unconstitutional section 1(1) of the Criminal Law Amendment Act 1935. In addition, the Supreme Court in the A case ensured that Mr. A, who had been convicted of such an offence, remained behind bars. We await the reasoned judgment of the Supreme Court in the A case to determine its full implications and its ambit.

There are at present 16 persons in custody having been convicted of an offence under section 1 of the 1935 Act. This cohort of persons are those who are likely to be directly affected by the decision of the Supreme Court in the A case. There are at present 42 persons on charges before the courts under section 1 of the 1935 Act. The CC case does not prevent the DPP from preferring charges of sexual assault or aggravated sexual assault and a rape charge. These offences carry a severe sentence of imprisonment. Our law provides that such charges can be added to existing charges on indictments against accused persons.

I emphasise that the underlying conduct that amounts to unlawful carnal knowledge under section 1 of 1935 Act by definition also constitutes the offence of sexual assault and-or aggravated sexual assault. I cannot at this stage explore the factual details of these cases as it would not be appropriate. Any comment on individual cases would constitute prejudicial publicity and could result in a trial being stopped. The DPP is not by virtue of the CC case prevented from proceeding to prefer charges of sexual assault and-or aggra-

vated sexual assault and-or, in appropriate circumstances, rape.

Section 2 of the 1935 Act has not been declared unconstitutional. While that section has been challenged, it remains on the Statute Book. The State will defend these proceedings. Three persons have been convicted of an offence under section 2 of the 1935 Act and no other offence. A total of 12 persons have been charged but not yet tried under this section. I understand the offence of rape, depending upon the factual circumstances, can be preferred. The DPP is not prevented by the CC case from making such a charge.

I cannot at this stage explore the factual details of these cases as it would not be appropriate to do so. I do not want to make any remarks that might constitute prejudicial publicity and result in the trials of accused persons collapsing. They are before the courts. It is for the DPP to make his decision on a case-by-case basis as to what, if any, substitute or additional charges should be preferred. Moreover, given that the issue of constitutionality is before the High Court, it is not proper to comment further on this cohort of cases. We will continue to review all of our legal options in regard to charges under the 1935 Act and await the Supreme Court judgment to assist us in coming to a conclusion in that regard. That deals, as far as is possible, with sections 1 and 2.

The reason I wanted the committee formed and wanted its work to take place in the summer is connected to the third point I made this morning, which concerned the defence of honest belief or mistake. It is as a result of the decision of the Supreme Court in the CC case that we have had to create a defence of honest belief. At no stage since the Law Reform Commission recommendation on the creation of such a defence has any Government or this House entertained the notion of creating such a defence. The reason for this is obvious. It creates a real and extra burden for the victim of unlawful carnal knowledge. It means the victim can be subject to rigorous cross-examination by counsel for an accused who, it may transpire, is a sexual predator.

The idea of 11 or 12 year old girls being grilled in a witness box as to their make-up, perfume, style of dress and the manner in which they comported themselves will undermine the effectiveness of prosecutions for unlawful carnal knowledge. Many parents and most citizens will be horrified at the prospect of girls of perhaps 11 or 12 years being subject to cross-examination. In those circumstances, I wonder whether the existence of the prospect of such cross-examination by experienced counsel will have a chilling effect on such prosecutions. One can look at the new trial process as almost amounting to an 11 or 12 year old being put on trial, which is unacceptable.

We have amended our law as required by the CC case. However, we need to have a hard look at the issue. Does any Member of this House want to subject a young girl, who has already

been the victim of sexual abuse, to the trauma of a gruelling cross-examination about her appearance and the impression she created about herself, her maturity and her age? I hope that in the spirit of co-operation the Oireachtas committee will address the full implications of the CC case decision and the new law, and whether the worst effects of the honest belief defence can be mitigated in any way and if so, how. It is therefore important the terms of reference of the Oireachtas committee, which I put before the House today, are urgently agreed. The committee must address all the issues, including the sensitive issue of young girls of perhaps 11 or 12 years of age being cross-examined. I have also stated that some of the issues that have been raised with regard to the amendments concerning children, and other issues, should be considered.

The Government proposes that we set up a parliamentary committee next week and that it works over the summer and into the autumn to try to complete these issues. The whole House can then come to a judgment on the issues.

Mr. Kenny: The Taoiseach read out a long and detailed reply. Will a copy of the reply be circulated so I can study it?

Does the Taoiseach have the information to hand as to the number of cases, among the 54, the 42 and the 12 cases where charges were brought in respect of sections 1(1) and 2(1), which are no longer relevant or have been dropped? If the DPP does not bring another charge against those persons, will they walk free? Is that the implication of the Taoiseach's remarks?

The Taoiseach: I stated that other charges can be brought in those cases. I do not believe there is a difficulty in this regard. It is ultimately a matter for the DPP. I do not want to give the impression that I have influence over these cases but my understanding is that in these cases, the DPP has an option of preferring other charges. That will probably happen under Criminal Law (Rape) (Amendment) Act 1990.

That deals with those issues but there are other issues we must consider. We should do that within the committee.

Mr. Rabbitte: The issue is not whether the Opposition is as concerned to urgently address this issue as the Government. That is not in doubt. The Taoiseach read out a long, prepared script about young girls being subjected to cross-examination. That is the very stipulation that is put into the legislation his Government enacted and he is reading back to us the criticisms we made of it at the time. We accept that territory, as is already well established, so there is no point trying to allocate responsibility for what has transpired to this side of the House.

Let us leave out the section 2 charges for the moment because, as the Taoiseach indicated,

there may be a risk of saying something which might be damaging to the prospects of somebody being brought to justice, although the possibility of section 2 being declared constitutionally infirm is also very high, as the Taoiseach is aware. To return to the category consisting of 16 cases to which the Taoiseach referred, is the Taoiseach alerting the House and the country to the prospect of all or some of the 16 individuals in question walking free? Is that the distinction he is drawing? He seems to be seeking to equate unlawful carnal knowledge with sexual assault. These are two different offences. Are alternative charges being pressed? In cases where charges were originally brought under section 1 of the 1935 Act do the indictments also contain other charges or can other charges be validly pressed in each or all of the cases in question? I am still unclear on this matter from the answer the Taoiseach provided.

Mr. Sargent: I listened to the Taoiseach's long, prepared script which forms part of this debate. May we conclude from his statement that if section 2 is found to be unconstitutional, a referendum will be held on the issue of statutory rape at the end of the process? Is he focused on resolving the matter without resort to a referendum or is he open to the possibility that one might arise?

Caoimhghín Ó Caoláin: When does the Taoiseach intend that the work of the all-party committee will get under way? He referred earlier to the summer period. We do not have a firm proposal for a meeting to launch the committee's deliberations. When is it intended to hold such a meeting? Is this issue running loose or can the Taoiseach firm it down and indicate to the House when he intends that work will commence?

While I very well recognise Deputy Rabbitte's point on the distinction between sexual assault and the key focus on the cases which have given rise to this discussion, nevertheless, we cannot divorce ourselves from the responsibility to address the deficiencies in sexual assault treatment centres, which were highlighted last week with the publication of a further report and on which I had an exchange with the Taoiseach. When will the Government take its responsibilities seriously and properly resource the sexual assault treatment centres throughout this jurisdiction, including the roll-out of the additional treatment centres promised?

The Taoiseach: I do not have much to add to what I have said. The view is that these cases are in various processes and I have been advised not to say anything about cases that are before the courts. The 16 cases about which Deputy Rabbitte asked relate to individuals who are in custody having been convicted of an offence under section 1 of the 1935 Act. Issues arise regarding how these cases will be resolved but it

[The Taoiseach.]

is hoped that problems will not arise in any of the cases.

Mr. Howlin: Are the individuals in question challenging their convictions?

The Taoiseach: I do not want to get into the details of what has happened.

Mr. Howlin: Is any of the 16 cases being challenged? This is an important matter.

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

The Taoiseach: I do not have the details of proceedings in individual court cases. This information was requested over a number of weeks and I sought the information and correctly brought it to the attention of the House. The point is that in most of, if not all, these cases other charges can be put and the matter is being carefully looked at by the Minister, the Director of Public Prosecutions and the Attorney General. Perhaps that will avoid all the problems and difficulties arising out of the Supreme Court's decision, which it was its right to make.

I have been dealing with many issues arising from this matter in recent weeks. It would be better to deal with these issues in a parliamentary committee over the summer. Issues about constitutional referendums, strengthening the Act and so on can be dealt with in a committee, for which I gave the terms of reference today. While we do not have short-term difficulties with these issues, we should not leave them. The Supreme Court has made the decision to strike down a very important Act, which was the main legislation used until recently by the DPP in taking prosecutions against those involved in these types of cases. While we do not have any short-term difficulties, we should not leave the issue.

We will move a motion on an all-party committee which will be discussed at the Whips' meeting tonight. I ask for the co-operation of the key people to deal with this issue. Those who have followed this matter, have been involved in it and have a good grasp of it — I am not saying everybody does not have a good grasp of it — can deal with this issue over the summer and into the autumn. I believe this is necessary in the case I outlined. It would be appalling to have children cross-examined in these cases. That is a nonsense and an outcome of the case with which we will have to deal.

Deputy Rabbitte should note that I am not suggesting that this matter is the fault of members of the Opposition. It is a follow-on from the Supreme Court judgment. We must now deal with it and should get on with doing so.

I thank the Ceann Comhairle for giving me the opportunity to put all the facts on the record,

which I considered the most appropriate course of action, as soon as I had them in my possession.

An Ceann Comhairle: We will now take No. 19, Criminal Justice Bill 2004.

Ms McManus: I have a question on the Order of Business.

An Ceann Comhairle: We have spent 25 minutes on the Order of Business.

Ms McManus: That has nothing to do with my right to ask a question.

An Ceann Comhairle: The Deputy may protest as much as she likes but if she reads Standing Order 26, she will see that such matters are at the discretion of the Chair.

Ms McManus: I have an important question which affects those infected with hepatitis C.

An Ceann Comhairle: I will call the Deputy tomorrow.

Ms McManus: I have a right, on behalf of those affected by hepatitis C, to raise a question.

An Ceann Comhairle: Before the debate on the Criminal Justice Bill 2004 concluded, we were dealing with amendment No. 57, which is being taken with amendments Nos. 58 and 59, and Deputy Ó Snodaigh was in possession.

Ms McManus: I have a point of order.

An Ceann Comhairle: The Deputy may not make a point of order when the Chair is speaking. The House will hear it now.

Ms McManus: This is the Order of Business and I have a right to ask a question on legislation.

An Ceann Comhairle: Questions may be asked at the discretion of the Chair. The Chair must take account of the vote that has just taken place as it indicated that Deputies want more time to debate the Criminal Justice Bill.

Ms McManus: There is no more important issue than that the Government intends to introduce a Bill which will remove the rights of hepatitis C victims who were given entitlements by a previous Government.

An Ceann Comhairle: That is not a point of order. As Deputy Ó Snodaigh has been called, I ask Deputy McManus to obey the Chair.

Ms McManus: I wish to raise an issue on behalf of people who were infected with hepatitis C and HIV.

An Ceann Comhairle: I ask the Deputy to resume her seat.

Ms McManus: I ask the Taoiseach to withdraw the Bill and remove the amendment.

An Ceann Comhairle: The Chair has ruled on the matter. The Deputy is out of order.

Caoimhghín Ó Caoláin: Deputy McManus's call is valid and I fully support her.

Mr. Stagg: On a point of order, it is unprecedented that the Ceann Comhairle has ruled out of order the first question on legislation on the Order of Business.

An Ceann Comhairle: I suggest the Deputy speak to some of his colleagues in the Opposition about the Order of Business.

Mr. Stagg: The Ceann Comhairle is setting a new and dangerous precedent by not allowing Members to raise issues on the Order of Business as they are entitled to do.

An Ceann Comhairle: If the Deputy is not happy with the Chair's ruling, he should raise the matter at this evening's meeting of the Committee on Procedure and Privileges. He is wasting the time of the House. Deputies have already indicated that they want to discuss as many amendments as possible on the Criminal Justice Bill.

Mr. Stagg: Given that the question Deputy McManus raised relates solely to legislation, the Ceann Comhairle should allow it to be dealt with now.

An Ceann Comhairle: The Chair is not dealing with the Order of Business now.

Mr. Stagg: The Ceann Comhairle is out of order in refusing to allow the House to deal with the question.

An Ceann Comhairle: The Chair has spent 25 minutes on the Order of Business.

Ms Lynch: On a point of order, does the Taoiseach realise what is in the Bill that is about to come before the House and will he consider withdrawing it?

An Ceann Comhairle: If Deputies wish to waste the time of the House, as they are doing now——

Mr. Howlin: This is not a waste of time.

An Ceann Comhairle: The Deputy must obey the Chair.

Mr. Rabbitte: The Ceann Comhairle deliberately abridged today's Order of Business to facilitate the Taoiseach on an important matter. This was the first issue——

An Ceann Comhairle: The Chair did not facilitate the Taoiseach.

Mr. Rabbitte: The Chair should hear me out.

An Ceann Comhairle: The Chair ruled the Deputy out of order when he asked his question on the proposal to put before the House. The Deputy kept going on and the Taoiseach answered him. The Chair ruled as the Chair always rules.

Mr. Rabbitte: I am not complaining about the Taoiseach taking up important time to deal with an important issue.

An Ceann Comhairle: We have spent almost half an hour on the Order of Business. Questions will be asked——

Mr. Rabbitte: The very first issue to be raised on the Order of Business on a matter of legislation that affects a number of women who are now——

An Ceann Comhairle: That can be raised tomorrow.

Ms McManus: Tomorrow will be too late.

A Deputy: Keep going.

Ms McManus: The Bill will come into the House tomorrow. It would be a disgrace to do this to people who have suffered so much.

An Ceann Comhairle: Why does the Deputy not deal with it on the Order of Business?

Ms McManus: Why should people who have suffered so much be made suffer more because the Chair will not allow this question to be asked?

An Ceann Comhairle: Deputy McManus has made her point.

Ms McManus: This Government is perpetuating a system that is grossly unfair to people who have suffered at the hands of the State.

An Ceann Comhairle: The Deputy has made her point and the Chair has ruled it out of order.

Ms McManus: Will the Taoiseach withdraw the Bill?

Mr. Stagg: We will not allow the House to move on to normal business until this matter has been resolved.

An Ceann Comhairle: That is the Deputy's prerogative. If he wants to keep us from the Bill, on his own head be it.

Mr. Stagg: In the interests of order and moving on to ordinary business I ask the Chair to allow this question to be taken now.

Mr. Kehoe: On a point of order and to end this row, could the Ceann Comhairle allow ten to 15 minutes for the Order of Business if a number of Deputies ask to raise important issues, whether on hepatitis B or any other matter?

An Ceann Comhairle: The Chair has ruled. We have already gone on to 12.40 p.m. and the Chair must take account of the fact that Members want to move on to the Criminal Justice Bill. Tomorrow morning the Chair will hear the Order of Business.

Mr. Durkan: On a further point of order—

Ms Lynch: Would the Chair at least allow the Taoiseach to express an opinion on this? Will this turn out another piece of disastrous legislation, like the one we have just dealt with? Women out there are suffering and will now be removed from the system if this legislation goes through, slipped in at the last minute by an uncaring Minister for Health and Children.

An Ceann Comhairle: I will allow the Taoiseach to answer when the legislation will come before the House but we cannot debate it. We have already had a debate that was totally out of order. It is an indication that if the Chair facilitates Members of this House, if they get an inch they want a mile. I ask the Deputy to resume her seat.

Ms Lynch: Does the Taoiseach realise what is in this Bill?

Mr. Durkan: On a further point of order, would it not be advisable and better for the running of the House to allow matters of promised legislation to be dealt with in the normal way? The Taoiseach has no objection.

An Ceann Comhairle: It would be much better if Members obeyed Standing Order 26.

Mr. Durkan: There is no compulsion on the Chair to move on to the next business.

An Ceann Comhairle: The Chair has read out Standing Order 26 time and again. That is not a point of order. The Deputy must resume his seat. I call No. 19, the Criminal Justice Bill 2004.

Ms McManus: All we ask is an answer from the Taoiseach. It is wrong that he remain silent.

Mr. Durkan: The Ceann Comhairle is pursuing a very foolish path. He should allow the Taoiseach to speak.

Ms McManus: This Bill should be withdrawn tomorrow and reintroduced next week.

Mr. Deasy: It is a very important matter.

An Ceann Comhairle: Every issue raised in this House is an important matter.

Ms McManus: The Taoiseach can sort out his backbenchers but he cannot ensure that the victims who have suffered so much will be looked after.

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

Ms McManus: It certainly does. I can imagine nothing more important.

An Ceann Comhairle: It does not arise. If the Deputy wants to put it on this evening's adjournment I will facilitate her.

Mr. Rabbitte: It will be too late.

Ms McManus: Tomorrow will be too late.

Ms Lynch: The Ceann Comhairle remembers, as does everybody, the haranguing this Government gave the then Government when this was first introduced and it will undo what was done then after months and years of negotiation. These women will suffer as a result.

An Ceann Comhairle: I ask the Deputy to resume her seat. The Chair has ruled on the matter.

Mr. Stagg: On a point of order, we will continue until the Chair allows the question to be raised. In the interests of addressing the other business before the House, I ask that the Chair allow the question to be raised and answered. It would have taken less time than that which has been wasted by the Chair's intransigent and new position.

An Ceann Comhairle: It is not a new position. I suggest Deputy Stagg read Standing Order 26.

Mr. Stagg: A precedent has been set by the Chair this morning that legislation cannot be raised on the Order of Business.

Mr. Kehoe: The Taoiseach has risen to answer.

Ms McManus: The Taoiseach can answer the question.

Mr. Stagg: And he is willing to answer it.

Ms McManus: He sits beside a former Minister for Health and Children who, I presume, understands the importance of this.

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

Ms McManus: This is about legislation that will roll back the rights of people who have suffered at the hands of the State.

Mr. Cowen: I recall the Deputy's silence when she was in Government.

Mr. Howlin: We brought in the legislation.

Mr. J. O'Keeffe: In the interests of order in the House I suggest that by common consent the Government and Opposition could agree to a ten-minute period for the Order of Business. I appreciate the Ceann Comhairle's position and this would get him off the hook.

An Ceann Comhairle: We must move on. We cannot introduce a new precedent on the Order of Business.

Mr. J. O'Keeffe: It can be done if the Government agrees.

Mr. Durkan: The Taoiseach wants to do it.

Mr. J. O'Keeffe: If the Taoiseach agrees it can be done.

An Ceann Comhairle: It would be a contradiction of the vote. If the Taoiseach wants to make a comment on the Bill——

The Taoiseach: What am I being asked?

Caoimhghín Ó Caoláin: I do not know to which vote the Ceann Comhairle refers.

Ms McManus: A Bill on providing insurance cover for people who suffer from hepatitis C is to come before this House tomorrow. That issue is not in contention.

An Ceann Comhairle: What is the question appropriate to the Order of Business?

Ms McManus: I will ask the Taoiseach the question if the Ceann Comhairle will allow me to. The problem is that there are provisions in this Bill that will take away entitlements that people who have hepatitis C have managed——

An Ceann Comhairle: The Deputy may discuss these matters under the Bill. They do not arise on the Order of Business.

Ms McManus: Because of the problems in this Bill, will the Taoiseach withdraw it, examine the problems and reintroduce it next week?

Caoimhghín Ó Caoláin: On the same matter——

An Ceann Comhairle: I will not hear anybody else on the matter.

Caoimhghín Ó Caoláin: Surely it is appropriate——

An Ceann Comhairle: There cannot be any other question.

The Taoiseach: I will answer the question and make a point. We are approaching the end of the session. I reached a substantial agreement with the party leaders in 2002 that we would have Leaders' Questions on urgent issues in the mornings, and we agreed a particular format. Every other Standing Order in the House is obeyed most of the time. This has taken 21 minutes and if added to the normal 45 minutes, it is an hour. On this issue nobody is following anything. It is becoming ridiculous. When one responds to a question and tries to be helpful it just drifts out. We have spent two hours and 20 minutes——

Mr. Rabbitte: That is why we are here.

The Taoiseach: We are here under Standing Orders.

Mr. Rabbitte: The Taoiseach has tried to exclude this question and will not answer it, and he waffles about having spend a little time here.

Mr. Treacy: Deputy Rabbitte is the biggest waffler in the land.

Mr. Rabbitte: Because he has to come here twice a week the Taoiseach thinks he is doing us some kind of honour.

An Ceann Comhairle: I ask Deputy Rabbitte to resume his seat.

Mr. C. Lenihan: Deputy Rabbitte's party agreed to the two days a week. He cannot get away with that.

Mr. Rabbitte: Deputy Conor Lenihan should shut up. Women are being excluded by legislation that will come before this House tomorrow——

The Taoiseach: It will be debated tomorrow.

Mr. Rabbitte: It will be too late to deal with it tomorrow, meanwhile the Taoiseach lectures us about the amount of time he has been detained in the House.

Caoimhghín Ó Caoláin: The people with whom the Government was supposed to be in consultation——

An Ceann Comhairle: Deputy Ó Snodaigh has been called. Out of courtesy to his colleague, if not to the House, Deputy Ó Caoláin should allow Deputy Ó Snodaigh to speak.

Mr. Rabbitte: The Taoiseach did not answer the question on the Bill.

Ms Lynch: He did not touch it.

Mr. Rabbitte: Will the Bill go ahead tomorrow?

The Taoiseach: The Bill will be debated in the House tomorrow and any relevant points can be made.

Mr. Rabbitte: That is completely unacceptable and when the women of Ireland hear that is the way the Taoiseach treats and discriminates against some of them, it is a disgrace. The part-time actor from "Killinascully" wants to speak. What does the Minister for Finance, Deputy Cowen, want to say?

An Ceann Comhairle: Deputy Ó Snodaigh has been called.

Aengus Ó Snodaigh: I am willing to give way.

Mr. Cowen: Deputy Rabbitte is an insulting boyo. When the pompous mask comes down we see it.

Ms Lynch: The Taoiseach knows what is in the Bill.

Aengus Ó Snodaigh: When there is no order in which I can make my contribution, there is no point in my proceeding.

Criminal Justice Bill 2004: Report Stage (Resumed).

Debate resumed on amendment No. 57:

In page 29, between lines 20 and 21, to insert the following:

"19.—(1) All Garda stations shall be internally and externally monitored and recorded by CCTV or the equivalent and the recordings shall be secured for at least a year unless an allegation has been made of abuse by a Garda or it is required for the prosecution of an offence in which case it shall be retained."

—(Deputy Ó Snodaigh.)

Aengus Ó Snodaigh: We are dealing here with amendments Nos. 57 to 59, inclusive which, as I started to say last night, concern introducing CCTV into Garda stations which is not confined to making video records of interviews in interview suites, as the Minister calls them. That is fine and I welcome the news the Minister has given us over the past year that all Garda stations with interview suites will soon be kitted out with video recording machinery. I think he said this has been achieved in 90% of stations.

These amendments go beyond that initiative because of the allegations made against the Garda over the years of brutality, assaults, misconduct and misbehaviour. Many of these allegations have afterwards been discovered to be correct and some not. In the interests of protecting both those who are held in Garda stations and the members of the Garda Síochána from mischievous claims the new technologies available at a relatively low cost make it possible to have CCTV in Garda stations covering the access, hallways, cells and yards where many of the attacks on suspects have occurred. That should be done as quickly as possible. If it is possible to fit out the fleet of Bus Átha Cliath with CCTV I do not see why something similar cannot be done in Garda stations.

That is the extent of my three amendments. I hope the Minister will agree that they are reasonable and will be cost-effective, considering that this will cut out any possibility of somebody bringing a false action against members of an Garda Síochána. It might also discourage those elements within the Garda Síochána who have been involved in this type of activity as documented in the Morris tribunal. This has emerged in other cases in recent years, for example, in brutal interrogations or the use of excessive force on suspects in Garda custody.

It happened to Dean Lyons, and it has never been clarified why he would admit to something with which he had no involvement. How did he manage to sign a statement he had not written? There are many other questions over that case, and other cases in the public domain, regarding what happened to people who died either in Garda custody or shortly thereafter. The public needs to be sure that nothing untoward would happen in Garda stations. That would add to the efforts of the Minister and an Garda Síochána to regain the confidence of the public.

Minister for Justice, Equality and Law Reform (Mr. McDowell): These three amendments aim at the idea that the public areas of Garda stations should be subject to video surveillance. I have no difficulty with the principle of this proposal. If we require, as many District Judges do, licensees of licensed premises which open late to install CCTV, and have it on many buses and the Luas, which goes past my house and which I use, I have no major problem with the idea that there should be CCTV coverage of public areas of Garda stations.

There is a project under way in Pearse Street and Store Street Garda stations putting CCTVs in reception areas and the corridors leading to the cells. The results of that pilot will be carefully considered and inform the debate on the extension of CCTV to the cells. That is an issue on which there are two views, namely, whether every prisoner in a cell should be subject to constant camera surveillance or not. I agree with Deputy Ó Snodaigh that in principle there is no reason a

visual record should not be kept of what goes on in the public areas of a Garda station, in the areas leading to the cells and perhaps in the cells, for the protection of everybody involved.

Deputy Ó Snodaigh says it might save the taxpayers some money in respect of claims made against members of the Garda Síochána, which might be so. It might also get to the truth of many of the false allegations against the Garda Síochána as to what did and did not happen, whether people were stone cold sober or falling around drunk when they were arrested, their demeanour and the like. These matters are in the area of “he did — he did not” conflicts of testimony which would be easily resolved by the extension of CCTV. I favour this proposal and it is my intention, unless there is some particular reason arising out of the pilot coverage, why it should not be extended in Garda stations.

I have a slight reservation as to whether it would be a good idea to extend it to every single Garda station in the country because some stations open for only a few hours a couple of days a week to deal with passport applications and driving licence particulars. Installing major CCTV apparatus in these small stations, which could almost be described as sub-stations, might not be an intelligent way to spend taxpayers' money. There is no reason it should not be done in places where people are likely to be frequently brought into custody. I favour it and look forward to the results of the two pilot schemes in Dublin and to a reasoned debate as to whether in-cell surveillance is a good or bad idea.

There are issues of privacy and confidentiality for people going to Garda stations as informants or to make complaints about others who may be worried about CCTV and their discovery through the legal process. We may have to look around a few corners in respect of many issues. It is easy for me to say it is a good idea in principle, but some issues of concern need to be examined as well. We need to consider who visits Garda stations and why they do so. We have to protect the confidentiality of any information that is captured on CCTV. Many people go to Garda stations in diverse circumstances. People who are having problems with their relatives who are psychiatrically ill, for example, or battered wives may require the assistance of the Garda. I do not want to do anything that would have a chilling effect on the relationship between the Garda and the public. I want to be conscious of all the implications of this proposal and to be fair to everybody involved. I have no difficulty, as a general rule, with the Deputy's argument that a video record should be kept of activities in the vicinity of places like banks, which I strongly support.

Mr. Howlin: Does the Minister support the banks or the keeping of a video record?

Mr. McDowell: To some extent, banks and places of entertainment could do much more vid-

eoing and external surveillance in the immediate precincts of their premises to stop cash in transit incidents from taking place. There are some privacy issues. In general terms, I favour Deputy Ó Snodaigh's argument that we should have the keeping of a good record as a medium-term aim. We also need to consider whether the records would have an audio element. Should we record pictures but not sound? I am aware, from my career as a barrister and from cases which have come to light since then, that video footage without any sound was recorded in some instances. In such circumstances, one has to wonder what was actually happening between the two people on screen. Were they having a polite exchange or was one of them threatening to do something awful to the other? When one suddenly sees a flare-up of violent behaviour on screen, one wonders what preceded it. Was one person refusing to do something, or making violent threats towards somebody else? When one sees a sudden eruption of violence, one wonders what exactly was being said by the two people in question. The audio surveillance of Garda stations would probably be considered to be very intrusive. It is a matter of degree.

I do not propose to accept Deputy Ó Snodaigh's amendments. I agree with him, in general terms, that a video record should be kept of what happens in places where people in custody are brought unless there is some very strong reason that should not take place. That should generally be the case. I look forward to learning of the outcome of the two pilot projects. For example, will it be judged that it makes sense to have video surveillance of the corridors leading to cells, but no video surveillance of what happens when gardaí go into those cells with people who have been accused of crimes? Will we move the potential battlefield for swearing matches inside the cell door? Will we achieve anything in such circumstances? Deputy Ó Snodaigh mentioned the Dean Lyons case. As I understand it, Mr. George Bermingham SC is well on the way to finishing his task in that regard. He has finished taking statements from the people involved and is compiling his report. He hopes to complete the report this summer.

A Garda survey that was conducted in June 2005 indicated that 98.1% of interviews, as specified in the 1995 electronic recording of interview regulations, were being recorded. Less than 2% of interviews were not recorded for some reason, mainly because the arrested person declined to have the interview recorded or the room was already in use for another video recording or was otherwise unavailable. As I said the last time we discussed this matter, we are moving towards the universal recording of relevant interviews. It will always be the case that 1% or 2% of interviews are not recorded for some reason.

Mr. Howlin: They might be the critical interviews.

Mr. McDowell: I know. There are cases in which people who are brought to Garda stations and charged with crimes are told by their cohorts or bosses in crime that they have to demand a copy of the interview tape from the Garda. The crime bosses want the tapes so they can ensure that those who were interviewed did not squeal on other people who were involved in the offence. There are legitimate circumstances in which an accused person is willing to make a statement off tape only. It is not the case that the person's reasons for that are necessarily fanciful or contrived.

Mr. Howlin: They should be protected.

Mr. McDowell: Yes, but it is not that easy to protect them.

Mr. Howlin: If they come out without the tape, that will have the same consequences for them.

Mr. McDowell: I appreciate that. If we provide for a mechanism whereby it can be stated that a tape will not be supplied in particular cases, in the interests of the accused person, we will raise the immediate implication that he or she is hiding something from the people who are putting pressure on him to get the tape so they can look at it. It is a difficult question. I do not have a 100% solution to it. If somebody declines to make a statement on tape, it would be desirable, subject to practicality, for there to be a formal and verifiable record that that was what happened. I do not know whether that is practicable, however. Perhaps it would not cause as much difficulty to hold back on that particular tape as it would in the other circumstance.

Deputies should be aware that there are godfathers of crime who will ask a person who has been accused of a serious crime to produce the tape. Such tapes can be ostensibly demanded for legal purposes, but in fact they are used to check that people stayed schtum at the relevant moment and were not too co-operative with the gardaí. That is an infrequent but genuine occurrence, unfortunately. It is not clear to me how we should deal with that. Perhaps Deputies have bright ideas in that regard. It is not clear to me exactly how we can get around this issue.

Mr. J. O'Keeffe: I get a little worried when I find that the Minister, Deputy McDowell, and Deputy Ó Snodaigh of Sinn Féin are virtually at one on an issue.

Aengus Ó Snodaigh: We were originally in the same constituency.

Mr. J. O'Keeffe: I see. A slight shiver goes down my spine when I see it happening. We are looking at a "big brother" area, to some degree. Everything may or may not be recorded. Deputy Ó Snodaigh's amendment states that "all Garda stations shall be internally and externally moni-

tored and recorded by CCTV". That is going an awful long way. The first thing that occurs to me is that it could be quite expensive to install CCTV facilities in this country's Garda stations. I think there are approximately 715 such stations.

Mr. McDowell: A fraction of them are used for people who are taken into custody.

Mr. J. O'Keeffe: That is the point. It is obvious that we should be talking about Garda stations which are used for interview purposes. Some serious issues relating to the extent of the monitoring which would take place need to be considered. It is right that witness statements should be recorded. The Minister has raised some legitimate points about the use and abuse of this system by the godfathers of crime. I suggest that this matter does not need to be dealt with by means of legislation. Some practical and administrative issues need to be considered. It is probably an area that should be the subject of a separate and detailed discussion and debate at some stage, possibly at a meeting of the Joint Committee on Justice, Equality, Defence and Women's Rights. At this stage, I am not in favour of the suggestion that "all Garda stations shall be internally and externally monitored and recorded by CCTV". I do not think the case has been made for such an approach.

Aengus Ó Snodaigh: I am glad the Minister agrees with the concept. With the changes in technology, CCTV does not involve such large costs as it did in the past. With secure Internet connections, the equipment is relatively cheap. Most public houses have CCTV cameras installed. I know of one publican living abroad who can watch his pub from his computer, especially when he is on the beach, to see if anyone is up to no good. I am not saying we must go down that road but CCTV is cheaper than it was before. Other issues arise from this provision and the amendment was to ensure there was some debate on it. Practical problems exist regarding audio and non-audio footage.

It is not just the godfathers of crime who demand video tapes from people of their interviews with the Garda. It also occurs at the lower levels with thugs demanding tapes. Two weeks ago, the distraught mother of a young man who had been in custody attended my clinic. She wanted the tape of the interview to protect her young child from being brutalised by a gang which suspected him of passing on information. I informed her she should ask for a copy of the tape as I knew what this gang had done in the past. I have not spoken to her since but I will speak to the Garda on the case. It is not just the godfathers who demand copies of interviews from individuals. We must ensure that what was introduced as a safeguard measure and a useful tool for the courts is not used against people who give

information while in Garda custody or may have nothing to do with a case.

Amendment, by leave, withdrawn.

Amendment No. 58 not moved.

Aengus Ó Snodaigh: I move amendment No. 59:

In page 29, line 21, to delete “may” and substitute “shall”.

This amendment aims to ensure the Minister will make the provisions for regulations concerning certain witness statements which are recorded.

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

Amendment declared lost.

Acting Chairman (Mr. Sherlock): Amendments Nos. 60 and 61 will be taken together.

Aengus Ó Snodaigh: I move amendment No. 60:

In page 29, line 27, after “retained” to insert the following:

“and

(c) sanctions for any breach of these provisions”.

This amendment is to provide for the sanctions of any breach of the regulations by the Garda concerning video-recording interviews. If the machines are not working, no sanction is involved. However, if the machines are not operated on purpose, some sanction must be in place. Amendment No. 61 also relates to sanctions.

Mr. McDowell: Failure to record an interview without reasonable excuse and in circumstances where there was a direction by the Garda Síochána that the interview should be recorded would constitute a Garda disciplinary matter. The disciplinary regulations of the Garda would be the appropriate way to deal with the matter.

Amendment, by leave, withdrawn.

Amendment No. 61 not moved.

Mr. Howlin: I move amendment No. 62:

In page 30, between lines 2 and 3, to insert the following:

21.—In the case of an accused person tried on indictment for an offence carrying a maximum or mandatory sentence of life imprisonment, who has been acquitted, where at any time following such acquittal the Director of Public Prosecutions comes into possession of significant new evidence

which demonstrates that a miscarriage of justice has occurred, he or she may apply to the Court of Criminal Appeal for an order setting aside the acquittal and directing a retrial.”

There was some debate on this important matter on Committee Stage. The Minister alluded to ongoing research in the United Kingdom on it. The amendment relates to where new DNA evidence or other compelling evidence comes to light in a case. A correcting mechanism to deal with miscarriages of justice is already in place for those wrongly convicted. However, no such mechanism exists in cases where new compelling evidence comes to light after an individual is acquitted for a serious offence which carries a mandatory life sentence, such as murder and rape. The public would find such a prospect where nothing further could be done to be unacceptable.

Last night we spoke at some length on rebalancing aspects of the criminal justice process, about which the Minister became animated. This is another compelling case for rebalancing. We would all be aghast at a case where compelling evidence emerged that the conviction was unsafe. There must be an equal measure of concern where an individual walked free from a charge of an heinous crime but where new evidence would demonstrate beyond reasonable doubt that he or she had committed it. People would find it unacceptable that the person would never again have to answer the charge. On Committee Stage, the Minister was well-minded to further consider this amendment. While the constrained time-frame may not have allowed him to consider all matters raised on Committee Stage, I hope he has given some thought to this amendment.

Mr. J. O’Keeffe: This amendment raises an interesting debate and I commend Deputy Howlin on tabling it. When updating the criminal justice system, we must take into account the enormous changes made not just recently with technology but in the social structure and legal supports in the past hundred years. We have moved from a situation where an individual who was accused was left with no proper defence and in some cases did not have an entitlement to be defended. The accused very often had little or no education and was the victim of the establishment of the time. In many such cases, people were wrongly prosecuted or for political or other reasons, with no possibility of an independent assessment. The pendulum has now swung very much the other way and anybody who is accused of a serious crime has all the defences and legal support available to him or her.

It was stated in the recent conference that a slip of any kind on the part of the prosecution, often even of a technical nature, means the accused can go free. The public would be outraged if we did not give serious consideration to

[Mr. J. O’Keeffe.]

a proposal of this kind. In the past, miscarriages of justice were always associated with the fact that an accused may have been wrongly convicted, but we are considering the other side of the coin, namely, the situation where a person, perhaps accused of a most serious crime, may have been wrongly acquitted.

What brings this matter into focus is the type of evidence that is now available through DNA. In some instances, virtually conclusive proof can be available proving somebody’s involvement with a crime where no such evidence was available five, ten or 15 years ago at the time when the crime was committed. We must look seriously at the issues raised by Deputy Howlin. We must also bear in mind in any rebalancing of the law the need to ensure that the public interest is safeguarded as much as the position of the accused. I question whether the pendulum has gone too far and, in the light of these modern developments, whether the public interest is still being served. The issues raised by Deputy Howlin deserve the most serious consideration.

Mr. McDowell: When this issue was discussed on Committee Stage, I said I would reflect on it. I have come to the conclusion that what I should do is communicate the two proposals and the debate we have had on them to the Law Reform Commission for it to examine the matter.

Mr. Howlin: Does the Minister mean this amendment and the next one?

Mr. McDowell: Yes. I trust I can be disorderly and mention the next amendment. The substance of both amendments will be communicated to the Law Reform Commission so that it can examine these propositions.

A number of issues arise. First, let us suppose there was a case involving a gangland killing or somebody was taken into a romper room and shot in the head and, after some effort to extract a statement—

Mr. Howlin: What is a romper room?

Mr. McDowell: —it later transpired that not only had some gang boss shot somebody, he had also videotaped it. The same could apply to sexual crimes. Following a heavily contested case that ended in an acquittal, if eventually some accomplice of the baddie, so to speak, produced the video to the police, in those circumstances I tend to agree with Deputy Howlin that public opinion would be pretty scandalised if nothing happened to the accused person.

On the other hand, we have the old rules about double jeopardy and *autrefois acquit*. Other questions also occur to me. On the present reading of amendment No. 62, it is arguable that it would be prospective only. The question can be asked if this should be retrospective in regard to a person

who is acquitted of, for instance, a high profile murder. Some cases spring to mind at the moment.

Mr. Howlin: Prospective is a start at least. Constitutionally, I am not sure if it could be made retrospective.

Mr. McDowell: I just wonder if the Deputy would wish it to be retrospective as well.

Mr. Howlin: Is it possible?

Mr. McDowell: I do not know if there is a constitutional impediment.

Mr. J. O’Keeffe: I doubt if it would stand up constitutionally.

Mr. McDowell: That is a matter I would like to consider. Clearly, at the moment an acquittal is an acquittal but could it be said that from now on acquittals are not absolute acquittals in the sense that they are subject to this process, or would one say, from now on and also in respect of previous acquittals, the same test will apply? Undoubtedly, the Attorney General would have a view on that.

It is a good idea to send this amendment and the substance of amendment No. 63 to the Law Reform Commission and to ask it to take into account the fact that since 2003 in the United Kingdom, there have been provisions in regard to new evidence in serious cases being the basis of re-opening a case, and also in the UK, as far back as 1996, the re-opening of a jury trial has been allowed if intimidation resulted in acquittal. I would not be so sure that I would agree with the second part of amendment No. 63 which provides that a second trial would take place without a jury. I do not say this in a negative way.

Mr. Howlin: We will deal with that separately. We have not reached that amendment yet.

Mr. McDowell: That is a debatable issue one way or the other. It does not really matter. These are two most interesting proposals and they should go to the Law Reform Commission for consideration. The commission should have the benefit of knowing what was said on Committee and Report Stages on this matter. In the circumstances, I would indicate in regard to amendment No. 62 that this is what I propose doing and I will do the same, prospectively, in regard to amendment No. 63.

Mr. Howlin: I am a little disappointed the Minister has not taken this on board. I thought that in the current Minister for Justice, Equality and Law Reform, we have somebody who—

Mr. McDowell: I could give the Deputy my personal views, but I should speak to my Government colleagues before I take any position.

Mr. J. O’Keeffe: And his party colleagues.

Mr. Howlin: The problem we have on this side of the House is that we have notions that this is a Legislature and that if we make a compelling case, it may be accepted and that there is no impediment to this. Is this proposal so unusual or extreme that the Minister would have to speak to others about it? In normal circumstances, if one needed to bring propositions to Government, this could be done. This is an important issue.

I suppose half a loaf is better than no bread and referring the matter to the Law Reform Commission is something. However, so much is referred to the Law Reform Commission and even when it reports on something, in many cases the reports simply end up on the shelf. I accept that some reports are acted upon. I thought this was a straightforward issue. I wish to deal with amendment No. 63 separately, although the Minister alluded to it.

Acting Chairman: We are discussing amendment No. 62.

Mr. Howlin: We are, but the Minister strayed into amendment No. 63 in his comments.

Acting Chairman: Does Deputy Howlin wish to deal with that amendment?

Mr. Howlin: No. I will confine my remarks to amendment No. 62 as I wish to make a separate case on amendment No. 63 when we reach it.

Acting Chairman: Tá go maith.

Mr. Howlin: I will be more flexible on amendment No. 63 but I thought the purpose of this amendment was clear enough because it is confined to the most serious cases. The Minister asked if a situation could arise whereby no trial is ever finished. In other words, when somebody is acquitted, there is always a possibility of coming back to the case. I do not think it is a bad thing for persons who have committed serious offences that they are never free of the shadow that their offence may catch up with them. Even if it never reaches their door, the notion that they walk out scot free is not just. The notion that the arm of the law might reach them at some stage is not a bad thing.

The Minister referred to the possibility of this provision being retrospective. It did not occur to me that this would be possible. I bow to the Minister’s learned expertise in constitutional matters. I thought of it only operating from a current date. I am not sure whether it could operate retrospectively. If it could, I would support that notion. It does not mean that anybody who is acquitted for normal crimes would have a shadow hanging over them. It would only relate to those who have committed the most heinous crimes.

Let us take, for example, the case of a child murderer who was caught attempting to abduct a

child subsequent to having been acquitted of a child murder. If some compelling evidence about the original murder surfaced, would people not be fearful and the country aghast that such an individual could not be made to answer for the crime?

Debate adjourned.

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

Ceisteanna — Questions (Resumed).

Priority Questions.

Pension Provisions.

24. **Mr. Bruton** asked the Minister for Finance his Department’s view regarding the defined benefit pension schemes in public bodies and the accounting standards applied in pensions funding. [25173/06]

Minister for Finance (Mr. Cowen): The pensions policy in the non-commercial bodies is that recommended by the pensions commission and accepted by the Government, that is, the defined benefit model is generally used. However, there may be circumstances where, if staff are engaged on private sector pay terms and conditions, a defined contribution arrangement is appropriate.

In regard to commercial State bodies, pension schemes are generally funded and, to date, the great majority of commercial State bodies have opted for defined benefit schemes. The schemes are a matter in the first instance for the boards concerned and the relevant legislation usually provides that they are subject to the agreement of the responsible Minister and the concurrence of the Minister for Finance.

In putting forward particular schemes, the boards of commercial State bodies must take account of a wide variety of issues and must ensure that the pension arrangements safeguard the long-term viability of the scheme and are consistent with the financial position of the body concerned. Thus, it is for the bodies themselves in the first instance to determine the nature of their pension scheme in terms of whether it be a defined benefit or a defined contribution scheme. Thereafter, the relevant Department and then the Department of Finance will consider each scheme on its merits.

As regards the accounting standards applied in pensions funding, this is primarily a matter for the board and auditors of each body, having regard to accounting standards in place.

Mr. Bruton: I thank the Minister for his reply. I am sure he has seen reports in the media of the experience of the board of one State company which was considering moving from a defined

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benefit to a defined contribution scheme. On approaching the Department of Finance to discuss the matter, the board was told that if the idea of moving to defined contributions were to surface ahead of the national pay talks, unions would use the talks process to put that possibility beyond bounds, at least for the public sector. It seems the Department of Finance is adopting a remarkably strange position in this matter.

Will the Minister clarify whether it is the view of his Department that public bodies should migrate towards defined contribution schemes, or is it his view that defined benefits should continue to be the norm? Will he comment also on the remarks reportedly attributed to the Taoiseach expressing concern at the private sector move towards defined contributions? If accurate, these reports suggest that the Taoiseach and the Minister's Department are not on the same page in their approach to pensions. What is his view on future policy in regard to these two competing schemes?

Mr. Cowen: My reply clearly states that pensions are, in the first instance, primarily a matter for the relevant board. Commercial State bodies have their own autonomy and it is for them to work out with their stakeholders how they wish to proceed on such matters. They seek my approval in regard to their pension scheme only after they have reached agreement on it at that level.

The principle that guides this issue in regard to commercial State bodies is that it is a matter for the board concerned in the first instance, with the relevant legislation generally requiring the subsequent agreement of the responsible Minister and the concurrence of the Minister for Finance. In dealing with such proposals the bodies have regard to all relevant considerations, including discussions with employees and legal, contractual and procedural matters. It is not a matter that I pre-empt.

Mr. Bruton: I accept it is not a matter the Minister should pre-empt. As he indicated in his reply, however, the attitude of the Department of Finance to public pay and condition norms in State bodies has always been central to the way in which they developed. Is the Minister saying the reports are incorrect that an approach was made to his Department and that the latter was at best two-faced in suggesting it would not confront this issue in case those representing workers might hear of it and raise it in the partnership process? Does the Minister deny this occurred?

Will the Minister give his view on the future direction of pension schemes? There is widespread discontent that there is a migration away from defined benefit schemes, most recently in the case of one of the banks. Is it Government policy that this is something that ought to be resisted or is it the case, as the newspaper reports

suggest, that the Minister is saying one thing under his breath while being of the opposite view that it should be encouraged, even among the boards of State bodies?

Mr. Cowen: I am not saying anything under my breath. I have said that the primary responsibility for these matters rests with the individual boards. The question of the sustainability of a pension scheme and the issues that arise in this regard will vary from board to board and body to body. The defined benefit scheme has generally been the norm in the non-commercial sector.

Difficulties may arise in regard to the adequacy of pension provisions into the future and, in such circumstances, there is often the necessity that a contribution be made by the company and its employees. In the case of the initial public offering, IPO, for Aer Lingus, there must be a preparedness on our part to contribute to resolving a particular structural problem that has emerged. In regard to specific commercial bodies in general, which have a commercialisation agenda and have been given the autonomy to run their businesses commercially, if issues arise that must be addressed in the pensions area, as in any other area of their activity, they must work out a solution to that problem themselves.

Mr. Bruton: In the context of the migration away from defined benefit pensions, I notice the Irish Congress of Trade Unions has suggested that part of the problem is the demanding accounting standards that pertain. It has put forward a proposal for a scheme under which the State would act to some extent as a holding company for the purchase of the annuities. Is this something the Minister has examined and is he well disposed towards the concept?

Mr. Cowen: The general pensions policy has been discussed in some detail in the context of social partnership. The agreement we have obtained includes a commitment to the production of a Green Paper on this issue in the next 12 months. The Minister for Social and Family Affairs has begun the process of consultation in this regard and I will also be centrally involved in terms of any issues that may arise for the taxpayer.

My initial position is that these are matters above and beyond those relating to State pension provisions, which are the responsibility of the State. The question of supplementary pension provision is one that must be addressed primarily by those who are the beneficiaries, including the companies and employees concerned. In regard to individual State bodies, it is a matter for the boards of those bodies in the first instance. In the case of any State body with a deficit on its scheme, it is a matter for that body to address the problem in a sustainable manner that does not compromise the commercial viability of the company. In regard to accounting issues, commercial

bodies are expected to observe appropriate accounting standards and there is a general awareness of that requirement.

Tax Code.

25. **Ms Burton** asked the Minister for Finance his views on the increasing number of high net worth persons avoiding capital acquisitions tax on multi-million house transfers as a consequence of section 86 of the Capital Acquisitions Tax Consolidation Act 2003 and the increasing use of licensing arrangements in respect of land transfer and development land deals, thereby avoiding capital taxation, including stamp duty; the number of house properties and estates and the number of land transfer and development schemes qualifying for the avoidance of capital taxes for each year from 2000 to date in 2006; and if he will make a statement on the matter. [25179/06]

Mr. Cowen: The Deputy refers to two separate circumstances of potential abuse of the tax system. The first relates to section 86 of the Capital Acquisitions Tax Consolidation Act 2003, known as the family home relief, which provides an exemption in regard to second dwellings.

With regard to section 86 of the Capital Acquisitions Tax Consolidation Act 2003, the purpose of this exemption is to benefit individuals who had been living in their own family home for a period prior to acquiring the house, either by way of gift or inheritance. The provision came into effect for gifts or inheritances taken on or after 1 December 1999. The main conditions attaching to the exemption are that the beneficiary, that is, the person who receives the gift or inheritance of the dwelling house, must have resided in the house for a minimum of three years prior to the gift or inheritance and must not have had an interest in any other dwelling house. In addition, the beneficiary must continue to occupy that dwelling house as his or her only or main residence for a period of six years commencing on the date of the gift or inheritance. This lengthy owner-occupier condition was included in the legislation to restrict the relief to genuine cases and avoid the relief being used as a means of tax avoidance. These conditions of ownership and residence after acquisition may be waived where the beneficiary requires long-term medical care in a hospital, nursing home or convalescent home or where the beneficiary is aged 55 or over.

I am informed by the Revenue Commissioners that statistics are available on the number of claims under section 86 since the introduction of the relief. The number of claims was three in 2000, 24 in 2001, 13 in 2002, 252 in 2003, 553 in 2004 and 542 in 2005. This compares to almost 20,000 capital acquisitions tax returns in 2005, or just under 3% in that year.

The relief was introduced in the 2000 budget to help those sharing the family home who were

faced with very large tax bills when inheriting the home they had lived in for some time. The relief was particularly addressed at cohabiting couples not catered for in the law before then, aunt and niece type cases and same sex couples. It was widely welcomed when it was introduced and applies irrespective of the value of the dwelling house being transferred.

I have no evidence that this provision is being abused. The fact that the numbers using the relief have increased sharply since it was introduced is not evidence of abuse in itself. The number of persons claiming relief under section 86 made up less than 3% of the overall number of claims under capital acquisitions tax in 2005. If the Deputy has evidence to support her concerns of abuse she should bring it to the attention of the Department or the Revenue Commissioners.

The second matter raised by the Deputy refers to the avoidance of stamp duty liability and capital taxation charges by developers using licence arrangements. Stamp duty is a charge on documents, which are mostly legal, used in the transfer of property. Where a property is purchased, stamp duty is charged on the conveyance or transfer effecting change of legal ownership of the property concerned. If there is no conveyance, there is no stamp duty. A builder or developer can, therefore, obtain a licence from a vendor to build on land owned by the vendor without incurring a stamp duty charge at that stage of the venture. Once the buildings, whether commercial or residential, are completed the conveyances or transfers of such properties to purchasers are liable to stamp duty in the normal manner unless specific exemptions are available to such purchasers.

Taking account of the proliferation of developments generally in recent times and in the context of its major project in the construction sector in 2006, the use of licensing and similar arrangements is being reviewed by the Revenue Commissioners as part of its audit and compliance programmes. The review, as with Revenue's overall approach to business, will focus on risk. I have asked Revenue to inform me of the outcome of its review and I will decide what action, if any, is required, bearing in mind the effect on the housing market and the cost to the Exchequer.

Information requested by the Deputy on the number of land transfer and development schemes involved is not available.

The Deputy is concerned that the use of licence arrangements by developers might constitute avoidance of capital taxation on the part of the developer but the Revenue Commissioners have informed me that as capital sums payable to landowners for the disposal of property by way of licence agreements are chargeable to capital gains tax in the normal manner, it is not considered that such tax is avoided by the use of these arrangements.

Ms Burton: Is the Minister considering, in the context of the next budget and Finance Act, amending avoidance legislation to cut off what have become two of the more notorious new ways in which very wealthy people can avoid legitimate taxation on very valuable property?

According to the Minister's reply, 1,400 homes have been transferred under section 86, a Charlie McCreevy "special" from the former Minister for Finance in the Finance Act 2000. Given that the exemption per child on house transfers for capital acquisitions purposes is approximately €500,000, does the Minister accept that people who own properties worth many tens of millions of euro are using this loophole to avoid any capital acquisitions tax arising?

I asked the Minister to indicate the value of the 1,400 properties subject to this special arrangement. Why is that information not available? It must be available. Is the Minister or the Revenue Commissioners hiding the information so that we cannot find out about this particularly lucrative form of tax avoidance, which in reality is only available to the very wealthy, given that one must transfer one's property in full to a resident person?

Can the Minister tell me whether a major property deal is going through in this country at the moment which is subject to stamp duty at 9%? His officials must know this from examining the files. People buying a second-hand home are paying stamp duty, yet every builder in town who is involved in multi-million euro transfers of property can avoid the duty. We have seen extraordinary prices in the Ballsbridge area, for example. All those deals are subject to licensing arrangements, as the favoured method, or to the transfer of shares.

Ordinary taxpayers are paying a heavy price in stamp duty, their children are paying capital acquisitions tax when the family home is transferred and yet the Minister is leading a coach and four through the taxation system so that very wealthy individuals can engage in tax avoidance with regard to capital taxes. These are the same people for whom the Minister has a whole regime of special schemes to allow them to avoid income tax.

Mr. Cowen: Unfortunately, the supplementary questions were prepared prior to my giving the answer. With regard to the first part of the Deputy's question on section 86, I have pointed out that the Revenue Commissioners do not have evidence of abuse as suggested. Claims under the section represent less than 3% of the cases. It is very unfortunate that the Deputy is suggesting that we are not giving her the information she seeks. The information, if it is available, is always given. There is no agency more adept or proactive in that regard than the Revenue Commissioners.

In the light of any concerns raised regarding the potential for abuse, the Revenue Commis-

sioners have decided to carry out a survey, for the sake of assurance, of a proportion of cases where the relief was granted. That will be carried out over the coming months with a view to completion in advance of next year's Finance Bill. I have asked Revenue to keep me informed of progress in this regard. On the face of it, the Revenue Commissioners feel that abuse is not taking place but will carry out a review for assurance purposes, and that is fair enough.

With regard to the other matters raised by the Deputy, I have given the full picture in my reply. A review is taking place across a range of areas relating to the construction sector, including with regard to the matters raised. When that review becomes available and we have the evidence from the Revenue Commissioners, we will determine if action is required.

Section 86, as I understand it, was welcomed by all sides of the House when it was introduced in the Finance Bill. To portray it otherwise is inaccurate.

Ms Burton: Property is being sold in the Ballsbridge area on a weekly basis for over €1 million per acre and many deals of €50 million and upwards are being completed. The saving through the loophole regarding stamp duty costs the Exchequer approximately €5 million a week in Ballsbridge alone. Meanwhile, young couples who buy a second-hand house in the same area pay 9% stamp duty. That loophole is used by Fianna Fáil's friends in the construction industry, and it must be reviewed and eliminated. I welcome the news that the Minister is having a review carried out regarding both capital tax elements. When it is made available, will he publish its results in full? I cannot understand how the Revenue Commissioners do not receive the value of large house estates being passed under section 86.

Mr. Cowen: I reject the usual innuendoes from that side of the House regarding these matters. Unfortunately, I must listen to the same old stuff every day. I have no personal knowledge of anyone availing of such exceptions or reliefs. As is the requirement and norm for questions, I am giving the relevant information rather than engaging in assertion and innuendo.

The reviews are being carried out at the initiative of the Revenue Commissioners. I brought the matter to the attention of the House at Question Time in replies given some months ago. There is nothing new in the fact that those reviews are taking place. It was the intention of the Revenue Commissioners to have them, and they have announced a targeted approach towards the construction industry for this year, with the involvement of 25% of audit personnel concentrating specifically on this sector. It is a national audit focusing on risk in the construction industry under various tax heads. The project is being

managed by a national steering group reporting to Revenue management.

The Revenue, in association with the Irish Taxation Institute, organised a series of open fora on the construction industry project. As I have said, those are the sorts of mechanisms the Revenue Commissioners have employed in other sectors where they feel revenue protection might be at risk. When they report to me, I will decide what action is required. I will give no commitment before receiving the report.

Cross-Border Projects.

26. **Caoimhghín Ó Caoláin** asked the Minister for Finance the measures in relation to increased north south co-operation that he envisages will be included in the National Development Plan 2007-2013; and the discussions he has had to date with the relevant Departments or other interested groups in the Six Counties in relation to this matter. [25070/06]

Mr. Cowen: The all-island dimension will be an important horizontal theme of the National Development Plan 2007-2013, which will be published next November. We face common challenges in the two parts of the island, such as the need to invest in infrastructure, energy provision, education and training, new technology and research and development. Co-operation in those and other areas can be of mutual benefit, and the NDP will set out an agreed strategic framework for such co-operation.

My Department, in its co-ordinating role drafting the next NDP, has engaged with other Departments on the issue of North-South co-operation, with particular reference in this context to programmes in their area of responsibility. More generally, there is ongoing liaison between Departments and their Northern counterparts on matters pertaining to North-South co-operation. My Department will shortly engage in direct consultation with its Northern counterpart on the North-South dimension of the NDP.

As the Deputy will appreciate, I cannot speculate at this stage on the context of the North-South co-operation elements of the NDP. I can, however, assure him that it is my objective that it be a substantive element that will set a basis for further mutually beneficial co-operation.

Caoimhghín Ó Caoláin: I thank the Minister for his reply.

Will he confirm that his Department and all others have been requested by the Minister for Foreign Affairs, Deputy Dermot Ahern, to incorporate the all-Ireland dimension in their submissions for the next National Development Plan 2007-2013? I assume the Minister can refer directly only to his own Department, but as it is the anchor Department regarding preparation of the NDP, can he give us a sense of how seriously the issue is being taken across the Departments?

What discussion and consultation has taken place with ministerial counterparts North of the Border? Has there been any consultation with the parties and other interested sectors in the North of Ireland? Were submissions sought, for instance?

While the common chapter of the National Development Plan 2000-2006 marked what one might term a tentative step away from the back-to-back approach that applied hitherto, which resulted in serious under development and the failure of natural communities to reach their full potential on both sides of the Border, does the Minister agree that we need not a common chapter but a common development plan to address all past failures properly and substantively?

Did the Minister note a statement by John Bradley of the Economic and Social Research Institute in a paper that he presented in Armagh earlier this year entitled "An island economy or island economies? Ireland after the Belfast Agreement"? In it, he said that the unfortunate reality is that both North and South are attempting to improve their competitive advantages largely in isolation from each other. What is the new regime now in place? Can the Minister elaborate on his reply, assuring us that we are in a new era of co-operation? What new areas of co-operation are intended under the new NDP?

Mr. Cowen: Given the logic of an island economy, it is an important horizontal theme cutting across the entire plan whereby one avoids duplication, applying a strategic framework that makes sense and is of mutual benefit to the two jurisdictions. That is eminently sensible and complies with the letter and spirit of the Agreement. It is true that there is an institutional requirement for everyone to ensure that the potential for North-South co-operation in all its aspects is not only promoted and spoken about but actively implemented. I have already mentioned that with regard to infrastructure, where development is envisaged on both sides of the Border and required for the competitive economy of the 21st century that we are trying to build. The same is true of energy provision, education and training, new technology and research and development.

Under the Good Friday Agreement, implementation bodies for trade and other areas have had some success. A great deal of work has gone into them, and we must continue promoting that culture of co-operation, which is to everyone's benefit and should therefore encounter no objections from anyone.

We also know that as soon as we can get a devolved administration up and running again under the terms of the Agreement, we will have local, democratically accountable Ministers in the Executive who could promote and be active in this area in a manner specific to the situation's requirements. The assurance that I can give the House is that this makes a great deal of economic sense. It informs our discussions on the North-

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South Ministerial Council pending the return of devolution.

From our perspective, it is a very important strand of the Agreement that must be actively promoted and implemented. I hope that in coming months we will see momentum entering the political process reflected in an economic agenda that ensures the success that we can achieve. I assure the Deputy as co-ordinator of the NDP that it is an area of activity in which I have a personal interest.

Caoimhghín Ó Caoláin: I thank the Minister for reflecting so positively. I share his hope that we will see the devolved administration back up and running very shortly, since we both recognise that it will be the critical catalyst for delivery of much of the content of the NDP and plans North and South. The Minister stated in his first response that he was not able to speculate on specific content, but perhaps I might explore one or two areas very briefly. In terms of strategic development, particularly the need for a strategic transport corridor to the north west which will have tremendous benefits for both this area and the Six Counties, and the need to develop in a co-ordinated fashion the N2-A5 transport route, which currently fails to properly assist and encourage economic growth in the serviced counties from here to Donegal and Derry, does the Minister anticipate that we will see real co-operation in terms of this type of infrastructural development, which has been highlighted recently in a number of fora at local authority level, both North and South? Unquestionably, there is cross-party and cross-community support for such an approach.

Is there any prospect of an all-Ireland environmental protection agency being established? The creation of such an agency has previously been mooted. Is this option being considered?

3 o'clock What will be contained in the plan in terms of enabling people in the Border areas to access health services which are closest to them rather than being practically herded or driven towards a particular service entity within their respective jurisdictions? These areas include primary care, encompassing GP and out-of-hours services, for which a pilot project is signalled for this year, and hospital access and procedures, including accident and emergency services. The real benefits of this approach have yet to be realised. These are the areas that will prove the real potential of cross-Border co-operation and working together.

The common chapter of the national development plan for 2000-06 committed the Irish and UK Governments to integrating the divided telecommunications system. Despite the fact there have been some improvements in areas such as roaming charges, we still have what applied at the introduction of the last NDP in 2000. Is the current review taking on board areas that have not

progressed as hoped? What further steps can the Minister take to realise the hopes and aspirations of the NDP launched in 2000? I welcome any elaboration by the Minister.

Mr. Cowen: It is unfortunate that the necessary trust and confidence one would have expected to have been built up in respect of the mutual benefit of North-South co-operation is still not universally understood, accepted or comprehended by various shades of political opinion. This is clearly unfortunate. However, it does not take away from the fact that on any objective analysis, and there have been such analyses carried out during the period when the executive was in position, progress was made in promoting and providing examples where North-South co-operation clearly made considerable sense. Considerable progress was also evident outside the structures, for example, in the energy sector. It is obvious that there is a range of tangible outputs that could benefit from genuine co-operation, for example, the areas of transport, energy, education, health and spatial planning. We have witnessed the co-operation and working together initiative, which was the first cross-Border initiative in health. Although this initiative is on a small scale, it indicates what can be achieved. For example, people in Cooley go to Daisy Hill Hospital in Newry for renal dialysis so a considerable amount of practical co-operation across jurisdictions is taking place, which should be the forerunner to far wider provision. We have seen this in the cancer care strategy, where we are trying to finalise arrangements that would be more suitable for people in the north west than would be the case were they to travel to Dublin, Cork or somewhere else. A considerable amount of work is ongoing. When people take the politics out of it, it would be far better if we could promote it to demonstrate that cancer incidence would be reduced and availability of cancer care improved, an area in which much progress has been achieved in recent months although it has not yet been finalised. Hopefully, it will soon be successfully finalised.

Practical co-operation can also exist in the area of environmental protection. The question of whether it would be the responsibility of an island-wide agency is open to question because the issue really concerns co-operation rather than getting caught up in structures. It is the substance of the co-operation that is important. There may be certain regulatory differentiations between both jurisdictions which might militate against an island-wide organisation. However, both jurisdictions co-operate in many areas, for example, waste management strategy. The question of whether an island-wide waste strategy can be used to deal with commercial or hazardous waste is an obvious opportunity to avoid duplication and the waste of resources and to establish more effective initiatives.

Cross-Border co-operation can be used across all major activities, including physical infrastructure, which is an obvious candidate. The British-Irish Intergovernmental Conference indicated last month that both Governments, the Minister for Foreign Affairs and the Secretary of State for Northern Ireland, Peter Hain, MP, are committed to exploring the potential for joint investment in key infrastructural projects which affect both sides of the Border.

Under the north-west gateway initiative, the National Roads Authority and its counterpart in Northern Ireland are currently engaged in a joint study of various options and will consider the action that is appropriate on foot of this study. People are also aware of the existence of assistance of €7.5 million, which was provided by the Exchequer towards the development of the City of Derry Airport. Where the political will has existed, co-operation has taken place. I hope this political will will increase rather than decrease and lead to more cross-Border co-operation.

Decentralisation Programme.

27. **Mr. P. McGrath** asked the Minister for Finance his views on the stated opinion that core policy units may not be moved in the context of decentralisation; and if he will make a statement on the matter. [25172/06]

Mr. Cowen: There has been no change in the Government's overall approach to the implementation of the decentralisation programme, including that element that provides for the relocation of departmental headquarters. As the Deputy is aware, it is proposed, in respect of the Civil Service, to move the headquarters and the full staffing complement of eight Departments and the Office of Public Works out of Dublin, leaving seven Departments with headquarters in Dublin.

It was always envisaged that Ministers with headquarters outside Dublin would be provided with a centralised suite of offices close to the Houses of the Oireachtas for a small secretariat so they could conduct business while in Dublin and when the Dáil is in session. With regard to providing support for Ministers, the decentralisation implementation group considered that while logistical arrangements needed to be put in place to ensure this did not cause any difficulties, this issue should not create any particular problem for decentralised Departments.

Officials will be required to be in Dublin on occasions to attend to matters such as briefing Ministers generally, providing support during the passage of legislation, attending meetings of Oireachtas committees and participating in inter-departmental groups. These matters will impact in different ways across Departments and will, therefore, need to be considered by them as part of their implementation planning.

I understand from the chairman of the decentralisation implementation group that following

his group's round of meetings with the Secretaries General of decentralising Departments, the group is satisfied with the level of planning in each of the Departments and is confident the senior members of the Civil Service are leading the implementation of this programme in a professional and carefully planned manner.

Over the course of the next few months, advance parties will be on the way to three of the locations that will eventually be home to the headquarters of Departments. The Departments and locations in question are the Department of Communications, Marine and Natural Resources, which will go to Cavan; the Department of Arts, Sport and Tourism, which will go to Killarney; and the Department of Community, Rural and Gaeltacht Affairs, which is sending an advance party to temporary accommodation in Tubbercurry prior to ultimately basing the entire Department at Knock Airport.

Mr. P. McGrath: The Minister is effectively saying the Taoiseach misled the Dáil. The Taoiseach said in the Dáil that the core policy units may be not be moved as part of decentralisation. However, the Minister has now said that the full decentralisation programme, as originally planned, is going ahead. This opinion differs from that expressed in this House by the Taoiseach. One can only conclude that either the Taoiseach or the Minister was mistaken and misled the Dáil. Alternatively, is it a case that the Taoiseach and the Minister are not talking to each other and a final policy decision has not been taken?

It was initially promised that 10,000 civil servants would have moved to decentralised locations by December 2006. This was the original proposal and commitment given to the Dáil. The reality is that by December 2006, no more than 1,000 civil servants will have moved. The programme is getting shakier by the day in respect of what will happen on other fronts. A further parliamentary question also explores possibilities in respect of decentralisation and what will happen. Was the Taoiseach wrong in telling the Dáil that the core policy groups within the Departments may not move from Dublin? Will the Minister give the House a straight answer?

Mr. Cowen: I know what the Taoiseach said in the House. He was answering a number of supplementary questions and clearly set out the situation. One version of the situation is continually given by the other side of House. The decentralisation programme was announced and then there was a decentralisation implementation group, which was charged with the responsibility to work through the issues and implement the plan. We know how complex and wide-ranging that work is.

In 2005, the group produced a report that revised the timescale, which was accepted by the Government. The Government's position is not

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to have 10,000 staff relocated by 2007. Rather, we agree with the decentralisation implementation group's revision of the timetable. The group identified some early movers, highlighted outstanding issues to be addressed and spoke on State agencies, professional technical groups and the need for a ground-breaking initiative concerning State agencies that do not have the tradition of transferring staff that the Civil Service has and that has proven successful in the implementation of previous smaller plans. This has been the up-to-date position since 2005.

I have outlined that there is no change in the substantive policy of the Government, namely, to relocate Departments in some cases. In his response, the Taoiseach also pointed out that the situation of the agencies has not been resolved, but there is an agreement to enter into an industrial relations process. The arrangements are voluntary, as was always the case, but we were not getting any engagement to try to advance matters, even from those in State agencies who wanted to relocate to ear-marked Departments or *vice versa*.

In the context of decentralised Departments moving to new locations *in toto*, personnel will be required in Dublin to handle Dáil or other business. That is the pragmatic outcome, but the basic principle of relocating sections of or whole Departments to new headquarters remains in place.

Mr. P. McGrath: The Minister has set out all the reasons for the delay in the decentralisation programme and I accept much of what he has said, such as that the three-year timeframe was far too ambitious, the difficulties that have arisen and so on, but he has not answered the core question. The Taoiseach told the Dáil that the core policy groups of decentralising Departments would not be moving. Was he wrong or is the Minister wrong?

The only people to whom the Minister has referred are the small secretarial back-up groups that will be required for a Minister to do his or her Dáil business. For example, the Minister has indicated that the only group to remain when the Department of Education and Science decentralises will be a secretarial back-up. Is the Minister wrong when he says Departments will fully decentralise or was the Taoiseach wrong when he told the House that core policy groups will remain in Dublin?

Mr. Cowen: The Taoiseach did not say that.

Mr. P. McGrath: He did.

Mr. Cowen: As the Deputy will not examine the record, I have the Taoiseach's script.

Mr. P. McGrath: The Minister should tell us.

Mr. Cowen: In reply to Deputy Rabbitte, the Taoiseach stated:

However, the Deputy is talking about a small hard core, and all Members who have been in Government, including the Deputy, know that policy units are small. That issue is being discussed in the implementation group and it has been put forward by senior civil servants, especially from the higher grades. Their case must be listened to because the process is voluntary and the Government has stated throughout that we will consider such arguments.

We have not accepted those arguments.

Mr. P. McGrath: There it is.

Mr. Cowen: No.

Mr. P. McGrath: In the Minister's own words, he stated that—

Mr. Cowen: Yes, in my own words.

Mr. P. McGrath: —the Taoiseach's words indicate what is occurring.

An Leas-Cheann Comhairle: Order.

Mr. Cowen: The words confirm that ideas have been put forward and will be discussed by the implementation group, but those ideas have not been accepted.

Mr. P. McGrath: They must be listened to.

Mr. Cowen: I listen to discussions all of the time. I even listen to the Deputy, but that does not mean I agree with him.

Mr. Bruton: The Minister might learn something.

Mr. P. McGrath: He might benefit from our wisdom.

Mr. Cowen: It is part of the dialogue process. The programme will proceed as planned.

Mr. P. McGrath: It is not proceeding as planned.

Mr. Cowen: It is. According to the record, the Deputy's attempt to suggest that the Taoiseach stated otherwise is not correct. The Taoiseach indicated and acknowledged that positions put to the group by certain elements of the Civil Service will be discussed. However, that does not mean we have decided to proceed as they have suggested and forget about our own plans, as those plans are in place on the basis of discussions.

Like us, I presume the Deputy wants to ensure that we have a situation whereby we have successfully implemented the decentralisation prog-

ramme. We cannot have parallel systems, that is, two identical Departments in different locations. A Department will relocate if that decision has been made. We will carry out such relocations in the same way that we have successfully relocated large numbers of civil servants and others previously, although not to the same extent.

Already, 200 posts have moved out of Dublin and more than 1,700 have been assigned to posts that will decentralise, representing more than 20% of the total number of Civil Service posts relocating under the programme. The property acquisition negotiations have been completed or are significantly advanced in 30 locations and all decentralising organisations have produced implementation plans setting out the detailed arrangements they are putting in place to plan for relocation while also ensuring business continuity and the effective delivery of services to consumers. The implementation group has held a series of meetings with Secretaries General involved in the programme to discuss the planning framework, assess progress and hear about the challenges arising and steps proposed to address them. The group is also meeting chief executives of a number of State agencies.

There are areas in which we are not making as much progress as we would like and a groundbreaking initiative is required, especially in the State agency area. Taking FÁS as an example, entering an industrial relations process and working through issues is the best way forward. I was told during my last Question Time that such would not happen, but it has and is continuing. While it does not guarantee a successful outcome, it places the matter in a process whereby people are engaged in dialogue rather than a stand-off, where people would put forward different positions and the issue goes nowhere despite some of their organisations' members wanting to relocate. Like others, those people must also be represented.

Points about the implementation group's proposals and how they are proceeding have been raised by various groups, but the basic policy remains. The Government's position is to decentralise. The Taoiseach was acknowledging that the discussion had taken place, but he was not accepting the argument. We are not at that position where a number of these issues are concerned.

An Leas-Cheann Comhairle: We must proceed to Question No. 28.

Mr. P. McGrath: The Minister is saying that not only is the plan not working, it is also running behind time.

Mr. Cowen: I am not saying that.

Mr. P. McGrath: He is. Those are the facts of the matter.

Mr. Cowen: The Deputy should do his research. I will explain my position and he can explain his.

Mr. P. McGrath: Decentralisation is not happening within the three years promised. Instead, it will take much longer.

Mr. Cowen: The Deputy should read the record.

Mr. P. McGrath: The Minister is confirming that the Taoiseach was talking out of both sides of his mouth.

Mr. Cowen: No.

An Leas-Cheann Comhairle: We must proceed to Question No. 28.

Mr. P. McGrath: On the one hand, the Taoiseach said that core groups would stay to pacify the Civil Service and, on the other, the Minister said that everything is proceeding as planned.

Mr. Cowen: I must reply. The Deputy is predictable and obviously has no intention to deal with the issue in a serious way. The Taoiseach rightly outlined the various issues that arose in discussions, but this does not mean that the Government has changed its policy. Everyone knows what issues will be raised in discussions, as they were raised in previous discussions on implementation plans and the decentralisation programme. The Opposition's political line in the House has always been to suggest that nothing is working and the programme should be forgotten. I am fed up answering questions on decentralisation asked by the Deputy and Members of his party.

Mr. Bruton: The Government made a promise in the House.

Mr. P. McGrath: The Government said it would take three years and would be completed by December of this year.

Ms Burton: The Minister himself said it.

Mr. Bruton: One would not want to hold one's breath.

An Leas-Cheann Comhairle: Order.

Mr. Cowen: The people who are talking out of both sides of their mouth are members of the party to which Deputies Paul McGrath and Bruton belong.

Mr. P. McGrath: It was supposed to be completed by December this year. The Minister never answers a question from me about decentralisation.

Mr. Cowen: As he is retiring I am not so interested in the Deputy anymore. I can provide plenty of examples of people who speak out of both sides of their mouth on the issue.

Mr. P. McGrath: The Government has been working on it for three years.

An Leas-Cheann Comhairle: We must move on to Question No. 28.

Mr. P. McGrath: Some 10% of the moves have taken place in three years — that is not much of an achievement.

Mr. Bruton: F minus.

Mr. Cowen: The Deputies do not want to refer to the decentralisation implementation group decision of 2005 because it does not suit their purpose. They want to forget about it and pretend it never happened.

Mr. Bruton: Is that the new Cabinet?

Mr. P. McGrath: That group did not make the commitment, it was the Minister's predecessor and the Government of which the Minister is a member.

Mr. Cowen: It comprises the people who are implementing the programme. I wish to move on to Question No. 28 as I have exhausted my time with Deputy McGrath. I will certainly not convince him today.

Mr. P. McGrath: The Minister is doing well.

Mr. Cowen: Maybe during his retirement he will come to the opening of the new offices in Mullingar and finally acknowledge that decentralisation became a reality.

Mr. P. McGrath: Will the Minister invite me to it?

Mr. Cowen: I am always there.

Mr. P. McGrath: The Minister might prepare breakfast.

Interest Rates.

28. **Ms Burton** asked the Minister for Finance his views on the fact that monthly mortgage repayments have increased over the past year by approximately €120 per month on an average €300,000 mortgage and by approximately €200 per month on an average €500,000 mortgage; if he intends to implement measures to provide clear information for mortgage holders on the effect of projected future interest rate increases on their monthly payments; if his attention has been drawn to the fact that the European Central Bank has indicated the likelihood of further interest

rate rises; and if he will make a statement on the matter. [25180/06]

Mr. Cowen: As the Deputy will be aware, there is a broad range of factors that determine the effect of changes in interest rates on individual loan repayments. These include, for example, the outstanding loan amount, whether the lending rate is fixed or variable, the length of time over which the increase takes place, the pass-through of interest rate changes to lending rates, the repayment term and the specific nature of the financial product involved. In reviewing the broad impact of projected increases in interest rates on households, account must also be taken of such factors as private sector savings levels as any increase in interest rates will obviously have beneficial effects for savers, as well as the broader macroeconomic climate comprising strong employment and incomes growth and continuing robust performance of the economy overall.

As far as the provision of information by mortgage lenders is concerned, mortgage providers are specifically obliged under the Consumer Credit Act 1995, to inform borrowers of the effect on the amount of their repayment instalments of a one percentage point increase in interest rates in the first year of their mortgages. This is intended to ensure that consumers, when making such a significant borrowing decision, are properly informed regarding the impact that changes in the cost of servicing the loan will have on the household budget over time.

A further strengthening of the regulatory framework will be achieved through the introduction of the financial regulator's proposed consumer protection code. This code will place obligations on regulated entities that provide mortgages to act in their customers' best interests by ensuring that they seek appropriate information about a consumer so that they know and understand their customers' needs. Providers must also ensure that mortgages are suitable to each individual consumer's circumstances. These obligations will be additional to the statutory prior information and warnings required under the Consumer Credit Act 1995.

The financial regulator has also developed a number of specific initiatives to help consumers make informed choices in terms of their financial decisions, including those on mortgages. As the Deputy will be aware, mortgage lending practices are closely supervised by the financial regulator, with appropriate stress testing of borrowers' ability to meet their obligations as the interest rate environment changes.

As far as the level of mortgage interest rates is concerned, it is important to make the point that Ireland's euro area membership, along with the high degree of competition in the Irish mortgage market, fostered by new entrants, has produced a low interest rate environment for Ireland relative to its historical experience. A competitive market benefits consumers through increased choice,

lower prices, better service and a wide range of competitively priced products aligned with the personal needs of individual borrowers.

It is a matter for each individual to judge the level of debt that is appropriate to his or her circumstances. While the pattern of mortgage growth and associated debt in the economy is supported by a range of fundamental factors such as growing employment, rising incomes, favourable demographics and low inflation and interest rates, the Central Bank has highlighted the need for borrowers and lenders to take account of the current low level of interest rates and that this situation cannot continue indefinitely. I share the view that borrowers and lenders need to factor into their financial decision-making the prospective impact of potential changes in the future economic and financial environment.

Ms Burton: Is the Minister aware of the considerable stress experienced by young home purchasers and people intending to buy a home? Is he aware that the European Central Bank has indicated it intends to allow interest rates to rise on a quarterly basis by as much as 0.25%, which would mean an increase of 0.5% for each six months in the coming year? Does he agree that the impact of that on most young home owners with mortgages of between €300,000 and €500,000 will mean an extra monthly repayment of between €100 and €150, depending on the term of the mortgage?

Does the Minister appreciate the stress suffered by many people who are borrowed up to the gills with house mortgages, credit card loans and loans for furniture for their new homes? The stress is caused by the fact that they have no safety cushion to enable them to absorb huge increases in mortgage payments. Does he recognise that if the mortgage rate continues to rise the amount of cash that can be made available for mortgages will be reduced by €100,000 for first-time buyers? Many first-time buyers obtain loans of €300,000 but if interest rates keep rising they will be able to borrow less. Does the Minister heed the warning by Mr. Jean-Claude Trichet of the European Central Bank to the Irish Government about rate increases?

Mr. Cowen: Mr. Trichet has been nothing but complimentary about the performance of the Irish economy at every meeting I have attended of either ECOFIN Ministers or euro area Ministers. Future interest rate policy is a matter for the European Central Bank and is not something on which I comment as a matter of policy. The European Central Bank has been excellent in its management of interest rate policy and the stance Mr. Trichet and other governors of the bank have taken has ensured the exchange rate credibility of the euro has not been undermined.

Rising rates obviously have an impact on mortgage holders. The Central Bank's recently published financial stability report concluded that a

range of fundamental factors, such as growing employment and incomes, low inflation and interest rates have underpinned the pattern of mortgage growth and associated debt levels in the economy. Interest rates remain at low levels compared with any period in our recent economic history. For example, an increase of one percentage point in the current level of mortgage interest rates to approximately 5% would still compare favourably with average mortgage interest rates of 8.5% during the 1990s.

The maintenance of low inflation through the setting of an appropriate level of interest rates for the euro area by the European Central Bank benefits all consumers and preserves the real value of incomes and savings. The most recent financial stability study published by the Central Bank also emphasises the importance of responsible behaviour by borrowers and lenders in the form of factoring into their decision-making the prospective impact of potential changes in the future economic environment. In its recently quarterly bulletin the Central Bank warns that credit continues to grow very strongly, with mortgage credit accounting for a large part of this. I share the Central Bank's assessment of the importance of maintaining financial and economic stability.

The stability report to which I referred, which was published last autumn, showed the trend for mortgage repayments for first-time buyers over the past 15 years within a range of approximately 23% to 33% of household disposable income on a national basis. Irish house buyers benefit from a range of supporting factors, including healthy income growth, low income tax rates and relatively low level of interest rates by historical standards. Affordability is also supported by the strength of the economy, record employment levels and relatively high savings rates. The expected shift in the interest rate environment will impact on affordability which, together with the large increase in new housing supply, should support equilibrium in the market. It is important we present the results in that context.

Banks are required to stress-test at a rate above existing rates. It is also in the interests of financial institutions to have good loan books as that determines profitability in the longer term. The growth in credit is a matter for the Central Bank, particularly through its participation in the European Central Bank where interest rates are set. From the point of view of the borrower and the investor, the function of Government is to provide an appropriate legislative framework of regulation of the financial services sector that is comprehensive and robust. I am satisfied that, with the progress made in recent years, especially in the establishment of the financial regulator, with a particular focus on the interest of the consumer, we have such a framework in place.

Ms Burton: On what planet is the Minister living? He talks about low inflation rates when

[Ms Burton.]

house prices have risen by an astonishing amount — far in excess of building cost inflation — because there is incredible profiteering in land values and house prices by the construction sector. I remind the Minister of what Mr. Trichet said last week in reply to a query from a colleague of the Minister's, Eoin Ryan MEP, who is also a Member of this House. He said management of housing markets was the business of the EU member states. Does the Minister agree? He also said there was a need to incorporate prudential warnings and messages that combined with decisions taken at EU level into the economic cycles of EU member states.

Does the Minister understand the nervousness people feel? The Taoiseach asked us a couple of months ago to be kind to the banks. The Minister and the Taoiseach are never done talking up the construction industry but do not seem to have any concern for people who are anxious to try to afford a house. Affordability is moving further away from them and the Minister is heaping fuel on the bonfire.

Mr. Cowen: The planet on which I am living is the one that contains the country that has seen real interest rates, taking inflation into account, at historically low levels going back over 60 to 70 years.

Ms Burton: That was a couple of years ago. House prices are now rising at a fabulous rate.

Mr. Cowen: I want to reply to the Deputy's question. The planet on which I live——

Ms Burton: I am talking about now and the future.

An Leas-Cheann Comhairle: The Minister without interruption.

Ms Burton: The Minister is like Oisín, always looking back at Tír na nÓg.

Mr. Cowen: I am not.

Ms Burton: We want to live now and in the future.

Mr. Cowen: The Tír na nÓg in which the Deputy lived before 1997 had an unemployment rate of 10% and working people's average industrial wage was €11,000 lower. The Deputy should not give me lectures on her Tír na nÓg. The future for this country would be best provided by a Government which provides——

Ms Burton: The Minister is like Oisín and Niamh——

Mr. Cowen: The Deputy is making stupid sound bites.

Ms Burton: Will the Minister talk about the future for our young people?

Mr. Cowen: I am talking about the future — the future which has created 0.5 million jobs since we returned to office and the future which is making sure we now have a greater capacity for construction than was the case when the Deputy's party was in office. The Deputy has been doing as much as she can on the ground which has been debilitating against progress in providing more housing despite her claim.

I understand that if there are interest rate increases, it affects affordability. However, many factors impact on people's ability to finance mortgage repayments. They include income levels, the income tax regime and the current interest rate. Irish earnings and employment levels have increased significantly since 1997. There has been a 56% increase in the average industrial wage over that period and employment has risen by more than 0.5 million jobs. Interest rates are much lower than in 1997. I can go back to 1993-95 when the Deputy's party was in Government and the real interest rate was 9% higher than the inflation rate. I can go back to those times. I was a Member of this House.

Ms Burton: That was the legacy of the Government under Albert Reynolds.

Mr. Cowen: The changes to the income tax regime since 1997 — the Deputy's party halted reductions in tax for workers — mean that the average tax rate has been reduced at all income levels. After the last budget I brought in, the average tax rate for a single person on the average industrial wage will be 15% as compared with more than 27% in 1997.

Ms Burton: In those days nurses could afford a house which they now cannot.

Mr. Cowen: A single PAYE payer on the average industrial wage has seen his or her after tax income increase by approximately 44% in real terms since 1997 of which approximately half is due to tax reductions. The last factor influencing repayment ability is the interest rates available to the market. At present mortgage interest rates are approximately 4% down significantly from the rates of 7.1% to 8.85% which prevailed before we came into office. However, the prospect that interest rates are likely to be higher over the medium term with obvious implications for the burden on repayments should be kept firmly in mind by borrowers.

On the issues which affect affordability, we are in a better position now than when the Deputy's party was in office. The policies we have pursued will continue to bring an ability for people to repay on the basis of the policies we are implementing.

Ms Burton: People have 40 year mortgages.

Mr. Cowen: The Deputy keeps interrupting. When the objective facts are put on the table, the Deputy keeps interrupting. One does not win the argument by interrupting.

Ms Burton: The Minister has not dealt with the objective facts. There has been a huge rise in prices.

Mr. Cowen: I listened respectfully to what the Deputy said and the questions she asked. The minute I try to answer them and the Deputy finds she might lose the argument, she starts to shout me down.

Ms Burton: I am not losing the argument. The Minister is not answering the argument.

Mr. Cowen: It is infantile behaviour.

Ms Burton: The Minister is not answering the argument.

Mr. Cowen: I have answered all the arguments the Deputy put.

Ms Burton: The Minister did not answer any of them.

Mr. Cowen: I have answered all of them. The Deputy did not like the answers. That is the problem.

Other Questions.

Industrial Disputes.

29. **Mr. McCormack** asked the Minister for Finance if the issue of confining promotions to only persons willing to decentralise has been modified as a result of recent Labour Court hearings; and if he will make a statement on the matter. [24912/06]

106. **Ms Burton** asked the Minister for Finance the implications for the Governments general programme of decentralisation, particularly in relation to State bodies in view of the recent agreement reached between FÁS and its employees at the Labour Court; and if he will make a statement on the matter. [24946/06]

Mr. Cowen: I propose to take Questions Nos. 29 and 106 together.

In the dispute at FÁS a Labour Relations Commission proposal has been accepted by both sides. The proposal provides for the parties to enter a process of discussion, facilitated by the LRC, on the arrangements to apply in respect of promotion in light of the relocation of FÁS head office to Birr. The process should conclude not

later than two months from the date of the first meeting and any unresolved issues at that stage should be referred to the Labour Court.

Across the public service, recruitment and promotion practices generally are being managed in a way that facilitates the achievement of the decentralisation programme in an efficient manner. Agreement has been reached with the Civil Service unions representing general service staff that all interdepartmental promotions will be made on the basis of the appointee agreeing to move to a post in a decentralising unit, Department or office. In addition, any appointments from open competitions are being made on the same basis. Where an organisation is moving in full, all internal promotions will include a decentralisation condition in the 52 week period prior to the move. Where an organisation is moving in part, 50% of all internal promotions will include a decentralisation condition in the 52 week period prior to the move taking place. These arrangements allow for a proportion of all promotions arising in Civil Service general service posts in the normal course to have a decentralisation condition as was the case on previous occasions. Discussions are ongoing with the unions representing professional and technical staff in the Civil Service on this issue.

In the State agency sector, promotions must take account of the reality of decentralisation. The position in relation to the State agencies is more complex and the dispute at FÁS highlights some of those complexities. The Government has always said that this is a voluntary programme. Any staff member wishing to remain in Dublin will be accommodated with a public service job in Dublin. However, there is a need to balance the business needs of the organisation in furthering its relocation objective with the needs of staff remaining in Dublin. In these circumstances promotions policy must take account of the reality of decentralisation. It is my strong view that these issues can only be resolved through dialogue and negotiations.

Mr. Bruton: I welcome the Minister's reply. In the context of voluntary negotiations, what is the Minister putting on the table for people in State agencies who opt to stay in Dublin? I understand that the Department of Finance, as the public service employer, has not offered any options to people who voluntarily want to remain in Dublin and whose contract is with the State agencies. These people have not been offered an alternative posting from the Minister's Department. Is it not extremely difficult for negotiations to occur when the key player, the public service employer, namely, the Minister, is not putting anything on the table?

Did the FÁS case not show that when the board of the company sought to push ahead by using promotions as lever, the unions rightly said it was not in the spirit of the programme and that it would have to be withdrawn? What is the

[Mr. Bruton.]

strategy of Government moving forward for these State agencies because it is very important we retain the skills? If these agencies are to decentralise, they cannot do so on the basis of losing 80% to 90% of the key skills. It is good the Minister is talking about negotiations but we need to see the colour of his eyes in terms of what he will offer to those volunteer to remain in Dublin as many of these skilled people do.

Mr. Cowen: As I said to the Deputy the last time we discussed this, there was a stand-off in which no discussions were taking place. These issues are now going through the industrial relations process and FÁS is the first organisation to do this. I want to leave it to the industrial relations process. It is not the norm for Government to discuss negotiations just beginning to identify areas in which we can move forward and to see if we can come up with a solution that will meet the requirements of the organisation in a way that does not undermine the basic requirements of having an effective decentralisation programme.

Mr. Bruton: Does the Minister not have to spell out what “voluntary” means? He has said repeatedly decentralisation is voluntary. He needs to tell people in FÁS, Enterprise Ireland, the National Standards Authority of Ireland etc., what it means in terms of their options. They can then negotiate on the options on the table. I do not foresee the Minister putting——

Mr. Cowen: The Deputy asks me to get into a high level of detail. The problem is that we have a stand-off whereby we have not been able to get down to the business of ascertaining the number of staff who want to move as distinct from those who have been told to stand back from the situation until they see where the industrial relations process is bringing them. We are moving to a situation beyond having people picket on the streets and into an industrial relations process which will allow the parties to discuss how we will proceed with this matter and what principles should apply. To be fair to both sides, they have found a formula that enables them to get into that sort of discussion. It would not help for me to raise issues on which I may have certain opinions before the IR process is allowed to proceed, as that would undermine the purpose of the discussions. Let us not have the IR——

Mr. Bruton: It is not realistic for the Minister to regard himself as an outside interest. He is core to this process. It is his policy. He needs to create the framework.

Mr. Cowen: The Deputy is aware of how this process works. As a former Minister for Enterprise and Employment, when a dispute or issue arose, he took the proper advice to stay out

of the individual situation and let the parties sit down——

Mr. Bruton: That is not the case in this instance. With respect, this is not a standard industrial dispute.

Mr. Cowen: With respect, we are trying to proceed with an implementation of a programme which has these complexities attaching to it. There was a stand-off but an IR process is proceeding. The parties should be allowed to discuss those issues in the next two months. If the issues are unresolved, let them go to the Labour Court. We should await the recommendations that come from that process so we can chart a way forward. If the Deputy was on this side of the House, he would say exactly what I am saying to him in respect of any dispute or issue that required an IR input.

Mr. Bruton: No, I would present the business case, the approach we need to take, the things we have to achieve and say why this is a good move and how to mitigate certain problems that arise. One sets out a strategic case and then the unions negotiate, knowing what is the strategic framework. However, while the Minister has talked about the process, he has no strategic framework within which the parties could have realistic negotiations.

Ms Burton: With regard to another decentralisation issue, a statement made by the Minister of State, Deputy Conor Lenihan, when he was on safari in Africa, was quoted in *The Irish Times*. The report stated there was “legal doubt surrounding the status of contracted specialists”. The Minister of State added: “We are waiting in the train station at Heuston en route for Limerick because until that legal action — which may end up in the European Court — is resolved, it will make it very difficult for us to effect that change”. In ordinary English, that means the Minister of State responsible for overseas development was saying that because of legal and IR issues, decentralisation in the overseas development aid section of the Department of Foreign Affairs will be on the tracks at Heuston Station until the matter goes to the European Court. In the context of the Minister’s response to Deputy Bruton with regard to IR discussions, will the Minister explain how many other references to the European Court are in train, to quote the Minister of State, Deputy Conor Lenihan?

Mr. Boyle: With regard to other State agencies experiencing labour relations difficulties in regard to the decentralisation programme, such as BIM and the Combat Poverty Agency, what impact are the Labour Court hearings having on those cases? Does the Minister accept that FÁS in particular was the worst agency to involve in this kind of situation, given that it was already a largely

decentralised organisation and all the Government was doing was relocating its centralised component from Dublin to a new location?

Caoimhghín Ó Caoláin: Does the Minister believe that because of the Labour Court hearings, there is now established a clear distinction between the employees of agencies as against those who are civil servants employed within the Departments which were signalled for relocation? Does that not warrant a different approach across the board in regard to the agencies?

Mr. Cowen: The decentralisation implementation group has identified early movers and bodies that can proceed with some degree of speed and in which one can see how the matter can be progressed in the context of property solutions and the staff being trained and transferred to other Departments. It is not a question of everything stopping until everything goes. Some bodies are less problematic and can proceed.

The decentralisation implementation group states candidly that we need a ground-breaking initiative with the State agencies to effect a decentralisation programme that will deliver the objectives and ambitions of the programme. We need staff who have not had a tradition of inter-agency transfer to come to that idea positively in terms of discussion and dialogue, so we can resolve any problems that arise.

In the absence of dialogue, there will not be a resolution because there has never been a tradition of interoperability of staff in the State agencies as there has been in the Civil Service. That tradition has been adopted and promoted by Civil Service unions on the basis that there is a significant demand from staff to move to these locations. The question is how one achieves the skillsets and the fit to meet the requirements of the situation, and what training and relocation issues are identified.

We always realised that this was not a simple matrix in which people asked why they were not getting from A to Z more quickly. Therefore, we need to use our IR process in the way it was used when the first decentralisation programme was initiated and there was resistance from certain parts of the service. At that time, we worked out solutions to some of the difficulties. Situations may arise where it will be more difficult to find solutions than in other situations but we will use the IR process to proceed because that is how every IR issue will be resolved, given the level of change that is envisaged.

With regard to the position of the ODA section, I am not aware of the detail of court cases or related issues. However, the Department of Foreign Affairs, its Secretary General and the staff who manage the ODA section are working to find how they can relocate to Limerick as quickly as possible. There may be staff who want to delay that process and will use whatever mechanism they can to do so.

Ms Burton: I referred to a direct quote from the Minister of State.

Mr. Cowen: Other Deputies have been able to listen to my response without interrupting. It is very irritating. I do not know why the Deputy keeps interrupting me.

A parallel agreement in respect of professional and technical grades similar to the general grades is being discussed. As I stated with regard to the State agency sector, promotions must take account of the reality of decentralisation. We must find a way by which that can find expression with each of the issues we are discussing. We have not yet achieved a resolution of these problems because we need the IR process to facilitate such a resolution. I am simply noting that those areas which have been identified by the decentralisation implementation group as being capable of being moved quickly are being moved. We hope that up to 20% of the general staff can be relocated by early 2008. In the meantime, we need to work the IR process to deal with some of the issues and problems that are being highlighted.

To deal with Deputy Ó Caoláin's point, there is a differentiation only to the extent that there is a tradition of interdepartmental transfer in the Civil Service which has not yet been replicated in the State agency sector but which will require to be replicated. The decentralisation implementation group is quite candid and upfront in this regard. We need a ground-breaking initiative and we hope that the experience derived from the current IR process at FÁS will encourage staff to understand that problems can be surmounted and issues need not be intractable if we can bring a certain creativity to the process, as happened when previous decentralisation programmes were initiated.

I recall the same line of argument being taken with regard to previous decentralisation programmes which were less ambitious than this programme. This process is very ambitious. It will require time and will not be done in the timescale that was originally suggested because that would have required full co-operation by everybody from the beginning, with none of the problems that now arise. The revised timescale has been set out by the implementation group, which is comprised of people with an expertise in this area, who have succeeded before and who are prepared to work with the union representatives to try to do so again.

It is not a "same size fits all" approach in every respect because of the differing approaches or background that attach to it. We will proceed as quickly as possible. I hope the IR process can help us overcome problems, as was the case with previous programmes.

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 Connolly — to discuss the Irish-Vietnamese adoption process; (2) Deputy Joe Higgins — the provision of classrooms for almost 100 children from the Laytown-Bettystown area; (3) Deputy Healy — that the Minister introduce a ministerial order to amend section 35 of the Credit Union Act 1997; (4) Deputy Cooper-Flynn — the Minister's plans to bring about equality in subvention rates across the country; (5) Deputy Cuffe — the conflict between the inspector's report on the Monkstown ring road in Dún Laoghaire and An Bord Pleanála's decision to approve the scheme; (6) Deputy Cowley — that the Minister explain the reason Ballina Urban District Council has encroached upon a special area of conservation for a car park; (7) Deputy Harkin — that the Minister respond to the findings of the report entitled, Sexual Assault Treatment Services — A National Review; (8) Deputy Perry — that the Minister ensure the re-engagements of the community employment scheme in the Irish Wheelchair Association in Sligo; and (9) Deputy Catherine Murphy — the impact the Local Government Act is having specifically in the context of the abolition of the dual mandate for Members of the Oireachtas and their access to local government staff, facilities and documents and the need to review regulations and legislation to overcome unforeseen issues in this regard in Members' everyday dealings and where disputes arise.

The matters raised by the Deputies Connolly, Cooper-Flynn, Healy and Joe Higgins have been selected for discussion.

Criminal Justice Bill 2004: Report Stage (Resumed).

Debate resumed on amendment No. 62:

In page 30, between lines 2 and 3, to insert the following:

21.—In the case of an accused person tried on indictment for an offence carrying a maximum or mandatory sentence of life imprisonment, who has been acquitted, where at any time following such acquittal the Director of Public Prosecutions comes into possession of significant new evidence which demonstrates that a miscarriage of justice has occurred, he or she may apply to the Court of Criminal Appeal for an order setting aside the acquittal and directing a retrial.”.

An Leas-Cheann Comhairle: As the Deputy is not present, the amendment falls.

Amendment, by leave, withdrawn.

Ms Burton: I move amendment No. 63:

In page 30, between lines 2 and 3, to insert the following:

21.—(1) In the case of an accused person tried on indictment for an offence, who has been acquitted, where at any time following such acquittal the Director of Public Prosecutions comes into possession of evidence which demonstrates that interference with the jury has occurred, he or she may apply to the Court of Criminal Appeal for an order setting aside the acquittal and directing a retrial.

(2) A retrial under this section shall be conducted by a special criminal court unless the Director of Public Prosecutions certifies that the ordinary courts are satisfactory for such retrial.”.

Minister for Justice, Equality and Law Reform (Mr. McDowell): The House discussed the amendment in the context of amendment No. 62 when I indicated I would send amendments Nos. 62 and 63 to the Law Reform Commission for examination.

Amendment, by leave, withdrawn.

Amendments Nos. 64 to 72, inclusive, not moved.

Mr. G. Murphy: I move amendment No. 73:

In page 33, lines 49 to 51, to delete all words from and including “, or” in line 49 down to and including “determine,” in line 51.

This is a simple amendment. Deputy Jim O’Keeffe proposes that a precise time of 28 days, as stated in the Bill, should be provided for without room for interpretation.

Mr. McDowell: This amendment is a proposal that an appeal under the section must be made within 28 days. The effect of the amendment would be to eliminate the words “or such longer period not exceeding 56 days as the trial court may, on application to it in that behalf, determine, from the day on which the order is made”. This provision is to allow for flexibility in certain cases. The primary period would, however, be 28 days and a reason would have to be shown for an extension to that period.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: Amendments Nos. 74, 160 and 161 are related and may be discussed together.

Mr. McDowell: I move amendment No. 74:

In page 34, to delete lines 5 to 44 and in page 35, to delete lines 1 to 4 and substitute the following:

“(a) by the substitution of the following subsection for subsection (1):

“(1) In this Act—

“ammunition” (except where used in relation to a prohibited weapon) means ammunition for a firearm and includes—

(a) grenades, bombs and other similar missiles, whether or not capable of being used with a firearm,

(b) any ingredient or component part of any such ammunition or missile, and

(c) restricted ammunition, unless the context otherwise requires;

“Commissioner” means the Commissioner of the Garda Síochána or a member of the Garda Síochána, or members of a particular rank in the Garda Síochána, not below the rank of superintendent appointed in writing by the Commissioner for the purpose of performing any of the Commissioner’s functions under this Act;

“firearm” means—

(a) a lethal firearm or other lethal weapon of any description from which any shot, bullet or other missile can be discharged,

(b) an air gun (including an air rifle and air pistol) with a muzzle energy greater than one joule or any other weapon incorporating a barrel from which any projectile can be discharged with such a muzzle energy,

(c) a crossbow,

(d) any type of stun gun or other weapon for causing any shock or other disablement to a person by means of electricity or any other kind of energy emission,

(e) a prohibited weapon,

(f) any article which would be a firearm under any of the foregoing paragraphs but for the fact that, owing to the lack of a necessary component part or parts, or to any other defect or condition, it is incapable of discharging a shot, bullet or other missile or projectile or of causing a shock or other disablement, as the case may be,

(g) except where the context otherwise requires, any component part of any article referred to in any of the foregoing paragraphs and, without prejudice to the generality of the foregoing, the following articles shall be deemed to be such component parts:

(i) telescope sights with a light beam, or telescope sights with an elec-

tronic light amplification device or an infra-red device, designed to be fitted to a firearm specified in paragraph (a), (b), (c) or (e),

(ii) a silencer designed to be fitted to a firearm specified in paragraph (a), (b) or (e), and

(iii) any object—

(I) manufactured for use as a component in connection with the operation of a firearm, and

(II) without which it could not function as originally designed,

and

(h) a device capable of discharging blank ammunition and to be used as a starting gun or blank firing gun,

and includes a restricted firearm, unless otherwise provided or the context otherwise requires;

“firearm certificate” means a firearm certificate granted under this Act and, unless the context otherwise requires, includes a restricted firearm certificate, a firearms training certificate and a firearm certificate granted under the Firearms (Firearm Certificates for Non-Residents) Act 2000;

“firearm dealer” means a person who, by way of trade or business, manufactures, sells, lets on hire, repairs, tests, proves, purchases, or otherwise deals in firearms or ammunition;

“firearms training certificate” has the meaning given to it by section 2A of this Act;

“issuing person”, in relation to the grant or renewal of a firearm certificate, authorisation or licence, means, as the case may be, the Minister, the Commissioner or the superintendent of the Garda Síochána of the district where an applicant for or holder of the firearm certificate, authorisation or licence is residing;

“Minister” means the Minister for Justice, Equality and Law Reform;

“muzzle energy”, in relation to a firearm, means the energy of a projectile discharged by it, measured at its muzzle in joules;

“prohibited weapon” means and includes any weapon of whatever description designed for the discharge of any noxious liquid, noxious gas or other noxious thing, and also any ammunition (whether for any such weapon or any other weapon) which contains or is designed or adapted to contain any noxious liquid, noxious gas or other noxious thing;

[Mr. McDowell.]

“place” includes a dwelling;

“prescribed” means prescribed by regulations made under this Act;

“registered firearms dealer” means a firearms dealer who is for the time being registered in the register of firearms dealers established in pursuance of this Act;

“restricted ammunition” means ammunition which is declared under section 2B(b) of this Act to be restricted ammunition;

“restricted firearm” means a firearm which is declared under section 2B(a) of this Act to be a restricted firearm;

“working mechanism”, in relation to a firearm, includes the mechanism for loading, cocking and discharging it and ejecting spent ammunition.“;”.

We now move on to amendments broadly related to firearms issue. On Committee Stage I agreed that the definitions relating to section 1 of the principal Act should be consolidated as much as possible to provide ease of reference. Amendment No. 74 provides for this. As part of the consolidation, I have incorporated the definition of a firearm, as provided for in section 4 of the 1990 Act, into section 1 of the principal Act. Accordingly, my proposed amendments to section 1 of the principal Act and section 4 of the 1990 Act on Committee Stage have also been incorporated into a consolidated section 1 of the 1925 Act.

Amendment agreed to.

Mr. McDowell: I move amendment No. 75:

In page 35, line 36, to delete “club or shooting range” and substitute “club, shooting range or any other place”.

The purpose of the amendment is delete the term “club or shooting range” and substitute the words “club, shooting range or any other place”. It is a technical amendment to provide that a superintendent may authorise, if he is satisfied to do so on public safety and security grounds, a person to possess, to carry and use a firearm in a place other than a shooting range without having the necessity of having a firearms certificate for the firearm in question.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 76 to 85, inclusive, and 87 are related while amendment No. 86 is an alternative to amendment No. 85. The amendments may be discussed together.

Mr. G. Murphy: I move amendment No. 76:

In page 36, line 22, to delete “over 14 years of age” and substitute “, aged not less than 16 years,”.

Most of the amendments in this group relate to the ages at which people would be allowed to hold various certificates or perform various acts. Deputy Jim O’Keeffe believes the age limits provided for in the Bill are too low and should be raised to those proposed in the amendments. As the Bill stands, the provisions on supervision could result in an 18 year old supervising a 14 year old with a gun or a 21 year old supervising a 16 year old with a gun.

Mr. McDowell: Deputy O’Keeffe has tabled four amendments to the section. With regard to increasing from 14 to 16 years the age at which a training certificate could be granted, I came under sustained pressure from the shooting sport lobby, particularly those involved in competitive shooting, to provide that it should be lawful for young shooting enthusiasts to be able to use but not own a firearm at the age of 14 years. Competitions are held internationally for people of that age and it would be strange if Irish competitors could not practise in this jurisdiction and would have to travel abroad to practise for such competitions.

I stress the certificate will not allow the person to own a firearm. Under the law, as it stands, a person of 16 years is legally entitled to hold a full firearms certificate and own a firearm. Providing that a person may only be issued with a firearms training certification having attained 16 years of age would defeat the purpose of the training certificate, which is to train persons in the use of a firearm before they are legally entitled to hold one.

In so far as the Deputy’s proposal to raise the age limit at which a person can engage in the instruction of a firearm from 18 to 21 years is concerned, many shooting clubs are attached to colleges where the membership age can be 18 years or under.

My proposal to allow persons of 18 years to act as instructors will facilitate such clubs. For example, the Trinity College rifle club has members of that age. As I have said, the purpose of the training certificate is to facilitate the training of persons in the safe use of firearms by members of established clubs and under controlled circumstances. It does not permit those people to own a gun. The age at which persons may be trained in the safe use of firearms that I am proposing strikes the correct balance and ensures that a young person may be properly and safely trained before he or she is legally entitled to own a firearm. I oppose the amendment on these grounds.

Deputy Jim O’Keeffe’s amendment No. 86 provides that the period of validity of the firearm training certificate be reduced from three to two years. All the licences and authorisations that can be granted under the Firearms Act are required

to be renewed annually. This creates a significant administrative burden on the Garda Síochána. To reduce the administrative burden I propose that the period of validity of licences and authorisations be generally increased to three years. I am satisfied that the firearms training certificate should be similarly valid for three years.

Deputy Ó Snodaigh proposes six amendments to the section. The effect of his amendments Nos. 77 and 78 would be to allow the issue of a firearms training licence only in respect of pistols and rifles used for target shooting. It would prohibit the issue of a training certificate for shotguns and hunting rifles. The purpose of the training certificate is to allow young persons to be trained under strict supervision in the safe use of firearms before they are legally entitled to own and use a firearm. To restrict such training to rifles and pistols used for target practice defeats the purpose of the training certificate and I oppose those amendments.

Deputy Ó Snodaigh's amendments Nos. 81 and 87 are related. Their effect is to empower the Garda Commissioner to grant a licence to the organisers of international shooting events held in Ireland and to issue a firearms certificate to non-residents over 18 years of age who wish to participate in such events and a firearms training certificate to non-residents over the age of 14 who wish to compete in such events. Under section 2 of the Firearms Act 1925 a Garda superintendent has the power to authorise shooting events of the type suggested by the Deputy. In addition, under the Firearms (Firearm Certificates for Non-Residents) Act 2000, as it stands, a person of 16 years who is not ordinarily resident in the State may apply for a non-resident firearm certificate to the superintendent in the district in which he or she proposes to shoot. The application must be made within six weeks before arriving in the State and must be accompanied by a relevant fee, a European firearms pass or another duly issued licence or permit for persons travelling from outside the European Union. Regarding the issue of a firearms training certificate to non-residents over the age of 14 to allow them to participate in international shooting competitions staged in this country, the purpose of the training certificate is solely for training persons in the safe use of firearms and not for enabling persons under the age of 16 to participate in shooting competitions.

The Deputy's proposal to permit the Commissioner to grant licences for shooting competitions and issue firearms certificates to non-residents over the age of 16 are unnecessary as Garda superintendents already have that power. His proposal to allow non-residents over the age of 14 to obtain a firearm certificate and to participate in competitions in this country runs contrary to the purpose for which the certificates were being introduced.

Deputy Ó Snodaigh's amendment No. 83 provides that where a person under the age of 16 applies for a firearms training certificate he or she

should be accompanied by a parent or guardian to the local Garda station when making the application. Section 30 of the Bill governs the manner and form of applications for all certificates under the Firearms Act and section 32 governs the conditions under which they can be issued. Under these sections the gardaí can require, if deemed necessary, the person to be accompanied by a parent or guardian and require the parent or guardian to provide proof of identity and his or her relationship to the applicant, and other information which they consider necessary for processing the application. Amendment No. 83 is, therefore, unnecessary.

Deputy Ó Snodaigh's amendment No. 85 is similar to Deputy Jim O'Keeffe's amendment No. 86, except that it provides that the period of validity of a firearm training certificate be reduced from three years to one year. As I said, I am extending the validity of licences generally to three years and I am satisfied that the firearms training certificate should similarly be valid for three years. The Government amendment No. 84 is a drafting amendment.

Aengus Ó Snodaigh: I thought I had proposed reasonable amendments. Perhaps the Minister is correct in that amendment No. 77 specifies "pistol shooting range" where it should specify "authorised shooting range". That amendment was to restrict a young person who has this firearms training certificate to giving training only in a very controlled environment, such as a rifle, pistol or authorised shooting range. Amendment No. 78 was to delete "for hunting" because although the Minister said the certificates are for training in the best and safest use of the firearm, this authorises carrying the firearm for hunting. If the Minister opposes the other amendments at least amendment No. 78 is reasonable.

On amendment No. 77, if one specifies an authorised shooting range, one can authorise a shooting range for shotguns to be available if that is the training required. This applies particularly in rural Ireland where shotgun training is required for the sons or daughters of farmers who have shotguns to protect their flock. When the Minister explained the granting of firearms training certificates he spoke of a person in his constituency who required such a licence because he was an expert in shooting and had the potential to compete at international level, perhaps at the Olympics, but could not participate in the sport in this country. Yet we are producing a training certificate that allows him to train here but not to participate in any competitions because the Minister thinks international competitions should not happen in this country. If it is good enough to happen elsewhere we should make a provision for such international competitions. This is to allow for people who are travelling to Ireland to take part in such competitions to have their certificates from abroad recognised if the Commissioner is happy.

[Aengus Ó Snodaigh.]

Amendment No. 83 is reasonable considering what we are asking. It is reasonable that both the guardian and the person in question present themselves at a Garda station when making the application. It would help the garda in charge to form a view which he or she could forward to the Commissioner who deals with the applications as to whether he or she believes this is a legitimate application or a suitable person to whom to grant a certificate.

Amendment No. 85 requires that the duration of the certificate be reduced from three years to one because of the seriousness of it and amendment No. 87 is consequential on amendment No. 81.

Mr. G. Murphy: While I accept the Minister's statement on shooting competitions and shooting ranges, can he assure me that in these circumstances an 18 year old cannot roam around the country with a 14 year old who has a certificate? Does the Minister think allowing an 18 year old and a 14 year old to walk around the countryside with guns provides adequate protection to the public?

Mr. McDowell: The intention is that a person over the age of 18 and upwards with a firearms certificate will be entitled to supervise a person who has a firearms training certificate.

Mr. G. Murphy: The Minister confirms that an 18 year old and a 14 year old can wander around farmlands with two loaded guns and that is the only restriction or supervision affecting them.

Mr. McDowell: The 14 year old cannot possess a gun; he can only make use of it.

Mr. Howlin: He can possess it but he cannot own it.

Mr. McDowell: No he cannot own it.

Mr. G. Murphy: He could carry it but not possess it.

Mr. McDowell: He could carry it under supervision.

Mr. Howlin: Yes. That is possession.

Aengus Ó Snodaigh: He could use it on a shooting range.

Mr. McDowell: Only the 18 year old with him can own a gun. We are beginning to live in a fantasy world if we think that does not happen on farms in rural Ireland when people go rabbit shooting or whatever. It does happen.

Aengus Ó Snodaigh: Of course it happens, as do a lot of things.

Mr. McDowell: Not to mention what Na Fianna get up to in the woods.

Aengus Ó Snodaigh: Yes. "If you go down in the woods today[.]"

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

Amendment declared lost.

Aengus Ó Snodaigh: I move amendment No. 77:

In page 36, line 26, after "while" to insert the following:

"at a rifle or pistol club or a pistol shooting range".

Amendment put and declared lost.

Aengus Ó Snodaigh: I move amendment No. 78:

In page 36, lines 27 and 28, to delete "hunting or".

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

Amendment declared lost.

Mr. G. Murphy: I move amendment No. 79:

In page 36, line 30, to delete "over 18 years of age" and substitute ", aged not less than 21 years,".

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

Amendment declared lost.

Mr. McDowell: I move amendment No. 80:

In page 36, line 36, after "range" to insert the following:

"or other place that stands authorised under section 2(5) of this Act".

Amendment agreed to.

Aengus Ó Snodaigh: I move amendment No. 81:

In page 36, between lines 41 and 42, to insert the following:

"(2) The commissioner on application and payment of the prescribed fee (if any), may issue to accredited members of an international sporting body recognised by the Irish Sports Council and who are non-residents and over 14 years of age a Firearms Training Certificate, and in the case of those over 18 years of age a Firearm certificate,

authorising them to take part in duly authorised rifle or pistol competitions in the state.

(3) The Commissioner shall on application and payment of the prescribed fee authorise, upon satisfying him/herself that the regulations as laid out for rifle or pistol competitions in relation to safety, notice, attendance, age, accreditation and participation as published by the Minister for Justice, Equality and Law Reform following approval of both Houses of the Oireachtas, have been complied with grant a licence to the organisers of such an event.

(4) The licence provided under *subsection (3)* shall be revoked by An Garda Síochána in the event that the regulations are not complied with.”.

Amendment put and declared lost.

Amendment No. 82 not moved.

Aengus Ó Snodaigh: I move amendment No. 83:

In page 36, line 45, after “guardian” to insert the following:

“and shall be lodged in person while accompanied with the said guardian at the nearest Garda station to the applicant’s home address”.

Amendment put and declared lost.

Mr. McDowell: I move amendment No. 84:

In page 37, line 2, to delete “Minister” and substitute “Commissioner”.

Amendment agreed to.

Amendments Nos. 85 to 87, inclusive, not moved.

An Ceann Comhairle: Amendments Nos. 88 to 91, inclusive, are related and will be taken together by agreement.

Mr. Howlin: I move amendment No. 88:

In page 37, line 30, after “security,” to insert the following:

“and having consulted such organisations as in the Minister’s opinion are representative of persons engaged in sporting or other lawful use of firearms.”.

I am afraid to separate these amendments because I might lose something in the interim. This amendment relates to section 29 of the Bill which is a new section in the principal Act to allow the Minister make regulations. The first amendment is based on advice. I have received many requests from the shooting fraternity that

the Minister listen to their legitimate concerns. There is an inherent resistance to consult anybody in respect of secondary legislation but that is all that is being requested. It is neither a veto nor a privileged position but only a consultation with these experts.

With all due respect to the Minister and his officials, it is best to deal with the technical world of competition, such as Olympic shooting and so on, by being open to consultation with those directly involved. It will not be an onerous burden. There is no obligation to have regard to the representations, merely to consult. That would address many of the fears of the organisations which feel that these sections focus on the criminal justice system but do not take account of the lawful and peaceful use of firearms by those engaged in sporting activities. There is a happy medium in these matters.

Amendment No. 89 proposes replacing the term “the muzzle energy” with “the muzzle energy of ammunition likely to be used by the firearm.”. It is a technical observation. I am told that the ammunition has the muzzle energy, not the firearm. That would be a more correct way to put it.

Amendment No. 90 proposes a new subsection to the effect that “In making an order under subsection (1) the Minister shall have regard to the desirability of facilitating persons engaged in sporting or other lawful use of firearms.” This is straightforward, and requests only that the Minister “have regard to”, saying positively that it is desirable to facilitate. The requirement to do this can be reduced to two levels but the amendment states that it is desirable to facilitate persons engaged in sporting or other lawful use of firearms. That would not damage the Minister’s intention in this legislation.

No doubt the Minister will be advised to hold on to all power, make no statutory requirement to consult anybody, and not weaken his power to legislate directly. All legislation comes from these Houses and I am conscious of the large volume of law made by secondary legislation, or statutory instrument. There is a growing practice of putting enabling legislation through these Houses so that a substantial amount of legislation which has a serious impact on people’s rights and liberties goes through secondary legislation without proper scrutiny. In so far as possible, we should be open to facilitating the needs of law-abiding citizens and that is the intention of this group of amendments, especially amendment No. 90.

Amendment No. 91 proposes to provide for the right of appeal against an unjust ban. The Minister may point out that if people do not like secondary legislation, it is legislation and they can trot off to the court, but one cannot trot off to the court to strike down a law unless it is unconstitutional. The import of amendment No. 91 is to provide for an appeals mechanism in cases of bans which are imposed in an unjust fashion. The appeal will be made in the first instance to the

[Mr. Howlin.]

Minister, who will have to listen to the case. If he is satisfied that no injustice took place he can simply make a determination to that effect. It is fair and reasonable that such an appeals mechanism should be put in place.

As I have said, there is a great deal of concern about this aspect of the Bill. Many of these issues have not been well-disseminated within the shooting fraternity. Will the Minister clarify section 29 which gives him the power to make regulations? I have been asked to ask the Minister specifically to confirm that it is not his intention to designate Olympic target shooting pistols as firearms which will be restricted or banned. I would like some clarification in that regard. I hope the Minister does not intend to restrict or prohibit the ownership of Olympic target shooting pistols which, by their nature, cannot be seen as offensive weapons.

I have also been asked to raise some of the anomalies in this legislation, but it is quite difficult to do so during a Report Stage debate. Section 30 of this Bill, which will amend section 3 of the Firearms Act 1925, outlines how a firearms certificate should be granted. These new provisions are good, by and large, although I have a query about section 30(2), which states that an "application for a restricted firearm certificate shall be made to the Commissioner." I wonder why such applications will not be made at local level, given that the general trend is for licences to be granted locally by local Garda officers who know the individuals concerned. I know it is a moot point. The Minister might say that although the applications are centralised, the recommendations on decisions will be localised.

I have spoken about the four amendments in my name. By and large, they seek to address and allay the concerns expressed to me by members of the shooting fraternity, who use firearms in a lawful and proper manner, obviously. They are concerned that they should not be restricted in enjoying their proper entitlement to use firearms for sporting purposes etc. I hope the specific concerns outlined in these four amendments will be addressed by the Minister.

Mr. McDowell: The Deputy has proposed four amendments to section 29 which proposes the insertion of a new section 2B in the Firearms Act 1925. The new section 2B provides that the Minister, in the interests of public safety and security, can make an order deeming certain firearms "to be restricted" by reference to specific criteria. Amendments Nos. 88, 90 and 91, in the name of Deputy Howlin, are related. Amendment No. 88 proposes that when the Minister is deciding, in the interests of public safety and security, whether to make an order deeming firearms to be restricted, he should be statutorily required to consult the shooting organisations. In other words, he is suggesting that I should have to consult the gun lobby before I make an order.

Mr. Howlin: Yes.

Mr. McDowell: I am not prepared to put such a requirement in statute form. I keep the door open to the gun lobby, generally speaking, when it wants to make representations to me. The Deputy proposes in amendment No. 90 that when I am making an order restricting certain types of guns, I should be statutorily required to "have regard to the desirability of facilitating persons" who are engaged in shooting. It is natural that any Minister would take account of such issues. Public safety comes first, however. I am not keen on having a judicial review.

Mr. Howlin: The Minister will not be restricted in any way.

Mr. McDowell: No.

Mr. Howlin: The amendment simply states that he "shall have regard to".

Mr. McDowell: Amendment No. 91 proposes that a grievance mechanism should be put in place for people who are aggrieved by a ministerial order restricting certain firearms on safety and security grounds. This amendment would mean, in effect, that the High Court would have the capacity to reverse the order on the grounds of reasonableness or policy. I do not propose to hand over that function to the Judiciary, which has enough to do.

Mr. Howlin: The Minister might be a member of the Judiciary in the future.

Mr. McDowell: I might be. If I were sitting on the bench, I do not think I would aspire to get involved in this matter.

Mr. Howlin: What about the first part of my proposal? There should at least be a mechanism whereby one can appeal to the Minister.

Mr. McDowell: Every order made can be reviewed immediately. None of these orders is set in stone.

Mr. Howlin: By whom can the orders be reviewed?

Mr. McDowell: If it was made clear to me that I had simply got it wrong, or that I had been overly broad in restricting a category of weapons, I could bring an amending regulation into effect the very next day.

Ms Lynch: The Minister would have to accept that he got it wrong in the first place.

Mr. McDowell: I would have to accept that.

Ms Lynch: That will not happen.

Mr. McDowell: Members tend to face an uphill battle with me in that regard.

Mr. Howlin: We have noticed.

Mr. McDowell: My successors will probably be much more error-prone than I am. There is no problem with the corrective mechanism. If the Minister of the day is convinced that he or she has got something wrong, he or she can reverse that decision and put it right. I respect and have no problem with the shooting, firearms and hunting lobby, which consists of people who engage in competitive shooting and people who engage in hunting. As long as they keep their guns safely, use their guns for the purposes for which we expect them to use them and are careful in the use of their guns, I encourage them to—

Mr. Howlin: Is the Minister's preference for such people to use their guns against burglars and intruders?

Mr. McDowell: We live in a world in which the Minister must have the right to restrict certain firearms.

Deputy Howlin asked why applications will have to be made centrally to the Garda Commissioner. I have included that provision because I want consistent results across the country. I do not want it to be the case that AK-47s, for example, are on issue in County Tipperary, while another superintendent is taking a different view of the matter in County Louth. There must be a single policy on this issue throughout the country. These matters are of such importance that the policy underlying this section of the Bill is to centralise this issue in a single set of hands so that a consistent policy is applied.

Deputies referred to muzzle velocity. I am sure Deputy Howlin appreciates that the velocity of any projectile leaving a weapon depends on the strength of the cartridge.

Mr. Howlin: I assure the Minister that it is highly unlikely that I appreciate that at all.

Mr. McDowell: It depends on the strength of the cartridge. Some people put more powder into their cartridges to adjust the velocity at which projectiles leave their guns. Even though the strength of the ammunition is, in general terms, one of the factors to be taken into account when determining whether a weapon has a certain muzzle velocity, it is possible to describe a weapon like an automatic rifle as a high-velocity weapon not simply by reference to the ammunition that is used in it but because of its general characteristics. Although I appreciate the point made by lobbyists to Deputy Howlin that in theory it all depends on the strength of the explosive used in the ammunition, that is not the full picture. The nature of the weapon is also a

contributory factor. A short barrel of a certain kind will always be a low velocity weapon.

Mr. Howlin: FCA training was not lost on the Minister.

Mr. McDowell: It was not. The difference between a high velocity and low velocity weapon is, in conventional terms, not just defined by reference to the strength of the ammunition used. It is also by reference to other characteristics of the weapon. A Kalashnikov rifle would be described as a high velocity weapon, no matter what bullets were used in it.

Mr. Howlin: I am disappointed with the Minister's response. He has said he has no difficulty with my proposals but he does not want to put them into law. Apart from the technical amendment, I do not see why it cannot be in the law if it gives an assurance to people. A requirement to a consultation process is not a great burden.

I know Departments do not like legal requirements to consult with other parties. If they had their way, they would not even consult the Oireachtas. Bills would simply be sent to the House for rubber-stamping. The Department of Justice, Equality and Law Reform is particularly prone to that foible. I will not put on record my direct experience of an official's comment on the Opposition and its right to deal with legislation. It was, however, an interesting lesson on the attitude of the Executive and the permanent Civil Service to the Oireachtas. It is incumbent on the Oireachtas where possible to pull back to the broad parameters of its constitutional right to legislate. This is a right the Executive often believes is its rather than that of the Oireachtas.

Amendment No. 88 proposes no more than a consultation process. The consultations, after hearing the case, can be entirely ignored. It does no injury to anyone and would be a positive statement from the Minister. On amendment No. 89, I know little of muzzle energy. I am simply presenting a case made to me and I accept the Minister's rebuttal, if that is what he has been advised.

Mr. McDowell: The problem with the Labour Party is that it has not had an armed wing for a long time.

Mr. Howlin: That is exactly it.

Mr. McDowell: Notwithstanding the arrival of Democratic Left.

Mr. J. O'Keefe: One must not forget the Labour Party is the oldest political party in the State.

Mr. Howlin: However, it was founded by a revolutionary, James Connolly, who had an armed tradition. The Progressive Democrats Party has

[Mr. Howlin.]

no armed tradition of which we know. It tends to keep its pugilism internalised.

Ms Lynch: Temptation.

Mr. J. O’Keeffe: Until it spills over.

Mr. Howlin: Occasionally, it spills out.

On amendment No. 90, it will not damage the Minister to acknowledge in the law that he should have regard to the desirability of facilitating persons engaged in sporting or other lawful use of firearms. He has agreed with this publicly and, for once, he should kick the traces of his advisers.

I accept the Minister’s point on amendment No. 91 that he does not want himself or his successors to be second-guessed by the High Court. Will he, however, accept the first tranche of the amendment which would formally allow people who feel aggrieved to appeal directly to the Minister? The proposed subsection (2) simply refers to a rejection or acceptance of the case made. Subsection (3), which I will not press, simply allows people to write to the Minister to state a case.

Mr. McDowell: A democratic right exists to communicate with any officer of the State.

Mr. Howlin: One can just state that.

Mr. McDowell: An individual can write to an officer of the State, claiming an unreasonable order has been made. Most Ministers would consider such letters——

Mr. Howlin: Most Ministers would never see them.

Mr. McDowell: ——unless it was manifestly unreasonable. If one feels one’s post to a Minister is being diverted, there are other ways to contact directly him or her. Ministers are extremely accessible and I do not know of any Minister who is beyond communication.

I have only experience of the Department of Justice, Equality and Law Reform on a personal level since I became Minister. During my tenure,

no other Department has been more open and consultative in its legislative approach. No other Department has published heads of Bills, taken amendments, had lengthy debates and put out draft legislation for consultation. No other Department has sent its papers to the Irish Human Rights Commission.

Mr. J. O’Keeffe: That is because it is required to do so by law.

Mr. McDowell: The Irish Human Rights Commission has publicly acknowledged this. The Law Reform Commission was mentioned in this morning’s debate. At the recent launch of the Land and Conveyancing Law Reform Bill, the president of the commission was asked by a member of the press whether she felt frustrated that the commission’s reports were not acted upon. She said the Law Reform Commission had a higher success rate in getting its proposals into law than many of its counterparts in other jurisdictions.

Mr. Howlin: That is not saying much.

Mr. McDowell: She also said in recent years the situation had substantially improved.

Mr. Howlin: I am no wiser as to why the first part of amendment No. 91 cannot be accepted. I cannot imagine it could be a difficulty for the Minister. If he claims it is already a democratic right, why will he not formulise it? I am taken aback he will not accept the right of appropriate bodies to advance consultations on regulations that could impact upon them.

Mr. McDowell: This reminds me of when F.E. Smith, later the first Earl of Birkenhead, made a lengthy legal submission to a judge. Half an hour into it, the judge said to Smith that he was still none the wiser for it. Smith replied, “Perhaps not the wiser, My Lord, but certainly much better educated”.

Mr. Howlin: I wonder which one of us is the better educated.

Amendment put.

The Dáil divided: Tá, 58; Níl, 67.

Tá

Allen, Bernard.
Boyle, Dan.
Breen, James.
Breen, Pat.
Broughan, Thomas P.
Bruton, Richard.
Connolly, Paudge.
Costello, Joe.
Cowley, Jerry.
Crawford, Seymour.
Deasy, John.
Deenihan, Jimmy.
Durkan, Bernard J.
English, Damien.

Enright, Olwyn.
Ferris, Martin.
Gilmore, Eamon.
Gogarty, Paul.
Gormley, John.
Hayes, Tom.
Healy, Seamus.
Higgins, Joe.
Higgins, Michael D.
Hogan, Phil.
Howlin, Brendan.
Kehoe, Paul.
Kenny, Enda.
Lowry, Michael.

Tá—continued

Lynch, Kathleen.
McCormack, Pádraic.
McEntee, Shane.
McGrath, Finian.
McGrath, Paul.
McHugh, Paddy.
McManus, Liz.
Mitchell, Olivia.
Morgan, Arthur.
Murphy, Catherine.
Naughten, Denis.
Neville, Dan.
Ó Caoláin, Caoimhghín.
Ó Snodaigh, Aengus.
O'Dowd, Fergus.

O'Keeffe, Jim.
O'Sullivan, Jan.
Pattison, Seamus.
Penrose, Willie.
Perry, John.
Quinn, Ruairí.
Ryan, Eamon.
Ryan, Seán.
Sargent, Trevor.
Sherlock, Joe.
Stagg, Emmet.
Stanton, David.
Twomey, Liam.
Upton, Mary.
Wall, Jack.

Níl

Ahern, Noel.
Andrews, Barry.
Ardagh, Seán.
Blaney, Niall.
Brady, Johnny.
Brady, Martin.
Brennan, Seamus.
Callanan, Joe.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Cooper-Flynn, Beverley.
Cullen, Martin.
Curran, John.
de Valera, Síle.
Dempsey, Noel.
Dempsey, Tony.
Dennehy, John.
Devins, Jimmy.
Ellis, John.
Finneran, Michael.
Fleming, Seán.
Fox, Mildred.
Gallagher, Pat The Cope.
Glennon, Jim.
Grealish, Noel.
Haughey, Seán.
Healy-Rae, Jackie.
Hoctor, Máire.
Jacob, Joe.
Kelleher, Billy.
Kelly, Peter.
Killeen, Tony.
Kirk, Seamus.

Kitt, Tom.
Lenihan, Brian.
Lenihan, Conor.
McDowell, Michael.
McEllistrim, Thomas.
McGuinness, John.
Moloney, John.
Moynihan, Donal.
Moynihan, Michael.
Mulcahy, Michael.
Nolan, M.J.
Ó Cuív, Éamon.
Ó Fearghaíl, Seán.
O'Connor, Charlie.
O'Dea, Willie.
O'Donnell, Liz.
O'Donoghue, John.
O'Flynn, Noel.
O'Keeffe, Ned.
O'Malley, Fiona.
O'Malley, Tim.
Parlon, Tom.
Power, Peter.
Roche, Dick.
Sexton, Mae.
Smith, Brendan.
Smith, Michael.
Treacy, Noel.
Wallace, Dan.
Wallace, Mary.
Walsh, Joe.
Wilkinson, Ollie.
Woods, Michael.

Tellers: Tá, Deputies Stagg and Kehoe; Níl, Deputies Kitt and Kelleher.

Amendment declared lost.

Mr. Howlin: I move amendment No. 89:

In page 37, to delete line 38 and substitute the following:

“(iv) the muzzle energy of ammunition likely to be used by the firearm.”.

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

Amendment declared lost.

Mr. Howlin: I move amendment No. 90:

In page 38, between lines 7 and 8, to insert the following:

“(2) In making an order under subsection (1) the Minister shall have regard to the desirability of facilitating persons engaged in sporting or other lawful use of firearms.”.

Amendment put and declared lost.

Mr. Howlin: I move amendment No. 91:

In page 38, between lines 7 and 8, to insert the following:

“(2) A person aggrieved by an order of the Minister under subsection (1) may give notice in a form to be prescribed by the

[Mr. Howlin.]

Minister of his or her grievance and of the grounds for it, and the Minister shall consider such notice and shall make a decision on foot of the notice either to make no amendment to the order under subsection (1) or to may make such amendment to the order under subsection (1) as, in the opinion of the Minister, the circumstances warrant.

(3) A person dissatisfied by a decision of the Minister under subsection (2) may appeal against such decision to the High Court which may give such directions to the Minister as the circumstances warrant.”.

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 92 and 93 are related and may be discussed together.

Mr. J. O’Keeffe: I move amendment No. 92:

In page 39, line 4, after “person” to insert the following:

“, where the permission of that person has been obtained”.

This amendment seeks to improve subsection (6) of section 30. There may be some confusion in that the reference to “land occupied by another person” does not make it explicit that the certificate holder must obtain the permission of that person. However, it may be that this issue is covered under subsection (11), in which case I will not press the matter. If not, it would improve the Bill to include this amendment.

Mr. McDowell: Deputy O’Keeffe’s amendment No. 92 proposes the insertion of the words “where the permission of that person has been obtained” in subsection (6)(b) in regard to applications for a limited certificate for a shotgun. I refer the Deputy to subsection (11) of the new section 30 which provides at paragraph (a) that a limited certificate relating to land occupied by a person other than the applicant “shall not be granted unless the occupier of the land has given the applicant a nomination in writing for holding the certificate”. Deputy O’Keeffe’s amendment refers to permission being obtained while this subsection speaks of a nomination in writing. We are essentially *ad idem* on this point.

Mr. Howlin: My amendment No. 93 proposes to replace the words “one month” in subsection (8) of section 30 with “three months”. I have tabled this amendment at the behest of the shooting fraternity whose members point to an anomaly in this regard. I am interested in the Minister’s view on this. A certificate holder cannot currently apply for renewal of his or her firearm certificate until one month before its expiry. However, the Garda then has three months to make a decision on that application. This means one could be

stranded for two months without a licence. My amendment is designed to synchronise the timing in this regard to eliminate this unacceptable time lag.

Mr. McDowell: I am informed that while there are delays in regard to the issuing of new firearm certificates — sometimes of as much as three months — renewal is an almost automatic process, similar to getting one’s car taxed. Lengthy delays are not a problem in terms of renewals. Applications for renewal should be submitted at a date proximate to the date on which the new licence commences. We do not want a situation where a certificate holder’s circumstances may have changed significantly before the new licence is issued.

Mr. Howlin: The reality is that there should be synchronisation in this process. If the Minister says licence holders should only have a month to apply so that applications will be proximate to the expiry date, it should also be the case that the Garda has a month to make a decision on those applications. Whatever may be the general case in practice, the law provides that gardaí have three months to make a decision but certificate holders have only month to apply. There could legally be a two-month gap where one is left high and dry without a licence.

Mr. McDowell: I am advised that the three-month period for making a decision applies in regard to new certificates. The renewals process, however, is almost an automatic process.

Mr. Howlin: What is the legal framework?

Mr. McDowell: I do not believe the three-month period applies to renewals.

Mr. Howlin: It does.

Mr. McDowell: Deputy Howlin is correct; it applies to all applications. However, the Deputy’s argument is akin to demanding that Dublin City Council must renew one’s car tax within three months of application. It all happens by an automatic process, more or less by return of post. The particular notional difficulty to which the Deputy refers — that a renewal could take three months — does not happen in practice.

Mr. Howlin: The Minister cannot say that for certain.

Mr. J. O’Keeffe: On amendment No. 93, it seems the Minister may be confusing the practicalities with the formal position in law.

Mr. Howlin: Exactly.

Mr. J. O’Keeffe: The formal position in law, as outlined by Deputy Howlin, confirms that there is a dysfunctionality or disconnection between the

application and granting processes. The west Cork approach to something like this would be to suggest we split the difference and allow two months for both renewal application and Garda decision.

Mr. McDowell: This argument is academic but I will accept the amendment to prevent Deputy Howlin from calling another division.

Mr. Howlin: I thank the Minister.

Mr. J. O’Keeffe: Given that Deputy Howlin is happy, I will not press amendment No. 92.

Mr. Howlin: My happiness is temporary.

Mr. McDowell: I am causing division among the parties to the Mullingar accord.

Mr. J. O’Keeffe: I share in Deputy Howlin’s happiness. On the basis of our accord, I am prepared to accept the Minister’s assurances in regard to amendment No. 92 that the situation is fully covered in subsection (11).

The phraseology of subsection (11)(a) is a little odd, in that it states that “a limited certificate related to land occupied by a person other than the applicant for the certificate shall not be granted unless the occupier of the land has given the applicant a nomination in writing for holding the certificate”. I was speaking in the context of permission but perhaps the Minister is satisfied that a nomination equals permission. It is not a point I will press, however.

Mr. McDowell: The subsection uses language which is already used in other portions of the Bill but I agree it is rather quaint.

Amendment, by leave, withdrawn.

Mr. Howlin: I move amendment No. 93:

In page 39, lines 11 and 12, to delete “one month” and substitute “3 months”.

Mr. McDowell: I accept the amendment.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 94 to 96, inclusive, are related and will be discussed together.

Mr. Howlin: I move amendment No. 94:

In page 40, line 28, after “Minister,” to insert the following:

“and having consulted such organisations as in the Commissioner’s opinion are representative of persons engaged in sporting or other lawful use of firearms,”.

This amendment deals with the same ground we have covered, but in this instance it is an insertion into a different section of the Bill, namely page 40, line 28. It is not an unreasonable requirement that there would be consultation and I hope since the earlier division the Minister has reflected on that and will now consider it desirable.

The same issue is addressed in amendment No. 95, which creates a new subsection (3).

With regard to amendment No. 96, the point was made to me by the shooting fraternity that guidelines should not be secret. In that context, the amendment states that “Guidelines under this section shall be made available by the Commissioner to those likely to be affected thereby”. I presume that is probably intended anyway but I do not see any harm in stating it explicitly as a requirement.

Mr. J. O’Keeffe: The points made by Deputy Howlin are perfectly valid. Part of the difficulty in discussing guidelines and the shooting fraternity is that we are dealing with a totally different category of people to the shooting fraternity that we are trying to lock up because of their involvement in crimes with firearms. That is one of the difficulties and I argued strongly during earlier debates on this Bill that we should be dealing with the sporting shooting fraternity in a separate category.

Be that as it may, the Minister has insisted on going ahead with this approach so we are dealing with the genuine, law-abiding people who are involved in shooting for sport or for the control of vermin. In that context, the approach of the Legislature should be to ensure that the fullest consultation takes place in a transparent and open manner, in so far as the Garda Commissioner and the Minister are concerned. Provision should be made for consultation with representative organisations. The sporting organisations should be facilitated as far as possible and guidelines should not be hidden. If there are guidelines under which the system operates, they should be made fully available to such organisations. We should not have a Kafkaesque approach whereby organisations find themselves in a situation of being expected to comply with guidelines of which they are not aware.

Mr. McDowell: The Commissioner has agreed to consult the shooting lobby, if I may use that phrase, and does so on a regular basis. It is not as if the——

Mr. Howlin: Perhaps “legitimate shooting lobby” is more appropriate.

Mr. McDowell: It is not as if the Commissioner is hostile to that lobby.

The guidelines are being provided for because effectively the High Court held that each local Superintendent was a corporation sole as regards making his or her mind up as to what policies

[Mr. McDowell.]

would apply. Missives from the Phoenix Park and the Commissioner were deemed to be *ultra vires* and an improper circumscription of the discretion given by the law to local Superintendents.

While some guidelines may be the proper subject of public scrutiny, others may not. Let us suppose, for example, that the Commissioner were, on security grounds, to say that applications from people who live very close to persons who have serious crime propensities should be examined with great caution. He or she may not want to put such information into the public domain for the guidance of those people who are the object of the direction itself. There are some kinds of guidelines that the Commissioner may wish to issue, on security grounds, for particular reasons but it may not be appropriate that—

Mr. J. O’Keeffe: Is the Minister saying that a law-abiding citizen could be penalised because he or she lives near a criminal?

Mr. Howlin: That is extraordinary.

Mr. McDowell: I am saying to the Deputy, yes, very definitely—

Mr. Howlin: The law-abiding citizen could be penalised and that fact could be kept a secret.

Mr. J. O’Keeffe: That is exactly the type of guideline that the ordinary citizen should be made aware of.

Mr. McDowell: The Deputies are ignoring the fact that the Commissioner may want to issue security-related guidelines but he or she should not have to put them into the public domain just for the curiosity of the Deputies who wish to see how the matter is being dealt with. The Commissioner may want, at a particular time because of a particular perceived threat, to issue a particular guideline and it is not reasonable in those circumstances to say—

Mr. Howlin: That is extraordinary.

Mr. McDowell: It is not extraordinary. It is perfectly reasonable. It will achieve a uniform policy across the country and allow the Commissioner to have an input into the decision making by Superintendents. I do not think that every aspect should be secret. I appreciate that if the Commissioner said something very general like, “be careful about younger applicants”, that would not have any security implications. However, there could well be security-driven guidelines which the Commissioner would not want to put into the public domain.

I agree with the EU Commissioner, Mr. McCreevy, that sometimes transparency is taken too far in this country.

Mr. J. O’Keeffe: The Minister is changing his tune a little.

Mr. Howlin: I think the Minister has finally lost it, judging by his last comment. I recall bringing the Electoral Bill through this House, as Minister, in 1997 and the attitude of the then Opposition spokesperson and current Minister for Justice, Equality and Law Reform, Deputy McDowell to that legislation. That is linked to the attitude of the Government, of which he is a member, to the Freedom of Information Act, in the way it has been wound back.

The lawful shooting fraternity sees this section as the Minister overturning the courts, presumably the *Dunne v. Donohoe* case, in a way that gives him the right, in legislation, to do as he pleases, without oversight or any need to consult those affected. The section will have an enormous impact on the recreational and personal rights of people who have always worked very hard to obey the law and live within it, the compliant taxpayers and good citizens, but will have no impact on those who break the law and abuse firearms for criminal ends who will be untouched by this provision. The legitimate shooting fraternity feels a great sense of grievance at the Minister’s approach and I thought, to ameliorate this, that ensuring the guidelines are published would not be a demanding burden. The Minister thinks it is a bridge too far, since he cannot imagine letting people know what the guidelines being created effect. The Minister’s case struck Deputy Jim O’Keeffe and me as most bizarre. He says that if the Commissioner wished to issue guidelines to restrict or deny a firearms certificate—

Mr. McDowell: I mentioned paying special attention. I did not say anything about denying a certificate.

Mr. Howlin: If the guidelines said that—

Mr. McDowell: I did not.

Mr. Howlin: I thought the Minister did, but let me take it a stage further. Whatever he said and whatever guidelines the Commissioner formulates, they will have some impact on a law-abiding citizen who has done nothing wrong, simply because he lives in the same parish as or near a wrongdoer. Not only is he to be deprived of rights and negatively affected, he is not to know why. If he is denied a firearms certificate because of guidelines of which he is not to know, what is he supposed to believe?

It is very difficult. I had a case in my constituency where an individual was denied a firearms certificate, and no reason was given. If one is a ne’er-do-well, one should be told so and that one is not trusted. However, the notion that any citizen can be deprived of a right and not have that made public is unjust. There must be some mechanism of appeal if one believes oneself to have

been wrongly deprived of a right. One can only know that if a reason is given. The notion of transparency must be embedded in every Department, including the Department of Justice, Equality and Law Reform. They must be transparent in explaining such things. I am very disappointed at the Minister's attitude to these matters.

Mr. McDowell: It has been agreed with the shooting organisations that the general guidelines will be discussed with them and published. I do not accept the proposition that a confidential guideline cannot be issued on occasion, although that may surprise people.

Deputy Howlin referred to my attitude to the Freedom of Information Act 1997, but I remind him that before the introduction of amending legislation by this Government, it was the practice for Opposition spokesmen on finance to be able to go to the Department of Finance and have it cost their policies in confidence. The Information Commissioner of the day decided that the process should be subject to freedom of information accessibility. I always feel that the Opposition never zeroed in on that point in this House. It was a retrograde decision that flew in the face of common sense and had to be subject to statutory amendment.

Mr. Howlin: Very good.

Mr. McDowell: My other point is that the deliberative process before the amendment was being seriously diminished by the requirement that all related documents be available to the public. The Freedom of Information Act 1997 was changed in that respect, since which time the situation has improved. One now hears genuine opinions and both sides of the story.

Mr. Howlin: Only today the Department of Justice, Equality and Law Reform refused a freedom of information request I had submitted.

Mr. McDowell: That was the decision of an officer of the Department and had nothing to do with me.

Mr. Howlin: I do not suggest it did. I am saying the issue of working behind——

Mr. McDowell: My point is that I do not accept every guideline must be published. However, I believe general ones will be published and that the shooting organisations know that.

Mr. Howlin: They do not require to be published, however.

Mr. J. O'Keeffe: My sense of justice has been outraged, in particular by the example the Minister quoted in support of his contention that there

should be no consultation or publication of guidelines. It is extraordinary that a citizen of this State should be denied a firearm on the basis of secret guidance of which he is unaware and about which the organisation of which he is a member is not consulted.

Mr. McDowell: I said nothing of the sort. I said it might be possible, for instance, for the Commissioner to have brought to the attention of local superintendents the need to pay special attention to persons who lived in close proximity.

Mr. Howlin: To what end?

Mr. McDowell: So that special attention might be paid to avoid heightened risk. That is all.

Mr. Howlin: I will read the blacks.

Mr. McDowell: I hope that the Deputy does so. The term "special attention" does not mean that a person may have no gun. It simply means one must be careful.

Mr. J. O'Keeffe: Does that mean it will decrease the prospect of that law-abiding citizen being issued with a licence?

An Leas-Cheann Comhairle: Order, please.

Mr. McDowell: There is no general right to bear arms in this country. We do not live in the United States.

Mr. J. O'Keeffe: There is a general right to fair play.

An Leas-Cheann Comhairle: This is Report Stage rather than Committee Stage.

Mr. McDowell: There is a general right to public security.

Mr. J. O'Keeffe: Perhaps I might continue with the contribution I was making before the Minister interrupted me several times. The Minister is on the defensive on this issue.

Mr. Howlin: He is wrong.

Mr. McDowell: I am not wrong. The Deputy is winging it.

Mr. J. O'Keeffe: He doth protest too much, methinks. He has clearly set out a scenario where he would be quite prepared to support a citizen who genuinely requires, and under normal circumstances would be entitled to, a firearm being denied one.

Mr. McDowell: I did not say that. I said that special attention would have to be paid.

Mr. J. O’Keeffe: What is the purpose of paying special attention?

Mr. McDowell: It is because of the heightened risk in certain circumstances.

Mr. J. O’Keeffe: What does that mean? Why should the result of the special attention not be to grant the applicant the firearms licence in case he needs it to ward off an attack by the criminal living nearby? The clear implication of the Minister’s example—

Mr. McDowell: We heard the Deputy’s advocacy of lethal violence last night.

Mr. J. O’Keeffe: I am sorry.

Mr. Howlin: The Deputy should not be drawn.

Mr. J. O’Keeffe: That was one of the Minister’s many interruptions, and perhaps I had better let it pass.

I honestly believe that it says something about the Minister that he should be prepared to support such a situation. Although superficially not an important issue, for the individual affected it could be very important. That individual would not even be able to find out why he or she was denied a licence. It is not acceptable, and I would like any Commissioner reading this exchange to be clear that this approach — if not advocated by the Minister, at least mentioned by him — does not enjoy the support of the House.

Mr. Howlin: Hear, hear.

Mr. McDowell: Apopos of last night’s debate, a wit said to me that, as far as he could see, the

difference between the two Private Members’ Bills was that the Progressive Democrats were willing to have people shot in the head, whereas Fine Gael Members were concentrating on shooting themselves in the foot.

Mr. J. O’Keeffe: That is a sick joke. We are gasping for air.

Mr. Howlin: That was a “wit”. The Minister will have to go further to find someone with a sense of humour.

Mr. J. O’Keeffe: The Member should be careful of his pronunciation.

Amendment put and declared lost.

Mr. Howlin: I move amendment No. 95:

In page 40, between lines 36 and 37, to insert the following:

“(3) In making an order under subsection (1) the Minister shall have regard to the desirability of facilitating persons engaged in sporting or other lawful use of firearms.”.

Amendment put and declared lost.

Mr. Howlin: I move amendment No. 96:

In page 40, between lines 36 and 37, to insert the following:

“(3) Guidelines under this section shall be made available by the Commissioner to those likely to be affected thereby.”.

Amendment put.

The Dáil divided: Tá, 60; Níl, 67.

Tá

Allen, Bernard.
Boyle, Dan.
Breen, James.
Breen, Pat.
Broughan, Thomas P.
Bruton, Richard.
Connolly, Paudge.
Costello, Joe.
Cowley, Jerry.
Crawford, Seymour.
Cuffe, Ciarán.
Deasy, John.
Deenihan, Jimmy.
Durkan, Bernard J.
English, Damien.
Enright, Olwyn.
Ferris, Martin.
Gilmore, Eamon.
Gogarty, Paul.
Gormley, John.
Hayes, Tom.
Healy, Seamus.
Higgins, Joe.
Higgins, Michael D.
Hogan, Phil.
Howlin, Brendan.

Kehoe, Paul.
Kenny, Enda.
Lowry, Michael.
Lynch, Kathleen.
McCormack, Padraic.
McEntee, Shane.
McGrath, Finian.
McGrath, Paul.
McHugh, Paddy.
McManus, Liz.
Mitchell, Olivia.
Morgan, Arthur.
Murphy, Catherine.
Murphy, Gerard.
Naughten, Denis.
Neville, Dan.
Ó Caoláin, Caoimhghín.
Ó Snodaigh, Aengus.
O’Keeffe, Jim.
O’Sullivan, Jan.
Pattison, Seamus.
Penrose, Willie.
Perry, John.
Quinn, Ruairí.
Rabbitte, Pat.
Ryan, Eamon.

Tá—continued

Ryan, Seán.
Sargent, Trevor.
Sherlock, Joe.
Stagg, Emmet.

Stanton, David.
Twomey, Liam.
Upton, Mary.
Wall, Jack.

Níl

Andrews, Barry.
Ardagh, Seán.
Blaney, Niall.
Brady, Johnny.
Brady, Martin.
Brennan, Seamus.
Callanan, Joe.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Cooper-Flynn, Beverley.
Cullen, Martin.
Curran, John.
de Valera, Síle.
Dempsey, Noel.
Dempsey, Tony.
Dennehy, John.
Devins, Jimmy.
Ellis, John.
Finneran, Michael.
Fitzpatrick, Dermot.
Fleming, Seán.
Fox, Mildred.
Gallagher, Pat The Cope.
Glennon, Jim.
Grealish, Noel.
Haughey, Seán.
Healy-Rae, Jackie.
Hector, Máire.
Jacob, Joe.
Kelleher, Billy.
Kelly, Peter.
Killeen, Tony.
Kirk, Seamus.

Kitt, Tom.
Lenihan, Conor.
McDowell, Michael.
McEllistram, Thomas.
McGuinness, John.
Moloney, John.
Moynihan, Donal.
Moynihan, Michael.
Mulcahy, Michael.
Nolan, M.J.
Ó Cuív, Éamon.
Ó Fearghaíl, Seán.
O'Connor, Charlie.
O'Dea, Willie.
O'Donnell, Liz.
O'Donoghue, John.
O'Flynn, Noel.
O'Keeffe, Ned.
O'Malley, Fiona.
O'Malley, Tim.
Parlon, Tom.
Power, Peter.
Power, Seán.
Roche, Dick.
Sexton, Mae.
Smith, Brendan.
Smith, Michael.
Treacy, Noel.
Wallace, Dan.
Wallace, Mary.
Walsh, Joe.
Wilkinson, Ollie.
Woods, Michael.

Tellers: Tá, Deputies Stagg and Kehoe; Níl, Deputies Kitt and Kelleher.

Amendment declared lost.

Mr. McDowell: I move amendment No. 97:

In page 41, line 14, after “is” to insert “a rifle or pistol”.

Amendments Nos. 97 to 103 to section 32 insert a new section 4 in the Firearms Act 1925. The new section specifies the conditions for the granting of a firearms certificate. There are seven amendments proposed to this section. Amendments Nos. 97 and 102 are in my name. The former is a drafting amendment that makes it clear that where the application for a firearm is for either a rifle or a pistol, the applicant is required to be the member of an authorised rifle or pistol club. Amendment No. 102 is also a drafting amendment to amend the definition of “health professional” to include a doctor or psychologist.

Deputy Howlin is proposing three amendments. Amendment No. 98 would require that every person wishing to engage in clay pigeon shooting would be a member of a clay pigeon club before being granted a firearms certificate.

The difficulty is that clay pigeon shooting is done with a shotgun. Consequently, if the amendment as framed were to be accepted, it would be necessary in all cases when deciding whether to grant a licence for a shotgun to require each applicant to be a member of a clay pigeon club. I know such is not the Deputy's intention. My amendment on the requirement to be a member of an authorised club applies strictly to pistols and rifles and probably renders the clarity the Deputy is trying to achieve. It is not necessary to require that shotgun owners be members of clubs.

The Deputy's amendment No. 100 proposes to amend the requirement that a person should provide proof of competence by adding the phrase “or a bone fide intention to acquire competence” and his amendment No. 101 proposes that the competency requirement should not be restricted to the firearm in respect of which the applicant is seeking a certificate.

I am providing at section 28 of the Bill that any person over the age of 14 years can be given a firearms training certificate for the purpose of being trained in the use of firearms. If a person has no competence in the use of firearms, he or

[Mr. McDowell.]

she should apply for a firearms training certificate and be trained in the safe use of firearms before seeking a firearms certificate. In this way, he or she can acquire the necessary expertise to enable him or her to meet the competency requirements for a firearms certificate in respect of the specific firearm for which he or she wishes to obtain a certificate. As such, I am not disposed to accept the Deputy's amendments.

In amendment No. 99, Deputy Jim O'Keeffe proposes the insertion of two new conditions with which a Garda Commissioner or superintendent must be satisfied before deciding to grant a firearms certificate, namely, that the applicant is of sound mental and psychiatric health and has sufficient capacity to possess and operate a firearm responsibly and safely. The effect of the amendment as drafted would be to require the Minister or the superintendent to make a judgment as to the mental and psychiatric capacity of an applicant. Strictly speaking, neither person is qualified to make such an assessment, but in my proposed new section at subsection (3), the applicant, on the request of the Commissioner or superintendent, must provide written consent for any inquiry into his or her medical history, which may be made by a doctor or a psychiatrist. On the basis of this expert assessment, a commissioner or superintendent may decide whether to grant a firearms certificate. This is obviously a sensitive matter. If someone is a bit dodgy in terms of mental stability——

Mr. Howlin: He or she should not be the Minister for Justice, Equality and Law Reform.

Mr. McDowell: Indeed, and for that reason, there must be a careful assessment of Deputies Howlin and Jim O'Keeffe.

Mr. Howlin: In the Bill's original drafting, the Minister wanted the assessment to be carried out by a dentist.

Mr. J. O'Keeffe: The Minister is already admitting defeat. His remarks were addressed to Deputies other than those on this side of the House.

Mr. McDowell: If someone is mentally dodgy and the superintendent must decide whether to make further inquiries as envisaged by my amendment, the superintendent may ask for the person's medical history. Deputy Jim O'Keeffe's amendment asks that I positively require the superintendent in every case to start engaging in psychiatric evaluations of the people being dealt with. That would have two effects. First, it casts on the superintendent an onerous test because people can appear to be psychiatrically normal but be harbouring psychiatric symptoms.

Second, it puts the cart before the horse. In any case where there is doubt, the superintendent will

have sufficient capacity to get someone in a position to form a judgment on the matter — an expert — to provide a medical history. If the superintendent is not disposed to granting a person a licence or is in doubt and wants a medical report, it is better for the superintendent not to say that someone is deranged or to use lay terms of that type. In principle I do not have a huge problem with Deputy Jim O'Keeffe's amendment because he is merely saying people should be wary of the issue, but that is implicit in the arrangement. I do not think any superintendent would willingly give a certificate to somebody who was, in his or her view, at serious risk of mental instability.

Deputy Ó Snodaigh's amendment No. 103 proposes that the conditions applying to the grant of a firearms certificate apply equally to the grant of a firearms training certificate. That is already the case because of the definition of a firearms certificate: "a firearm certificate granted under this Act and, unless the context otherwise requires, includes a restricted firearm certificate, a firearms training certificate and a firearm certificate granted under the Firearms (Firearm Certificates for Non-Residents) Act 2000". I appreciate Deputy Ó Snodaigh's point but the matter is covered by the amendment.

Mr. Howlin: I thank the Minister for addressing the amendments. It is very helpful to hear his thought processes before I speak. The first amendment in my name is amendment No. 98 which proposes that the words "or a clay-pigeon shooting club" be inserted after "club". The Minister said it was not necessary because clay pigeons were shot only by shotguns. My advice is that is not the case. I am advised that clay pigeon shooting is a form of target shooting. There is a specialised weapon, it is an Olympic event and Ireland's Olympic clay pigeon shooting team holds, among many sporting awards, the world championship title of 2002. It holds several world cup bronze and gold medals, both individual and team, and an eighth place finish at the Olympics in Athens. I am also informed that the Irish Sports Council has this year awarded €150,000 to the Irish Clay Pigeon Shooting Association to further its efforts in the specialised sport of target shooting. In those circumstances they should be allowed to practise their craft.

I am pleased the Minister has decided that mental competence, as he delicately put it, should be decided by a doctor or psychiatrist, as opposed to a dentist or even a nurse. The section rewrites section 4 of the principal Act in its entirety but a couple of issues have been brought to my attention. Section 4(1) states that an issuing person shall not grant a firearms certificate unless he or she is satisfied that the applicant complies with the conditions referred to in subsection (2) and will continue to comply during the currency of the certificate. A person can prove he or she is

sane but can they prove they will be sane for three years? That is an issue.

The Minister talked about competence in the context of my amendment No. 100 to insert “or a bona fide intention to acquire competence”. How is competence determined? There is no hint in the Bill as it stands how anyone is to prove competence in the use of a firearm. How can it be guaranteed into the future? Competence, like mental capacity, must obtain for the duration of the licence.

Mr. J. O’Keeffe: The Minister is aware of my concern that licences should only be issued to those who are of sound mental health and of sufficient capacity to possess and operate a firearm responsibly and safely, and we are *ad idem* on that objective. I was concerned by the case in Kilkenny which raised doubts whether the person in question should continue to hold a firearms certificate and I searched for a way to minimise the possibility of a repetition of that kind of horror story. The Minister has approached the issue from a somewhat different direction, although I have no problem with the amendment he has tabled. On reading the Bill I wondered how the original definition of health professional crept into the Bill, allowing a certificate to be obtained from a dentist, an optician or a chemist.

Mr. McDowell: The reference to an optician makes sense because one would not want Mr. Magoo holding a certificate.

Mr. Howlin: Or a person who was as mad as a hatter but had great teeth.

Mr. J. O’Keeffe: An optician might have a role in ensuring straight shooting, but the role a dentist might play is beyond me. Section 32(3) provides that the issuing person, for example, a superintendent, can require the applicant to supply information requested in the application form and such further information as he or she may require, including written consent for any inquiries as to the applicant’s medical history that may be made from a health professional by or on behalf of the issuing person.

Two issues arise. First, what does it mean? Does it refer to the applicant’s medical doctor or psychiatrist? I assume by “a health professional by or on behalf of the issuing person” the Minister has in mind the applicant’s doctor or psychiatrist. Can he clarify that the outcome will be exactly as it is framed?

The Minister was concerned about the question of an assessment. If section 32(3) requires the applicant’s doctor or psychiatrist to produce a report, although it is not clear, the superintendent must assess the report anyway. Will the superintendent put the question directly to the doctor or psychiatrist whether he or she believes the person to be of sound mind, memory and understanding and of sufficient capacity to be issued with a fire-

arm? I am not clear as to the scheme the Minister has in mind to cover the situation. I am not entirely sure the way it is phrased will achieve the outcome at which I think the Minister is aiming, if he will forgive the pun.

Mr. McDowell: I agree the Bill’s original definition of health professional was wide of the mark. It was obviously taken from somewhere else. It requires written consent for any inquiries on the applicant’s medical history that may be made from a health professional by or on behalf of the issuing person. If somebody were on medical treatment, the issuing person would ask who was his or her doctor. If a person does not have a doctor but still looks deranged, the section does not exclude the possibility of nominating somebody to examine that person. The amendment has narrowed the focus of the section to allow inquiries to be made by or on behalf of the issuing person to a health professional.

Mr. J. O’Keeffe: Does this mean the words “by or on behalf of the issuing person” should be after the word “enquiries”?

Mr. McDowell: Yes.

Mr. J. O’Keeffe: In that situation, it is open as to whether it would be the applicant’s doctor or somebody brought in from outside to——

Mr. McDowell: If somebody strikes one as dodgy and one asks him or her if he or she has a GP whom he or she visits regularly, to which the person replies “no”, and if one asks if he or she has ever had psychiatric or psychological treatment, to which the person replies “no”, at that stage the issuing person may be faced with the proposition that he or she wants the person to consent to inquiries being made by somebody nominated by him or her in regard to this issue. It is a difficult issue.

Mr. J. O’Keeffe: If the Minister is satisfied with the section in its present shape and that it ensures those of unsound mind or with psychiatric health issues will not get a licence, I am happy but I have queries about the phraseology of the section.

Mr. McDowell: Perhaps it could be phrased more elegantly but it is sufficient to capture the two situations I mentioned. The first is where somebody is under medical care and the persons providing that care can be consulted, and the second is where somebody is not under medical care, or claims not to be, and a medical assessment can be carried out by a person nominated by the issuing person.

Mr. Howlin: The Minister did not comment on clay pigeons.

Mr. McDowell: I am genuinely at a loss because it is my understanding — the Deputy said

[Mr. McDowell.]

I am wrong — that clay pigeon shooting is done by a shotgun type—

Mr. Howlin: A field day, or something like that, is the norm.

Mr. McDowell: Clay pigeons are not shot at with ball ammunition. I have never heard of a clay pigeon being shot at with a round of ammunition of the conventional type. The obvious problem would be ricochets in that they could go anywhere.

Ms Lynch: It explodes when one hits it. It disintegrates as it is clay.

Mr. McDowell: Not necessarily. If there is a round, as opposed to a shotgun discharge, the round, if it hits an object at an oblique angle, could go in any direction and hit anybody if one was firing up in the air.

Aengus Ó Snodaigh: One could have a shotgun round as well.

Mr. McDowell: I am making the point that shotguns are of a particular kind. I have never heard of clay pigeon shooting with conventional—

Aengus Ó Snodaigh: One can get rounds for shotguns which have a single pellet in them.

Mr. McDowell: So be it, but I have never heard of clay pigeon shooting with anything like a .22 rifle or—

Mr. Howlin: Nobody is suggesting that. There are specialist weapons for use in what is described as an Olympic sport, namely, Olympic clay pigeon shooting.

Mr. McDowell: It is my understanding — I may be wrong — that they do not use one projectile. If Deputy Ó Snodaigh is correct, one could fire that from a shotgun anyway.

Mr. Howlin: I would take Deputy Ó Snodaigh's advice on these matters.

Aengus Ó Snodaigh: There are other provisions in the Bill in regard to making rounds at home and so on.

Mr. McDowell: I am told Deputy Ó Snodaigh will be disappointed to hear there is a question over the legality of using a single projectile as a shotgun.

Amendment agreed to.

Mr. Howlin: I move amendment No. 98:

In page 41, line 16, after “club” to insert “or a clay-pigeon shooting club”.

I would like an assurance from the Minister that the request made to me by those who know, and who are the professionals, that the Olympic sport of clay pigeon shooting will not be adversely affected by these provisions.

Mr. McDowell: I do not believe it will be adversely affected by the provision.

Mr. Howlin: If that proves to be wrong, will the Minister address it in the Seanad?

Mr. McDowell: I will eat humble pie in the Seanad.

Mr. Howlin: Very good. I thank the Minister.

Amendment, by leave, withdrawn.

Amendments Nos. 99 and 100 not moved.

Mr. Howlin: I move amendment No. 101:

In page 41, line 41, after “concerned” to insert the following:

“or in such other similar firearms as satisfy the issuing person that the applicant will be competent in the use of the firearm concerned”.

Amendment put and declared lost.

Mr. McDowell: I move amendment No. 102:

In page 42, lines 11 and 12, to delete “a person who is a doctor, psychiatrist, dentist, optician, chemist or nurse and” and substitute “doctor or psychiatrist”.

Amendment agreed to.

Amendment No. 103 not moved.

An Leas-Cheann Comhairle: Amendment No. 105 is related to amendment No. 104 and both may be discussed together.

Mr. Howlin: I move amendment No. 104:

In page 44, between lines 17 and 18, to insert the following:

“(15) Regulations under subsection (13) insofar as they determine standards by reference to subsection (14)(vi) shall have due regard to the need for shooting ranges to be used by persons who are in the process of acquiring competency in the use of firearms.”.

The import of my amendment was again suggested by those who know in that they perceive a catch-22 that the Minister can regulate ranges by reference to competency but that they are to be used by persons without competency. My amendment suggests that “Regulations under subsection (13) insofar as they determine standards by refer-

ence to subsection (14)(vi) shall have due regard to the need for shooting ranges to be used by persons who are in the process of acquiring competency in the use of firearms”, so there is not a catch-22 in that one must be competent to use a range even though one must get that competency by using a range. I do not know the import of the Minister’s amendment in this regard.

Mr. McDowell: I am satisfied that the section as drafted effectively provides what Deputy Howlin seeks. Subsection (13) as it stands provides for the Minister to make regulations specifying minimum standards which minimum standards under subsection (14) shall be determined by reference to a number of factors. One of those factors is the level of competence of persons using the range.

Mr. Howlin: That is the point. How does one get competence? To use the range one must have a certain level of competence but to get competence, one must use the range. That is the catch-22.

Mr. McDowell: The design of the range must be decided by reference to the level of competence of persons using it. If people have a very low competence level, it must be designed in a way which is safe for them to use. The Minister can take into account the level of competence of persons using a range as one of the criteria for deciding whether to authorise the use of that range. This is a somewhat circular argument. I do not believe there is much of an issue.

Mr. Howlin: If what the Minister said is what is captured in the Bill, I am happy. As I read it, one has to be competent to shoot in a range but to get competence, one has to shoot in a range.

Mr. McDowell: The minimum standard shall be determined in the case of a shooting range by reference to any or all of the following matters: security, membership, management, design, construction, maintenance, types of firearms and ammunition to be used and the level of competence of persons using the range. The minimum standards are to be determined by reference to a number of matters, including the level of competence of persons using it.

Mr. Howlin: I accept the Minister’s assurance.

Amendment, by leave, withdrawn.

Mr. McDowell: I move amendment No. 105:

In page 45, lines 13 and 14, to delete “this section” and substitute “subsection (18) of this section”.

This is a drafting amendment.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendment No. 107 is related to amendment No. 106 and both may be discussed together.

Aengus Ó Snodaigh: I move amendment No. 106:

In page 46, line 12, after “it” to insert the following:

“, accompanied by a member of An Garda Síochána not below the rank of sergeant and with consent of a Garda Síochána superintendent”.

This is a simple amendment to ensure a member of the Garda Síochána not below the rank of sergeant is involved rather than just anybody, as is stated at present.

Mr. McDowell: The amendment proposes that firearms range inspectors, when entering firing ranges, be accompanied by a Garda sergeant with the consent of a superintendent. The function of a firearms range inspector is quite clear. It is to examine the

range from structural, technical and safety points of view and to advise the Commissioner on whether it is suitable for authorisation. Persons appointed by the Minister will be required to have or to require the necessary technical expertise to enable them to carry out detailed examinations of these ranges. They will operate under a warrant from the Minister. There is no requirement for a firearms range inspector to be escorted by gardaí in the manner envisaged by Deputy Ó Snodaigh’s amendment. Therefore, the amendment is not necessary.

Deputy Jim O’Keeffe’s amendment No. 107 provides for the insertion of the words “at any time and without prior notice”. This section provides for the firearms inspectors to enter and inspect ranges for the purpose of ensuring their compliance with minimum standards provided for in regulations. The Parliamentary Counsel advises that there is no limitation as to any time and notice. The amendment is unnecessary and I do not propose to accept it.

Aengus Ó Snodaigh: The specific reason the inspector enters any premises is to ensure it is not being used for rifle or pistol shooting. It would be appropriate if a member of the Garda Síochána were in attendance with the inspector on such an occasion. However, if the Minister is not willing to accept the amendment, I will not press it.

Mr. G. Murphy: With regard to amendment No. 107, we wanted to be sure that on-the-spot inspections were acceptable. We are happy with the Minister’s answer.

Amendment, by leave, withdrawn.

Amendment No. 107 not moved.

An Leas-Cheann Comhairle: We move to amendment No. 108. Amendments Nos. 109 and 110 are alternatives. Amendments Nos. 108 to 110, inclusive, may be discussed together.

Bill recommitted in respect of amendment No. 108.

Mr. McDowell: I move amendment No. 108:

In page 47, to delete lines 17 to 29 and substitute the following:

37.—Section 8 of the Principal Act is amended in subsection (1) by the deletion of paragraphs (d), (e), (f) and (g) and the insertion of the following paragraphs:

“(d) any person who has been sentenced to imprisonment for—

(i) an offence under the *Firearms Acts 1925 to 2006*, the *Offences Against the State Acts 1939 to 1998* or the *Criminal Justice (Terrorist Offences) Act 2005*, or

(ii) an offence under the law of another state involving the production or use of a firearm,

and the sentence has not expired or it expired within the previous 5 years,

(e) any person who is bound by a recognisance to keep the peace or be of good behaviour, a condition of which is that the person shall not possess, use or carry any firearm or ammunition, and

(f) any person not ordinarily resident in the State for a period of 6 months before applying for a firearm certificate.”.

I move amendment No. 1 to amendment No. 108:

In paragraph (f) of the inserted paragraphs, to insert “(except a person who is temporarily so resident)” after “State”.

This is to make clear that in paragraph (f) there is provision for a person who is temporarily resident in the State to be dealt with. There is a doubt, which has been pointed out to me, that paragraph (f) might exclude persons who are temporarily resident in the State on the basis that they are not ordinarily resident in the State. That was not the intention of the Parliamentary Counsel. The amendment to the amendment proposes that, for example, a tourist coming to Ireland would not be excluded on the grounds that he or she was not ordinarily resident in the State for six months. I propose that both the amendment and the amendment to the amendment be accepted.

Amendment to amendment agreed to.

Amendment No. 108, as amended, agreed to.

Bill reported with amendments.

Amendments Nos. 109 and 110 not moved.

An Leas-Cheann Comhairle: We move to amendment No. 111. Amendment No. 112 is related and the amendments may be discussed together.

Mr. McDowell: I move amendment No. 111:

In page 48, line 18, to delete “18 years” and substitute “21 years”.

The amendment simply raises the age at which a person may be registered as a firearms dealer from 18 to 21 years, as I agreed to do on Committee Stage.

Deputy Jim O’Keeffe’s amendment No. 112 is similar to his amendment No. 110 regarding dis-entitlement to hold a firearms certificate for a person who has been sentenced to prison for a violent crime. While I understand the Deputy’s point, the amendment is not necessary because under section 9 of the 1925 Act, it is a matter for the Minister to decide who shall be registered as a firearms dealer, and I am required when deciding whether to register a person to have regard to the character of the applicant.

In this context it is normal before registering a person as a firearms dealer to have regard to any offences committed by the applicant. However, if a person at the age of 18 years was sentenced to one month’s imprisonment for being involved in a fracas, that does not necessarily mean that at the age of 45 that person must be branded as one who could not be a firearms dealer.

Amendment agreed to.

Amendment No. 112 not moved.

Aengus Ó Snodaigh: I move amendment No. 113:

In page 49, line 44, after “purpose” to insert the following:

“, has secure storage for required material and equipment and is separate and distinct from living quarters”.

On Committee Stage we had a not very informed discussion on this area of the Bill. I stated that I would table an amendment so that, as is the case with rifles and other weapons held under licence, there would be secure storage for required material and equipment regulated under this section, such as equipment which can be used to produce ammunition.

The Minister referred to sportsmen who need a specialised round with a particular weight or charge which they make themselves. If gun-powder or explosives are held in a house for this purpose, they should be separate to living quarters and held in some type of secure environment which is not accessible to children or others in the house. This is similar to the restrictions in place for guns and shotguns.

Mr. McDowell: The amendment proposes to narrow down further what is provided for in section 10A(3)(e), which states: “the premises where the reloading is to take place are sufficiently safe and secure for that purpose”. The Deputy proposes to provide that the premises “has secure storage for required material and equipment and is separate and distinct from living quarters”.

I have consulted in this regard and the advice I have received is that the amount of material involved in reloading is quite small and that in some instances, for some people, the most secure place for them to have this equipment is at home rather than in some business premises. If a reloading sportsman who carries out this activity under a permit is required to have the equipment in a place separate from his house, such as a shed, business premises or lock-up premises, to keep the equipment in a separate location would perhaps be less secure than keeping it under the stairs at home or otherwise. It is a judgment call. The advice from the Garda is that it does not believe it would be a good idea to require people to keep all this equipment in a separate place from their home because it would be more vulnerable to theft than if it were kept at home. Sometimes one’s home is one of the safer places one has at one’s disposal.

Aengus Ó Snodaigh: The intention was not to require that the equipment be kept at a different location from that at which the work is done. Perhaps the amendment is badly worded. In using the term “secure storage” my intention was that a form of storage such as the secure cabinets used to store rifles in houses would be used. In using the term “living quarters” my intention was that this material would not be stored in a kitchen or bedroom but in another area such as a garage. I am flexible in this regard. While the wording may not be correct, the intention is to ensure the material is secure within the house, farmyard or other premises in which this work is done. One could have a secure premises within which a child could have access to these materials. Security in this regard does not refer only to intruders.

Mr. McDowell: It would not be reasonable to interpret paragraph (e) as dealing only with perimeter security of a premises. The requirement that a superintendent must be satisfied that the premises where the loading is to take place is sufficiently safe and secure for that purpose not only means that the outside doors and windows must be safe but that the premises themselves are safe for the purpose. The internal characteristics, including whether the person will do the loading on the kitchen table while the children do their homework, is one of the issues the superintendent could take into account.

Amendment, by leave, withdrawn.

Mr. McDowell: I move amendment No. 114:

In page 51, line 10, to delete “€1,000” and substitute “€3,000”.

The purpose of the amendment is to increase the amount of fine from €1,000 to €3,000.

Mr. J. O’Keeffe: I think I suggested that change.

Mr. McDowell: I think the Deputy is correct.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 115 to 120, inclusive, 129 to 159, inclusive, and 162 to 167, inclusive, are related and may be discussed together.

Aengus Ó Snodaigh: I move amendment No. 115:

In page 51, to delete lines 42 to 47.

My comments are addressed to a series of amendments I have in this grouping, namely, amendments Nos. 115, 116, 129, 131, 136, 138, 142, 144, 149, 150, 158, 159, 162 and 164. My amendments fall into two categories, one of which encompasses those proposing to delete those parts of the section with which I do not agree. I am, however, realistic enough to accept that I may not manage to persuade the Minister of the value of my argument. In that circumstance, he should take on board some of the other amendments I have proposed, including amendment No. 116 and a series of cognate amendments, which propose to insert the wording, “(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

The ultimate purpose of the amendments is to maintain judicial discretion over sentencing outcomes. Sinn Féin acknowledges that the Minister is not proposing absolute, mandatory minimum sentencing, a point he made on Committee Stage, or that he is proposing the elimination of judicial discretion. However, in introducing this type of minimum sentencing he is trying to push the Judiciary in the direction laid down in the subsections. Subsection (4) establishes a ten year minimum sentence for an offence of possession of firearms with the intent to endanger life. Subsection (2) already provides for a sentence of up to life imprisonment to be decided by the judge. Amendment No. 115 proposes to delete subsection (4).

The grounds on which a sentence may be reduced are outlined in subsection (5). These are classic provisions of mandatory sentencing practices in other jurisdictions such as the United

[Aengus Ó Snodaigh.]

States and Australia. Evidence on mandatory sentencing from both these jurisdictions suggests it has failed to achieve its objectives.

While subsection (6) does not make the minimum sentence mandatory *per se*, it does attempt to push in the direction of minimum sentencing by providing that the court may have regard to a number of factors and these are set down in the subsection. I have proposed that in addition to having regard to “whether the public interest in preventing the unlawful possession or use of firearms would be served by the imposition of a lesser sentence”, as provided for in subsection (6)(b), a court should also have regard to other factors, which are outlined in the amendment.

Under the Constitution, judges are responsible for administering justice. This should include determination of punishment, which must be appropriate to each crime, and the need to protect the public while maintaining the discretion to ensure proportionality in the interests of justice. Having made this argument on Committee Stage, I do not believe the Minister is willing to accept it. Nevertheless, I ask, even at this late stage, that he reconsider the direction he is taking in this section. While I agree that heavy sentences must be imposed for the offence of possession of firearms with intent to endanger life, judges must take certain factors into account. If the Minister proposes to tell judges they must take certain matters into account, it is appropriate that the House stipulate other factors the Judiciary must consider before passing sentence.

Mr. McDowell: Sections 42, 57, 58, 59, 60 and 65 provide what are termed mandatory minimum sentences of five and ten years for possession of a firearm with intent to endanger life, possession of a firearm while hijacking a vehicle, possession of a firearm to resist arrest or aid escape, possession of a firearm in suspicious circumstances, possession of a firearm with criminal intent and altering a firearm under amendment No. 65.

Section 61 makes specific provision in relation to the application of mandatory minimum sentences. Section 42 substitutes a new section for section 15 of the Firearms Act 1925 and the new section provides for a maximum sentence of life imprisonment and a minimum mandatory sentence of ten years’ imprisonment for the offence of possession of firearms with intent to endanger life or cause serious injury to property.

Section 57 substitutes a new section for section 26 of the Firearms Act 1964 and this new section provides for a maximum sentence of 14 years and minimum of five years for the offence of possession of a firearm while taking a vehicle without authority, in other words, armed hijacking.

Section 58 substitutes a new section for section 27 of the Firearms Act 1964 and this new section provides for a maximum sentence of life imprisonment and a minimum mandatory sentence of ten years for the offence of use or production of

a firearm to resist arrest or escape from custody. It is specially designed to say that no garda, armed or unarmed, should ever face somebody who takes out a shotgun to threaten to kill him or her for the purposes of resisting arrest without the most severe consequences. Everybody in this House believes that is a reasonable provision. If we ask the Garda to be largely an unarmed force in the great majority, its members must know the law will severely punish anybody who threatens them with firearms, because their lives are on the line.

Mr. G. Murphy: Hear, hear.

Mr. McDowell: Section 59 substitutes a new section for section 27A of the Firearms Act 1964. This provides for a maximum sentence of 14 years’ imprisonment and a minimum sentence of five for the possession of firearms or ammunition in suspicious circumstances. Section 60 substitutes a new section for section 27B of the 1964 Act and provides for a maximum of 14 years and a minimum of five for the offence of carrying a firearm with criminal intent.

Section 65 inserts a new section 12A into the Firearms and Offensive Weapons Act 1990 providing for new offences on the alteration of firearms. It creates new offences of shortening the barrel of a shotgun or rifle, converting a deactivated or replica firearm into a live firearm, modifying a firearm to fully automatic and increasing the calibre of a firearm. It also makes it an offence to possess a firearm altered in any of those ways. There is a maximum sentence of ten years and a minimum sentence of five years for those offences.

Section 61 inserts a new section 27C into the Firearms Act 1964 making specific provision for mandatory minimum sentences and provides that the power to commute sentences under the 1951 Act and normal provisions on temporary release under the Prisons Act and the Criminal Justice Act do not apply in relation to mandatory minimum sentences. These sections, as they stand, allow for some judicial discretion in imposing sentences. Where the court is satisfied that there are exceptional specific circumstances relating to the offence or the person convicted of the offence that would make the imposition of a sentence not less than the mandatory minimum sentence provided for unjust in all the circumstances, the mandatory minimum sentence need not be applied. These circumstances include any matters the court considers appropriate, including an early guilty plea and material assistance to the Garda investigation. However, the legislation clearly states that this is only to happen where there are exceptional and specific circumstances that would make a mandatory minimum sentence unjust. Therefore the mere fact of an early guilty plea is not in itself an exceptional circumstance and does not in itself allow a departure from the mandatory minimum sentence.

On Committee Stage Deputy Jim O’Keeffe proposed that there should be no judicial discretion for a second or subsequent offence under these sections. At the time I indicated that I was disposed to the thrust of his argument but that I wanted to discuss the matter further with the Attorney General to ensure that I was on firm ground. Following these discussions with the Attorney General’s office I am advised that such an approach would be constitutionally sound.

Ms Lynch: It would be.

Mr. McDowell: I was in doubt about it. Under the Firearms Act six offences attract mandatory minimum sentences and I am providing in amendments Nos. 117, 119, 120, 132 to 135, inclusive, 139 to 141, inclusive, 151 to 157, inclusive, and 165 to 167, inclusive, that where an offence carries a mandatory minimum sentence, any person convicted of a second or subsequent such offence shall be automatically sentenced to imprisonment for the mandatory minimum period allowed. I am also providing that where somebody who has a previous conviction for an offence that carries a mandatory minimum sentence is convicted of another offence that carries a mandatory sentence, that person shall automatically be sentenced for the mandatory minimum period. This means that if one commits a second offence to which the sentence applies, one cannot avail of the special excusing circumstances.

Ms Lynch: Are all the offences in connection with firearms?

Mr. McDowell: Yes. It also means that if a person is caught by the Garda in possession of firearms with the intent to endanger life and he has in the past, say in 1997, notched up a relevant offence, he is on notice that he will receive the mandatory minimum sentence without any deductions if he commits that offence.

I am grateful to Deputy Jim O’Keeffe for opening this line of territory and to the Office of the Attorney General for clarifying its opinion on this matter. If a person is convicted of possession of a firearm with the intent to endanger life and it is his first such conviction but he has been previously convicted of possession of firearms while hijacking a car, the mandatory minimum sentence for possession with intent to endanger life will automatically apply and the court will have no discretion on it.

Ms Lynch: Is it constitutionally sound for the court to have no discretion?

Mr. McDowell: That is what I am advised. Deputy Jim O’Keeffe aimed at the same outcome in his amendments Nos. 118, 130, 137, 143 and 163. I propose the Government amendments to cover the points he raised in his amendments. I am grateful to him for raising these issues.

Deputy Ó Snodaigh is correct, and I agree with him warmly, that he has not persuaded me to change my mind on these matters. I know and respect his view on this and I do not believe we are going down the American or Australian road. Let us be clear on what has happened in America and the UK, where repeat offences of a serious, violent nature attract life sentencing and in America they attract huge prison sentences automatically after three felonies. Three strikes and one is out.

Ms Lynch: Three strikes and one is out.

Mr. McDowell: I am not going down that road. However, any person in Dublin who has a Glock pistol in his pocket is a menace to society and this House must tell the Judiciary that there are no special and excusing circumstances for carrying a weapon with the intent to endanger life. If you commit a serious offence which carries a maximum penalty of life imprisonment, you can expect to take a serious hit if convicted of it.

While I accept that not all sentencing policy is effective as a deterrent, in this House we have, with the exception of Deputy Ó Snodaigh, a cross-party consensus that what is happening on our streets must be faced down. The people who think they can shoot others in the circumstances we have seen in recent months must realise that if they are caught with firearms in circumstances that give rise to convictions of the kind I have mentioned, they will go away for a long time, no questions asked and no frills. If they are repeat offenders, if they have ever had any history of such offences, and they are caught ever again, no quarter will be given and they will serve the minimum mandatory sentence.

Mr. J. O’Keeffe: The Minister’s change of heart on this issue restores my faith in the parliamentary process. If we provide for minimum mandatory sentences in legislation we should provide for sentences that are in fact minimum and mandatory. In the past we provided for sentences that were alleged to be minimum and mandatory but in effect, because of the exceptional circumstances escape clause, those sentences were neither minimum nor mandatory. The escape clause was applied in virtually all cases until recently and even now in approximately 80% of cases.

I have always had a strong belief in judicial discretion but when it comes to the use of firearms we must weigh up the public interest. That is why I came up with this proposal on behalf of Fine Gael that whatever about the possibility of exceptional circumstances on a first offence, which one could envisage, there could not be such a possibility on a second offence. A person who got away with it, so to speak, under exceptional circumstances on a first offence would have received sufficient warning that he or she was teetering on the edge of a minimum mandatory

[Mr. J. O’Keeffe.]

sentence if he or she again had anything to do with firearms.

If we are to confront the scourge of firearms in our society, this is the tough line we must take, even where criminals shoot and kill one another. We can neither accept nor condone such acts. There is an attitude that in this way one useless part of society gets rid of another. I do not see it like that. There is a value in every life. There is too the danger of overspill from the criminal fraternity giving rise to appalling situations, such as the case of Donna Cleary.

The Minister also rightly mentioned our expectation that the Garda Síochána, which is mostly unarmed, defends society in difficult and perilous circumstances. We must be sure that if its members are confronted and sometimes wounded or killed by criminals with firearms, the consequences will be serious. I am glad that the proposals I made on behalf of Fine Gael have been adopted and incorporated in the new Act.

We must send out a message that these new measures are in place and anybody who possesses or uses firearms with intent to endanger life, or is guilty of the other offences provided for, will be in great difficulty if he or she already has a conviction or if there is the possibility of two convictions in the future. When the Minister deals with the amnesty provisions, which I support, he should simultaneously issue due warning, through the media and otherwise, of the consequences for those who ignore the amnesty. Some of the hardened members of our criminal community will do.

Mr. McDowell: We will advertise but without my photograph.

Mr. J. O’Keeffe: I do not wish to encourage the Minister to use the opportunity for further self-promotion. He avails of that opportunity every morning, rather like having his morning coffee, but it should not happen at State expense. This is a serious issue because we need the amnesty. When it, rather than the Minister, is being promoted, the consequences should be pointed out to those who ignore the amnesty and continue to possess firearms with intent to endanger life.

This is a good day for democracy. I hope this will be helpful in the fight against crime, especially against those who avail of firearms. I accept that the Minister’s amendment takes on board the spirit of my amendments so I will not press them.

Ms Lynch: I agree with Deputy Jim O’Keeffe that this is a good day for democracy. The notion that people can wander our streets with guns is deplorable, no matter who they kill. It puts us all at risk. We should be conscious of that because, as has happened in the past, innocent people can caught in the cross-fire.

I seek reassurance, however, from the Minister on the content of this section. Will any other

offence be taken into account or does this refer strictly to guns? I would hate to think — as the Minister said earlier — that someone caught shoplifting at the age of 14—

Mr. McDowell: It refers only to these offences.

Ms Lynch: I accept the Minister’s reassurance on that point. Am I right in thinking that the early release programme, carried out by a committee that meets in various prisons, would kick in only after the minimum sentence had been completed? I hope the removal of discretion from the judges is constitutionally sound because there have been many challenges to legislation, and I would hate to think that something as worthwhile as protecting people from violence would fall because of a constitutional challenge.

Am I the only one who sees the irony in what is happening in this Bill? On the one hand, people say it is a great day for democracy because we will be protected from guns, but on the other, in approximately 25 minutes, we will debate a Bill giving people the right to shoot people who break into their homes. I happen to believe that guns are dangerous no matter who holds them. What happens if I shoot three burglars?

Aengus Ó Snodaigh: As long as the Deputy does not kill them it does not matter.

Ms Lynch: Maybe I will. This section of the Bill does not refer to killing anyone. Does it matter if I shoot three burglars or does this section apply only on the street? Where is the logic in what we are about to do? I agree with this section because it will take firearms out of society, but in 25 minutes’ time we will give people *carte blanche* to use them. It concerns me that a burglar could, quite rightly, take the gun from me and I become the victim. If this Bill reflects our attitude to firearms, that should continue into the rest of our lives.

I would like reassurance from the Minister on the three points, namely, that no other offence would be taken into consideration — it is right that this would remain within the context of having firearms with intent to endanger life, and I do not see any other reason to have a firearm — the relationship between maximum and minimum sentences and the probation service, and the question of judicial discretion.

Mr. G. Murphy: I did not realise we would discuss the home defence Bill in conjunction with these amendments but I am glad that Deputy Lynch brought it up because it is within the Minister’s remit to allow her deal with the issues she has mentioned. Many Members of this House are concerned about this, including those who initiated the Bill, which is at a preliminary stage. We are asking the Minister to allow it proceed to Committee Stage. There would be many amendments on Committee Stage and the Minister

knows all too well about amendments and how successful they can be in turning a Bill around, as he and the Opposition Members have shown in respect of this Bill.

There is no reason the home defence Bill that we will discuss next—

Ms Lynch: I regard it as an insurance policy.

Mr. G. Murphy: —could not equally be amended on Committee and Report Stages to deal with some of the issues Members raise. The most important issue is that it indicates to people that they are entitled to defend their homes, to have some legal protection and not to be sued by the person who invades their property or attacks their person if they try to defend themselves or their families. Many of these things could be dealt with in this Bill within the next couple of weeks, rather than in six months' time as the Minister has indicated.

Aengus Ó Snodaigh: We must remind ourselves that the maximum sentence for crimes of this nature is life imprisonment. It has been open to the Judiciary to impose such a sentence. We were right to criticise the Judiciary from the outside for the lenient sentences it imposed in many cases in the past. I do not know whether the provision that was introduced to allow lenient sentences to be appealed applies in this case. Perhaps we should encourage more lenient sentences in relation to firearms, considering the number of firearms and the number of shootings in this country. Shootings are so commonplace now that many of them are not reported. I know of an incident a few weeks ago when a young man shot a finger off another man, but it was not reported by the media. I do not know whether it was even reported to the Garda. That is the extent of the use of weapons in society. We should take a stronger role to ensure that no further loss of life takes place, even if those who are killed are regarded as the scumbags of our society. Despite Operation Anvil, which has not delivered what the Minister hoped it would deliver, such people continue to wave their weapons around and shoot at will. There are probably more weapons on the streets now than there were at the start of Operation Anvil.

We need to get tough. This Bill and some of the amendments which have been proposed to it will help to erode the discretion of the Judiciary. My amendment No. 116 states that "previous criminal record" should be taken into consideration in sentencing, rather than in securing a conviction. At present, judges take into consideration many matters, including "previous criminal record". Before we provide for a minimum sentence, we should ensure at the very least that judges take into account the criminal record of a person who may have committed a second, third or fourth offence. It is obvious that judges will take a dim view of people who come before them

having previously been convicted, served a sentence and been released, only to get involved with criminal gangs again. Judges should issue appropriate sentences in such cases. I firmly believe the Judiciary is capable of considering all the circumstances before it makes decisions. As lay people, we are sometimes unhappy with such decisions. It is obvious we have a right to criticise in such circumstances.

I do not think we should take away judicial discretion. If we start to interfere with the Judiciary by telling it to deliver sentences of a certain type and not giving it any discretion in instances of second offences, it will not be a good day for democracy. A person who committed an offence when he or she was very young might not commit a second offence until 20 or 30 years later. There may be mitigating circumstances, for example in cases such as those highlighted by Fine Gael in the Private Members' Bill that will be discussed in the House later this evening. There might be mitigating circumstances if a householder who is defending his or her property is arrested for being in possession of an illegal firearm.

Ms Lynch: That does not mean we should allow such people to shoot away.

Aengus Ó Snodaigh: While I do not agree with the Fine Gael Bill, there are times when a particular type of approach is needed from the Judiciary, or when it should be given the discretion to take more than previous weapons offences into account. That is the effect of most of my amendments in this grouping. Some of the other amendments propose the deletion of entire sections of the Bill, as I have said.

It is obvious that the Minister is determined to go down this road. Not only did he initially include certain provisions in the Bill, but he has now gone further by proposing these amendments this evening. It is regrettable that he has adopted such an approach. It has been shown in other jurisdictions that mandatory sentencing does not work. Some of the states in the US have repealed their legislation providing for mandatory sentencing in cases of drugs offences because that legislation did not have the desired effect. It did not bring an end to such offences. I do not believe that the provisions in this Bill will act as a deterrent to the lunatics in our society who are using weapons, especially young people who are coked up to the head. The Garda needs to take much tougher action and concentrate on these gangs to a much greater extent if it is to ensure their weapons are taken from them, they do not continue to put the lives of civilians in danger, they do not threaten young people to get them to become involved in gangs and they do not use weapons to ply their poisonous trade. I am not trying to be soft on gun crime — far from it — I am saying we have to get tough, but there are

[Aengus Ó Snodaigh.]

ways of getting tough without interfering with the discretion of the Judiciary.

Mr. McDowell: I will respond briefly to Deputy Lynch's queries. I assure her that the deprivation of the special and excusing circumstances clause applies only to repeated instances of the offences with which we are dealing in this legislation. If one was done for shoplifting at an early age, that is not relevant.

Ms Lynch: That is good.

Mr. McDowell: The Deputy asked whether there is a contradiction between the line we are taking in this respect and the manner in which we are dealing with other issues such as the defence of one's home. Deputy Murphy will agree that not all of one's defence of one's home is done with a firearm. Most people do not have firearms in their homes—

Ms Lynch: Thankfully.

Mr. McDowell: —and are not in a position to use firearms to defend their homes.

Mr. G. Murphy: One can use a poker.

Mr. McDowell: They are in a position to use pokers, hatchets and other implements.

Ms Lynch: Yes.

Mr. McDowell: They are entitled to defend themselves. There is nothing contradictory about saying that any obligation to retreat should be irrelevant when one takes a stance in defence of one's self, one's family, one's property and one's home. I do not think that is some kind of neo-fascist view, I think it is a reasonable view. I do not think one should be obliged to retreat from people who are invading one's home, especially if they are doing so with criminal intent. That is why I believe Senator Morrissey's Bill is preferable to the Bill to be debated by this House today. That is a matter for later this evening, however.

Ms Lynch: It is amazing that the Minister has introduced the concept of neo-fascism to this debate. I never mentioned it.

Mr. McDowell: I am just saying—

Ms Lynch: I know why the Minister is saying it. He is saying it because it is true.

Mr. McDowell: It is not for me to exploit the huge and vehement disagreement between the Labour Party and Fine Gael on this issue.

Aengus Ó Snodaigh: Go on, it will not do any harm.

Mr. McDowell: I will merely say that it is the first sign of a major fracture of opinion. Perhaps Deputy Murphy will agree that the cynic in me is possibly justified in saying that this division is a reflection of the parties' task of securing different segments of the electorate's vote. Deputy Lynch will be the bleeding heart and Deputy Murphy will wear the jackboot. They will be happy then.

Ms Lynch: I have never been called a bleeding heart before.

Mr. G. Murphy: The Minister can try that out by accepting the Criminal Law (Home Defence) Bill 2006 and seeing whether we can sort out our differences by means of amendments on Committee and Report Stages.

Mr. McDowell: We are straying a wee bit from the subject matter.

Ms Lynch: I take it as an absolute compliment to be accused of being a bleeding heart.

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

Amendment declared lost.

Aengus Ó Snodaigh: I move amendment No. 116:

In page 52, line 33, after "sentence" to insert the following:

"and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm".

Amendment put.

An Ceann Comhairle: Will the Deputies claiming a division please rise?

Deputies Ó Caoláin, Ó Snodaigh, Morgan and Ferris rose.

An Ceann Comhairle: As fewer than ten Members have risen I declare the amendment lost. In accordance with Standing Order 68 the names of the Deputies dissenting will be recorded in the Journal of the Proceedings of the Dáil.

Amendment declared lost.

Debate adjourned.

Private Members' Business.

Criminal Law (Home Defence) Bill 2006: Second Stage (Resumed).

The following motion was moved by Deputy Jim O'Keeffe on Tuesday, 27 June 2006:

That the Bill be now read a Second Time.

Debate resumed on amendment No. 1:

To delete all words after "That" and substitute the following:

"Dáil Éireann declines to give a second reading to the Bill in order that consideration be given to the issues raised in this Bill and another Private Members Bill recently introduced in the Seanad on the same issue, and to allow time for examination, reflection and debate of the matters therein with a view to drawing up proposals on the issues, if such be considered necessary, for inclusion in the proposed Criminal Justice (Miscellaneous Provisions) Bill."

(Minister for Justice, Equality and Law Reform).

Minister of State at the Department of Finance (Mr. Parlon): I intend to share time with Deputies O'Connor and Grealish.

There is considerable public concern as to whether current legislation is correctly balanced between the home owner and a person who trespasses into his or her home. This issue has generated considerable debate both in this jurisdiction and elsewhere. I understand that the public concern surrounding this issue provides the background to Deputy O'Keeffe's Bill and the interventions of Deputies.

The Constitution imposes a duty on the State to protect by its laws, as best it may, its citizens from unjust attack and, in the case of injustice done, to vindicate the person of every citizen. The bedrock of our law in regard to assault and the issue of self defence in respect of a person who fears he or she may be the victim of an assault is the Non-Fatal Offences Against the Person Act 1997. Sections 18 and 20 of the 1997 Act make statutory provision in regard to the justifiable use of force to protect a person or property or to prevent a crime.

Section 18 sets out the various purposes for which justifiable force may be lawfully used which does not constitute an offence. These purposes include the protection of the person or his or her family or another person from injury, assault or detention caused by a criminal act, protection of his or her property or property belonging to another from appropriation, destruction or damage caused by a criminal act or from trespass or infringement and prevention of crime or a breach of the peace. The force used must be

reasonable by reference to the circumstances believed by the person to exist.

Section 20 defines the meaning of "use of force" for the purposes of section 18, and subsection (4) provides that the fact that a person had an opportunity to retreat before using force shall be taken into account in conjunction with other relevant evidence, in determining whether the use of force was reasonable.

Section 1(2) provides that for the purposes of section 18, it is immaterial whether a belief is justified or not, if it is honestly held. The presence or absence of reasonable grounds for the belief is a matter to which the court or jury is to have regard, in conjunction with any other relevant matters, in considering whether the person honestly held the belief.

The current law clearly states that use of force is justifiable in certain circumstances and also clearly states what constitutes reasonable "use of force". It also provides that a belief in the need to protect does not have to be justified if honestly held and leaves this as a matter for the courts to decide. Current legislation provides protection for the home owner who find himself or herself in the onerous position of discovering an intruder in his or her home. This legislation has served us well. It provides an appropriate balance between the need to be able to protect ourselves, our families and our property from potential danger and the need for us to be accountable for the actions we take in such a situation if we go too far.

The purpose of Deputy O'Keeffe's Bill is to provide protection for home occupiers who confront intruders and-or trespassers in their homes. It proposes to create a rebuttable presumption that any force used by an occupier in such circumstances to protect his home or family is reasonable and comprises protection from civil liability for the actions of a home occupier in all circumstances.

The Bill would get rid of any obligation on occupiers to retreat from confronting intruders in their homes. Where an occupier uses force against an intruder the Bill would allow a jury to consider certain extraneous factors when coming to a decision on the reasonableness or otherwise of the occupier's actions. These factors include such matters as whether the occupier had family members in the dwelling, whether there was sufficient time to decide on a course of action and whether the options for defence against a trespasser were limited.

Section 3 creates the rebuttable presumption that the force used was reasonable, where the occupier uses force against a trespasser who has unlawfully gained entry to and remains within his or her home. Under section 4, no civil liability on the part of the occupier shall arise in respect of any harm, whether serious or not, caused by the actions referred to in section 3. While section 3 allows for the trespasser to rebut the presumption in favour of the actions of the occupier, section 4

[Mr. Parlon.]

appears to have the effect of nullifying the trespasser's right of rebuttal. Moreover, section 7 requires the court, in determining whether the occupier's actions were reasonable, to take into account the factors described in the section, but the section fails to make any reference to section 4.

Our primary legislation in the area of occupiers' liability is the Occupiers' Liability Act of 1995. That Act reduces the extent of the occupier's obligations to trespassers. It provides that an occupier owes a duty not to injure a trespasser intentionally and not to act with reckless disregard. The Act also provides that where a person enters on to a premises for the purpose of committing an offence or, while there, commits an offence, the occupier is not liable for a breach of the duty imposed generally on trespassers unless a court decides otherwise in the interests of justice. In addition, section 8(a) gives the occupier an entitlement to use proportionate force for his or her self defence, the defence of others or the defence of property.

The occupier is not required to discharge the standard of reasonable care which visitors can insist on under the 1995 Act. When considering whether an occupier has acted with reckless disregard for a trespasser on his or her property, a court must have regard to all the circumstances of the case. These include the behaviour of the person and the nature of any warning given by the occupier. It is also worth remembering that section 57(1) of the Civil Liability Act 1961 provides that it shall not be a defence in an action of tort to show that the plaintiff is in breach of the civil or criminal law.

Deputy O'Keefe's Bill assumes reasonableness in potentially dangerous situations on the part of the occupier and places the burden of disproving that presumption on the trespasser. In attempting this, there are drafting difficulties with the Bill and there are questions to be answered about the extent to which section 4 gives occupiers exemption from all civil liability. These matters will require careful consideration.

Mr. J. O'Keefe: That consideration may be given on Committee Stage.

Mr. Parlon: Section 18(1) of the Non-Fatal Offences against the Person Act 1997 clearly states the purposes for which force can be lawfully used. Deputy O'Keefe's Bill fails to do this. Rather, it would significantly widen the circumstances in which force could be lawfully used. Moreover, it would also significantly reduce the ability of a court or jury to decide upon the reasonableness of the actions of the accused.

Section 5 confines the provisions of the Criminal Law (Home Defence) Bill 2006 to non-fatal offences. Section 6 seeks to amend the Non-Fatal Offences against the Person Act 1997 by adding new definitions and providing that no occupier

has a duty to retreat before using force within his or her home. Section 20(4) of the Non-Fatal Offences against the Person Act 1997 provides that the fact that a person had an opportunity to retreat before using force shall be taken into account, in conjunction with other relevant evidence, in determining whether the use of force was reasonable. This is again a matter to which a court or jury is to have regard and any proposal to change this provision must be cautiously examined.

My colleague, Senator Morrissey, published the Defence of Life and Property Bill 2006 in the Seanad on 8 June. This legislation broadly deals with one of the same issues dealt with in the Deputy's Bill. The objective of Senator Morrissey's Bill is to amend the civil and criminal law to allow for the use of justifiable force by home owners against those who trespass with the appearance of intending to commit a serious criminal offence, without obliging the person using such force to show that he or she did not avail of an opportunity to retreat. In other words, the householder would be allowed to stand his or her ground and use justifiable force.

Section 2 of Senator Morrissey's Bill provides for a defence in criminal proceedings where the use of force by an occupier took place in or in the area of a dwelling, in circumstances where a trespass was done for the purpose of committing a serious criminal offence and the action of the occupier entailed the justifiable use of force. The provisions of the Defence of Life and Property Bill 2006 would apply to murder, attempted murder, manslaughter and an offence under the Non-Fatal Offences against the Person Act 1997. Section 2(2) of the Defence of Life and Property Bill 2006 contains similar provisions to those in section 6 of the Criminal Law (Home Defence) Bill 2006.

The kernel of the issue of self-defence under the provisions of the 1997 Act is whether the force used was reasonable. There is no exact answer to this question. Under the present law, it is a matter for the court or jury to decide. This is as it should be. The 1997 Act ensures juries are given the option of rejecting a plea of legitimate defence where they are satisfied that there is an absence of reasonable grounds for the belief that the use of force was justified or it was unreasonable not to retreat. Any amendments to the law in this area require thoughtful consideration.

We must proceed with caution. Both Deputy O'Keefe's Bill and the Bill introduced by Senator Morrissey require considerable analysis and consideration before any fundamental change in the law in this area. The fraught situation in which an occupier confronts an intruder in the family home is a situation in which unexpected and serious actions might easily ensue. The level of reasonable force used to remove or disable the trespasser is naturally difficult to assess in such a situation. We must consider whether current legislation is sufficient to

protect the occupier who applies force in such situations or whether a change along the lines suggested by Deputy O’Keeffe and Senator Morrissey is required.

The Non-Fatal Offences against the Person Act 1997 was drafted as a result of the recommendations of the Law Reform Commission and has generally worked well. There is a need for examination and reflection before any new legislative proposals are brought forward in this area. My colleague, the Minister for Justice, Equality and Law Reform, expressed the view in yesterday’s debate that consideration could be given to this issue being addressed in the context of the Criminal Justice (Miscellaneous Provisions) Bill, which will come before the House later this year. However, careful consideration must be given to all aspects of the matter before this is decided.

Mr. O’Connor: I welcome the opportunity to contribute to the debate on this Bill. Before any other Member comments, I assure the House I am pleased to be part of the Progressive Democrats sandwich, positioned as I am between the Minister of State, Deputy Parlon, and my good friend, Deputy Grealish. I ask Deputy Jim O’Keeffe not to rise to that bait.

Mr. J. O’Keeffe: Deputy O’Connor should be careful that he is not bitten or eaten up.

Mr. O’Connor: I could take this opportunity to ambush the Minister of State but I will not do so. I will ask him about Garda stations in Tallaght on another occasion, if he will grant me the time.

I will preface my remarks by complimenting my friend and colleague, Deputy Jim O’Keeffe, on his work in this area. I am pleased to work with the Deputy on the busy Joint Oireachtas Committee on Justice, Equality, Defence and Women’s Rights. I always value his contributions at the meetings of that committee. I am aware he is having a tough time and I wish him well in the difficult 300 days that lie before him.

Mr. J. O’Keeffe: Deputy O’Connor is plamáising me. Why does he not simply support the Bill?

Mr. O’Connor: The Minister for Justice, Equality and Law Reform, Deputy McDowell, has acknowledged that Deputy O’Keeffe is making an important contribution in bringing forward this legislation.

I acknowledge the presence in the Chamber of my colleague, Senator Morrissey, a fellow erstwhile member of the former Dublin County Council. The Minister of State, Deputy Parlon, has made reference to Senator Morrissey’s efforts in achieving publication in the Seanad of his Defence of Life and Property Bill 2006, which I understand broadly deals with some of the same issues as those covered in Deputy O’Keeffe’s Bill.

Other Members spoke during yesterday’s debate of their personal experiences in this area.

Not only have I had such an experience but I have spoken to many people in my own community in south-west Dublin who have endured the same trauma. One night 12 years ago, I and my then 11 year old son were at home when I heard the front door banging. I went downstairs to investigate and discovered that intruders had already left with the television and a cassette tape of The Corrs. In recalling this incident afterward, I always wondered what I might have done if I had confronted those intruders. Members are aware I am a quiet individual who would not harm a fly.

Mr. J. O’Keeffe: That is not what the Minister of State, Deputy Conor Lenihan, would say.

Mr. O’Connor: I ask Deputy O’Keeffe not to bait me as this debate is going well. I hope what he said will be correctly recorded in the Official Report.

Many people are forced to deal with intruders in their home. I have made the point in several of my contributions in this House about the importance of appreciating the victim’s perspective. I am supportive of the work of Victim Support, not only in my own constituency but nationally. It does a valuable job in arguing that the welfare of the victim is paramount. As several speakers on both sides of the House have observed, this legislation raises issues in respect of which we all have great sympathy for those affected. The Minister alluded last night to the several high-profile cases where people who have tried to tackle intruders have found that their actions fuelled a particular debate as to whether the law as it stands strikes the correct balance between the rights of the occupier and those of the trespasser.

There is a genuinely held belief on the part of most people in this House that the law sometimes does not provide sufficient protection to a person confronted by an intruder in his or her home. The Minister yesterday acknowledged the public concern in this regard. He made the point that Deputy O’Keeffe’s motivation was laudable in the sense of appreciating that public concern. Within the criminal justice system it is important to strive to achieve a balance between the competing rights of all those involved. While we all wish to protect ourselves, families and property from potential danger, people must be accountable for the actions they take if they go further than is reasonable in the circumstances.

The legislation, as the Minister has pointed out on numerous occasions, clearly states that use of force is justifiable in certain circumstances as long as its use is reasonable. It also provides that the belief of the need to protect does not have to be justified if honestly held and leaves this as a matter for the courts to decide.

We must be careful not to send out a general message from this House that we condone situations where people take the law into their

[Mr. O'Connor.]

own hands or that people who trespass or commit crimes will not be subject to the law. While I do not want to offend the sensitivities of any political party, there have been occasions in recent years where people were knocking on doors, offering justice and offering to deal with people. That certainly happened in my community.

It is very important that we, as legislators, take every opportunity to support strongly the work of the Garda Síochána in this regard. I heard a debate on the radio this morning on this issue and some of the remarks were unfortunate. We must have confidence in members of the Garda Síochána and believe they will protect people. We must leave it to them to do their job. If we allow a situation to develop where justice is meted out on doorsteps, stairwells or in fields, where will it end? It is important to state that very clearly.

All Members of the House will have a lot of sympathy with aspects of the Bill before us. That is why I complimented Deputy Jim O'Keeffe earlier. He is touching a public nerve with this legislation. It is important, following this debate, that we go forward——

Mr. J. O'Keeffe: To a Committee Stage debate.

Mr. O'Connor: ——and tighten up legislation to ensure we create a situation where what many Members want to achieve is done in a proper way and we do not give people *carte blanche* to kick the hell out of people who enter a property.

I have been the victim of crime and understand that emotions can be very frayed in that context. However, we must understand the need to be law-abiding and let the Garda do its job. I hope the Minister of State will convey that message to the Minister for Justice, Equality and Law Reform because it is very important. I listened carefully to the Minister and he makes a fair point when he argues that we must understand the concerns of the public and try to find a mechanism for dealing with them while not creating a situation where people can run amok and do all sorts of things in the name of justice. At the end of the day, that is why we have the Garda Síochána to protect us.

I am looking forward to the remainder of the debate. I appreciate the time I have been given to support the Government position on this issue. The debate will continue and Deputy Jim O'Keeffe's ideas——

Mr. J. O'Keeffe: It will continue if the Government does not pass this Bill.

Mr. O'Connor: Deputy Jim O'Keeffe is on the right track with his ideas and the Minister said as much. The Minister will work with the Deputy and has demonstrated that he wishes to do so. I hope Deputy Jim O'Keeffe will also continue to work with the Minister for the next 300 days.

Mr. J. O'Keeffe: I will work to get rid of him.

Mr. Grealish: I thank my party colleague, Deputy Parlon, and my good friend from Tallaght, Deputy O'Connor, for sharing their time with me. I appreciate the opportunity to contribute to this important debate and commend the Minister for Justice, Equality and Law Reform on his extensive contribution on the issue.

The public and media debate and the Bills proposed on defending property have come on foot of various cases, some of them high profile, where intruders and people who have tried to tackle them have been injured or, in some regrettable cases, killed. One such case, known as the Nally case, which happened in the west in 2004, was especially difficult and well publicised. The public discourse which followed it was characterised by strong feeling on both sides.

How far can one go to protect one's life and property? When is the action a person takes to defend his or her life and that of family members a step too far? What is reasonable? These are tough questions which do not have easy answers. I commend my party colleague, Senator Morrissey, on displaying the courage and initiative to try to deal with such questions in a reasonable way.

The word "reasonable" arises continually in the debate about using force to defend oneself. While Senator Morrissey produced a reasonable Bill, Fine Gael produced a truly poor effort at tackling the issue. So bad is it that it does not bode well for any sort of alternative Government should this be the standard of law making we are to be left with. Whatever about defence from intruders, the country certainly needs some way of defending itself from the ineptitude of the would-be legislators opposite.

Mr. O'Connor: Deputy Jim O'Keeffe would not accept my kindness.

Mr. J. O'Keeffe: Who wrote the speech for Deputy Grealish? It is terrible rubbish.

Mr. Grealish: A quick glance at the legislative response proposed by Senator Morrissey and the Fine Gael effort might lead one to think they are so similar as to make no difference, but one would be wrong. Closer examination of Deputy Jim O'Keeffe's effort, which was forensically cut to pieces by the Minister——

Mr. J. O'Keeffe: It was totally misrepresented by the Minister.

Mr. Grealish: A closer look shows that reasonableness is a trademark of Senator Morrissey's Bill but is shockingly absent from Fine Gael's sorry attempt. As the Minister said last night, the latter suffers from the ill effects of hasty drafting

in contrast to Senator Morrissey's considered drafting.

Senator Morrissey's Bill would amend the civil and criminal law to allow the use of justifiable force by occupiers of a domestic dwelling against trespassers who have criminal intent. Compare that with Fine Gael's Bill. If a person is having a party in his or her home and requests a person to leave but the person refuses, the latter is then a trespasser. Under Fine Gael's Bill, he or she will have extreme force used against him or her without redress.

Mr. J. O'Keefe: That is utter rubbish.

Mr. Grealish: Gate-crashing a party certainly creates a nuisance, but it is not a crime. If Fine Gael has its way, a gate-crasher can technically be considered a trespasser on a premises and anyone using force against him or her will be immune from prosecution. Senator Morrissey's Bill suggests that the use of force and immunity should only apply where people have entered a premises for the purposes of committing a crime. I do not like asking questions to which the answer is obvious but which of these is the reasonable, appropriate and intelligent approach?

The flaws in Fine Gael's drafting do not end there, however. As I have said already, the public and media debate about defending property came on foot of cases where intruders and people who have tried to tackle them have been injured or killed. People express very strong views with regard to others coming onto their property intending to do harm, whether stealing or injuring them and their families, and who could blame them? What does property refer to and what does the term mean? Any commonsensical approach would determine that when it comes to defending one's property, this would include one's car and the contents of one's garage or shed. Most people would interpret property as meaning more than just the space within one's four walls. That is common sense. Fine Gael has shown itself bereft of common sense by proposing the Bill as it did.

Under Senator Morrissey's Bill, a householder would have the same rights in his or her garden if someone was threatening his or her house. The householder would also have the same rights when trying to prevent his or her car from being vandalised. Fine Gael wants to cover the physical house only and would have one sit in one's sitting room looking out at a criminal action.

If Fine Gael, by some cruel twist of fate, were to find itself in a policy-making position, could we rely on it? After all, none other than its leader, Deputy Kenny, has described as utterly ludicrous the very measures adopted by the Cabinet at which he sat, that is, the obligation to retreat within one's house——

Mr. J. O'Keefe: That is not true. He was referring to an entirely different situation.

Mr. Grealish: As the Minister pointed out, removing the issue of retreat in the context of someone who commits an act of criminal trespass with the intent to commit a serious offence, as Senator Morrissey's Bill proposes, is one way of dealing with the matter. Fine Gael's Bill would simply create another problem with which we would have to deal. It is not reasonable for Fine Gael to create a situation where a trespasser, who may be a child, could be the victim of extreme violence without the right of redress against a group of people who happen to be present and gain consent from the house owner.

One cannot even give Fine Gael credit for political manoeuvring on this issue. The Minister for Justice, Equality and Law Reform said that rather than disregard Senator Morrissey's Bill, Fine Gael would have been wiser to adopt it, thereby creating some political embarrassment for the Minister——

Mr. J. O'Keefe: The Minister is embarrassed enough as it is.

Mr. Grealish: Fine Gael could have taken the Senator's reasonable text and presented it to the Minister, instead of developing an unreasonable text. It could not even get that right.

Mr. J. O'Keefe: He wants to kick it to touch.

Mr. Grealish: Fine Gael's sorry performance has been exposed enough. In light of the legislative issues that the Minister for Justice, Equality and Law Reform detailed last night, he has suggested a six-month period to allow the topic to be thought through more thoroughly. He has also assured the House that it is not an evasive action. The broad issues raised and addressed by Senator Morrissey certainly merit such consideration, which holds the key.

The sections of the 1997 Act that deal with this area were drafted on the basis of recommendations from the Law Reform Commission. This House must exercise great caution when it comes to amending that law. Senator Morrissey has demonstrated that reasonable and considered amendment is possible. Fine Gael wanted us to make new law in this area last night that would do a disservice to this House and, most importantly, to those whom it represents. Rushing through the flawed Fine Gael proposal would have been entirely wrong, and I echo the Minister's call for those who have brought forward Private Members' Bills to think through carefully the full implications of their suggestions.

The Government has committed itself to considering all the issues. The approach suggested by Senator Morrissey is right. I therefore oppose Fine Gael's Bill and support the Minister's proposal as outlined yesterday evening.

Mr. O'Connor: Deputy Jim O'Keefe is on his own.

Mr. J. O’Keeffe: The Deputy should tell that to the people on the doorsteps.

Mr. O’Connor: He is on his own.

Mr. Healy: I wish to share time with Deputies Breen, Gregory, Finian McGrath and McHugh.

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

Mr. O’Connor: Is Deputy Healy on Deputy Jim O’Keeffe’s side?

Mr. Healy: I may have been mistaken. The Green Party and Sinn Féin may also wish to share time.

Acting Chairman: They are not present.

Mr. Healy: I welcome the opportunity to say a few words on this Bill. I will now probably have to say a few more than I had expected.

The Bill before us arises from circumstances of which we are all aware, high profile cases of recent years and one in particular that happened last year. We can all understand the background to the Bill, but I am not at all sure that it is the right response. I agree with a number of speakers on both sides of the House who have expressed concerns. I wish to address the issue from a different perspective, that of prevention rather than cure.

I would like to see more recreational facilities and resources made available to young people in particular. That is the best way to tackle crime, not only this one but any crime. We should start on the ground and make resources available to those working in local communities to ensure that youths, who are prone to involvement in anti-social behaviour and ultimately crime, have an opportunity to gain employment and participate in society. I ask the Minister to examine the lack of resources for youth work in Clonmel and a recent report by the RAPID programme in that regard.

Mr. J. Breen: The Bill proposed by Deputy Jim O’Keeffe does immediate good in that it forces the House to debate an issue of genuine concern throughout the country.

Every home owner should be allowed to defend his or her property from any intruder into the dwelling, which is what the Bill proposes, as long as it is done with reasonable force. In the past, I regret to say, the home owner was supposed to retreat, but who in today’s world could do that, when the Garda is so under-resourced that any attempt to raise the alarm would meet with great delay, by which time the danger posed by the intruder would be even greater? Anyone should be allowed to defend his or her house from an intruder with reasonable force. That message should issue from this House loud and clear.

I do not accept the Minister’s contention that this Bill is merely a headline-grabbing stunt. If that is so, it was equally the case when Senator Morrissey of the Progressive Democrats published his Bill early in June. Of course, the law should take into account the circumstances when such an intrusion occurred, whether children, elderly relatives or other family members were present and whether there was risk of injury or harm to them. In rural areas the Garda will not have an immediate effect on such incidents. I am concerned that the Bill does not go far enough in covering situations with plain-clothes gardaí. In such cases, the home owner has a get-out clause whereby he or she could assault a member of the force, pleading ignorance of the circumstances in the belief that the garda was an intruder.

Greater thought should be given to the definition of an intruder and reasonable force to prevent this Bill being used by a home owner as a recourse when he or she has become involved in a row with a visitor, afterwards stating that the person had not been invited and that his or her identity had not been known. High profile cases here and in the UK have fuelled debate on such matters in recent times.

I urge the Minister to act on citizens’ genuine concerns and introduce legislation as soon as possible to protect home owners. I hope that he will withdraw his amendment and accept the Bill.

Mr. F. McGrath: I am pleased at the opportunity to speak on the Criminal Law (Home Defence) Bill 2006, whose purpose is to provide for the protection of home occupiers who confront intruders or trespassers within a dwelling. No one has the right to break into anyone’s house or carry a weapon such as a knife, syringe or gun. Each family has a right to the full support and protection of the law. People are also entitled to use reasonable defensive force to protect their families and households.

However, that does not include shooting a retreating man, beating him with sticks and then shooting him again, neither does it mean kicking a person’s head as he lies on the ground. Such brutality is not defensive force. In their hearts, people know exactly what reasonable force is, and I know that from first-hand experience. I remember having a very close shave when a knife was pulled on me. A friend standing nearby spotted it and threw a barrel to knock it from the bully’s hand, thus allowing our escape. To me, that was reasonable defensive force.

I agree with section 4, but it must be tightened to ensure that innocent people do not suffer. That is why I am interested in some of the views expressed in Senator Morrissey’s Bill. On the broader issue of crime, we must examine more closely the causes and our responses to ensure maximum support for the victim. Middle Ireland will have to waken up and do its bit on the drugs issue given that, by stoking demand for cocaine, it is part of the problem. We must all face that

reality soon. The issue is one of supply and demand. It is simply not good enough for wealthy yuppies to have their cocaine on a Saturday night and throw their hands up in outrage when drug-related shootings become common in Dublin. There is a strong connection between violent crime and assault and hard drugs.

Overall, I welcome the debate but I have major concerns with the Bill. I urge a balanced debate, a sensible response and respect for people's rights, with the focus on victims, and stress the urgent need for proper crime prevention strategies. You cannot beat the good old-fashioned garda on the beat in the local community.

Mr. McHugh: This debate encapsulates the worst aspects of politics — shadow boxing, the “cute hoor” approach and blatant political opportunism. This issue being addressed tonight is very serious. Undoubtedly, the balance of protection must revert to law-abiding citizens who wish to protect their property and families from law breakers. The blatant political opportunism to which I have referred is not confined to one side of this House. It is a charge that has widespread utility.

In response to the Fine Gael Bill, the Government's amendment calls for a deferral of consideration of this issue while the proposed Criminal Justice (Miscellaneous Provisions) Bill is being prepared. This is the response of a Government whose Minister for Justice, Equality and Law Reform has assisted a Senator from his own party to produce a Bill similar to the Fine Gael Bill. That is playing politics with this issue.

On the other hand, Fine Gael has brought this Bill forward because it believes, in the words of Deputy Kenny, that it is “utterly ridiculous and ludicrous that, as it stands, if a person does not retreat but defends his or her home and family against an intruder, that intruder might sue that person”. The utterly ridiculous and ludicrous situation referred to by Fine Gael was brought about by the introduction of a law in 1997 by none other than a Fine Gael Minister for Justice.

Mr. J. O’Keeffe: That is not true.

Mr. McHugh: This is also an example of playing politics with this issue.

Mr. Hayes: Has the Deputy become a card carrying member of Fianna Fáil?

Mr. McHugh: If the law is utterly ridiculous and ludicrous today, it was ridiculous and ludicrous in 1997. The sad part is that while this political jockeying goes on, people throughout the country, particularly the elderly, are afraid in their own homes and have no confidence in the political system.

Mr. J. O’Keeffe: Would the Deputy blame them for feeling this way, given the current Government?

Mr. McHugh: The Bill confines itself to activities within dwellings but what about incidents with the curtilage of a dwelling house? Why is the Bill so restrictive? In respect of intruders or trespassers, is it conceivable that a fairly aggressive child who trespasses could be badly beaten up by a property owner? I think it is.

Mr. Gregory: I listened to what the Minister had to say last night. Unlike some of my colleagues, on balance I must support the provisions of this Bill. The Bill addresses whether the force used by a householder is reasonable when he or she confronts an intruder and struggles to protect his or her home. The Bill affords protection from civil liability to the actions of a householder in such circumstances and removes any requirement that the householder should retreat rather than confront an intruder. The current law, as set out in the 1995 Act, is inadequate and the balance is not sufficiently on the side of the person defending his or her home. The law-abiding vulnerable person who is in fear and under serious threat of injury, assault or even death in his or her home requires greater legal protection.

I am not impressed by any of the Minister's arguments, least of all the argument that he must reject this Bill to give himself time to analyse its merits when it is clear that the Bill can be accepted on Second Stage and amended, where necessary, on Committee Stage. This issue is causing great public disquiet. We are told that 500 burglaries take place every week. According to the Minister's statistics, one Garda district in my constituency covering a large part of Dublin 7 experienced 658 recorded burglaries last year. Of those, a mere 65 were detected.

Breaking into any person's home is a despicable crime. It causes great fear, particularly among elderly people, and arouses understandable emotions. It is due to this Government's failure to provide sufficient gardaí for regular foot patrols in the community that there are so many house break-ins. Consequently, the number of detections is pathetic.

Dr. Cowley: Hear, hear.

Mr. Gregory: In these circumstances, the Minister is failing again in his duty to the public by his refusal to accept this Bill on Second Stage. If the law is to be a deterrent, the balance must be clearly on the side of the citizen and against the law breaker.

Dr. Cowley: Hear, hear.

Mr. Cuffe: The British Prime Minister, Tony Blair, once announced that he would be tough on crime and tough on the causes of crime, but we

[Mr. Cuffe.]

do not hear much talk from him about the causes of crime these days. We do not hear much talk about the causes of crime from Fine Gael either. In the advertisements for Fine Gael, Deputy Kenny states that he will make the criminals pay for their crimes. What about the causes of crime and what about the Fine Gael of a generation ago? What happened to the caring and compassionate ethos that characterised Fine Gael some 30 years ago? What about the renaissance in Fine Gael that took place under Garret Fitzgerald? Under his leadership, the party sold itself as a liberal, progressive and dynamic party. Back then, it reached out to all classes in Irish society. It reached out to the vulnerable, the disadvantaged, the marginalised and those who had been affected by crime.

I worry that at the moment Fine Gael is more interested in being tough on crime than being tough on the causes of crime. *The Daily Telegraph* would be happy with this Bill but reasonable people will realise that we must also look at the other side of the coin and deal with the causes of social exclusion, drug use and crime in Irish society.

On Deputy Kenny's first day in the Dáil, when he was aged 24, he spoke to a huge crowd of supporters outside Leinster House. In his speech, he said that he believed in the greatest good for the greatest number. That is good enough but he must also deal with those who have been marginalised, not just the victims of crime but those who commit crime. It is a brave and courageous step to address this. Fianna Fáil and the Progressive Democrats have not gone far enough. The RAPID programme is well-intentioned but it has not received the attention and funding and produced the results that it should have. After nine years of unparalleled economic growth, we must also deal with the social issues.

I know that the Fine Gael leader has been portrayed by his handlers as the sheriff rolling into town to deal with the baddies. However, I suspect that he has a caring, gentler and more compassionate side so I will give him the benefit of the doubt. I suspect that if one scratches the surface, one will find a man who is truer to the Fine Gael ethos of the early 1980s than one might be led to believe.

I call on Fine Gael not simply to grab the headlines with the image of the sheriff rolling into town but to address the underlying causes of crime. I suspect we are all agreed on many issues. We agree that we want more gardaí on the beat and more community gardaí. We want these community gardaí to serve in neighbourhoods for longer and have greater continuity rather than be shifted off to a new area without anyone being informed. We want more drug rehabilitation, more education and a greater emphasis in our prison system on rehabilitating people so that they can play a constructive role in our society. We want more investment in RAPID areas, not

just in training and education but also in the physical fabric, green spaces, sporting facilities and facilities for children and lone parents. We need all these things. I urge Fine Gael to spend more time emphasising these issues and ensure that we create a better society, rather than simply lock up criminals.

I worry about the thrust of this Bill and that, in the wrong hands, it would lead to violence and damage being perpetrated to an excessive degree. The Government's critique of the Bill last night is in many ways valid.

Aengus Ó Snodaigh: When he presented this Bill last night, Deputy Jim O'Keeffe argued that it is the victim, rather than the criminal, whose rights should be protected by law. However, the law must strike a balance between the rights of victims and those of alleged criminals. We should not forget that a fundamental premise on which our justice system is supposedly built is the presumption of innocence until proven guilty. This Bill fails to ensure that balance.

Deputy Jim O'Keeffe went on to state that the Bill's *raison d'être* is to provide clear protection to those who find themselves in the unfortunate situation of confronting a criminal in their home. Fine Gael's ultra-regressive proposal throws out the crucial safeguard of a presumption of innocence and sends the message to householders that they should act as judge, jury and executioner whenever they find someone uninvited on their properties. The crime of trespass under statute is not punishable by a kicking.

In March 2002, Deputy Jim O'Keeffe cited Article 34.1 of the Constitution, which provides that: "Justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution". He went on to state: "Very obviously, any involvement in or support for vigilantism would run utterly counter to this particular provision of the Constitution." This Bill undeniably encourages vigilantism.

Mr. J. O'Keeffe: Utter codology.

Aengus Ó Snodaigh: By the Deputy's own admission, he is advocating measures that run counter to the Constitution. How does this lie with the Deputy's proposed coalition partners? The coalition of the confused does not know where it stands on neutrality, the privatisation of Aer Lingus and this right wing criminal justice agenda. The Labour Party should reject that agenda and form a progressive coalition with An Comhaontas Glas and Sinn Féin.

Legislation exists on this issue whereby a person can use reasonable force in the face of a perceived threat, but this Bill does not stipulate that force may only be used in the face of a threat to one's body or life. It sends a message that one can beat up anyone found in one's home without fear of being brought to justice. There are many

scenarios wherein this legislation could result in people innocent of any crime getting the shit kicked out of them without any redress through the courts being available to them. Last night, the Minister, Deputy McDowell, outlined a number of incidents and we could imagine many other scenarios to disprove the Bill's intentions.

Deputy Jim O'Keeffe also argued that the protection in this Bill would have no effect where the householder kills an intruder in cold blood and that the Bill does not seek to justify over-the-top or premeditated actions in any way. What of the householder who brutally beats and perhaps permanently disables an alleged intruder? The Bill would justify that householder's actions.

I am aware of an incident in my area involving a man who had suffered a break-down after the death of his mother. A number of years later, he returned to the house in which his mother died, but by that time it had been sold to someone else. The man had been drinking and was confused. He tried to gain entrance, but the new householder had changed the locks. Under this Bill, while the man had no criminal intent, the householder would have been entitled to beat him to within an inch of his life had he gained entrance. There are circumstances of people being in the wrong place at the wrong time, a factor that is not taken into account.

With this Bill, Fine Gael and anyone who votes in favour of it are encouraging an increased use of unnecessary violence. I urge people not to support the Bill, which Sinn Féin will oppose.

Mr. Hayes: We would be surprised if Sinn Féin supported it.

Mr. Neville: I wish to share time with Deputies Pat Breen, Hayes and Durkan.

I welcome the opportunity to congratulate Deputy Jim O'Keeffe on introducing this Bill, with Fine Gael's full support. It is necessary legislation as it not only ensures that a person has a right to defend his or her home and family, but also that the person can feel safe in that home. The Bill is also important as a deterrent in that it will send a clear message to the 500 burglars who break into homes each week that such crimes will no longer be tolerated and that the State will bring to bear all the forces at its disposal to ensure such does not happen.

The legislation is particularly important in rural areas. All Deputies who represent such areas know of elderly people, widows on their own or others, such as wives who are at home with their families because husbands are on shift duty, who are frightened due to the level of burglary and the sometimes associated violence. In all our parishes, there are elderly people who have had the remainder of their lives destroyed and shortened because of muggers or intruders who need money for drugs or whatever. Such intruders enter homes, beat up people and sometimes take their lives for €20, €30 or €40.

Crime levels have dramatically increased and society has a greater tolerance of crime than previously. Levels of murder, assault, street violence, anti-social behaviour and burglary are increasing, but detection rates are decreasing. This Bill returns some level of power to home occupiers to defend their homes. Currently, they are at risk of being prosecuted as law-breakers or sued by intruders if they defend their homes in certain circumstances.

The Bill does not advocate excessive violence, rather it advocates shifting responsibility from the home occupier to the intruder and puts the onus on the latter to prove whether excessive violence was used. Currently, the occupier must defend a situation in which he or she did not decide or intend to become involved. The criminal intent was on the part of the intruder, but the defender of the home becomes the criminal and can be charged. The victim should not be a criminal. While this Bill protects the rights of the criminal, it introduces a level of justice for the home occupier instead of applying a law to the occupier, as Deputy Jim O'Keeffe said.

We are sending a clear message on breaking into homes, stealing property, endangering people and committing violent acts. There is nothing more traumatic for someone than waking up in bed and finding an intruder holding a knife. People, in particular the elderly or those who are vulnerable, never fully recover from such an experience as it has a deep effect on the psyche. A person possessed of his or her full faculties, strengths and ability to protect himself or herself finds it easier to address that trauma, but it can be distressing for vulnerable people.

This approach is not unique to Ireland. Other jurisdictions have examined this issue, perceived the same problems that the Bill deals with and attempted to address them in the same way, and we are asking the Dáil to do likewise.

Mr. P. Breen: For some time, the reality of life is that the scales of justice have swung in favour of the criminal and away from the victim. That is particularly true in the case of burglaries where home owners may face the bizarre situation of being sued for damages if, in the defence of their homes and loved ones, they cause undue injuries to intruders or the intruders trip, slip or otherwise have accidents while being unlawfully on the property of the victims. Therefore, I welcome the opportunity to speak on this Bill on behalf of my party and I commend Deputy Jim O'Keeffe on bringing it before the House.

The Bill covers such circumstances as an intruder intent on burglary or worse entering the home of a private citizen. As some of my colleagues have pointed out, Article 40.5 of the Constitution sits uncomfortably with the law as it stands. How can the dwelling of every citizen be inviolable if criminals can act with such impunity? No one is saying that a home owner should have an absolute right to do what he or she wants upon

[Mr. P. Breen.]

finding an intruder. We must always guard against the use of excessive force but the law should not be weighted against a person who engages in reasonable behaviour. I hope the Government supports this Bill, which would act as a warning in light of a rising number of house break-ins.

In my constituency of Clare, there is a worrying trend of rising numbers of burglaries while other headline crimes are going down. There were 316 burglaries recorded in Clare last year, an increase of 15 on 2004. Only 51 of those were detected, which indicates that this type of crime is on the increase. In contrast, overall crime, at 1,530 recorded offences, is at a three-year low in Clare. Detection rates of burglaries remain low because of the nature of the crime. In many instances in recent times, isolated homes in rural areas have been targeted by roving gangs. While this points to the need for preventative measures, such as increased Garda patrols, the nature of the crime is such that, from time to time, people are confronted by burglars in their homes.

The change in the law which would occur if this Bill were enacted would strengthen the legal rights of ordinary people who attempted to protect themselves, their loved ones and their properties against burglars. Even if such intruders are not armed, it is surely, as Deputy Neville said, one of the most frightening experiences in anybody's life to confront somebody in this manner.

The use of proportionate force can be very difficult in such circumstances. The intruders themselves often behave very violently when panicked and in the dead of night it is impossible for a homeowner to know if such people are armed or, indeed, if they have accomplices. As I have already mentioned, this Bill proposes to do away with the current provision whereby an intruder can sue a house occupant for injuries to their person, despite the very clear illegality of the situation. The law as it stands is a charter for burglars, offering them a protection should their enterprise be rudely interrupted.

Section 3 of the Bill moves to redress this imbalance by creating the presumption in favour of the victim that any force he or she uses to protect themselves, their home or their family is reasonable. The Bill also removes the current anomaly that occupiers should retreat from confrontations with intruders, a ridiculous situation when, as often happens, a person wakes up in the middle of the night to find that there is an intruder in his room. It factors in extenuating circumstances for the victim that he may have been acting in defence of other house occupants, that he may not have had the time to consider an alternative form of action or that such options were not available to him. However, as has been noted, it does not provide an excuse for killing an intruder in cold blood or justify a situation where an intruder can be recklessly set upon.

This is a very carefully crafted Bill aimed at providing a just regulatory framework for a very specific, but very important, area. It is a reasonable Bill. It shifts the onus of proof away from the victim in the event of proportionate force being used, but it does not provide a protection against excessive force resulting in death or serious injury. It is part of Fine Gael's vision to create a better Ireland, to improve standards in our community, to put down a marker for burglars and to reinstate a person's home as his castle.

Mr. Hayes: I am pleased to have the opportunity to speak on this very important Bill. I commend Deputy Jim O'Keeffe for bringing it forward and for putting much thought and research into it. Members tonight have questioned Fine Gael's intent in introducing the Bill but it was discussed by the parliamentary party, by the membership and at the Ard-Fheis. It was inspired by the enthusiasm of the membership and of the public to do something to protect the most important thing we have in our lives, the family home. The debate has been dragged all over the place, with various people making different points, but we put forward this Bill simply to protect our family homes.

I will declare an interest in the subject. Some years ago I was in Leinster House on a Wednesday night. I left for Tipperary and went home to bed at 1 a.m. I rose at 6 a.m. to find that my home had been burgled, so I know at first hand the effect it had on me and my family that someone had been in our house, roaming around the rooms downstairs, and had taken some valuables. It could have been worse. If I had had to face the intruder I know I would have had to protect my family and my house.

There are thousands upon thousands like me whose homes have been burgled and whose families have been frightened. For anybody to say it is political opportunism for a political party to introduce such a Bill in this House is very unfair. We are not opportunistic but bring it forward because there is a huge demand for it, given the way Irish society has developed in recent years. It is important to protect people's homes. As a Parliament and a country we are not worth our salt if we do not protect the family home. Irish people borrowed heavily to build their homes and make them nice for their families. Everything about our lives and the rearing of our families centres on protecting our homes. That is what this party is doing tonight and I am very proud, as a member of Fine Gael, to support this Bill. Those who oppose it are disingenuous and politically motivated. We must face up to the fact that something needs to be done.

I commend the Fine Gael Party and Deputy Jim O'Keeffe for bringing the Bill before the House. He speaks not only for Members of this House but a huge section of the public that is affected by the issue. I know Senator Morrissey's

family and the part of the country from which he comes and I appeal to him and his party to think very hard about it, because people in the part of Cashel in which he was born would support what we propose. There should be no division on this matter. The whole of the Oireachtas, if we are to represent the people and their interests, should row in behind this Bill and cut out the shenanigans. The details can all be dealt with on a later Stage but at this time I urge the House fully to support Deputy Jim O'Keeffe's proposals.

Mr. Durkan: Uncharacteristically, I strongly support the concept of what this Bill entails. I reject entirely the suggestion that there is any intent to undermine the constitutional rights of the accused. I congratulate Deputy Jim O'Keeffe and Fine Gael on introducing the Bill.

There is in this country a growing belief that the victim no longer counts, that the victim is no longer safe in his or her home. A criminal is entitled to a fair defence if they are caught for rape, robbery or assaulting a person and leaving them paralysed. As previous speakers have already said, a person's home is his castle. If people cannot feel safe in their own home they cannot feel safe anywhere, which is an internationally recognised principle.

I was present in this House in 1984 when the Criminal Justice Bill was introduced. It was deemed to be too severe so we waited and waited. Then Veronica Guerin was tragically murdered, which focused public attention on something that should have been addressed. I felt the action taken then would work to the disadvantage of innocent people but I was wrong.

I am surprised to see so few Members on the Government benches. It looks as if it does not matter any more. Decent, law-abiding, innocent people no longer feel safe in their own homes. If they take action against intruders in the middle of the night they can be sued in court. They could end up having to sell their home to defend their case in court. If that is the way society has gone, then we have reached a sad stage where innocent people minding their own business in their own homes are no longer safe and the laws of the land will not protect them. That is a stark message. I congratulate Deputy Jim O'Keeffe on bringing forward this Bill because it focuses on an issue in the minds and hearts of the people at this time.

Minister of State at the Department of Enterprise, Trade and Employment (Mr. Killeen): I wish to make it clear the Government is also mindful of the concerns raised by Deputies in the debate on this Private Members' Bill in the name of Deputy Jim O'Keeffe. It is fair to say concern for the safety of law-abiding people in their own homes is not the sole preserve of any party or Deputy. My colleague, the Minister for Justice, Equality and Law Reform, is already on record stating it is his view that the Government may give sympathetic consideration over the

coming months to some of the issues raised in Deputy O'Keeffe's Bill. That said, there would appear to be weaknesses in the Deputy's Bill which need to be addressed.

The House will know that another Private Members' Bill was recently introduced in the Seanad in the name of Senator Morrissey. This Bill also deals with the issue of the defence of the family home but there are clear distinctions between it and Deputy O'Keeffe's Bill. For example, Deputy O'Keeffe's Bill concerns itself with the provisions of the Non-Fatal Offences Against the Person Act 1997 whereas Senator Morrissey's Bill also considers the issue of fatal offences. We are all aware that fatalities can and have occurred in the past in the context of intruders entering a property uninvited.

The provisions of Deputy O'Keeffe's Bill are confined to the dwelling itself. There is no reference to the curtilage of the house, that is, the area surrounding the home, while Senator Morrissey's Bill provides for a defence in criminal proceedings where the use of force by an occupier took place in a dwelling or in the area of a dwelling in circumstances where the trespass in question was done for the purpose of committing a serious criminal offence and the action of the occupier entailed the justifiable use of force.

The question of the reasonable use of force is crucial. Force used in such circumstances must be reasonable by reference to the circumstances believed by the occupier to exist. The reasonableness of such force is a key element in any such incident. We all wish to protect ourselves, our families and our property from danger but we must all be accountable for our actions which should not go further than is reasonable in the circumstances.

The law must strike a balance between the competing rights of those involved in any incident of this kind. A situation in which an intruder enters a family home with some kind of criminal intent, perhaps where children or other vulnerable people are present, is bound to be fraught with emotional danger. The level of reasonable force used to remove or disable a trespasser may be difficult to assess in the heat of the moment. It is a situation in which unintended consequences of actions might easily occur.

The provisions of the Non-Fatal Offences Against the Person Act 1997 have served us well. They were drafted following recommendations of the Law Reform Commission. Section 20(4) of that Act states the fact that a person had an opportunity to retreat before using force shall be taken into account in determining whether the use of force was reasonable. Deputy O'Keeffe's Bill proposes that this provision should not apply where force is used within a dwelling by an occupier.

My colleague, the Minister for Justice, Equality and Law Reform, said during the debate on this Bill that he has some sympathy with the view that the retreat provision should be revisited. The

[Mr. Killeen.]

issues raised in this Bill and in Senator Morrissey's one are of importance and are regarded as such by the Government. However, they are issues about which we need to be careful. They are matters which require careful analysis and consideration before any fundamental change in the law in this area is proposed.

The Government will oppose the Bill which contains certain weaknesses. For example, there is no distinction in the Bill between various kinds of trespasser. There is no reference to criminal intent and no protection for accidental death. The property surrounding the house is not included. However, the Government is of the view that the subject matter of the Deputy's Bill is worthy of further consideration. A criminal justice miscellaneous provisions Bill will be introduced in the House in the autumn. My colleague, the Minister for Justice, Equality and Law Reform, said last night the Government will consider whether this issue should be addressed in that Bill. In that context, the Government will consider, among other matters, the proposals set out in Senator Morrissey's and Deputy Jim O'Keeffe's Bills.

Mr. Kehoe: I welcome this Bill introduced by Deputy Jim O'Keeffe. There can be no doubt that measures are urgently needed to allow people to rest easy in their own homes. In response to questions posed by Deputy Kenny during Leaders' Questions this morning, the Taoiseach told the House than any response should be proportionate. I agree with the Taoiseach that it should be proportionate and legal. However, we must be careful with the language we use so it does not give the rights of the intruder precedence. We need to put the rights of victims first. In fact, we need to ensure families do not become victims in their own homes as the measures in this Bill ensure.

This Bill would be welcomed by people the length and breadth of this country. Along with the obvious measures, there are ones which would protect the rights of homeowners. It is equally important that the measures contained in the Bill act as a deterrent to criminals. It would send a very strong message to criminals that the law is no longer on their side and that legislators are prepared to stand up to them and that legislation will give priority of to the rights home owners.

I was recently visited by a 73 year old man from a very rural village in County Wexford on whom a serious and violent assault was carried out at 3 a.m. Fortunately, this able-bodied man of 73 years of age succeeded in defending himself and his home. Unfortunately, he was left naked on the side of the street, something about which he will often ask questions. What is being done to protect him and his home? Why should his home be burgled at 3 a.m.? Why should he be afraid in his home at 3 a.m.? On a number of occasions this man was injured and brutally attacked by

robbers, thugs and tramps — the people who carry out these crimes. There was also the case of the elderly man in County Offaly a number of years ago who was attacked and as a consequence died a number of months later.

As my colleagues said, those types of crime are being carried out on the elderly, who are vulnerable in their own homes. What would the Taoiseach consider a proportionate response to what the man about whom I spoke experienced? What is the Government's response to the escalation of this type of crime throughout the country?

This Bill goes far enough. The legal advice received by the party and by Deputy O'Keeffe is that it is constitutional. Furthermore, it seeks to redress the balance in favour of home owners rather than the thugs and criminals who break in to violate a person's property. The measures in this Bill will provide a framework under which the victims of crime will know where they stand. The current situation, where there is no legislation in place to protect home owners, is not only creating a sense of fear but also a belief whereby home owners feel compelled to take matters into their own hands. They believe the law is morally on their side but legally is not. If any person wakes to hear intruders entering his or her home in the middle of the night, they face the despicable scenario whereby the must retreat from the intruder. He or she faces the possibility of being sued by the criminal who has entered their house. Should he or she choose to defend their family, property and possessions, the onus will be on him or her to prove this defence was reasonable.

In reality victims of break-ins in their homes are left totally at the mercy of the criminals and the legislation is not in place to offer them support and back up which should be their entitlement. This Bill seeks to offer that protection to homeowners and the Government should accept it for the good of those people it seeks to protect. As I said, the enhancement of legislation in this regard would send a powerful message to criminals and thieves that they will not get away with terrorising people in their own homes. Fine Gael will do everything to ensure ordinary, decent people can rest in their homes at night safe in the knowledge that right is on their side when protecting their families and property.

I was very surprised to hear Deputy Ó Snodaigh state that anybody who supports this Bill is voting for unnecessary violence. Deputy Ó Snodaigh should go back to Sinn Féin and his republican army and talk about the unnecessary violence they have carried out over many years. How dare he come to this House to lecture Fine Gael about unnecessary violence.

Mr. J. O'Keeffe: They would probably call it necessary.

I thank all those who contributed to the debate, which excited much interest. I am not surprised it

did so. Last November, when we debated the issue on Priority Questions, the Minister for Justice, Equality and Law Reform, Deputy McDowell, issued a challenge to me to produce this Bill. I thank all those who helped me in the preparation of the Bill — the legal experts, criminal lawyers, laymen and parliamentary colleagues.

The Bill, which I propose on behalf of Fine Gael, deals with three main issues. First, it proposes that no person should have to retreat from an intruder in his or her home. Second, it seeks to ensure that if people use force to defend their homes and families, they would not have to prove it was justified, and the prosecution would have to show it was not reasonable. If it was not reasonable and if the homeowner crossed the line, he or she would deserve the rigours of the law. However, Fine Gael feels strongly that the law must favour the victim and not the criminal. Third, the Bill seeks to prevent intruders from using a ridiculous loophole in the law to sue the innocent homeowner when the burglar had created the conditions himself.

Mr. McDowell: Who put the loophole in place? The Deputy voted for it.

Mr. J. O’Keeffe: That is not correct. These are simple, sensible, effective measures that are supported by right-thinking people. The Bill represents an honest and considered approach to this national and important issue. We expected, given the statements from the Government parties and the challenge issued to me in the House last November by the Minister, that the Bill would be favourably received and that the Government, which has passed so much incidental law on justice, would see the merits in our proposal and support the Bill. Is that how the Minister, Deputy McDowell, received the Bill? It was not. Instead of constructive acceptance, we were met with facetious assertions that had no basis in fact, fanciful scenarios that stretched the bounds of credibility, one-upmanship of the most deplorable kind and, as ever from this Government, the most selfish and self-serving stubbornness.

When given a set of sensible proposals, the Minister went about trying to dream up situations which he thought might introduce doubt into this debate. He invented circumstances that might challenge the Bill instead of looking at the strengths that he knew were in it. Earlier in the debate, one of the ludicrous settings with which the Minister sought to question the Bill was that of a gate-crasher at a party. He tried to insinuate that if someone tried to gate-crash a party, that person would be torn limb from limb and that no-one would bear responsibility.

Mr. McDowell: That is what the Deputy said would be the result of the Bill. It was an extraordinary admission on his part but that is exactly what he said.

Mr. J. O’Keeffe: He knew this was ridiculous, mischievous and also incorrect. The actions he described simply could not be viewed as reasonable and would not be protected by the Bill.

Mr. McDowell: That is what the Deputy said.

Mr. J. O’Keeffe: He knows perfectly well — it is clear in the Bill — that we are talking about intruders, burglars and housebreakers.

Mr. McDowell: The Deputy never referred to burglars.

Mr. Kehoe: The Minister should listen to some common sense.

Mr. J. O’Keeffe: Perhaps most laughable of all were the Taoiseach’s comments this afternoon——

Mr. McDowell: The Deputy forgot to put the reference to burglars into his text, which is sad. He is intent on reading his script and ignoring any replies.

Mr. J. O’Keeffe: I am not surprised at the Minister’s interruptions. He will not bully me. He had his chance.

Perhaps most laughable of all were the Taoiseach’s comments this afternoon when he tried to tell us the Bill would allow someone to be shot in the garden of the house but not inside.

Mr. McDowell: A non-fatal solution.

Mr. J. O’Keeffe: This is so incredibly off the wall that I can only assume the Taoiseach had not studied the Bill because it bears no resemblance in any reality to what is contained in it. Then, not content with trying to devise preposterous situations for the House to consider, the Government pulled a predictable stroke by making an amendment to the Fine Gael motion in Private Members’ time that would delay the Bill indefinitely. The Government does not even have the political conviction to oppose the Bill. It will not stand by its principles, not even when it clearly agrees with the proposal and when it has drafted a Bill that has the same thrust as the Fine Gael Bill.

Mr. McDowell: We do not agree with 90% of the Bill. It is nonsense, as the Deputy well knows.

Mr. J. O’Keeffe: The Government cannot oppose the Bill because it agrees with it. Everything we have seen in the House in the past two days has been nothing more than political shadow boxing.

The Taoiseach and the Minister for Justice, Equality and Law Reform agree with the thrust of this Bill. They know it makes sense. I accept they might have problems with the detail contained in it — one cannot please all of the people

[Mr. J. O’Keeffe.]

all of the time — but that is why we have committees of the House.

Mr. McDowell: Hear, hear.

Mr. J. O’Keeffe: That is why all legislation that goes through this House is debated on Second Stage and then sent to committee for fine tuning and amendment. If the Government has issues with the details of the Bill, let us pass Second Stage and debate the Bill in committee, where it can be amended, as was done earlier today with a Bill proposed by the Minister.

Mr. Hayes: It is that simple.

Mr. McDowell: Why do we not accept Senator Morrissey’s Bill? It is more reasonable and better drafted than this rubbish.

Mr. J. O’Keeffe: Any Government with the power of its convictions and the interests of the country at heart would do that. That is what I am asking the Minister to do immediately. Let us not put any more legislation on the long finger, let us not defer action. Let us grab the bull by the horns and enact legislation that makes sense, has broad acceptance and will make a difference to Irish householders throughout the country.

Mr. McDowell: It is sad that a person who believes himself to be a lawyer is putting forward such rubbish on this occasion.

Mr. J. O’Keeffe: If the Government fails to allow the Bill to pass to Committee Stage, it means one of two things. It either agrees with the substance and general direction of the Bill—

Mr. McDowell: We do not.

Mr. Hayes: We know.

Mr. McDowell: Deputy Hayes should keep quiet, or it could get him a hand in the mouth fairly soon.

Mr. J. O’Keeffe: —but it refuses to put the interests of the country first, or, alternatively, it disagrees with the proposal and it feels that householders do not need protection, do not need their fears assuaged, and can make do with the law that is in place. Either way, the Government must make a choice. The least we expect of it is to stand by what it believes in.

I am accusing the Government of putting political expediency before the right of householders—

Mr. McDowell: Tabloid rubbish.

Mr. J. O’Keeffe: —to defend their homes by refusing to support the Criminal Law (Home Defence) Bill.

Mr. McDowell: The Deputy failed to get it right. He is engaging in the most ridiculous theatrics.

An Leas-Cheann Comhairle: Order, please.

Mr. J. O’Keeffe: For the past two days, the Government has engaged in political shadow boxing and has ignored the plight of householders, many of whom feel threatened by the prospect of a break-in. Fine Gael has drafted a sensible Bill which would tip the law back in favour of householders.

Mr. McDowell: Let us see it. This is not a sensible Bill. The Deputy must have kept it in the bottom drawer back at party headquarters.

Mr. J. O’Keeffe: This comes in the wake of a 12% rise in burglaries, according to the latest Garda figures.

The Government has no reason not to support the Bill. The Taoiseach and the Minister, Deputy McDowell, agree with the thrust of the Bill because it makes sense. Given recent statements from the Government parties, it was not unreasonable for me to expect the Bill would be favourably received. Instead, the Government has engaged in blatant stroke politics by deferring this issue for another six months for debate.

I stated last November I would rise to the challenge and produce a draft Bill.

Mr. McDowell: The Deputy did a bad job. He is ashamed of how badly he failed because, despite having a well-paid draftsman, he came up with a heap of legal rubbish.

Mr. J. O’Keeffe: The Government does not even have the political conviction to oppose the Bill because it essentially agrees with it, as does the Minister, Deputy McDowell.

Mr. McDowell: The Deputy should ask for his money back. He got a very bad draft.

Mr. J. O’Keeffe: I ask the Taoiseach and the Minister what sort of debate they expect will happen this summer, given that the Dáil goes into a three month recess next week. The truth is that the parties in Government cannot agree among themselves. They want to delay the Bill indefinitely.

Mr. McDowell: What about the Labour Party? It knows the Deputy is talking rubbish.

Mr. J. O’Keeffe: Worse, the Government parties have made facetious assertions about the Bill which have no basis in fact.

Mr. McDowell: The Labour Party is ashamed of Fine Gael’s stance and will not vote for the Bill.

Mr. J. O’Keeffe: The Taoiseach’s statement that the Bill would allow someone to be shot in the garden, but not inside a home, suggests he has not even read the Fine Gael proposals. This bears no resemblance to anything drafted by Fine Gael. I have already referred to the Minister, Deputy McDowell, dreaming up situations where the Bill might be challenged, such as with regard to gate-crashers.

Mr. McDowell: Deputy Lynch has just arrived in the House to vote against the Bill. So much for the Mullingar accord.

Mr. J. O’Keeffe: These comments are facetious. The Minister knows Fine Gael is referring to burglars, not party-goers.

Mr. Treacy: I would not want to be going to the Deputy’s party.

Mr. J. O’Keeffe: Fine Gael has received strong support from the public for the Bill. We have been suggesting for at least two years that something must be done to ensure the rights of homeowners. Deputy Kenny made it one of the key justice proposals in his Ard-Fheis speech.

Mr. McDowell: Waffle.

Mr. J. O’Keeffe: We want to ensure that people are not forced to retreat from an intruder in their homes, that they can use reasonable force to protect their homes and that they will not be sued for doing so.

Mr. McDowell: Why did Fine Gael enact the Bill in 1997 if it is so worried about it in 2006?

Mr. J. O’Keeffe: The Government should grab the bull by the horns and support the Bill. If the Government refuses to do so, it is playing politics with the right of householders to defend their homes. Fianna Fáil and the PDs should remember that householders have long memories.

Mr. McDowell: What about the Labour Party Deputies? Have they lost their voice?

An Leas-Cheann Comhairle: Order, please.

Mr. J. O’Keeffe: Despite the continuing interruptions by the Minister—

Mr. McDowell: They are embarrassed by the kind of shamateur, fascist theatricals.

Mr. Howlin: We are embarrassed by the Minister.

Mr. J. O’Keeffe: I received an e-mail from the United States this morning. It states:

I read with interest your plans to try to change the laws to protect homeowners from being sued while protecting their home and families from intruders. Having been born in Ireland and living most of my life there until I moved to the USA eight years ago, I have seen at first hand the changes in Ireland over the . . . years.

Mr. McDowell: Yours sincerely, John Wayne. Come on.

Mr. J. O’Keeffe: It continued:

Gone are the times when you could expect to be safe when you locked your door at night, or walk home at 2 a.m. . . . from the TV club in Harcourt St. to Artane where I lived. When I visit Ireland now I feel unsafe wherever I go day or night . . .

I see the Minister for Justice has shelved the idea put forward by your party. From my viewpoint this is another victory for the criminals.

That sums up the Government’s attitude to this Bill.

Mr. McDowell: This is sad.

Mr. J. O’Keeffe: I make one final plea to the Government to do the honest, decent thing and allow the Bill through Second Stage. If there are details to be cleared up on Committee Stage, let us do so in the normal fashion. If the Government refuses to do so and does not accept the central thrust of the legislation, it will be answerable for the consequences as it will have sided with the criminals, intruders and burglars, and denied homeowners the protections of the law to which they are fully entitled.

Mr. McDowell: What is the Labour Party’s position on the Bill? Its Deputies have been struck dumb during this nonsense.

Mr. J. O’Keeffe: The Government, both the Fianna Fáil and Progressive Democrats parties, will be answerable to the electorate for the consequences. This is its final chance. I beg and appeal to it to put homeowners first.

Mr. McDowell: Let the Labour Party come out.

Amendment put.

The Dáil divided: Tá, 80; Níl, 37.

Tá

Ahern, Noel.
 Andrews, Barry.
 Ardagh, Seán.
 Blaney, Niall.
 Brady, Johnny.
 Brady, Martin.
 Breen, James.
 Brennan, Seamus.
 Callanan, Joe.
 Callely, Ivor.
 Carty, John.
 Cassidy, Donie.
 Connolly, Paudge.
 Cooper-Flynn, Beverley.
 Cowen, Brian.
 Curran, John.
 de Valera, Síle.
 Dempsey, Noel.
 Dempsey, Tony.
 Dennehy, John.
 Devins, Jimmy.
 Ellis, John.
 Fahey, Frank.
 Ferris, Martin.
 Finneran, Michael.
 Fitzpatrick, Dermot.
 Fleming, Seán.
 Gallagher, Pat The Cope.
 Glennon, Jim.
 Grealish, Noel.
 Harkin, Marian.
 Harney, Mary.
 Haughey, Seán.
 Healy-Rae, Jackie.
 Hoctor, Máire.
 Jacob, Joe.
 Keaveney, Cecilia.
 Kelleher, Billy.
 Kelly, Peter.
 Killeen, Tony.

Kirk, Seamus.
 Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 McDowell, Michael.
 McEllistram, Thomas.
 McGrath, Finian.
 McGuinness, John.
 McHugh, Paddy.
 Moloney, John.
 Morgan, Arthur.
 Moynihan, Donal.
 Moynihan, Michael.
 Mulcahy, Michael.
 Nolan, M. J.
 Ó Caoláin, Caoimhghín.
 Ó Cuív, Éamon.
 Ó Fearghaíl, Seán.
 Ó Snodaigh, Aengus.
 O'Connor, Charlie.
 O'Dea, Willie.
 O'Donnell, Liz.
 O'Flynn, Noel.
 O'Keeffe, Batt.
 O'Keeffe, Ned.
 O'Malley, Fiona.
 O'Malley, Tim.
 Parlon, Tom.
 Power, Peter.
 Power, Seán.
 Roche, Dick.
 Sexton, Mae.
 Smith, Brendan.
 Smith, Michael.
 Treacy, Noel.
 Wallace, Dan.
 Wallace, Mary.
 Walsh, Joe.
 Wilkinson, Ollie.
 Woods, Michael.

Níl

Allen, Bernard.
 Boyle, Dan.
 Breen, Pat.
 Bruton, Richard.
 Coveney, Simon.
 Cowley, Jerry.
 Crawford, Seymour.
 Cuffe, Ciarán.
 Deasy, John.
 Deenihan, Jimmy.
 Durkan, Bernard J.
 English, Damien.
 Enright, Olwyn.
 Fox, Mildred.
 Gogarty, Paul.
 Gormley, John.
 Gregory, Tony.
 Hayes, Tom.
 Healy, Seamus.

Hogan, Phil.
 Kehoe, Paul.
 Kenny, Enda.
 Lowry, Michael.
 McCormack, Pádraic.
 McEntee, Shane.
 McGinley, Dinny.
 McGrath, Paul.
 Mitchell, Olivia.
 Murphy, Gerard.
 Naughten, Denis.
 Neville, Dan.
 O'Keeffe, Jim.
 Perry, John.
 Ryan, Eamon.
 Sargent, Trevor.
 Stanton, David.
 Twomey, Liam.

Tellers: Tá, Deputies Kitt and Kelleher; Níl, Deputies Kehoe and Neville.

Amendment declared carried.

Question put: "That the motion, as amended, be agreed to."

The Dáil divided: Tá, 79; Níl, 31.

Tá

Ahern, Noel.
 Andrews, Barry.
 Ardagh, Seán.
 Blaney, Niall.
 Brady, Johnny.
 Brady, Martin.
 Breen, James.
 Brennan, Seamus.
 Callanan, Joe.
 Callely, Ivor.
 Carty, John.
 Cassidy, Donie.
 Connolly, Paudge.
 Cooper-Flynn, Beverley.
 Cowen, Brian.
 Curran, John.
 Dempsey, Noel.
 Dempsey, Tony.
 Dennehy, John.
 Devins, Jimmy.
 Ellis, John.
 Fahey, Frank.
 Ferris, Martin.
 Finneran, Michael.
 Fitzpatrick, Dermot.
 Fleming, Seán.
 Gallagher, Pat The Cope.
 Glennon, Jim.
 Grealish, Noel.
 Harkin, Marian.
 Harney, Mary.
 Haughey, Seán.
 Healy-Rae, Jackie.
 Hoctor, Máire.
 Jacob, Joe.
 Keaveney, Cecilia.
 Kelleher, Billy.
 Kelly, Peter.
 Killeen, Tony.
 Kirk, Seamus.

Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 McDowell, Michael.
 McEllistrim, Thomas.
 McGrath, Finian.
 McGuinness, John.
 McHugh, Paddy.
 Moloney, John.
 Morgan, Arthur.
 Moynihan, Donal.
 Moynihan, Michael.
 Mulcahy, Michael.
 Nolan, M. J.
 Ó Caoláin, Caoimhghín.
 Ó Cuív, Éamon.
 Ó Fearghaíl, Seán.
 Ó Snodaigh, Aengus.
 O'Connor, Charlie.
 O'Dea, Willie.
 O'Donnell, Liz.
 O'Flynn, Noel.
 O'Keeffe, Batt.
 O'Keeffe, Ned.
 O'Malley, Fiona.
 O'Malley, Tim.
 Parlon, Tom.
 Power, Peter.
 Power, Seán.
 Roche, Dick.
 Sexton, Mae.
 Smith, Brendan.
 Smith, Michael.
 Treacy, Noel.
 Wallace, Dan.
 Wallace, Mary.
 Walsh, Joe.
 Wilkinson, Ollie.
 Woods, Michael.

Níl

Allen, Bernard.
 Breen, Pat.
 Bruton, Richard.
 Coveney, Simon.
 Cowley, Jerry.
 Crawford, Seymour.
 Deasy, John.
 Deenihan, Jimmy.
 Durkan, Bernard J.
 English, Damien.
 Enright, Olwyn.
 Fox, Mildred.
 Gregory, Tony.
 Hayes, Tom.
 Healy, Seamus.
 Hogan, Phil.

Kehoe, Paul.
 Kenny, Enda.
 Lowry, Michael.
 McCormack, Pádraic.
 McEntee, Shane.
 McGinley, Dinny.
 McGrath, Paul.
 Mitchell, Olivia.
 Murphy, Gerard.
 Naughten, Denis.
 Neville, Dan.
 O'Keeffe, Jim.
 Perry, John.
 Stanton, David.
 Twomey, Liam.

Tellers: Tá, Deputies Kitt and Kelleher; Níl, Deputies Kehoe and Neville.

Question declared carried.

**Criminal Justice Bill 2004: Report Stage
 (Resumed).**

**Minister for Justice, Equality and Law Reform
 (Mr. McDowell):** I move amendment No. 117:

In page 52, between lines 33 and 34, to insert the following:

(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

[Mr. McDowell.]

(8) A person (except a person under the age of 18 years)—

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 26, 27, 27A or 27B of the Firearms Act 1964 or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 10 years.”.

Amendment agreed to.

Amendment No. 118 not moved.

Mr. McDowell: I move amendment No. 119:

In page 52, to delete line 34 and substitute the following:

“(9) Section 27C of the Firearms Act 1964”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 120:

In page 52, line 37, after “imposed” to insert “under subsection (4) or (8) of this section”.

Amendment agreed to.

An Ceann Comhairle: Amendment No. 122 is related to amendment No. 121 and amendment No. 123 is consequential on amendment No. 122. Amendments Nos. 121 to 123, inclusive, will be discussed together by agreement.

Aengus Ó Snodaigh: I move amendment No. 121:

In page 53, line 33, after “may” to insert “at the earliest possible opportunity”.

The amendment is self-explanatory. In all such cases the phrase “at the earliest possible opportunity” should be used instead of “when possible”.

Mr. McDowell: I sympathise with the view that matters should be dealt with expeditiously but the courts have other things to do. It is not usual to put into a provision in respect of a court’s exercise of its jurisdiction that it will act at the earliest opportunity available, or words to that effect.

Amendments Nos. 122 and 123 are in my name. Section 30 as it stands provides that any person issuing a firearms certificate shall do so within three months. The section, however, does not provide for circumstances where the issuing person is unable or failed to issue the certificate within the prescribed period.

Amendment No. 122 provides that where a certificate does not issue within the prescribed period it will be deemed to have been refused so that the applicant can go to the District Court. If, for example, the superintendent had flu for the last week, the person who applied for the firearms certificate will not find himself or herself in the situation of having nothing against which to appeal. The licence will be deemed to have been refused and he or she will be able to go to the District Court to apply for the licence there.

Amendment No. 123 is a technical amendment.

Aengus Ó Snodaigh: I still do not see what the problem is in stating that the appeal must happen at the earliest possible opportunity. The previous provision contains a time line to the effect that “an appeal shall be made within 30 days of receipt of notice of the decision”. I am not imposing a time limit on the appeal. The “earliest possible opportunity” allows for the possibility that somebody is ill but there cannot be an undue delay in the appeal.

Mr. Howlin: I wish to refer to the Minister’s amendments. I am concerned that the formula would be that if the statutory timeframe set out is not adhered to the licence would be deemed to have been refused. In most other instances, for example, planning permission, with which the Minister is conversant, it is deemed to be granted if it has not been dealt with in the proper statutory period. That is seen to put pressure on the regulatory authority to do the job in the timeframe set out.

There might be unique circumstances in which this might not happen but there should be some other mechanism whereby it goes to another authority. If, due to some unique set of circumstances, the normal statutory provision cannot be complied with, which is not the applicant’s fault, he or she should not have the double burden of trying to reverse a refusal and the expense of going to court to do so. It seems it is not a citizen-friendly way to constitute the law. It might suit those involved in the Administration to say that the citizen will have to carry the burden if the Administration cocks up, but that is not the way normal things work anymore. The Administration is expected to be efficient and to deliver for the citizen. The citizen should not be doubly burdened when the Administration cannot deliver within the timeframe set out by the Oireachtas, for whatever reason.

Mr. G. Murphy: I support Deputy Howlin to a certain extent. We need to consider what will happen in court if the officer who was responsible for issuing the certificate in the first place is not capable of indicating to the court the conclusions he reached on foot of the investigation he pursued up to that point. It seems that it has been decided to deal with the issue rather than to act in a justifiable

9 o'clock

manner. If the court learns that the certificate was not issued in time, it might consider that the issuing officer did not have time to conduct a proper investigation, or that the officer found something wrong with the application, and therefore decide that the application should be refused.

Mr. McDowell: I take the point the Deputy is making. This State, unlike the US, does not provide a constitutional right to have a firearm.

Mr. Howlin: It is the same as the right to drive a car or build a house.

Mr. McDowell: There is no general right to have a firearm. The State does not have a presumption one way or another — it does not hold that everyone who wants a firearm can have one. The State's view is that having a firearm is a licensed and certificated activity.

Mr. Howlin: Everyone must be treated equally.

Mr. McDowell: That is the way Ireland works.

Aengus Ó Snodaigh: One must have a licence for one's car or one's television.

Mr. McDowell: There is no presumption in favour of everybody who wants to have a firearm in their house. That is not the way Ireland has ever worked as an independent State.

Mr. Howlin: Nobody is suggesting that.

Mr. McDowell: We are not going down that road now. That is the first point.

Mr. Howlin: That is a canard.

Mr. McDowell: The second point is that if a superintendent asks for a psychiatric report but does not get co-operation from the psychiatrist — the psychiatrist may be on holiday or there may be no conclusive evidence——

Mr. Howlin: He would refuse it.

Mr. McDowell: Of course the superintendent can refuse to grant a certificate in circumstances of that nature.

Mr. Howlin: Yes.

Mr. McDowell: The superintendent can refuse if he does not have the evidence on the last day.

Mr. Howlin: Correct.

Mr. McDowell: If he does not make a decision because he simply does not want to do so on the basis of nothing, he will be deemed to have refused. The applicant will not be in a worse position in such circumstances. I honestly believe we have to be clear about this. To possess a firearm is a matter of some consequence. To apply to the

State for a permit to have a firearm is also a matter of some consequence. It is not the case that one gets the right to have a firearm, by default, whenever the State cannot think of a reason to the contrary or whenever something goes wrong in the system. I make no bones about saying I do not want unsuitable people to get firearms because they were given a permit when something went wrong. It is not the end of the world if people have to go to the District Court. The suggestion that it costs money to go to the District Court is not accurate. If one contacts one's local District Court clerk, either through their office or their website, one can fill out a form to make one's appeal oneself. The District Court is not a lawyer-driven court. Anybody who has a statable case, particularly somebody who has simply been let down by the system, should win that case as of right at an early hearing. I do not agree with the proposition that the default mode should be to issue a firearms licence — the default mode should be not to issue a licence.

Mr. Howlin: I did not say that.

Mr. McDowell: I did not say the Deputy said that. I am saying I do not agree with that proposition.

Mr. Howlin: Nobody made such a proposition.

Mr. McDowell: Applying to possess a firearm is not like applying for planning permission, for example. The possession of a firearm is a matter of such consequence that there should not be a presumption in favour of it. I think it should be a neutral proposition, at the best. Those who want to possess firearms should always carry the onus of proof.

Mr. Howlin: The Minister started by half-agreeing with this proposal, but he then argued himself into opposing it. Nobody has suggested there should be a default mechanism whereby firearms licences are issued. I am saying there should be a standard. We should ensure that under the regime we establish — we are putting in place a set of law here — the citizens of Ireland can apply for such licences, regardless of whether it is a right. As long as citizens meet the criteria which are set by the Oireachtas, they have an entitlement. The problem is that everyone should be treated equally. I do not accept the notion, which the Minister seems to think is hunky-dory, that when our system breaks down, citizens should have to carry the burden. I do not think it is right, fair or in tune with modern thinking. It is in tune with the old-fashioned thinking, which I notice again and again in justice legislation, that citizens should have to go the extra mile and push the rock a bit further up, whereas the agencies of the State should not be required to deal with the citizenry properly, fairly, efficiently, effectively

[Mr. Howlin.]

and in a 21st century way. That is the issue I am raising.

If the system we put in place fails, for whatever reason, citizens should not be penalised. They should have the right to go to somebody else, or there should be an automatic transfer or some other mechanism. It should not end in refusal. There should be a delay mechanism, or some other authorised officer should be required to make a decision within four weeks. There should be some other mechanism. It should not end in refusal — that carries a stigma because people think they have been refused for a reason. If one has to appeal, one is challenging a process in which one was not given a hearing in the first instance. Any decision to refuse is taken without one's side of the case having been heard or one's evidence having been weighed up. It is just a wrong supposition — that is my case in this regard.

Mr. G. Murphy: I would like to add to what Deputy Howlin has said. If the courts system is so simple at District Court level that people can do the work themselves, how is the court expected to have the type of information that the issuing officer, who did not make the decision because he did not have the report from the psychiatrist, did not have in the first place? How does that pan out eventually? If the deciding officer does not have adequate information to make the decision and if the court process is as simple as the Minister claims it is, how can the court be in a position to make the decision?

Mr. Howlin: Some 100 cases have to be dealt with each day.

Mr. McDowell: Very briefly, there is no——

An Ceann Comhairle: Does the House agree to allow the Minister to speak for a third time on these amendments?

Aengus Ó Snodaigh: Agreed.

Mr. McDowell: I thought this was my second contribution on these amendments.

Mr. Howlin: No.

Mr. McDowell: I do not know.

Mr. G. Murphy: It is agreed to allow the Minister to speak.

Aengus Ó Snodaigh: This is his fourth time to speak.

An Ceann Comhairle: It is the third time.

Mr. McDowell: Perhaps I am counting wrongly. This is a matter of some consequence.

Mr. Howlin: Yes.

Mr. McDowell: If, for whatever reason, an application is not granted to a superintendent——

Mr. Howlin: By a superintendent.

Mr. McDowell: ——we are faced with two propositions. We could say it is deemed to be granted——

Mr. Howlin: No.

Mr. G. Murphy: No.

Mr. McDowell: ——or we could say it is deemed not to be granted and give the person a right to go to somebody who will deal with the issue.

Mr. Howlin: It should be transferred to another officer for a month.

Mr. McDowell: Yes, but——

Mr. Howlin: It should not be refused.

Mr. McDowell: ——you have not tabled an amendment to that effect. Frankly, that is not——

Mr. Howlin: You tabled your amendment for the first time today.

Mr. McDowell: That is not on offer.

An Ceann Comhairle: I ask Deputy Howlin to allow the Minister to conclude and I ask the Minister to address his remarks through the Chair.

Mr. McDowell: I am proposing a means of dealing with this issue. I am proposing that people who do not meet the deadline should have some clear method of getting a decision in their favour. To provide for another officer really does not answer the question. It may not be the officer's fault — it may be that the psychiatrist would not produce the report, for example. It may be that the superintendent was operating to a deadline and decided not to make a decision because no evidence was available to him and he was in genuine doubt. In such circumstances, applicants are entitled to go to an impartial person and say they want a decision to be made.

Mr. Howlin: That is an old-fashioned mindset.

Mr. McDowell: The notion that it is based on the point of view of seurocrats or people within the Department of Justice, Equality and Law Reform——

Mr. Howlin: It is.

Mr. McDowell: The possession of firearms is a very serious matter.

Mr. Howlin: The citizen is always wrong.

Mr. McDowell: If a person who got a licence by default killed somebody with a firearm—

Mr. Howlin: Nobody suggested that.

Mr. McDowell: —Deputy Howlin would be the first to ask—

Mr. Howlin: Nobody suggested that until the Minister mentioned such a case.

Mr. McDowell: —how the man in question got the licence in the first place.

Mr. Howlin: The Minister is constantly building straw men to knock down.

Amendment put and declared lost.

Mr. McDowell: I move amendment No. 122:

In page 53, between lines 41 and 42, to insert the following:

“(5) For the purposes of this section—

(a) an issuing person—

(i) who is required under section 3(9), 4A(7) or 10(4F) to decide on an application within a specified period, and

(ii) who does not so decide,

is deemed to have decided to refuse to grant the application,

(b) the applicant is deemed to have received notice of the decision on the expiration of that period, and

(c) as the case may be, section 3(10) does not apply in relation to the application.”.

Amendment put and declared carried.

Mr. McDowell: I move amendment No. 123:

In page 53, to delete line 42 and substitute the following:

“(6) The jurisdiction conferred on the District”.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 124 to 126, inclusive, are related and will be taken together.

Mr. McDowell: I move amendment No. 124:

In page 54, line 40, after “station” to insert the following:

“or at any other place approved for the purpose by a superintendent of the Garda Síochána”.

These amendments arise out of a discussion on Committee Stage in which there was a general consensus that there should not be an obligation simply to surrender weapons at a Garda station. Likewise the notion that an individual can walk into a station, claim he is “John Smith” and hand it over the counter would not be an acceptable situation. The three amendments are designed to deal with those scenarios which were the subject of universal agreement that there was room for improvement in the original drafting.

Amendment agreed to.

Mr. McDowell: I move amendment No. 125:

In page 55, line 4, to delete “name and address” and substitute “name, address and proof of identity”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 126:

In page 55, line 6, after “station” to insert “or place”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 127:

In page 58, line 40, to delete “subsection (6)” and substitute “subsection (5)”.

This amends a typographical error.

Amendment agreed to.

Mr. McDowell: I move amendment No. 128:

In page 59, line 17, after “firearm” to insert “, where they first occur”.

This is a drafting amendment.

Amendment agreed to.

Aengus Ó Snodaigh: I move amendment No. 129:

In page 60, to delete lines 8 to 13.

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

Amendment declared lost.

Amendment No. 130 not moved.

Aengus Ó Snodaigh: I move amendment No. 131:

In page 60, line 46, after “sentence” to insert the following:

[Aengus Ó Snodaigh.]

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

Amendment put and declared lost.

Mr. McDowell: I move amendment No. 132:

In page 60, between lines 46 and 47, to insert the following:

“(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) A person (except a person under the age of 18 years)-

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 27, 27A or 27B of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 5 years.”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 133:

In page 60, to delete line 47 and substitute the following:

“(9) In proceedings for an offence under this”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 134:

In page 61, to delete line 1 and substitute the following:

“(10) Section 27C of this Act applies in relation”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 135:

In page 61, line 3, after “imposed” to insert “under subsection (4) or (8) of this section”.

Amendment agreed to.

Aengus Ó Snodaigh: I move amendment No. 136:

In page 61, to delete lines 34 to 39.

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

Amendment declared lost.

Amendment No. 137 not moved.

Aengus Ó Snodaigh: I move amendment No. 138:

In page 62, line 23, after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

Amendment put and declared lost.

Mr. McDowell: I move amendment No. 139:

In page 62, between lines 23 and 24, to insert the following:

“(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) A person (except a person under the age of 18 years)-

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 26, 27A or 27B of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 10 years.”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 140:

In page 62, to delete line 24 and substitute the following:

“(9) Section 27C of this Act applies in relation”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 141:

In page 62, line 26, after “imposed” to insert “under subsection (4) or (8) of this section”.

Amendment agreed to.

Aengus Ó Snodaigh: I move amendment No. 142:

In page 63, to delete lines 5 to 10.

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

Amendment declared lost.

Amendment No. 143 not moved.

Aengus Ó Snodaigh: I move amendment No. 144:

In page 63, line 43, after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

Amendment put and declared lost.

Mr. McDowell: I move amendment No. 145:

In page 63, between lines 43 and 44, to insert the following:

“(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) A person (except a person under the age of 18 years)-

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 26, 27 or 27B of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 5 years.”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 146:

In page 63, to delete line 44 and substitute the following:

“(9) Section 27C of this Act applies in relation”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 147:

In page 63, line 46, after “imposed” to insert “under subsection (4) or (8) of this section”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 148:

In page 63, to delete line 48 and substitute the following:

“(10) In the application of section 2 of the Crimi-”.

Mr. Howlin: Why is the term “Crimi-” used? It is the second time this broken word has been used in an amendment.

An Ceann Comhairle: The amendment has already been discussed with amendment No. 115.

Mr. Howlin: I just want to stop the gallop.

An Ceann Comhairle: And give the Chair a chance to catch breath.

Mr. McDowell: It is a case of deleting a line and inserting a different one. In this case the line will conveniently end with the broken word “Crimi-”.

Amendment agreed to.

Aengus Ó Snodaigh: I move amendment No. 149:

In page 64, to delete lines 30 to 35.

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

Amendment declared lost.

Aengus Ó Snodaigh: I move amendment No. 150:

In page 65, line 21, after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

Amendment put and declared lost.

Mr. McDowell: I move amendment No. 151:

In page 65, between lines 21 and 22, to insert the following:

“(7) Subsections (2) to (6) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (8)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(8) A person (except a person under the age of 18 years)-

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act, section 26, 27 or 27A of this Act or section 12A of the Firearms and Offensive Weapons Act 1990,

shall be sentenced to imprisonment for a term of not less than 5 years.”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 152:

In page 65, to delete line 22 and substitute the following:

“(9) In proceedings for an offence under this”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 153:

In page 65, to delete line 28 and substitute the following:

“(10) Section 27C of this Act applies in relation”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 154:

In page 65, line 30, after “imposed” to insert “under subsection (4) or (8) of this section”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 155:

In page 65, line 37, to delete “section 15(4)” and substitute “section 15”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 156:

In page 65, line 38, to delete “section 26(4), 27(4), 27A(4) or 27B(4)” and substitute “section 26, 27, 27A or 27B”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 157:

In page 65, line 40, to delete “section 12A(9)” and substitute “section 12A”.

Amendment agreed to.

Aengus Ó Snodaigh: I move amendment No. 158:

In page 65, to delete lines 44 to 47.

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

The Dáil divided: Tá, 86; Níl, 11.

Tá

Ahern, Noel.
Allen, Bernard.
Andrews, Barry.
Ardagh, Seán.
Blaney, Niall.
Brady, Johnny.
Brady, Martin.
Breen, James.
Breen, Pat.
Brennan, Seamus.
Callanan, Joe.

Callely, Ivor.
Carty, John.
Cassidy, Donie.
Connolly, Paudge.
Cooper-Flynn, Beverley.
Cowan, Brian.
Curran, John.
Deasy, John.
Dempsey, Noel.
Dempsey, Tony.
Dennehy, John.

Tá—continued

Devins, Jimmy.
 Durkan, Bernard J.
 Ellis, John.
 English, Damien.
 Fahey, Frank.
 Finneran, Michael.
 Fitzpatrick, Dermot.
 Fleming, Seán.
 Fox, Mildred.
 Gallagher, Pat The Cope.
 Glennon, Jim.
 Grealish, Noel.
 Gregory, Tony.
 Harkin, Marian.
 Harney, Mary.
 Haughey, Seán.
 Healy, Seamus.
 Healy-Rae, Jackie.
 Hoctor, Máire.
 Jacob, Joe.
 Keaveney, Cecilia.
 Kelleher, Billy.
 Kelly, Peter.
 Killeen, Tony.
 Kirk, Seamus.
 Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 McDowell, Michael.
 McEllistrim, Thomas.
 McGrath, Paul.
 McGuinness, John.

McHugh, Paddy.
 Moloney, John.
 Moynihan, Donal.
 Moynihan, Michael.
 Mulcahy, Michael.
 Murphy, Gerard.
 Neville, Dan.
 Nolan, M. J.
 Ó Cuív, Eamon.
 Ó Fearghail, Seán.
 O'Connor, Charlie.
 O'Dea, Willie.
 O'Donnell, Liz.
 O'Donoghue, John.
 O'Flynn, Noel.
 O'Keeffe, Batt.
 O'Keeffe, Ned.
 O'Malley, Fiona.
 O'Malley, Tim.
 Parlon, Tom.
 Roche, Dick.
 Sexton, Mae.
 Smith, Brendan.
 Smith, Michael.
 Stanton, David.
 Treacy, Noel.
 Twomey, Liam.
 Wallace, Dan.
 Wallace, Mary.
 Walsh, Joe.
 Wilkinson, Ollie.
 Woods, Michael.

Níl

Cowley, Jerry.
 Cuffe, Ciarán.
 Ferris, Martin.
 Gogarty, Paul.
 Gormley, John.
 McGrath, Finian.

Morgan, Arthur.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 Ryan, Eamon.
 Sargent, Trevor.

Tellers: Tá, Deputies Kitt and Kelleher; Níl, Deputies Ó Snodaigh and Morgan.

Question declared carried.

Amendment declared lost.

Aengus Ó Snodaigh: I move amendment No. 159:

In page 66, to delete lines 5 to 13.

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

Amendment declared lost.

Mr. McDowell: I move amendment No. 160:

In page 66, between lines 17 and 18, to insert the following:

63.—The Firearms and Offensive Weapons Act 1990 is amended—

(a) by the repeal of section 4,

(b) in section 6(1), by the substitution of "paragraph (f) of the definition of "firearm" in section 1(1) of the Principal Act" for "section 4(1)(f)", and

(c) in section 7(8), by the substitution of "paragraph (g)(ii) of the definition of "firearm" in section 1(1) of the Principal Act" for "section 4(1)(g)".

Amendment agreed to.

Mr. McDowell: I move amendment No. 161:

In page 66, to delete lines 18 to 44.

Amendment agreed to.

Aengus Ó Snodaigh: I move amendment No. 162:

In page 68, to delete lines 19 to 25.

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

Amendment declared lost.

Amendment No. 163 not moved.

Aengus Ó Snodaigh: I move amendment No. 164:

In page 69, line 8, after “sentence” to insert the following:

“and

(c) the circumstances in which the offence occurred including any aggravating and mitigating factors, extent of violent behaviour, character, age, previous criminal record, family circumstances, expressions of remorse, whether alternatives to custody would be a more appropriate sentence or part thereof and the imperative to protect the public from harm”.

Amendment put and declared lost.

Mr. McDowell: I move amendment No. 165:

In page 69, between lines 8 and 9, to insert the following:

“(12) Subsections (7) to (11) of this section apply and have effect in relation to a person convicted of a first offence under this section (other than a person who falls under subsection (13)(b) of this section), and accordingly references in those first-mentioned subsections to an offence under this section are to be construed as references to a first such offence.

(13) A person (except a person under the age of 18 years)—

(a) who is convicted of a second or subsequent offence under this section, or

(b) who is convicted of a first offence under this section and has been convicted of an offence under section 15 of the Principal Act or section 26, 27, 27A or 27B of the Firearms Act 1964,

shall be sentenced to imprisonment for a term of not less than 5 years.”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 166:

In page 69, to delete line 9 and substitute the following:

“(14) Section 27C of the Firearms Act 1964”.

Amendment agreed to.

Mr. McDowell: I move amendment No. 167:

In page 69, line 12, after “imposed” to insert “under subsection (9) or (13)”.

Amendment agreed to.

An Ceann Comhairle: Amendment No. 168 arises out of Committee Stage proceedings.

Mr. McDowell: I move amendment No. 168:

In page 69, line 16, to delete “the Act” and substitute “the Act of 1976”.

This is a simple drafting amendment.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 169 and 170 are related and may be discussed together.

Mr. G. Murphy: I move amendment No. 169:

In page 71, to delete lines 19 to 22 and substitute the following:

“(a) to enter the place named in the warrant at any time or times within—

(i) one week of the time of issue of the warrant, or

(ii) the time limit specified on the warrant,

whichever is the sooner, on production if so requested of the warrant and, if necessary, by the use of reasonable force.”.

This amendment aims to reflect more accurately and specifically what should be shown on a warrant. This is necessary in light of the issues arising in the recent case of the serving of a warrant that was out of date. The amendment aims to ensure that an out-of-date warrant will not be served.

Mr. McDowell: Under the section as it stands, a garda may, on foot of a search warrant, enter the place named in the warrant at any time or times within one week after the date of issue of the warrant on production, if so requested, of the warrant and, if necessary, by use of reasonable force. Warrants are normally issued for one week. This amendment, in the name of Deputy Jim O’Keeffe, proposes to include the words “or the time limit specified on the warrant”. This is similar to Deputy O’Keeffe’s amendment No. 24 which we have already discussed. As I said in reply to that amendment, I indicated on Committee Stage that I would consider further the issue of endorsing the warrant with the time and date of its expiration.

Having considered the matter, I am now advised this is a matter that would be more appropriate for rules of court. The endorsement of a warrant by way of court rules would mean that an error in its endorsement would not prove fatal to the warrant. As I said in reply to amendment No. 24, I will undertake to bring the views of the House on this matter to the attention of the court rules committees and thereby put forward for their consideration the idea that the expiry date of a warrant might be stated on its face.

Amendment No. 170 in my name is a drafting amendment.

Mr. G. Murphy: Will this approach ensure there will be a specific date on each warrant and that gardaí, before they issue a warrant, can be absolutely sure it is valid at that point in time?

Mr. McDowell: The District Court deals with the vast majority of warrants and I intend to put this issue before its court rules committee. Unless there is some issue we have not considered, my preference is that a warrant should include on its face a clear indication of the time by which it is effectively dead. This means that somebody who is in charge of a premises or in a home in respect of which a warrant is produced can immediately see whether it is already invalid or for how much longer it will remain valid. The applicable time limit will be clear.

The person who receives a warrant should know exactly what it means. At present, however, there is a rather legal and mathematical process where it is up for discussion whether the seven days for which a warrant is to remain open began at midnight on the day on which it was issued and expired at midnight six or seven days later or otherwise, depending on one's mathematics. It would be better if a warrant clearly stated the time and date of its expiration. Everybody would then have a clear view on when it was or was not in force.

The Deputy is aware of several recent cases where gardaí presented with warrants in their hands in the belief they were still in force. If one goes back to the Interpretation Act, however, one discovers they were erroneous in their legal interpretation of the documents they were holding. The easiest way around this is to state on the face of the warrant the time when it expires or is dead. Rather than do this through legislation, I would prefer if the courts, in particular the District Court, would consider the question of putting into its rules that the time at which the warrant expires should be clearly stated, in a box marked expiry time, so that everybody knows when a warrant is alive or dead.

Mr. G. Murphy: If the Minister is happy that the day and time of expiry will appear on every warrant, that is acceptable. However, as we all know, if a warrant is served after the expiry date, the evidence recovered is not admissible in court. That has very serious consequences and we cannot afford to have uncertainty about this issue. If it should be stated in law, that should be done.

Mr. Howlin: This amendment deals with part 6 of the Bill, about which we had long discussions on Committee Stage. There is no amendment from either side covering the issue upon which we reached some measure of agreement. I hope there is an extant copy of the 1875 Act available now. It was scarce when we were looking for it.

The Minister indicated that there was only one copy in existence, which was far too precious to share with the Opposition. We were amending an existing enactment somewhat in the dark.

With regard to the general discussion on Committee Stage, the Minister will recall that a consensus was reached that we should have flexibility with regard to allowing for the proper use of fireworks. This part of the Bill is designed to tighten the law to make explosive materials such as bangers harder to access and use. By and large, all Members agree with that. However, we discussed in some detail the possibility of providing for proper community fireworks for special occasions. Neither side, probably because of the time limits under which we are operating, addressed that by way of further amendment. Does the Minister have further views on that issue or is it a matter to which we must return at a later date?

Mr. McDowell: With regard to the question of community fireworks, I accept that the consensus politically is that there should be a well established and operable system allowing for people to mount a fireworks display. At the moment, the legislation is very much importation oriented. I accept the Deputy's implied point that this is not a very satisfactory state of affairs. However, I am dealing with the Bill as I have it and there will be another occasion to address this. What I have done is put in place a workable law. If someone imports fireworks into Ireland for sale illegally, he or she can be arrested and the produce seized. There will be significant penalties for possession of fireworks with intent to supply.

I reiterate the point I made on Committee Stage that this is a matter which caused me some degree of difficulty. I could say categorically, with regard to fireworks, that they will damage children. However, I could say the same about bicycles — if there were no bicycles, many children would not suffer injuries.

Mr. Howlin: Sweets are deadly for the teeth.

Mr. McDowell: It is not a matter of principle but of degree. Public opinion research carried out by my Department tends to support the proposition that the majority of people do not want the law to be changed but want it to be made effective. Though it may sound slightly intellectually cowardly to rely on an opinion survey for one's guidance in such matters, that is where I am at present and that is where the people are too.

Amendment, by leave, withdrawn.

Mr. McDowell: I move amendment No. 170:

In page 72, line 41, before "does" to insert "except in subsection (1)(b)".

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 171 to 177, inclusive, are related and will be discussed together.

Aengus Ó Snodaigh: I move amendment No. 171:

In page 73, to delete lines 11 to 40 and to delete pages 74 to 77.

Is é an rud atá i gceist ag an leasú seo agus na leasuithe ina dhiaidh sin, Uimh. 171 go 177, le chéile, ná fáil réidh leis an chuid seo den Acht ina hiomláine ó líne 11 ar leathanach 73 ar aghaidh go dtí leathanach 77. Sin an chéad leasú, agus muna bhfuil an tAire sásta glacadh leis, tá roinnt leasuithe eile agam le cuidiú leis an damáiste a mhaolú.

We are opposed to the inclusion of Part 7 in the Bill. It would be very easy and it would make me very popular to say that we should tackle organised crime and this is the way to do it. There are organised gangs in my area who are creating havoc in communities that I represent. Other Members in this House represent similar communities and they know of the destruction caused by various groups of drug dealers, thugs and so forth. However, to describe them as an “organisation”, as this section does, is a misnomer. Part of our job in this House is to make good law, law that will stand up. We believe that there are many other provisions in legislation relating to crime which could be used to greater effect than they are at present and that would have the same effect the Minister intends in this part of the Bill.

I support the view that the existing law is sufficient and that the Minister’s current proposal lacks clarity. The Constitution of this State demands clarity and certainty in our laws but this part of the Bill lacks both. The Irish Human Rights Commission questioned whether the proposals were necessary or proportionate responses to the problem of organised crime. It was positive in its comments. It stated: “The IHRC is of the view that the activity which is targeted here is already subject to appropriate criminal sanction, through existing common law and statute which prohibit conspiracy to commit an offence and prohibit the aiding, abetting, counselling or procuring of an offence.”

Much of this part is based on the proposal on the part of the Canadian criminal code, which the Supreme Court of British Columbia recently found to be in violation of the Canadian Charter of Rights and Freedoms. The Irish Human Rights Commission outlines how the Supreme Court of British Columbia found section 467.13, as it incorporates the definition of a criminal organisation in section 467.1 to be in violation of section 7 of the Canadian Charter of Rights and Freedoms. The Human Rights Commission adds:

Section 467.13 of the Canadian Criminal Code prohibits a person who is one of the group of persons which constitutes a criminal organisation from instructing, directly or

indirectly, any person to commit an offence for the benefit of, at the direction of, or in association with the criminal organisation. This offence attracts a maximum sentence of life imprisonment. The Court explored the definition of a criminal organisation in the Canadian Criminal Code and observed that under this definition the boundaries of membership of the “group” are not clearly delineated.

That offence attracts a maximum sentence of life imprisonment. The court explored the definition of “criminal organisation” and observed that under that definition, the boundaries of membership of the group were not clearly delineated. The same holds true in what the Minister has put before us. It went on to explain further the outcome of that judgment.

The Constitution requires certainty in law that offences created by statute must be expressed without ambiguity. The European Convention on Human Rights requires foreseeability of the law, that is, the law must be formulated in such a way that a person can foresee, to a degree reasonable in the circumstances, the consequences that a given action will entail. The proposed new offences are so vague they do not satisfy either of the criteria I have mentioned.

I propose several amendments with the aim of neutralising some of the worst aspects of the proposals and the way in which they are framed, if the Minister is not willing to accept my first amendment, No. 171. The Minister’s proposals are worded in such a way that one might almost be found guilty of an offence for baby-sitting a possible criminal’s children, as the prosecution would not have to prove that a criminal offence was committed but only that one’s actions contributed to the committal of an offence, that one knew anything about an offence already committed, or that one knew of any other persons in the criminal organisation. By deleting several subsections my amendments attempt to limit the scope for abuse of these proposed offences. Considering that this is an offence of strict liability with no element of fault, the sentence may be disproportionate.

The Minister’s response to the very real problem of gangland crime is introducing surplus legislation that misses the point completely. We need to resource the Garda better, giving them the equipment to tackle this aspect of crime head-on. They need the best cars, proper communications systems, and proper Garda stations rather than the run-down shacks that they have. As a priority, the Minister must accelerate the civilianisation process, and I would be first to congratulate him on the substantial work that he has done hitherto. However, a great deal more remains to do so that those trained in crime-fighting are not confined to barracks or pen-pushing when their experiences and training might be put to better use tackling head-on the crimes the Minister intends to address in this section.

Mr. Cuffe: I agree with much of what the previous speaker said. I worry about the vagueness of this section and that parts of the legislative model on which it is based, from British Columbia in Canada, have been struck down by the province's courts. I agree that gardaí need the right resources for the job. I am concerned that much of the emphasis these days is on helicopters and four-wheel-drive vehicles. I would much rather see an emphasis on learning from best practice abroad, improving the education of police in Templemore and elsewhere and exposing potential members to what their peers in other third level educational establishments are learning during their education. That would help, as would better administrative back-up and computing resources.

I am very concerned at the thrust of this section, which implies that those who contribute or participate in any activity of a criminal organisation can be guilty of an offence. That goes too far, since it crosses a line in the sand. In the wrong hands, it could be used to threaten individuals who have not committed a criminal offence and have no intention of doing so. I am very mindful of the concerns put to us by the Irish Council for Civil Liberties and those concerned with human rights. I therefore oppose this section.

Mr. McDowell: Deputies Ó Snodaigh and Cuffe oppose Part 7 of the Act. It will come as no surprise to them that I do not propose to drop it, since I am advised that it is necessary to allow for transposition of our obligations under the United Nations Convention against Transnational Organised Crime and the European Union joint action on making it a criminal offence to participate in a criminal organisation.

In addition, consensus was achieved at the Justice and Home Affairs Council on 28 April 2006 on a proposal for a Council framework decision on the fight against organised crime. The proposed framework decision will, when adopted, supersede the European joint action. Subject to an examination of the final text of that instrument, Part 7 of this Bill will, in the main, enable Ireland to meet its obligations under the proposed framework decision, although it draws to some extent on the Canadian criminal code. In the circumstances, it is rather unrealistic to seek deletion of this part, since it would require us to opt out at both European and UN level.

For the benefit of the House, I will briefly set out what the part contains. Essentially, it creates three offences targeting the activities of those involved in a criminal organisation and those who may commit offences for the benefit of such organisations. For the purposes of Part 7, a criminal organisation is defined in accordance with the language of international law as a structured group, however organised, which is composed of three or more persons acting in concert, is established over a period of time, and has as its main purpose or activity the commission or facilitation

of one or more serious offences to obtain, directly or indirectly, financial or other material benefit.

That definition is in line with the wording of relevant articles in both the United Nations Convention and the European joint action. In particular, the definition included specific reference to the phrase "structured group" to provide that the persons are acting in concert, that the purpose or main activity of the organisation is the commission or facilitation of offences, and that they are for the purpose of financial or other material benefit.

Case law in Canada, which has been mentioned, and in particular the judgment of the Supreme Court of British Columbia in the case of the Crown v. Accused No. 1 and Accused No. 2 in December 2005, considered the relevant provisions of the Canadian criminal code. It raised some concerns about the vagueness of the definitions in it. The Irish Human Rights Commission commented on the case and recommended to the Government that the definition of a criminal organisation be in line with that in the UN Convention and the European joint action. That is exactly what I have done. The definition that I have given conforms to the Commission's recommendations.

The offences are provided for in sections 71 to 73, inclusive. Section 71 gives effect to the conspiracy aspect of Article 2 of the joint action on participation in criminal organisations and Article 5 of the UN Convention. The common-law offence of conspiracy referred to by Deputy Ó Snodaigh covers conspiracies committed abroad to commit an act in the State but not conspiracies committed in Ireland to commit an act abroad.

To meet our international obligations, the offence of conspiracy is created to encompass conspiracy to commit a serious offence, that is, an act that attracts a penalty of four years or more, whether committed in the State or outside. That is unusual, since we normally say that five years is the threshold for a serious offence. Extraterritorial jurisdiction is provided for regarding conspiracies committed outside the State, bringing jurisdiction into line with the specific circumstances set out in the UN Convention. The section provides for some partial restatement of our current law.

Section 72 provides for a new offence of knowingly contributing to or participating in any activity of a criminal organisation for the purpose of enhancing its ability to commit or facilitate a serious offence. This provision is based on the provisions in the Canadian criminal code but also draws on the relevant provisions in the joint action on participation in criminal organisation and Article 5 of the UN Convention.

I have put on record the potential problems with this type of offence. I am not blind to and understand these potential difficulties, in particular, the fact that relationships in criminal organisations are frequently fluid, complex and

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[Mr. McDowell.]

more a state of mind that a provable state of fact. Prosecuting an offence of this nature will be challenging and proving the offence will be difficult. However, on balance, there is value in having this offence on our Statute Book even if, in the circumstances, the occasions on which it can be prosecuted will be comparatively rare.

A successful prosecution of this offence will almost certainly require one of the participants in a criminal organisation to act as a supergrass. I do not believe that sustained evidence of the type necessary to prove what had happened beyond reasonable doubt could be obtained in the absence of someone on the inside. Mere observation from the outside would need to be very clever, well documented and corroborated to prove the ingredients of the offence. One must be very careful in dealing with what is colloquially known as supergrass evidence to ensure it is not tainted. The courts in Ireland are very careful in this regard. I have never been under any illusion and have never given the Oireachtas Committee on Justice, Equality, Defence and Women's Rights any impression that this will be anything other than a very difficult offence to prosecute.

If I were to say that because this offence was going to be so difficult to prosecute and because it was going to be so rare to secure sufficient evidence to mount a prosecution, we would forget about the issue, I would then have to say to the UN and the EU that I am not interested in the UN Convention and the views of the EU because they are slightly academic. If Ireland took such a course of action in respect of clear obligations and a framework decision coming down the tracks and took the view that they did not apply to it because these crimes could not happen within its borders, it would be a remarkable and egregious stance to take. We should not take such a stance unless we are forced to do so.

Section 73 provides for the new offence to be punishable by up to ten years' imprisonment in respect of the commission of an indictable offence by a person with the purpose of benefiting a criminal organisation or committing the offence of the direction of or an association with a criminal organisation. If a person steals a car for a criminal organisation and there is evidence of the existence of such an organisation and the supergrass witness is able to testify that the person in question knowingly stole the car for that organisation, the offence carries a ten-year penalty, which is a serious one. This offence is modelled on a Canadian provision to the same effect.

The creation of these offences is mainly aimed at fulfilling our international obligations but the provisions also draw on some provisions of the Canadian criminal code, where useful. Organised crime is a transnational problem and it is important that we signal our support for international efforts to combat it by making the necessary legislative provisions to enable the State to meet its obligations.

Amendment No. 172 proposes an addition to the definition of criminal organisation by providing that it must be established over a period of more than three months. The definition of a criminal organisation in section 70(1) replicates the definition in the UN Convention and the EU joint action. Both refer to the group being formed over a period but neither includes a specific period. Accordingly, I do not propose to accept amendment No. 172.

Amendment No. 173 proposes to delete subsection 2 in section 70. I do not propose to accept this amendment. Subsection 2 is necessary from a drafting perspective, having regard to the definition of criminal organisation contained in the section which refers to the facilitation of one or more offences. It is essential from a substantive perspective. In the absence of subsection (2), the question of proof of knowledge of a particular offence and proof of the commission of a criminal offence arises to prosecute a person successfully for the offence of participating in a criminal organisation. In this event, we would be adding layers which would simply make it far too difficult to prosecute and the provision would become unworkable and redundant. Subsection (2) is, therefore, necessary to ensure that the prosecution of relevant offences can be brought forward.

The offence which is provided for by section 72 requires the individual to participate knowingly or contribute in any way to the activity of the organisation for the purpose of enhancing the ability of the criminal organisation to commit crime. Individuals who knowingly engage in such activities deserve criminal sanctions. Amendment No. 174 proposes the insertion of the word "knowingly" in the lead-in to section 72. I do not propose to accept this amendment. It is superfluous, given that the word "knowingly" already appears in the subsection. As I have already stated, the offence created by section 72(1) is one of knowingly contributing to or participating in the activity of a criminal organisation.

Amendment No. 175 seeks the deletion of section 72(2). This subsection provides for a number of matters which the prosecution does not need to prove. I do not propose to accept this amendment. Subsection (2) mirrors some aspects of the EU joint action and appears in its entirety in the Canadian criminal code. As I have already stated, the essence of this offence is knowingly participating in or contributing to the activities of criminal organisations for the purpose of enhancing its ability to commit serious crime. In such circumstances, where the individual is aware of the criminal aims of the organisation and actively assists it, it is reasonable to provide that it is not necessary to prove the matter specified in subsection (2). If such proofs were made necessary, I suggest the chances of a successful prosecution would go from rare to zero.

Amendment No. 176 is similar to amendment No. 173 and seeks the deletion of section 72(4).

This subsection provides that facilitation for the purpose of this section does not require knowledge of a particular offence, the commission of which is facilitated, or that an offence be committed. Therefore, I do not propose to accept amendment No. 176.

Amendment No. 177 proposes to delete section 73(2). This subsection provides that the prosecution does not need to prove that the person knew any of the persons who make up the criminal organisation for which he or she has committed a criminal offence. I do not propose to accept this amendment. The Canadian criminal code provides a precedent and it appears that the manner in which criminal gangs operate is that although an individual may not have direct contact with members of the group, he or she may, by means of instructions from a middle man, be knowingly involved in committing criminal offences for the gang. Therefore, it is necessary to make the provisions in subsection (2).

Originally, I did not believe it would be possible to do what some people suggested to me at the time, namely, establish the offence of being part of a criminal organisation, make a chief superintendent's opinion admissible evidence of this fact and imprison the Mr. Bigs through the mechanism. However, in the course of the examination of this issue by my Department, we learned about a number of international developments coming down the tracks. Rather than forget about the area with the aim of returning to it on a later occasion, we decided to deal with it in this part of the Bill.

Nobody should be under the illusion that it will anything other than very difficult for the Garda Síochána and the Director of Public Prosecutions to bring about a successful prosecution under this provision and nobody should believe that this provision will be the answer to all our problems. I have never pretended it would be. From the beginning, I expressed a considerable degree of concern that the illusion would be created that this Bill would end organised crime simply by criminalising it and that it would then be a simple matter for the Garda to collect evidence, arrest those concerned, prosecute them under some massive indictment and all our problems would cease. This will not happen.

I share the views of Deputies Ó Snodaigh and Cuffe that a great deal of this issue is difficult territory. While I do not go as far as they do, that is, to assert that it is so difficult and nebulous as to be constitutionally infirm, it will not be the bread and butter of the fight against crime. I agree with the Deputies that the bread and butter of that fight will be gumshoe work on pavements, people knocking on doors, searches, resources, gardaí on the street and conventional activities. This provision is not a panacea, substitute, magic wand or, by itself, something that will transform our situation.

Mr. J. O'Keeffe: I note the Minister's health warning on Part 7 dealing with organised crime. When this issue first came before the Select Committee on Justice, Equality, Defence and Women's Rights, the Minister threw more than cold water on the suggestion. I am glad an effort has been made by way of amendment to tackle the issue of organised crime.

I am more sanguine than the Minister about the possible effectiveness of these provisions. There have been international developments — the situation in Canada to which we have all pointed. The experience following the turf wars in Quebec a dozen years ago led to similar types of provisions there. I am not overly concerned about constitutional infirmity, as the provisions are in accordance with the Constitution.

I take the Minister's point concerning proof, an issue that we should perhaps examine further. The House is right to welcome and endorse a basic framework. If the issue confronting us is one of evidence, we should look at the whole issue of supergrasses, who are sometimes referred to in derogatory terms. It is great if criminals can be encouraged to——

Mr. Cuffe: Squeal.

Mr. J. O'Keeffe: ——give evidence against their fellow criminals. For whatever reason, these people are prepared to give evidence and tell the truth and should be supported. That brings into question the whole issue of what is commonly known as the witness protection scheme. I wonder whether we have sufficiently developed it. In the Minister's response to a recent parliamentary question, I was particularly concerned to note that the amount of money spent on witness protection had halved in the past year from €1 million to €500,000. Some years ago during the Gilligan appeal, I also strongly noted the views on the scheme expressed by Mr. Justice McCracken.

Having put the provisions on organised crime into place, the next job for the House, the Government or the next Government will be to examine the operations of the witness protection scheme and determine whether they can be developed or put on a statutory basis or whether we could have guidelines that would be fully acceptable by the courts. I am not referring to any particular case. Rather, I am referring to the broad principle.

In other countries, witness protection schemes have had a significant role in dealing with organised crime and I encourage all colleagues who have a genuine interest in dealing with crime, particularly organised crime, to examine this matter. In the meantime, I am glad the Minister has taken on board the need to put the framework in place. I particularly compliment the officials in his Department and the Attorney General's office, who have recently received some criticism, on the way in which they have

[Mr. J. O’Keeffe.]

devised the scheme, which stands up. I endorse their efforts.

Let us view these provisions as a considerable building block. As the Minister said, let us not overemphasise their initial importance in the fight against crime, but we should determine how to develop that building block. This challenge confronts us all. So far, so good; sufficient unto the day.

Mr. Howlin: While I have not tabled any amendments to this Part, I acknowledge that this is a difficult area. Legislating for the area is one matter, but a set of concrete results is another.

We must address the issue of organised crime in a way that we did not previously. While the Minister has rightly said that normal detective work, police investigation and gathering of evidence will be the mainstay of any anti-criminal activity, we must think outside the box. It is clear that organised crime inasmuch as the drugs industry is concerned has become a billion euro industry in this State. It is a multinational industry that links serious criminals resident abroad, drug cartels resident in drug producing countries and current or former paramilitaries who were engaged in nefarious activities and have since turned into pure criminals.

We need instruments on a transnational basis to deal with these matters, which is not simple to do. We need to fit them into our constitutional requirements. I fully accept the Minister’s view, as my legal advice is that the purpose in question is met by the instrument before the House. No more than the Minister do I pretend that this is a great panacea to beat organised crime or smash the operations of those resident in the Netherlands or Spain who deal with Columbia or elsewhere to import drugs into Ireland, but it gives us a starting point, a structural framework to signal good intent.

I agree with Deputy Jim O’Keeffe in that we need to consider and learn from other jurisdictions that have greater experience of dealing with organised crime. A new and valuable resource in that is the new inspector general of the Garda Síochána appointed by the Minister who brings a wealth of experience and wisdom that could help us, not only in reforming how the Garda operates, but possibly in instructing us on how the law could be better shaped to meet the purposes of Ireland’s changed environment.

I wanted to make these general points because, at another time, I might be minded to readily agree with the thoughtful and proper views expressed by my colleagues in the Sinn Féin and Green parties, but there are large issues for the State to deal with and we have a responsibility to deal with them as best we can. I commend the Minister and his officials for making an honest effort to shape an international framework of law, transpose it into domestic legislation and set about dealing with organised crime, which is a

significant developing scourge that goes beyond the relevant current instruments. We need to be vigilant to discover what best practice exists elsewhere, whether it be the Canadian or the US model, which we can utilise to smash criminal conspiracies of this sort. I do not believe the babysitter will be apprehended but fear that nobody will be caught on the basis of this framework. There may be an odd occasion when a kind of supergrass emerges to blow the cover of a criminal conspiracy and we must have the structures to ensure that can happen.

I will also enter the *caveat* that supergrass evidence alone is an insubstantial measure on which to build an entire case. It must be augmented by hard evidence but it is not a bad starting point. Even the fear of a structure that can expose gangs will put additional pressure on organised crime and would be welcome.

Aengus Ó Snodaigh: I will be brief because I have already outlined my opposition to this section. It is the tenth anniversary of the killing of Veronica Guerin and that case proves we already have in place the laws and the ability to deal with such crimes.

Mr. Howlin: One person is in custody.

Aengus Ó Snodaigh: We will not get much more with this section.

Mr. Howlin: The Deputy is probably right.

Mr. J. O’Keeffe: Unfortunately.

Aengus Ó Snodaigh: Part of the problem is that inadequate spadework or gumshoe was used and, in the case of Veronica Guerin, there was pressure to deliver too quickly, which is why some of the prosecutions failed. Furthermore, we already have laws to cover what are anticipated to emerge from the UN Convention and the European joint position and I do not think the case for this section has been properly made.

Mr. Cuffe: I am concerned that, if I heard him correctly, the Minister appeared to anticipate the resolution of an EU joint position.

Mr. McDowell: It is a framework decision.

Mr. Cuffe: We were talking about a draft. I am somewhat nervous that we would be putting the cart before the horse by passing legislation this week that might be modified at the level of a European instrument in the not too distant future. After hearing the Minister’s statement I am a little more nervous about this part of the Bill than I was before. He expressed reservations about it and felt it would not be hugely successful in its ability to apprehend those he targets. I remain opposed to it.

Question put: "That the words proposed to be deleted stand."

The Dáil divided: Tá, 103; Níl, 14.

Tá

Ahern, Noel.
 Allen, Bernard.
 Andrews, Barry.
 Ardagh, Seán.
 Blaney, Niall.
 Brady, Johnny.
 Brady, Martin.
 Breen, James.
 Breen, Pat.
 Brennan, Seamus.
 Broughan, Thomas P.
 Callanan, Joe.
 Callely, Ivor.
 Carty, John.
 Cassidy, Donie.
 Connolly, Paudge.
 Cooper-Flynn, Beverley.
 Costello, Joe.
 Cowen, Brian.
 Curran, John.
 de Valera, Sife.
 Deasy, John.
 Dempsey, Noel.
 Dempsey, Tony.
 Dennehy, John.
 Devins, Jimmy.
 Durkan, Bernard J.
 Ellis, John.
 English, Damien.
 Fahey, Frank.
 Finneran, Michael.
 Fitzpatrick, Dermot.
 Fleming, Seán.
 Fox, Mildred.
 Gallagher, Pat The Cope.
 Glennon, Jim.
 Grealish, Noel.
 Gregory, Tony.
 Harkin, Marian.
 Haughey, Seán.
 Hayes, Tom.
 Healy, Seamus.
 Healy-Rae, Jackie.
 Higgins, Michael D.
 Hoctor, Máire.
 Howlin, Brendan.
 Jacob, Joe.
 Keaveney, Cecilia.
 Kelleher, Billy.
 Kelly, Peter.
 Killeen, Tony.
 Kirk, Seamus.

Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 Lynch, Kathleen.
 McDowell, Michael.
 McEllistrim, Thomas.
 McGrath, Paul.
 McGuinness, John.
 McHugh, Paddy.
 McManus, Liz.
 Moloney, John.
 Moynihan, Donal.
 Moynihan, Michael.
 Mulcahy, Michael.
 Murphy, Gerard.
 Neville, Dan.
 Nolan, M.J.
 Ó Cuív, Éamon.
 Ó Fearghaíl, Seán.
 O'Connor, Charlie.
 O'Dea, Willie.
 O'Donnell, Liz.
 O'Donoghue, John.
 O'Flynn, Noel.
 O'Keeffe, Batt.
 O'Keeffe, Jim.
 O'Keeffe, Ned.
 O'Malley, Fiona.
 O'Malley, Tim.
 O'Shea, Brian.
 O'Sullivan, Jan.
 Parlon, Tom.
 Pattison, Seamus.
 Penrose, Willie.
 Quinn, Ruairi.
 Rabbitte, Pat.
 Roche, Dick.
 Ryan, Seán.
 Sexton, Mae.
 Smith, Brendan.
 Stagg, Emmet.
 Stanton, David.
 Treacy, Noel.
 Twomey, Liam.
 Upton, Mary.
 Wall, Jack.
 Wallace, Dan.
 Wallace, Mary.
 Walsh, Joe.
 Wilkinson, Ollie.
 Woods, Michael.

Níl

Boyle, Dan.
 Cowley, Jerry.
 Cuffe, Ciarán.
 Ferris, Martin.
 Gogarty, Paul.
 Gormley, John.
 Higgins, Joe.

McGrath, Finian.
 Morgan, Arthur.
 Murphy, Catherine.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 Ryan, Eamon.
 Sargent, Trevor.

Tellers: Tá, Deputies Kitt and Kelleher; Níl, Deputies Ó Snodaigh and Boyle.

Question declared carried.

Amendment declared lost.

An Ceann Comhairle: As it is now after 10.30 p.m., I am required to put the following question in accordance with an Order of the Dáil of this

[An Ceann Comhairle.]

day: "That the amendments set down by the Minister for Justice, Equality and Law Reform that are not disposed of are hereby made to the

Bill, that Fourth Stage is hereby completed and that the Bill is hereby passed."

Question put.

The Dáil divided: Tá, 101; Níl, 14.

Tá

Ahern, Noel.
 Allen, Bernard.
 Andrews, Barry.
 Ardagh, Seán.
 Blaney, Niall.
 Brady, Johnny.
 Brady, Martin.
 Breen, James.
 Breen, Pat.
 Brennan, Seamus.
 Broughan, Thomas P.
 Callanan, Joe.
 Callely, Ivor.
 Carty, John.
 Cassidy, Donie.
 Connolly, Paudge.
 Cooper-Flynn, Beverley.
 Costello, Joe.
 Cowen, Brian.
 Curran, John.
 de Valera, Síle.
 Deasy, John.
 Dempsey, Noel.
 Dempsey, Tony.
 Dennehy, John.
 Devins, Jimmy.
 Durkan, Bernard J.
 Ellis, John.
 English, Damien.
 Fahey, Frank.
 Finneran, Michael.
 Fitzpatrick, Dermot.
 Fleming, Seán.
 Fox, Mildred.
 Gallagher, Pat The Cope.
 Glennon, Jim.
 Grealish, Noel.
 Gregory, Tony.
 Harkin, Marian.
 Haughey, Seán.
 Hayes, Tom.
 Healy, Seamus.
 Healy-Rae, Jackie.
 Hoctor, Máire.
 Howlin, Brendan.
 Jacob, Joe.
 Keaveney, Cecilia.
 Kelleher, Billy.
 Kelly, Peter.
 Killeen, Tony.
 Kirk, Seamus.

Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 Lynch, Kathleen.
 McDowell, Michael.
 McEllistrim, Thomas.
 McGrath, Paul.
 McGuinness, John.
 McHugh, Paddy.
 McManus, Liz.
 Moloney, John.
 Moynihan, Donal.
 Moynihan, Michael.
 Mulcahy, Michael.
 Murphy, Gerard.
 Neville, Dan.
 Nolan, M.J.
 Ó Cuív, Éamon.
 Ó Feargháil, Seán.
 O'Connor, Charlie.
 O'Dea, Willie.
 O'Donnell, Liz.
 O'Donoghue, John.
 O'Flynn, Noel.
 O'Keeffe, Batt.
 O'Keeffe, Jim.
 O'Keeffe, Ned.
 O'Malley, Fiona.
 O'Malley, Tim.
 O'Shea, Brian.
 O'Sullivan, Jan.
 Parlon, Tom.
 Pattison, Seamus.
 Penrose, Willie.
 Quinn, Ruairí.
 Rabbittie, Pat.
 Roche, Dick.
 Ryan, Seán.
 Sexton, Mae.
 Smith, Brendan.
 Stanton, David.
 Treacy, Noel.
 Twomey, Liam.
 Upton, Mary.
 Wall, Jack.
 Wallace, Dan.
 Wallace, Mary.
 Walsh, Joe.
 Wilkinson, Ollie.
 Woods, Michael.

Níl

Boyle, Dan.
 Cowley, Jerry.
 Cuffe, Ciarán.
 Ferris, Martin.
 Gogarty, Paul.
 Gormley, John.
 Higgins, Joe.

McGrath, Finian.
 Morgan, Arthur.
 Murphy, Catherine.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 Ryan, Eamon.
 Sargent, Trevor.

Tellers: Tá, Deputies Kitt and Kelleher; Níl, Deputies Boyle and Ó Snodaigh.

Question declared carried.

Message from Seanad.

An Ceann Comhairle: Seanad Éireann has passed the National Sports Campus Development Authority Bill 2006, without amendment.

Adjournment Debate.

Foreign Adoptions.

Mr. Connolly: The Irish-Vietnamese adoption agreement raises many issues which must be dealt with. It affects a small group of people but has a major impact on their lives. Effectively, there are two groups of people concerned about the recent media revelations, namely, those who have successfully completed their Vietnamese adoption, who are concerned about the validity of that adoption, and those prospective parents who have made initial payments but who do not know the status of their applications at this time. The difficulty is that there has been no communication with these people from the Irish Adoption Board, which is entirely unacceptable. These people are distraught and it is a horrible situation for them.

The difficulties first surfaced when the Adoption Board was tipped off that the chief liaison officer, a Vietnamese lawyer who had worked in the USA, was working for the adoption mediation board with regard to the Irish-Vietnamese adoptions. It transpires that the person concerned has a criminal record. She was convicted in the United States of a conspiracy to defraud, obstruction of justice and witness intimidation, and sentenced to three years in jail, with three years supervised release following that jail term. Therefore, the person to whom we have entrusted the sensitive position of liaison officer for Irish-Vietnamese adoptions, and into whose personal bank account drafts and dollar cheques would have to be paid, has a clear criminal record. The final payments arising from adoption agreements were to be paid directly to her in \$50 and \$100 notes. Dealing in cash sums to an individual is unusual practice.

The only action proposed in this matter is to ask the Irish Adoption Board to carry out its own investigation. This is unacceptable and I call for an independent investigation into how this was allowed to happen and, specifically, into the adoptions in which the lawyer or mediation person in question was involved. Having the Irish Adoption Board investigate itself creates a major conflict of interest and is unacceptable. As the board is not subject to the Freedom of Information Act or Ombudsman Act, it is effectively a closed shop carrying out an internal investigation. As a result, we may never know what took place.

While I respect the fact that adoption, by its nature, is confidential, in policy terms it is in the public interest that we should be in a position to ask questions about and find out how the Irish Adoption Board operates. What procedures were followed in appointing the individual concerned? I have been informed in a written answer that the Adoption Board has asked the Garda to check the

veracity of the allegations. One would expect this to take one or perhaps two weeks to complete. One simple telephone call to the court records department in the state of Virginia in the United States would ascertain the position because these matters are on record.

As well as calling for an independent investigation, I ask that contact be made with those who have adopted a child in Vietnam. I met a young couple who were in tears because they had read newspapers reports on this matter and no one had communicated with them or reassured them. Many other couples who have adopted children do not know if the adoption is valid. I ask that direct contact be made with all the individuals concerned.

The bodies involved in this matter have received Government funding. People try to adopt legally, although illegal adoptions did take place for a period. The practice under discussion is virtually illegal because requiring people to pay cash in \$50 and \$100 notes is not much better than illegal.

Minister of State at the Department of Health and Children (Mr. B. Lenihan): I thank Deputy Connolly for raising this important matter. He correctly raised the question of those who have adopted children from Vietnam and those who intend adopting from that country. I assure him no issue arises concerning the validity of adoptions which have already taken place. They are in order and I will explain the reason. Moreover, as far as prospective adoptions are concerned, arrangements are in place to continue with adoptions from Vietnam.

The Deputy was critical of the approach of the Irish Adoption Board. The board is an independent statutory body headed by a former judge of the District Court. It is a quasi-judicial body which exercises its functions in an independent way. I was glad the Deputy acknowledged the important confidentiality which must attach to the proceedings of the Irish Adoption Board. In light of the fact that a delegation headed by the chief executive of the board returned from Vietnam today, the Deputy's decision to raise this matter is timely because I am now in a position to furnish the House with up-to-date information on the issue.

In accordance with the Adoption Act 1991, a person or persons who are resident in Ireland and wish to adopt a child from another country must apply for a declaration of eligibility and suitability. Such declarations are issued by the Adoption Board. The application must be made through their local Health Service Executive office or adoption society. The applicant or applicants are then assessed by the Health Service Executive or adoption society in line with the standardised framework for inter-country adoption assessment to have their eligibility and suitability established. The assessment process involves a number of stages and the length of the process can vary between applicants depending on the particular circumstances of each case, bearing in mind at all

[Mr. B. Lenihan.]

times that the paramount consideration is the best interests of the child.

Vietnam has become a popular country of choice for Irish couples wishing to adopt. Until 1999 only two children had been adopted from Vietnam to Ireland, with a further 104 adopted up to the end of 2002. Vietnam suspended all adoptions with effect from 1 January 2003 to countries which did not have in place a bilateral agreement on adoption. To continue adoptions to Ireland from Vietnam, a bilateral agreement on adoption was agreed in March 2003 following negotiations in Hanoi between both countries. I salute the staff of the Adoption Board and Ambassador Mulhall who did Trojan work to secure this agreement, which is in line with the principles of Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption.

Following the ratification of the agreement, adoptions recommenced from Vietnam on 6 July 2004. Since then 143 adoptions have taken place and a further 87 applications are awaiting a referral from the Vietnamese authorities. Part of the agreement is that Ireland would establish a mediation agency to facilitate Irish applicants with adoptions in Vietnam. In April 2006 both the Adoption Board and the Vietnamese Government licensed Helping Hands adoption mediation agency to facilitate adoptions under the adoption agreement.

For many years, I have been concerned in connection with overseas adoptions that Ireland did not have a mediation agency in place. Strict rules are in place regarding those who can adopt. As I outlined, the necessary declarations must be obtained from the Adoption Board and the necessary courses of preparation must be done with an adoption society or the Health Service Executive. Our assessment of the suitability of those who wish to adopt overseas is way ahead of most jurisdictions in the world. We do not, however, regulate the procedures in place in the country in which adoptions are sought. It was for this reason that I raised with the Adoption Board, on my appointment as a Minister, the question of the recognition of an agency which would facilitate the recognition of adoptions and arrangements for adoptions in the country in which the adoption is sought.

The Helping Hands adoption mediation agency is the first such agency established in this jurisdiction. It supports applicants through the adoption process during what is, inevitably, a stressful and unfamiliar but important life event for them. Helping Hands also ensures that adoptions are carried out in conformity with Irish and Vietnamese legal requirements.

The Deputy pointed out that certain anonymous allegations were made against an individual who was involved in the adoption process on the Vietnam side. Full checks were made on the individual in question prior to her appointment by the agency and these turned out to be negative. The Deputy stated that a simple telephone call to a particular place in the United States would rectify

the matter, but in fact the initial inquiries did not put the position right and misled the authorities here on the matter.

Acting Chairman (Mr. Ardagh): The Minister of State's time is concluded.

Mr. B. Lenihan: Will the Acting Chairman to indulge me for a few moments because Deputy Connolly is anxious to hear the conclusion of my reply?

Acting Chairman: Yes.

Mr. B. Lenihan: The vice-chairperson and chief executive officer of the Adoption Board returned from Vietnam today following a visit to review the adoptions facilitated by the individual to whom the Deputy referred and who acted as a facilitator for adoptions from Vietnam by Irish residents, and to ensure that the bilateral adoption agreement between Ireland and Vietnam continues to operate successfully. The person in question had been suspended from duties following receipt of the anonymous allegation.

Following a number of meetings with the central adoption authority at the Vietnamese Ministry of Justice, the Adoption Board has received written notification from the Ministry of Justice in Vietnam confirming the legality of adoptions effected under the Irish-Vietnamese bilateral adoption agreement and that these adoptions were processed in accordance with Vietnamese legal requirements.

The lady referred to by the Deputy has resigned from her consultancy position with Helping Hands adoption mediation agency and has agreed to transfer the remaining Vietnamese adoption dossiers and fees to the Helping Hands adoption mediation agency in Vietnam. Arrangements are being put in place in this regard by the mediation agency. The authorities in Ireland and Vietnam welcome these developments. The board awaits confirmation from the Irish authorities regarding the allegations made against the person in question. For all practical purposes the matter has reached a resolution. I thank the Deputy for raising this matter.

Mr. Connolly: I acknowledge the efforts of the Department of Foreign Affairs. I also want to reassure the 87 applicants who have paid deposits——

Mr. B. Lenihan: If that is in place, there is no threat to those who have adopted or those who intend to. I thank the Deputy for his timely raising of this issue.

Nursing Home Subventions.

Ms Cooper-Flynn: I wish to raise an issue that has been raised many times by people on all sides of the House. I do so because of the decision by the Health Service Executive in County Mayo not to pay any more enhanced subventions for new

applicants. The HSE has increased its subvention payments in the south and east to approximately €750 per week. This situation has arisen despite the fact that the Tánaiste last year gave an undertaking at a meeting of the Oireachtas Committee on Health and Children that she would bring about equality of subvention rates across the country, that she recognised discrimination existed and would do something about it. In April 2005 the enhanced subvention rate in County Mayo was €200, while in the east of the country it was €600 per week. In February 2006 it was €310 per week in Mayo and €720 in Dublin. Today it is €310 per week in Mayo while it is €750 in Dublin. Despite the Tánaiste's assurances, over the past year we have seen the gap widen between subvention rates in County Mayo and County Dublin.

I am particularly disappointed that the HSE in County Mayo has decided that no new applicants will get enhanced subvention, which means the most a maximum dependency person can get, based on the means test, is €190 per week. This is having a serious effect on the situation in our accident and emergency departments. If we are serious about tackling that problem, this is one of the critical areas in which we can do so. The Tánaiste agreed that it is discriminatory and made a commitment to do something about it.

I will anticipate the Minister's reply, as there have been many similar replies on this matter. I do not want to know that it is a means-tested payment. I know that. I do not want to know the subventions available to medium, high or maximum dependency people. I have that information. Neither do I want to know that €140 million was spent on subventions in 2005. I do not want to know that €20 million was allocated in the budget to deal with subventions and to bring about equality because, as I have already stated, that €20 million is already spent and has made no difference. We have moved backwards from the position last December when the €20 million was allocated. Finally, I do not want to know that a working group in the Department is working on the question of how to deal with long-term care because I am aware of that.

Having been a member of the Oireachtas Committee on Health and Children for a number of years, I am aware that there have been many positive developments in long-term care, particularly home-care packages, of which 500 were announced last year. These allow people to be looked after at home rather than put into a nursing home. I support this excellent Government policy. However, of the 500, five were made available in County Mayo. Some 3,000 are to be made available in 2006 and Professor Brendan Drumm has promised that we will get more of them. However, as the Minister can see, they are not a real alternative.

The only way this situation will be tackled and genuine equality achieved across the country is by putting serious money into the system so that people in County Mayo do not receive €190 per week while a person in Dublin gets €750. The Minister may argue that nursing home charges are

more expensive in the city and that is true, but not to that extent. This issue must be tackled. On one occasion last month there were 30 people on accident and emergency trolleys in my county. There is no reason for people to be on trolleys. Despite the ten-point plan implemented last year, no contract bed was awarded to Mayo General Hospital.

I ask the Minister to throw away the script that has probably been prepared for him mentioning all the items I have listed, and to tell me what the Government will do to honour the commitment given in the budget and in the committee last year. I hope it can be honoured. Many people who operate excellent nursing homes in the west of Ireland find it difficult to survive and, sadly, many patients take up acute beds in hospitals. Although these people should not be in hospital and are more suited to a nursing home, they and their families cannot afford to pay the difference between €190 and the nursing home charge, which is probably in the range of €600 per week.

Mr. B. Lenihan: Tá mé ag tabhairt an fhreagra seo ar son an Aire Sláinte agus Leanaí, an Teachta Harney.

Ms Cooper-Flynn: Tá an tAire Stáit ag caint as Gaeilge.

Mr. B. Lenihan: Níl morán le rá agam mar dúirt an Teachta nach mbeadh sé ceart an freagra iomlán a thabhairt don Tigh seo.

Acting Chairman: Níl ach cúig nóiméad ag an Aire.

Mr. B. Lenihan: Tá a fhios agam. Ba mhaith liom buíochas a ghabháil leis an Teachta as ucht an cheist seo a phlé ar Athló on Tí. It gives me an opportunity to outline to the House the current position on the nursing home subvention scheme. I fear the Deputy has heard these ominous word before. The Deputy is aware of the principles of the subvention, the criteria applied and the fact that there are different rates depending on whether the applicant is of medium, high or maximum dependency. The scheme was introduced to assist with the cost of private nursing home charges and was never intended to cover the entire cost of nursing home care. Under Article 22.3 of the nursing homes subvention regulations 1993, the HSE may enter into an arrangement with a registered private nursing home to provide in-patient services under section 52 of the Health Act 1970. In making such an arrangement the HSE may pay more than the maximum rate of subvention relative to an individual's level of dependency, for example in cases where personal funds are exhausted, in accordance with Article 22.4 of the Nursing Home (Subvention) (Amendment) Regulations 1996.

In the context of the matter the Deputy has raised on the Adjournment this evening the following Delphic sentence is what I can convey to her: The application of these provisions is a matter for the HSE in the context of meeting increasing demands for subventions.

Ms Cooper-Flynn: Please, Minister.

Mr. Healy: The Minister may stop talking.

Mr. B. Lenihan: The average rate of subvention paid by the HSE generally exceeds the current approved basic rates. Although the Deputy appealed to me not to trespass on her time and outline to the House the amount of expenditure that takes place on the subvention, I have to point out that expenditure on the scheme has increased from €5 million in 1993 to €140 million last year. I do not propose to go into the details of the last budget or the investment package there, however it involves substantial additional funding.

Acting Chairman: Probably €20 million.

Mr. B. Lenihan: The Department is examining primary legislation to expand the policies and principles of the subvention scheme to facilitate implementation of the scheme by the HSE throughout the country. This is proceeding through the Dáil and may afford the Deputy a legislative peg on which to hang her argument again. The thresholds contained in the Nursing Homes (Subvention) Regulations 1993 on an applicant's assets and the value of an applicant's primary residence were increased by regulations on 14 December 2005 to bring them into line with modern valuations. A working group chaired by the Department of the Taoiseach and comprising senior officials from the relevant Departments was established following the publication of the Mercer report entitled, Study to Examine the Future Financing of Long-Term Care in Ireland. This group is examining the options on a sustainable system of long-term care, the views of the consultation that was undertaken on that report and the review of the nursing home subvention scheme by Professor Eamon O'Shea. The Government is considering the report of that group.

The future of residential care funding was discussed by the social partners as part of the report Towards 2016: Ten Year Framework for the Social Partnership Agreement 2006-2016, which states that there should be appropriate and equitable levels of co-payment by care recipients based on a national standardised financial assessment. Perhaps there is some comfort for the Deputy there. The agreement also states that the level of State support for residential care should be indifferent as to whether that care is in a public or private facility.

Ms Cooper-Flynn: I thank the Minister.

Credit Union Act.

Mr. Healy: I urge the Minister for Finance to introduce a ministerial order to allow credit unions to lend 40% of their loan book over five years and 20% of their loan book over ten years, thereby amending section 35 of the Credit Union Act 1997 which is unfair to credit unions as it stifles the growth of the credit union movement.

The credit union movement is a significant community, voluntary and financial organisation and credit unions occupy a unique position in the social and economic fabric of their communities. In the financial services sector credit unions have a unique ethos and *modus operandi* which distinguishes them from commercial financial service providers. The main reason for this difference is that volunteers have ultimate responsibility for the general control, direction and management of the affairs, funds and records of the credit unions. Credit unions are not-for-profit organisations with social and economic objectives. They are community-based financial co-operatives providing services to the communities within which they operate. Credit unions are owned by their members. Unlike customers of commercial financial services providers who avail of a service, credit union members are uniquely placed to participate in the operation and governance of their credit union. They provide a major social and economic service.

The credit union that I know best, and of which I am a member, Clonmel Credit Union, was founded in 1963 by a group of employees of St. Luke's Psychiatric Hospital in Clonmel, including my dad. Today that union has 21,907 members, €90 million in savings, 26 staff and a purpose-built headquarters. That is reflected throughout the country.

The umbrella body, the Irish League of Credit Unions, has 430 affiliates and 2.2 million members in the 26 counties and a further 100 affiliates in the Six Counties. This is a large organisation in which many well-known people have been involved, for example, John Hume.

The Credit Union Act 1997, which is out of date in respect of financial services, limits the amount credit unions can lend on their loan books. When the Act was introduced the assets of credit unions was approximately €3 billion and loans amounted to approximately €2 billion. At the end of 2004 assets were in the region of €11.5 billion and loans in the region of €6 billion. The effect of the Act and in particular section 35, is that on average credit unions effectively have more money in investment than on loan to members. This is already a reality for many credit unions and the number continues to rise. This could not have been envisaged in 1997 when the Act was commenced.

Savings by members of credit unions which cannot be lent to individual members of the unions, must be invested in banks and building societies and other financial institutions to be lent by them. The money cannot under law be lent to members because the section limits the loan amount. I ask the Minister for Finance to introduce a ministerial order extending the amount that credit unions can lend. I hope the Minister of State has good news.

Mr. B. Lenihan: I am replying on behalf of the Minister for Finance, Deputy Cowen. I thank Deputy Healy for raising the matter. It is an important issue which the Department of Finance is examining. Under section 35 of the Credit

Union Act, loan terms over five and ten years are limited to 20% and 10% respectively of each credit union's portfolio overall. These limits may be changed by ministerial order under the Act.

The Irish League of Credit Unions is proposing an increase in the lending limits to 40% for five year loans and 25% for ten year loans. The league argues that the current limits on long-term lending affects the competitiveness of the credit union movement, as credit unions are not in a position to compete with the banking sector in one of the more demand driven areas of the lending market.

The Registrar of Credit Unions is opposed to any change in the lending limits at this time, primarily because of the danger of increased credit risk. He is of the view that underwriting skills are weak in many credit unions, and that arrears and bad debt provisions in the movement overall are rising. In his view, the ability of credit unions to manage the inherent risks arising from long-term lending is not sufficiently developed.

The Minister for Finance appreciates the concerns of the credit union movement, which Deputy Healy outlined, in regard to long-term lending and acknowledged them in his address to the consultative general meeting of the Irish League of Credit Unions in April 2006. In particular, he noted the strong view held by credit unions that increased longer-term lending could make a substantial contribution to alleviating the issue of surplus investment funds. In considering any change to the lending limits, however, it is important to ensure that it does not lead to any worsening in the overall risk profile of credit union lending. The objective is to ensure the funds entrusted to credit unions by members are not put at risk.

Given the divergence of views on this important issue, the Department of Finance concluded that further assessment and analysis was required of the appropriateness of the proposed easing of current lending limits, balancing the requirement to support the development of credit unions with the requirement to safeguard members' savings. Consequently, the Minister for Finance referred the matter to his credit union advisors, the credit union advisory committee requesting their advice as to whether a review of the current limits on long-term lending by credit unions should be initiated. The credit union advisory committee is very aware of the importance of this issue and its recommendations are expected soon.

School Accommodation.

Mr. J. Higgins: Tá mé ag roinnt leath mo chuid ama leis an Teachta Cowley. I rise to give voice to the extreme concerns of parents and their children in the Laytown-Bettystown area of east Meath. Those children will need a place this September in Scoil Oilibhéir Naofa in Laytown. The parents' association has issued a statement:

The failure locally to plan for or provide suitable and sufficient school facilities and places has led to the situation where there are currently no class rooms for 98 junior infants due

to start school in 2 months time. An application for planning permission for temporary accommodation has been made for the school grounds and across the road in the grounds of the parochial hall but the only acceptable solution is delivery of a permanent site and school as outlined in the recently published East Meath Development Plan. We are aware this is a problem not unique to East Meath but is unfortunately familiar in many rapidly expanding commuter towns.

The Minister of State knows well that we have a similar problem in Dublin West, which I represent. Deputy Cowley and I have visited these parents and children in Laytown to see at first hand the problems they are enduring. The residents also comment on the Taoiseach's response to me yesterday when I pressed him on infrastructure and education for new areas:

In reply Mr Ahern said "in Laytown, where the Deputy was this morning, the number of schools that have been built there is enormous". Unfortunately the Taoiseach has been misinformed in this regard and this statement is untrue. His cabinet colleagues and local TDs; former education Minister Mr Noel Dempsey and junior Minister Mary Wallace whose constituency office is located less than 1 mile from our school; can confirm this.

It is very remiss of the local public representatives from the Government side to have failed to fight like dogs to ensure this facility is provided. I seek emergency action so that the children in question will be catered for this September.

Dr. Cowley: I thank Deputy Joe Higgins for agreeing to share his time with me. Following the failure of local representatives and council officials to plan for or provide suitable and sufficient facilities and places at Scoil Oilibhéir Naofa in Laytown, County Meath, the parents' association of the school invited Deputies from outside that county to view the situation locally. When Deputy Higgins and I visited the school yesterday, the parents informed us that there are no classrooms for 98 children who are due to start school in two months' time.

We are aware that this problem is not unique to east Meath as it is familiar, unfortunately, in many rapidly expanding commuter towns in the counties surrounding Dublin, as Deputy Higgins has outlined. I was present for Leaders' Questions in this Chamber yesterday when Deputy Higgins informed the Taoiseach of the crisis at Scoil Oilibhéir Naofa. I heard the Taoiseach tell Deputy Higgins that "in Laytown, where the Deputy was this morning, the number of schools that have been built there is enormous". That is just not true. The Taoiseach's Cabinet colleague, the Minister, Deputy Noel Dempsey, was sitting beside him when he made that comment yesterday. The Minister of State, Deputy Mary Wallace, was also present. I am sure they can tell the Taoiseach that the circumstances in Laytown are not as he depicted them.

[Dr. Cowley.]

Thousands of residential homes have been built by developers in east Meath since 1997, but not one classroom has been built in Laytown since the 1970s. Education, which is a basic function of local and national government, is guaranteed under our Constitution. Parents demand the best facilities for their children and will not accept the worst. It is disgraceful, as I have seen for myself, that miles of high-density housing have been developed and there is more to come, but no schools have been built to accommodate the children who inevitably and naturally occupy such housing.

This is another example of the failure of successive Governments, comprising all the major parties, to provide basic administration. I have no reason to believe that the alternative Fine Gael-Labour Party coalition would be any different, unfortunately. I urge the Government to be reasonable and to address this problem before it meets the electorate next year. I urge the Minister of State, Deputy Mary Wallace, to take personal charge of the disgraceful situation in Laytown.

Mr. B. Lenihan: I thank the Deputies for raising this matter and giving me an opportunity to reply on behalf of the Minister for Education and Science. I will outline to the House the strategy being implemented by the Department of Education and Science to ensure there is adequate primary school provision for the rapidly expanding area of Laytown and Bettystown in County Meath, not just for next September but well into the future. There was just one primary school — Scoil an Spioraid Naoimh — in the Laytown and Bettystown area before the start of the current school year. At that time, the school was a fully vertical co-educational facility that catered for pupils from junior infants to sixth class. The relevant parish applied in 2004 for approval to establish a second primary school in the area. The Department of Education and Science sanctioned the recognition of the new school, with effect from 1 September 2005. The new school is called Scoil Oilibhéir Naofa, as the Deputies have said.

The Department supported a local agreement that the new school would be a junior school and the existing school, Scoil an Spioraid Naoimh, would become a senior school. The effect of this agreement is that Scoil Oilibhéir Naofa caters for pupils from junior infants to second class and Scoil an Spioraid Naoimh caters for pupils from third class to sixth class. To prevent disruption to existing pupils, it was agreed that children attending Scoil an Spioraid Naoimh would be allowed to continue in that school. It was also agreed that the existing senior infants and first and second classes at Scoil an Spioraid Naoimh would be phased out over the next few years. In addition, as an excep-

tional matter, the Department allowed Scoil an Spioraid Naoimh to enrol a junior infant class in September 2005 to meet the educational needs of the area. The school authorities at Scoil an Spioraid Naoimh were informed that the school would not be allowed to enrol new pupils in junior infants to second class from 2006 onwards, as to do so would undermine the development of Scoil Oilibhéir Naofa, which is specifically dedicated to these class groups.

Scoil Oilibhéir Naofa opened with provisional recognition in temporary accommodation in September 2005 on the same campus as Scoil an Spioraid Naoimh. It had an enrolment of 91 pupils and a staffing of a principal and three mainstream classroom assistants, a learning support teacher and a language support teacher. Scoil Oilibhéir Naofa has examined its accommodation needs for the new school year and has applied for five additional prefabs to cater for its 2006-07 enrolments. I am pleased to inform the Deputy that this provision has been approved by the Department of Education and Science and that steps are being taken by the school authorities for its delivery.

The patron of Scoil Oilibhéir Naofa has confirmed that he intends to acquire land and make a site available for the purpose of permanent accommodation for the school. The Department looks forward to progressing a project for the school when this matter has been finalised by the patron. The project in question will attract a band 1 priority rating under the published prioritisation criteria for large-scale building projects. That the school has secured the highest possible band rating is a clear indication of the importance the Department attaches to the delivery of permanent accommodation for the school and extra provision for the locality. The Department of Education and Science will not be found wanting in developing the project when the patron has concluded the process of site acquisition. I thank the Deputies for raising this matter.

I wish to inform Deputy Higgins that the Taoiseach's comments yesterday related to schools in our constituency of Dublin West and not in County Meath. I have been advised that the Taoiseach intended to refer to the provision of primary schools in the west Dublin area rather than in the Laytown and Bettystown area of County Meath.

Mr. J. Higgins: It was another slip of the tongue by the Taoiseach. Can the Minister of State tell the House when the portakabins will be in place? Will they be there for September? They will have to be.

Mr. B. Lenihan: I assume they will have to be.

The Dáil adjourned at 11.25 p.m. until 10.30 a.m. on Thursday, 29 June 2006.

Written Answers.

The following are questions tabled by Members for written response and the ministerial replies as received on the day from the Departments [unrevised].

Questions Nos. 1 to 8, inclusive, answered orally.

Questions Nos. 9 to 23, inclusive, resubmitted.

Questions Nos. 24 to 29, inclusive, answered orally.

Tax Incentive Schemes.

30. **Mr. S. Ryan** asked the Minister for Finance the value of the tax relief for each year from 2000 to date in 2006 under capital allowances for the construction of private hospitals; and if he will make a statement on the matter. [24944/06]

Minister for Finance (Mr. Cowen): This relief was introduced in Finance Act 2001 and came into effect in May 2002. I am informed by the Revenue Commissioners that for the tax year 2003 and earlier years claims for the relief mentioned in the question were aggregated in tax returns with other claims and could not be distinguished from the reliefs claimed in respect of different schemes. Accordingly, the specific information on costs for 2002 and 2003 are not available.

Provisions were included in the Finance Act 2004 to allow this data to be obtained separately in future. As regards the tax year 2004, the latest year available, this information was included in personal income tax returns due for filing in October, 2005. Based on the information that has been received and collated to date, a total of €4.5 million was included in the relevant income tax returns for 2004 as claims for capital allowances for the construction of private hospitals. This figure would correspond to a maximum Exchequer cost of the order of €1.9 million for these returns in terms of income tax forgone. These figures are preliminary estimates and may change as further returns are processed. I should also point out, however, that Revenue are concerned at preliminary indications that in some instances the new,

separately categorised data on property incentives may not have been correctly entered on the 2004 Income Tax returns. Revenue is engaging with the tax practitioner bodies to draw attention to these deficiencies and to rectify them. Revenue has also increased awareness among its own staff involved in processing tax returns of the need to ensure, through closer examination of the returns, that they are correctly completed.

Data for the tax years 2005 and 2006 is not yet available as the income tax returns for those years are not due for filing until October 2006 and October 2007 respectively.

It should be noted that the scheme of capital allowances for the construction of private hospitals was reviewed by Indecon Economic Consultants as part of the overall review of property tax incentives in 2005. Indecon consulted widely in the course of their review, including consultations with the Department of Health and Children and the Health Service Executive. Their report was published on 6 February 2006 and is available on the Department of Finance's website. The summary of the main findings from Indecon's analysis is as follows:

- 'There has been an overall increase in planning applications and approvals for private hospitals since 2000 but most have not proceeded to date.
- Most of the extra investment in the sector would either not have been undertaken, or would have taken longer to come on-line in the absence of the tax incentive scheme.
- While it is too early to provide detailed estimates of the impact of the scheme on the supply and on the costs of hospital beds, Indecon believes the scheme has the potential to address supply shortages in the sector and to reduce costs.'

The net cost of this measure to date was estimated by Indecon at €23m from 2002 to 2005. This cost will be spread over a number of years.

Tax Code.

31. **Aengus Ó Snodaigh** asked the Minister for Finance the number of persons who claim to be non-resident for tax purposes. [24836/06]

Minister for Finance (Mr. Cowen): There are no precise details on the numbers claiming such status although it is considered that the numbers are relatively small. The Revenue Commissioners audited nine such claims in 2005 and found nothing amiss.

The Revenue Commissioners tell me that a fuller picture of such claims will be available from October next when information on non-residence now required on tax forms since 2002 will be captured electronically.

32. **Ms Enright** asked the Minister for Finance his views on the merits of a proposal to remove VAT from business tourism costs; and if he will make a statement on the matter. [24892/06]

Minister for Finance (Mr. Cowen): The issue of allowing businesses to deduct VAT on conference related business expenses has been raised on a number of occasions in recent years. The Government's tourism action plan implementation group has recommended a change in the VAT rules to allow for the deductibility of VAT incurred by businesses on conference related expenditure, that is, hotel accommodation and meals. In this regard, its proposal distinguishes between routine business travel which is non-discretionary and a subset of business travel known as MICE — meetings, incentives, conferences and events — which would be discretionary. The main argument put forward in favour of the proposal is that it would allow Irish hotels to compete more favourably with their European counterparts for conference related business.

We do not currently allow businesses to recover VAT incurred in respect of hotel accommodation and meals. There is a similar block on deductibility for business cars and petrol. These restrictions were put in place to limit revenue loss and tax avoidance. EU VAT law allows such restrictions.

While it would, in theory, be possible to remove or reduce these restrictions, it would not then be possible under EU law to reinstate them in the future if we wished to do so. In addition, any scheme designed to remove or reduce these restrictions would have significant cost implications for the Exchequer. The Revenue Commissioners have estimated that if full deductibility was allowed on accommodation it could cost the Exchequer €90 million in VAT forgone in a full year. Allowing deductibility for meals and drink associated with business travel would vastly increase this figure. Furthermore, Article 17(6) of the Sixth VAT Directive limits the type of deductibility allowable to business expenses. This

means there is no provision in EU law that would permit expenditure on entertainment to be allowable. Therefore, any scheme that would allow businesses to deduct VAT on accommodation and meals would have to take account of this fact.

The Revenue Commissioners have also raised concerns regarding potential abuse, and it is clear the design of a scheme that would allow businesses to deduct VAT on such expenses, even in a limited form, is complex.

However, as the Deputy will be aware from recent replies to similar questions on this issue, I want to make sure any such relief can work and does not open up the VAT system to other very costly demands. The examination of the matter is ongoing and in this regard my officials are in consultation with industry representatives. I will consider the matter in the context of next year's Budget.

Decentralisation Programme.

33. **Mr. Gormley** asked the Minister for Finance if, in view of the reforms to the value for money and policy review process that he recently announced, the decentralisation policy will be undergoing an analogous review; and if he will make a statement on the matter. [24811/06]

Minister for Finance (Mr. Cowen): I have no plans to carry out a formal review of the decentralisation programme under the value for money and policy review process.

As the Deputy will be aware, my predecessor announced in his Budget speech in December, 1999 that the Government intended to proceed with a new, more radical, programme of decentralisation. Since that announcement, my Department received submissions, representations and enquiries on behalf of more than 130 centres throughout the country seeking to be included in the new programme.

There was extensive consultation with interested parties including:—

- meetings at official level between the Department of Finance and other Departments and with each of the civil service staff unions;
- a meeting between the then Minister for Finance and the staff unions generally to hear the latter's views and concerns;
- the Strategic Management Initiative Implementation Group of Secretaries General provided advice, at the request of the Government, on how implementation of the new programme could enhance the efficiency and effectiveness of the public service;
- Heads of relevant Departments provided views, at the request of the Government, on the experience of their respective

Departments with the previous programme of decentralisation; and

- a major public service union provided advice, in response to an invitation from the then Minister for Finance on the development of criteria for the programme.

In coming to its Decision the Government took account of a wide range of factors in selecting suitable locations and departments and agencies for the new programme. I would refer the Deputy to page B.25 of the Summary of 2004 Budget Measures which describes the main factors taken into account.

Immediately following the announcement of the programme, a Decentralisation Implementation Group was appointed to prepare an overall implementation plan in co-operation with all of the organisations involved. The overall programme is being driven forward by this Group, which produced major reports on Decentralisation in March and June 2004, and further reports on the timing and sequencing of moves in November 2004 and June 2005. These reports dealt comprehensively with the people, business and property aspects of the Programme. All of the recommendations of the Group have been accepted by the Government.

All Departments and Offices have produced implementation plans setting out the detailed arrangements they are putting in place to plan for relocation while also ensuring business continuity and effective delivery of services to customers. The plans are comprehensive and their preparation involved detailed reviews of business processes as well as the logistics of the move. Departments and Offices have been proactive in identifying potential risks to service delivery and in developing strategies to ensure that such risks are managed during the transition phase.

Having already met with a number of Secretaries General, the Decentralisation Implementation Group is currently meeting with some of the Chief Executives of State Agencies to discuss their Implementation Plans, the planning framework in place, to assess progress to date and to hear about the challenges arising and steps proposed to address them.

In relation to cost issues, the Deputy will be aware that the property costs of the Programme are being managed by the OPW, which reports regularly to the Decentralisation Implementation Group on all the property aspects of the Programme.

When the Government's Decentralisation Programme was first announced, it was stated that the overall objective would be to ensure that property being acquired at a regional level is matched as closely as possible, both in time and in cost terms, by the disposal of property currently held in the Dublin region, whether held on lease or otherwise. In November 2004 the Imple-

mentation Group prepared a report, which was subsequently published, on the procurement methodology and financial assessment of the property aspects of the programme, including a financial model, based on a property finance study carried out by the Office of Public Works. While the prevailing property market conditions in each area will have a bearing on cost, this model indicates that the break-even position in relation to property will be reached in about 20 years.

At the request of the Implementation Group, the Department of Finance has issued guidelines to Departments and Offices on the capture of data on non-property costs, including transition costs such as knowledge transfer and training as well as any ongoing costs and savings. The guidelines are based on A Financial Assessment of Decentralisation Costs and Savings which was prepared by Dolomites and published in November 2004. Costs are being captured as they arise and the overall position will be assessed periodically by the Group.

I am satisfied that the reports of the Implementation Group, together with the implementation plans prepared by decentralising Departments, provide a solid basis for implementing the Programme, and see no merit in conducting an impact assessment of the type referred to.

Tax Code.

34. **Mr. McGinley** asked the Minister for Finance if he is satisfied regarding the tax treatment of families with children to support. [24906/06]

Minister for Finance (Mr. Cowen): This Government acknowledge the continuing cost pressures on parents, particularly those with young children.

The Government have substantially increased Child Benefit since coming into office in 1997. From April this year Child Benefit payments have increased to €150 per month for the first and second children and €185 for the third and subsequent children. Overall expenditure on Child Benefit has increased by 279% from €506 million in 1997 to just over €2 billion in 2006.

In addition, in Budget 2006 I announced a new Early Childcare Supplement of €1,000 in a full year for each child up to his or her sixth birthday. This new payment, along with increases in Child Benefit, brings the amount a family will receive, for each of the first two children under six years, to €2,800 per year, equivalent to over €50 per week in direct financial tax exempt support. This will be even higher where a family has more than two children under six.

On the supply side, the provision of formal childcare places is being stimulated through a programme of investment under the new five year National Childcare Investment Programme which I announced in Budget 2006. When com-

[Mr. Cowen.]

bined with the existing Equal Opportunities Childcare Programme, this means that between 2006 and 2010 some 65,000 additional places will be funded.

In total, over €2.5 billion extra will be invested in the area of child support over the next five years.

Measures have also been taken by the Government to favour the supply of childcare by tax incentives to set up facilities and provide relief from benefit-in-kind taxation for free or subsidised childcare where this is provided by employers. Taken together, these represent substantial measures to assist with the cost of childcare.

In addition, the tax system treats parents with dependent children more favourably than persons with no dependent children, in recognition of the additional financial burden associated with parenthood. This is done mainly through the one parent family tax credit, the widowed parent tax credit, the incapacitated child tax credit and the home carer tax credit. Also, persons who qualify for the one parent family tax credit, including widowed parents, qualify for the associated standard rate band cut off point which is €36,000 in 2006. This is €4,000 greater than that which applies for a single person.

National Development Plan.

35. **Ms O'Sullivan** asked the Minister for Finance the progress of the consultation process promised in advance of the introduction of a new National Development Plan; and if he will make a statement on the matter. [24960/06]

42. **Mr. Hayes** asked the Minister for Finance the criteria for selection for projects to be included in the National Development Plan as part of his strategy statement on the new programme; and if he will request that the rating for each subsequent project selected for inclusion will be simultaneously published under these criteria. [24920/06]

54. **Mr. Naughten** asked the Minister for Finance his plans for the ring fencing of funding under the next National Development Plan; and if he will make a statement on the matter. [24638/06]

83. **Mr. Noonan** asked the Minister for Finance his views on whether the next National Development Plan should be funded within existing capital envelopes; and the flexibility which exists to relax the envelope. [24884/06]

94. **Mr. Boyle** asked the Minister for Finance when he expects the ESRI's evaluation of investment priorities for the forthcoming National Development Plan to be made public. [24805/06]

111. **Mr. Naughten** asked the Minister for Finance his plans for funding under the next National Development Plan; and if he will make a statement on the matter. [24639/06]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 35, 42, 54, 83, 94 and 111 together.

As I indicated when I addressed the Joint Oireachtas Committee on Finance and the Public Service on June 14th last on the issue of the new NDP, the next Plan will be a high level strategic document setting out at Programme level Government investment priorities over the period to 2013. These priorities will be informed by the need to tackle infrastructure deficits, promote regional development and social inclusion and generally invest for competitiveness.

As I stated in my address to the Committee, the 7 year financial allocations set out in the Plan will be at national level, indicative in nature and subject to the overriding requirement of resource availability. Given that the allocations encompass 7 years, it would be unrealistic to suggest that they can be set in stone. I can, however, assure the House that the level of commitment will be ambitious and the Government will be determined to see it delivered. The indicative nature of the allocations will allow sufficient flexibility to adapt appropriately to changing circumstances over the next seven years with particular regard to economic and budgetary sustainability.

A wide consultation process on the Plan has been undertaken by my Department. Submissions were invited from a wide range of organisations and social partners and regional bodies. To date, submissions received include ones from IBEC, ICTU, the CIF, Chambers Ireland, the Irish Exporters Association, the Irish Tourism Confederation, the IFA, Comhar, the Heritage Council, the Combat Poverty Agency, the Western Development Commission, the two Regional Assemblies and all the Regional Authorities. In addition, I invited the Joint Oireachtas Committee on Finance and the Public Service to make a submission on the Plan and, as already stated, I appeared before the Committee in this regard on 14th June last. My Department has also been having follow-up meetings with many of the organisations who have made submissions and this process is continuing.

The Economic and Social Research Institute were engaged last November, following a competitive tendering process, to carry out an ex-ante evaluation of investment priorities for the next NDP. I understand that the evaluation is nearing completion. When finished, the evaluation will be submitted to Government.

As the Plan will be a high level strategic investment framework, it will not be a list of projects. The projects will flow over the period of the Plan consistent with the investment strategy outlined

in the Plan. I would stress, however, that the achievement of Value for Money at project level will be central to NDP investment, especially capital investment. This will require rigorous appraisal and best practice management of all capital projects by implementing Agencies and Departments. My Department's February 2005 Capital Appraisal Guidelines and the enhanced VFM measures which I announced in October last will be fully applied by Departments and implementing agencies in the process of project selection.

Tax Code.

36. **Dr. Upton** asked the Minister for Finance if he will provide information on the taxation arrangements of landlords, in particular details on the number of landlords who receive their income from the community welfare rental allowance and the number of houses that are rented in this manner; and if he will make a statement on the matter. [24940/06]

Minister for Finance (Mr. Cowen): I am advised by the Revenue Commissioners that landlords are liable to Income Tax on their net rental income, which is calculated by reducing gross rents by allowable deductions such as mortgage interest, repairs, maintenance and insurance. By virtue of a provision of this year's Finance Act, from 2006 onwards the deductibility of mortgage interest is dependent on the landlord meeting the statutory requirements regarding registration with the Private Residential Tenancies Board.

Neither my Department nor the Revenue Commissioners maintain any detailed statistics regarding the number of landlords nor the number of properties that come within the scope of the rent supplement scheme, which is administered by the Health Service Executive on behalf of the Minister for Social & Family Affairs. There is essentially no difference in the Income Tax treatment of rent received from private tenants and rent subsidies received under the community welfare allowance scheme.

Ethical Investment Guidelines.

37. **Mr. Stagg** asked the Minister for Finance the ethical investment guidelines which are being adopted in respect of investments and investment vehicles such as the National Pensions Reserve Fund under the remit of his Department; if such investments are made in accordance with United Nations Guidelines on Ethical Investments; and if he will make a statement on the matter. [24968/06]

Minister for Finance (Mr. Cowen): Under the National Pensions Reserve Fund Act 2000, the National Pensions Reserve Fund Commission

controls and is responsible for the investment of the National Pensions Reserve Fund (NPRF). It has discretionary authority to determine the Fund's investment strategy in accordance with the Fund's statutory investment policy of securing the optimal total financial return provided the level of risk to the moneys held or invested is acceptable to the Commission.

The Commission is a founder signatory to the Principles for Responsible Investment. The Principles were launched by the UN Secretary General in New York on 27 April last and have, to date, been signed by 35 of the world's largest institutional investment funds.

The aim of the Principles is to integrate consideration of environmental, social and governance (ESG) issues into investment decision-making and ownership practices. Signatories commit to the following:

1. To incorporate ESG issues into investment analysis and decision-making processes;
2. To be active owners and incorporate ESG issues into ownership policies and practices;
3. To seek appropriate disclosure on ESG issues by the entities in which they invest;
4. To promote acceptance and implementation of the Principles within the investment industry;
5. To work together to enhance their effectiveness in implementing the Principles; and
6. To report on activities and progress towards implementing the Principles.

In announcing its decision to sign the Principles, the NPRF Commission said the launch of the Principles is the beginning of a process which will see the Fund taking account of environmental, social and governance factors in its investment strategies and becoming a more engaged shareholder in the companies in which it invests. It said it would be taking specific measures to implement the Principles. Actions it is planning to take over the first 12 months include:

- Development and implementation of a comprehensive proxy voting policy;
- Development of an engagement capacity with investee companies on ESG issues; and
- Refinement of its investment manager selection process to include specific consideration of ESG issues.

The Commission stressed that incorporation of environmental, social and governance issues into the NPRF's investment and operating framework is a long-term project and it would be taking further implementing actions as its capacity in the area develops.

[Mr. Cowen.]

On my own behalf, I would like to add that I welcome the launch of the Principles. I believe they represent a significant step towards ensuring that investors take into consideration the environmental, social and corporate governance aspects of the businesses in which they invest. The application of the Principles should not only lead to better long-term financial returns but also to a closer alignment between the objectives of institutional investors and those of society at large. I am pleased that the National Pensions Reserve Fund Commission is a signatory to the Principles and is planning to undertake a number of measures over the next twelve months to implement them in relation to its activities.

Pension Provisions.

38. **Mr. Timmins** asked the Minister for Finance if his Department has prepared proposals in respect of pension reform in the context of the social partnership talks; and if he will make a statement on the matter. [24875/06]

Minister for Finance (Mr. Cowen): In the new National Partnership agreement “Towards 2016”, the Government has agreed, as part of the pay, workplace and employment rights and compliance elements of the agreement, to engage with employers and trade unions in the context of its formulation of a comprehensive approach to future pensions policy. This overall review of pensions policy, which will be facilitated by the Department of An Taoiseach and which will also involve input from other relevant Departments such as Social and Family Affairs, Enterprise, Trade and Employment and Finance, will include the publication of a Green Paper to outline the major policy choices and challenges in this area. The Government will take account of the views of all the social partners and is committed to responding to such views on foot of the Green Paper in the development of a framework for comprehensively addressing the pensions agenda over the longer term.

As the Deputy will appreciate, the pensions agenda is a very significant and wide ranging one. Many issues will need to be addressed and considered in the formulation of the Green Paper and follow up processes envisaged in the agreement. These will include not only the adequacy and sustainability of the present system but also the social, fiscal, economic and competitiveness impact of changes to the system that will fall to be considered.

National Pensions Reserve Fund.

39. **Mr. Broughan** asked the Minister for Finance the estimated value of the National Pensions Reserve Fund investments as at close of business on 31 May and 21 June 2006; the comparative fig-

ures for 2005; and if he will make a statement on the matter. [24967/06]

Minister for Finance (Mr. Cowen): The National Pensions Reserve Fund Commission, which controls and is responsible for the investment of the National Pensions Reserve Fund, publishes Fund values on a quarterly basis. The latest published figure is for 31 March 2006 when the Fund’s value was €16,612m. The equivalent figure for 31 March 2005 was €12,309m. I understand that the Commission will publish figures for 30 June 2006 in July.

The establishment of the National Pensions Reserve Fund has placed Ireland at the forefront of countries preparing for the issues caused by population ageing. It is widely seen as an example of international best practice in this area, and France and New Zealand have since established very similar funds.

The Fund is managed by an expert Commission which is independent of Government in the exercise of its functions. Indeed the Commission is in a very similar position to the trustees of private pension funds and it controls and manages the Fund with discretionary authority to determine and implement its investment strategy. This has given the Commission the freedom to develop, outside of the political process, a long-term investment strategy primarily based on a diversified portfolio of assets. Indeed a long-term State fund with no need for liquidity and no requirement to match liabilities on a yearly basis has some clear advantages in seeking to maximise long-term investment returns.

In its Annual Review 2005, the Commission points out that equity markets are volatile and that returns of 2005’s magnitude, when the Fund earned a return of 19.6% or €2.4 billion, should not be regarded as the norm. However, as a long-term investor, the Commission is prepared to accept this volatility. It goes on to state that the biggest risk it could run would be to take an over-cautious investment approach and thus reduce the Fund’s potential contribution to Ireland’s increasing pension costs. I believe this is a crucial point. I am aware and I accept that the appropriate investment strategy for a long-term fund with no drawdowns for twenty years can lead to short-term volatility. There were those who did not accept this point when the Fund experienced negative returns in 2002 and criticised both the Government for establishing the Fund and the Commission for its investment strategy. In view of the critical role of the Fund in meeting the long-term costs of population ageing in Ireland, I would hope that the rational, long-term perspective underlying the establishment of the Fund would be accepted by all.

Tax Compliance.

40. **Ms Burton** asked the Minister for Finance

if he will report on the recent settlement made between the Revenue Commissioners and property developers (details supplied) reportedly to the sum of €25 million; if further investigations of the company will take place; and if he will make a statement on the matter. [24938/06]

Minister for Finance (Mr. Cowen): As the Deputy is aware I cannot, for reasons of taxpayer confidentiality, comment on the tax affairs of individual cases. I can however confirm that the details of a settlement with a building company, in the sum of €22,169,642, were published yesterday in the latest quarterly list compiled by the Revenue Commissioners in accordance with the provisions of Section 1086 of the Taxes Consolidated Act, 1997. The settlement included tax, interest and penalties.

The Revenue Commissioners are committed to tackling tax evasion in a robust and professional manner, using the powers provided in the various Finance Acts, and in particular those provided in the Finance Act 1999. They adopt a risk based approach and the outcomes from their ongoing audit and compliance programmes together with the major investigation projects which they have undertaken, are an indication of the success of their strategies.

Housing Market Regulation.

41. **Mr. P. Breen** asked the Minister for Finance his views on recent observations by the president of the ECB on the role of the Government in the housing market here; and if he will make a statement on the matter. [24894/06]

Minister for Finance (Mr. Cowen): I noted the ECB president's comments. As I have said in previous replies to questions, the Government is doing its part by continuing to run a prudent, stability-oriented budgetary policy which gives us room for manoeuvre in the event of an economic downturn, whatever the cause. We are not borrowing to fund our planned major infrastructural investment programme and this investment will help sustain future growth.

In addition, I announced in Budget 2006 that a range of specific property-related tax incentive schemes were to be discontinued, on foot of a comprehensive review of the schemes undertaken by independent consultants in the course of 2005. In line with the recommendations of the consultants, the 2006 Finance Bill provides that the tax schemes in question, several of which include a significant housing component, will be discontinued on a transitional basis, with full tax relief available for qualifying expenditure in 2006, and with decreasing levels of relief available in 2007 and in the period from January to end-July 2008, after which the relief will not be available. The gradual phasing-out of the tax relief schemes is designed to avoid any sudden shock to the con-

struction sector generally, having regard to the important contribution of this sector to Irish economic growth at present.

Finally, individual borrowers and lenders should be aware of their own responsibility and the need to be sensible in the housing market.

Question No. 42 answered with Question No. 35.

Social Partnership Agreements.

43. **Mr. Neville** asked the Minister for Finance the added cost in terms of public service pay in 2006, 2007 and 2008, and in terms of additional programme expenditures in these years of the agreed outcome of the social partnership negotiations. [24876/06]

Minister for Finance (Mr. Cowen): Pay — The public service pay agreement under Towards 2016 provides for a pay increase of 10% over a twenty-seven month period with an initial five months' pay pause. This increase is to apply as follows:

- 3% from 1 December 2006
- 2% from 1 June 2007
- 2.5% from 1 March 2008, and
- 2.5% from 1 September 2008.

It is estimated that the cumulative cost of implementing these increases is €45m in 2006, €750m in 2007 and €1,465m in 2008.

The payment of these increases will be dependent, in the case of each sector, organisation and grade, on verification of co-operation with flexibility and ongoing change, including co-operation with satisfactory implementation of the agenda for modernisation set out in the Agreement, maintenance of stable industrial relations and absence of industrial action in respect of any matters covered by the Agreement. Payment will be dependent on verification of satisfactory achievement of these provisions.

The new social partnership agreement "Towards 2016" also contains a wide ranging "non-pay" social agenda. Chapter three of the agreement sets out the social agenda in a "Lifecycle" framework which seeks to assess the risk and hazards, and corresponding supports, available to people at each stage of the lifecycle.

This part of the agreement, of necessity, seeks to incorporate and reflect the existing medium to long term strategies that are already in place in the broad social area such as NAP inclusion and the related revised National Anti-Poverty Strategy, the National Children's Strategy, the five year Childcare Strategy announced in Budget 2006, the national action plan for educational inclusion (DEIS), the National Disability Strategy as well as particular health, care and housing initiatives.

[Mr. Cowen.]

The further finance required for the ongoing implementation of the various measures will be considered in the context of the annual estimates and budgetary framework, subject to, as provided for in the agreement, overall macro fiscal and economic constraints. For example, the new social partnership agreement contains an objective to achieve the current revised National Anti-Poverty target of increasing the lowest adult social welfare rate to €150 per week in 2002 terms by 2007 and, subject to available resources, to maintain the value of rates at that level over the course of the agreement. Such a commitment will obviously have cost implications but the extent of such costs from year to year will be a matter for decision by Government in the context of the annual budget.

The agreement does provide for a number of additional specific social initiatives across a number of Departments, including Environment, Heritage and Local Government, Education and Science, Community Rural and Gaeltacht Affairs, Social and Family Affairs and Health and Children. The relevant Ministers will be able to provide details of the measures within their respective remits but the overall costs of these initiatives with consequent resource implications will be managed in the overall context of Government expenditure by prioritisation in its allocation decisions within the Estimates and Budget process over the next three years.

On the farming side, discussions are still continuing between the farming pillar and my colleague the Minister for Agriculture and Food.

State Bodies.

44. **Mr. Gogarty** asked the Minister for Finance the number and type of State body positions which will be affected by the increase in chairperson's salaries recently approved by Cabinet; and if he will make a statement on the matter.
[24808/06]

Minister for Finance (Mr. Cowen): The level of the fees payable to the non-executive chairpersons of State bodies was revised by Government at its meeting on 20 June 2006. The revised fees are payable with effect from 1 January 2006.

The Government decided to increase the fees payable to ordinary board members and directors of State bodies by roughly the amount of the increase payable to senior civil servants in the period since the last review of fees was conducted in 2001. This level of increase was also applied to the fees payable to the chairpersons of the smaller State bodies.

However, the Government recognised that the level of commitment required from the chairpersons of the most important State bodies was not adequately remunerated. Accordingly, it was decided that the fees payable to the chairpersons

of the largest and most complex State bodies should be increased by a larger amount to reflect the workload of these positions. In this case, it was decided that the fees payable to the chairpersons of such boards should be double that payable to the ordinary members or directors of those boards.

The Government also decided that the chairpersons of a second tier of State bodies were not adequately remunerated for their contributions. In this case, it was decided to raise the fees payable to chairpersons of such boards so that the fee was just over 70% more than the fee payable to the ordinary members or directors of those boards.

The fees payable to the chairpersons and members of State boards depend on the size and complexity of the bodies they govern. In order to determine what level of fee is appropriate, State bodies are divided into four categories, depending on the pay of their chief executives. The level of remuneration of the chief executive is an objective assessment of the relative importance and complexity of the bodies concerned.

The fee which the Government decided should now be payable to the chairpersons of the largest State bodies — Category 1 — is €35,000. The fee payable to the chairpersons of the second tier of State bodies is €24,000. The fees payable to the chairpersons of the smallest state bodies — Categories 3 and 4 — are €14,000 and €10,500 respectively.

I consider that, even after the application of the increases, the fees payable are modest relative to those payable to chairpersons and members of boards of private sector companies of comparable size.

The Deputy should consult with other Ministers for information on the numbers of positions in State bodies under their aegis which are affected by the increase in chairpersons' fees. I will provide the information on bodies under the aegis of my own Department, as soon as it has been collated.

Home Reversion Products.

45. **Mr. Noonan** asked the Minister for Finance his views on whether there should be regulation of home reversion products whereby older people sell part of the house to release equity.
[24909/06]

Minister for Finance (Mr. Cowen): Home reversion products primarily involve the sale of a part of the interest in a property. Unlike Equity Release Mortgages they do not constitute a financial service that would be subject to supervision by the Financial Regulator. At present it is understood that there are two companies who offer this product on the Irish market. Since this activity involves selling part of a home, as opposed to tak-

ing out a loan, it currently does not fall within the remit of the Financial Regulator.

However, I recognise that there are important similarities in purpose and procedures between both Home Reversion and Equity Release types of transactions and that both products could compete for the same type of customers.

I am also aware that the question of regulating the providers of these products has been discussed with the Joint Oireachtas Committee on Finance and the Public Service by the Financial Regulator.

In view of the above considerations, my Department together with the Financial Regulator, the Department of Justice, Equality and Law Reform and the Department of the Environment, Heritage and Local Government are currently undertaking a review to examine the issues that arise in relation to the case for regulation of home reversion products and/or the providers of such products.

Fiscal Policy.

46. **Mr. Howlin** asked the Minister for Finance his views on the prospect that first time buyers will be excluded from the housing market if interest rates increase as forecasted to 3.5 percent in 2007, causing first time mortgage limits to fall by up to €100,000; and if he will make a statement on the matter. [24936/06]

Minister for Finance (Mr. Cowen): This Government has already taken measures that seek to address problems faced by first time buyers. The situation is kept under review each year at budget time.

Fiscal measures which support first-time buyers include preferential stamp duty rates for first-time owner-occupiers of second-hand houses, who are exempt from stamp duty on properties valued at €317,500 or less with reduced rates applying on properties valued from €317,500 up to €635,000. First-time owner-occupiers are also exempt from stamp duty on new properties with a floor size of 125 square metres or less.

There are also mortgage interest rate reliefs which give preferential treatment to first time buyers.

Freedom of Information.

47. **Mr. J. O’Keeffe** asked the Minister for Finance if arrangements will be made that the Information Commissioner is consulted in assessing the merits of extending the Freedom of Information Act 1997 to the vocational educational committees, IFSRA, Adoption Board, An Garda Síochána and so on in order that the Ministers and Government have access to the full range of expertise available in making such decisions. [24931/06]

Minister for Finance (Mr. Cowen): I have no proposals for the Information Commissioner to be consulted in relation to the merits of extending the FOI Act to the bodies mentioned by the Deputy.

Tax Code.

48. **Caoimhghín Ó Caoláin** asked the Minister for Finance the percentage in 2005, or the latest available figures, of persons who avail of tax relief in respect of pension contributions who are from the lowest decile of income earners; and the percentage which are from the highest decile of income earners. [24833/06]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that the most recent relevant information available is in respect of income tax relief allowed for contributions to “retirement annuity contracts” for the income tax year 2002, which are available to the self-employed and to employees not in occupational pension schemes.

Obviously the capacity to avail of a tax relief depends on one’s income and whether one is in the tax net or not, which most low income earners are not. Therefore, it should not be a surprise that on the basis of this Revenue data, some 364, or 0.2%, of the lowest decile of income earners on tax records were able to avail of this relief whereas some 37,000 or 20.3% of the highest decile of income earners used it to provide for pensions.

It is not possible to provide corresponding figures in regard to the take-up of the tax relief for pension contributions by employers and employees as the relevant data are not captured in such a way as to make this possible.

The information on incomes is based on income returns on Revenue records at the time the data were compiled for analytical purposes, representing about 95% of all returns expected.

A married couple who have elected or have been deemed to have elected for joint assessment are counted as one tax unit.

Decentralisation Programme.

49. **Mr. Allen** asked the Minister for Finance the negotiations which have taken place regarding the placement of persons who do not opt to decentralise with their units or agencies; and the proposals which the Government have made to unions. [24902/06]

Minister for Finance (Mr. Cowen): The primary mechanism for placing general service civil servants who are in posts which are due to decentralise but wish to remain in Dublin is by way of bilateral transfer. As staff who have applied to decentralise continue to be transferred into decentralising organisations, the posts they vacate become available to those wishing to remain in Dublin. It is expected that a significant number of staff will be placed through these bilat-

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eral arrangements as the programme is rolled out. To end June 2006 in excess of 1,700 staff have been assigned to decentralising posts, of which over 800 are Dublin based applicants.

In addition, officials of my Department have agreed arrangements with the general service civil service unions which are facilitating the placement of Dublin based staff. Under these arrangements, details of staff who wish to remain in Dublin at each grade level are provided to the Public Appointments Service so that a proportion of vacancies arising in Dublin based posts may be filled by those staff. It is intended that these arrangements will continue over the full transition phase of the decentralisation programme.

Participation in these arrangements by Departments and Offices will be influenced by their timeframe for moving, their success in placing staff through the bilateral arrangements, whether they are relocating in full or in part and the extent to which their staff can be placed elsewhere within the organisation in Dublin.

This issue is the subject of ongoing discussions between my Department and the unions representing the professional and technical grades in the civil service.

Public Service Staff.

50. **Ms B. Moynihan-Cronin** asked the Minister for Finance the number of women and men in each category or grade of public service appointment of principal officer level and above for his Department, the Revenue Commissioners, the Office of Public Work, and agencies under the remit of his Department. [24969/06]

Minister for Finance (Mr. Cowen): The following is a breakdown by gender of the staff in each category/grade at Principal level and above in my Department and offices/agencies under the remit of my department:

Department of Finance	Male	Female
Secretary General	5	0
Chief Medical Officer	1	0
Assistant Secretary	11	0
Deputy Chief Medical Officer	0	1
Director*	2	1
Principal	44	14

*The Head of Corporate Services Division is included here.

Office of the Revenue Commissioners	Male	Female
Secretary General	2	1
Deputy Secretary	1	0
Assistant Secretary	13	2
Principal	122	25

Office of Public Works	Male	Female
Chairman	1	0
Commissioner	1	1
Director of Architectural Services	1	0
Director of Engineering Services	1	0
Principal	12	1
Assistant Principal Architect	5	1
Assistant Chief Engineer	4	0
Head of Maintenance	1	0
Head of Quantity Surveying	1	0
Art Adviser	1	0

Comptroller & Auditor General	Male	Female
Secretary	1	0
Director of Audit	2	0
Deputy Director of Audit	10	2

Central Bank & Financial Services Authority of Ireland	Male	Female
Director General	2	0
Deputy Director General	1	0
Assistant Director General	4	1
Manager	20	5
Deputy Manager	25	8

State Laboratory	Male	Female
State Chemist	1	0
Principal Chemist	2	0

Valuation Office	Male	Female
Commissioner of Valuation	1	0
Principal	0	2
Managing Valuer	8	0

Ordnance Survey Ireland	Male	Female
Chief Executive	0	1
General Manager	4	0

Commission for Public Service Appointments	Male	Female
Principal	1	0

Public Appointments Service	Male	Female
Chief Executive	1	0
Principal	2	1

Office of the Ombudsman	Male	Female
Director General	1	0
Senior Investigator	6	1

National Lottery	Male	Female
Director	1	0
Chief Accountant	1	0
Head of Marketing	1	0
Head of Operations & Corporate Affairs	1	0
Operations Manager	1	0

National Treasury Management Agency	Male	Female
Total employees at all levels within the Organisation	60	54

Economic Growth.

51. **Mr. Quinn** asked the Minister for Finance if his Department has conducted an assessment on the potential effects of a stock market slump on the economy here in view of recent turbulence in the markets; and if he will make a statement on the matter. [24964/06]

Minister for Finance (Mr. Cowen): My Department is projecting GDP growth of 4.8 per cent this year with broadly similar growth rates in the following two years. Recent stock market changes have not altered this view to any significant degree.

Financial Services Regulation.

52. **Mr. G. Mitchell** asked the Minister for Finance if he has had discussions with the Central Bank and Financial Regulator regarding indebtedness and the criteria for lending products; and if he will make a statement on the matter. [24880/06]

112. **Mr. Rabbitte** asked the Minister for Finance if he has had discussions with the Financial Regulator on the subject of interest only mortgages; his views on the fact that interest only mortgages are being encouraged by the banking sector with some banks providing 100 per cent mortgages with interest only repayments; if he intends to take measures to regulate the provision of interest only mortgages on family homes; and if he will make a statement on the matter. [24934/06]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 52 and 112 together.

As the Deputy will be aware, within the implementation of the overall legislative framework, private sector credit growth and debt levels are, in the first instance, a matter for the Central Bank and Financial Services Authority of Ireland. This follows from its role as part of the European System of Central Banks and its functions, as the Financial Regulator, in relation to the prudential supervision of financial institutions, including mortgage providers, and the protection of the consumers of those firms.

As far as looking after the interests of the individual borrower is concerned, the function of Government is therefore to provide an appropriate legislative framework for regulation of the financial services sector — one that is both comprehensive and robust. I am satisfied that, on foot of the progress made over recent years, especially in establishing the Financial Regulator with a particular focus on the interests of the consumer, we have such a framework in place.

The Financial Regulator has developed a number of specific initiatives to help consumers make informed choices in terms of their financial products. These initiatives have been developed through the framework of the Financial Regulator's "It's Your Money" campaign and have involved publishing consumer guides on credit products, fact sheets, cost surveys on personal loans, all of which are intended to assist borrowers in making the most appropriate credit decisions given their circumstances.

A further strengthening of the regulatory framework for consumers will be achieved through the introduction of the Financial Regulator's proposed Consumer Protection Code shortly. This Code will place obligations on regulated entities that provide mortgages which include the requirement to act in their customers' best interests by ensuring that they seek appropriate information about a consumer so that they know and understand their customers' needs. Such entities must also ensure that the provision of mortgages which are suitable to each individual consumer and that they treat their customers fairly, including by ensuring adequate procedures are in place in relation to the handling of arrears cases. These obligations will be additional to the

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statutory prior information and warnings required under the Consumer Credit Act 1995.

As far as the choice of mortgage product is concerned, there is a high degree of competition in the Irish mortgage market, providing a wide choice of competitively priced products, including those referred to by the Deputy. The choice of mortgage product ultimately rests with the consumer and the lending institution concerned. The preference of borrowers is influenced by factors such as their personal circumstances and their own assessment of the relative merits of the mortgage products on offer.

It would not be appropriate for me in my role as Minister for Finance to seek to promote one type of mortgage product ahead of another. The information being made available by the Financial Regulator, together with the statutory information and warnings in the case of mortgages, serve as an adequate basis for consumers to make a decision about the type of mortgage which best suits them. Mortgage lending practices are closely supervised by the Financial Regulator with appropriate stress testing of borrowers' ability to meet their obligations, not just in the current economically favourable circumstances, but also in more challenging times.

As the Deputy may be aware, the Financial Regulator has recently announced a technical prudential measure requiring financial institutions to put more capital aside for higher LTV (Loan to Value) loans. This reinforces the message consistently conveyed to lending institutions by the Regulator that mortgage lending policies and practices should be prudent and responsible.

Finally, my Department liaises with the Financial Regulator on an ongoing basis on a range of issues relating to my Department's responsibilities for the legislative framework for the regulation of financial services. The Central Bank's Quarterly Bulletin, Financial Stability Report and Annual Report also play an important role in providing information and analysis to my Department on the exercise of the Central Bank's responsibilities and its assessment of macro economic and financial conditions in the economy.

Tax Code.

53. **Mr. Wall** asked the Minister for Finance if he will report on the work of the Revenue Commissioners in monitoring the use of Section 50 Finance Act 1999 that provides tax relief to developers of student accommodation; if he will further report on the number of Section 50 residences that have been found to be inhabited by non-students and the number of developers that have been challenged on same under the anti-avoidance programme; and if he will make a statement on the matter. [24941/06]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that they are not aware of any significant abuses of the so-called "Section 50" scheme of relief for the construction of student accommodation. However, Revenue have noted recent newspaper reports of claims made by the Union of Students in Ireland that some Section 50 apartments are being let to non-students during college terms. I am informed that Revenue have followed up with the person making the claim and will be meeting the USI shortly to discuss their concerns. If there is evidence of abuse in this area, I am assured that Revenue will take appropriate action.

There are no figures available for the number of the 14,000 or so Revenue audits carried out in 2005 that looked specifically at claims under the "Section 50" scheme of relief. While no cases appear to have been specifically selected for audit in this area, Revenue are aware that, in the normal course of audit in 2005, a small number of cases were in fact examined where the relief had been claimed. In the particular cases examined there was no evidence to suggest that the guidelines were not complied with or that the relief had been abused.

Question No. 54 answered with Question No. 35.

Illegal Imports.

55. **Mr. O'Shea** asked the Minister for Finance if he is satisfied in regard to the level of supervision exercised by the Revenue Commissioners at points of entry, in particular in regard to the illegal tobacco trade; if he will report on the estimated value of tax revenue lost through the import of counterfeit cigarettes in 2005; and if he will make a statement on the matter. [24955/06]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that manning levels at points of entry into the State and enforcement strategy generally are continuously monitored and reviewed in line with the perceived threat or risk of evasion. This applies to all areas that the Revenue Commissioners have responsibility for policing including excisable products that include tobacco products and prohibited goods that include drugs.

In the case of cigarette and tobacco smuggling, during 2005, a total of 51.28 million cigarettes and 1,108 kilograms of tobacco were seized. Seizures up to the end of May 2006 amounted to 26.5 million cigarettes and 972 kilograms of tobacco compared with 22.7 million cigarettes and 179 kilograms of tobacco that were seized during the same period in 2005. In Dublin Airport alone, approximately 2 million cigarettes have been seized by Customs each month since the beginning of the year. In late 2005 Revenue took delivery of a

Mobile Container Scanner and this has significantly enhanced detection capability. I can advise the Deputy that the scanner has been instrumental in identifying over 7 million cigarettes concealed in maritime containers.

As regards the amount of revenue being lost due to the penetration of the market by contraband and counterfeit cigarettes, while this is always difficult to calculate, I am informed by the Revenue Commissioners that cigarette clearances on which excise duty has been collected up to the end of May 2006, show an increase of 0.3% compared with the same period in 2005. In addition, following the detection of bogus Irish tax stamps on a total of 5.65 million counterfeit cigarettes smuggled from Ukraine and China last year, a nationwide operation was mounted in November to ascertain if cigarettes with bogus Irish tax stamps were being sold on the market. In the course of this operation 837 premises, which included retail shops, pubs, off-licences, night-clubs and other outlets, were visited and no such packs were found. A new form of tax stamp with additional security features has been introduced in the meantime.

It is the view of the Revenue Commissioners that the level of penetration of the market by contraband and counterfeit cigarettes remains low.

Tax Yield.

56. **Mr. P. Breen** asked the Minister for Finance the revenue raised by each stamp duty on credit or cash card facilities and on bank transactions; and if he will undertake a review of these duties. [24921/06]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that the net receipts from stamp duty on credit cards, cash cards and cheques in 2005 were as follows:

	€m
Credit card account and charge card	63.8
ATM card without a 'Laser' function	22.4
'Laser' card without an ATM function	3.3
Combined ATM and 'Laser' card	12.2
Cheques	16.5
Total	118.2

All stamp duties, including the stamp duties on financial cards and bank transactions are reviewed in the context of the annual Budget and Finance Bill.

Decentralisation Programme.

57. **Mr. Deenihan** asked the Minister for Finance when the contract will be signed with the owner of the property in Listowel that will facili-

tate the decentralisation of 50 Revenue staff to Listowel, Co. Kerry; and if he will make a statement on the matter. [24831/06]

Minister of State at the Department of Finance (Mr. Parlon): The Commissioners of Public Works have informed me that terms have been agreed and contract documents are awaited in relation to a leased building in Listowel that will facilitate the decentralisation of Revenue staff to Listowel.

Contracts will only be entered into when the legal documentation is to the satisfaction of the Chief State Solicitor.

58. **Mr. Howlin** asked the Minister for Finance the latest information available from the central applications facility in respect of applications from civil servants and other public servants currently located in Dublin who wish to transfer to new locations outside of Dublin under the Government's decentralisation programme; the way in which this compares with the Government target of 10,300; if agreement has been reached with all public service unions regarding promotional opportunities for those who choose to move and those who opt to remain where they are; and if he will make a statement on the matter. [24949/06]

Minister for Finance (Mr. Cowen): Over ten and a half thousand civil and public servants applied on the Central Applications Facility to relocate under the government's Decentralisation Programme. Over 9,000 of the applications are from civil servants and over 1,000 are from public servants. Over 50% of the applications are from staff currently based in Dublin.

1,700 civil servants have already been assigned to posts which will relocate. Therefore, almost 25% of the total numbers of civil service posts involved in the programme have been filled. Over half of these assignees were Dublin based.

In the civil service, progress has been made in discussions with the general service unions on promotion arrangements. Discussions are ongoing with the unions representing the professional and technical grades in the civil service. I am hopeful this and other implementation issues arising in the state agency sector can be discussed with the relevant unions with a view to arriving at arrangements which support the decentralisation process while also meeting the concerns of staff. In the meantime, practices in decentralising organisations relating to recruitment, promotion, etc. must take account of the reality of decentralisation.

National Development Plan.

59. **Mr. Crawford** asked the Minister for Finance if his Department has collated data on the

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performance of the National Development Plan against target in terms of physical project delivery, outcomes and cost performance. [24916/06]

98. **Mr. Crawford** asked the Minister for Finance if his Department has collated data on the performance of the National Development Plan against target in terms of physical project delivery, outcomes and cost performance. [24874/06]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 59 and 98 together.

Performance indicators at programme and priority level are included in the Operational

Programme documents and at measure (and sub-measure) level in the programme complement documents. The monitoring indicators allow progress to be measured in terms of reaching objectives and targets, the impact and results of expenditure and the progress of the financing plan.

Each Operational Programme has a Managing Authority which monitors financial and physical output targets. Each Implementing Agency is required to supply physical and financial progress to the Operational Programme Monitoring Committee meetings held in the Spring and Autumn. The Progress reports for these are available from the respective Managing Authorities for the Operational Programmes as set out below.

Operational Programme	Managing Authority
Economic and Social Infrastructure OP	Department of Environment and Local Government
Employment and Human Resources OP	Department of Enterprise, Trade and Employment
Productive Sector OP	Department of Enterprise, Trade and Employment
S&E Regional OP	Southern & Eastern Regional Assembly
BMW Regional OP	Border, Midland & Western Regional Assembly
Peace OP	Special EU Programmes Body
Technical Assistance OP	Department of Finance

The Operational Programme Monitoring Committee reports include a description of physical progress of each measure for the six month reporting period and since the beginning of the Programme, accompanied by the appropriate table of physical indicators. They also include a standard financial table which provides information of each measure by EU co-financed and non co-financed expenditure, national contributions, EU contribution and private financing.

These reports are collated and presented to the NDP/CSF Monitoring Committee which is chaired by my Department. This Committee plays an active role in the monitoring of the NDP/CSF and meets at least twice yearly to review progress being made towards achieving objectives and targets. The Committee is made up of a wide partnership of interests, including implementing Departments, the social partners, sectoral interests, and members of local authorities representing the regional assemblies.

This Committee reviews the progress being made towards achieving objectives and targets. Monitoring is carried out by reference to physical and financial indicators.

In addition to the ongoing monitoring, mid term evaluations of the NDP/CSF and of the individual Operational Programmes were carried out in 2003 the purpose of which was to provide an analysis of both progress under the programmes and of developments in the external environment. An update evaluation of the CSF was completed in December 2005 which provided a synthesis of overall CSF progress in both financial and physical terms to end 2004.

Revenue Investigations.

60. **Mr. Ferris** asked the Minister for Finance the number of investigations which have been carried out by Revenue as to the veracity of declarations by persons claiming to be non-resident for tax purpose regarding the number of days spent here in a given tax year; and the number of cases where it has been found that false declarations have been made. [24838/06]

Minister for Finance (Mr. Cowen): I am assuming that the Deputy's question relates to individuals rather than companies.

I am advised by the Revenue Commissioners that enquiries relating to residence are a feature of the risk-based audit programmes operated by Revenue in 2005 and 2006.

I am further advised that in 2005 the Revenue Large Cases Division conducted audits on the income tax returns of 9 individual taxpayers who claimed to be non-resident.

The audits were undertaken to ascertain if the absences claimed by these individuals were compatible with the rules relating to non-residence and consistent with other data and intelligence available to Revenue. The audits established that there was no reason to conclude that the individuals concerned failed to comply with the statutory rules governing non-resident status.

The Chairman of the Revenue Commissioners has informed me that further audits will be conducted in 2006 on a selection of tax returns from individuals claiming non-resident status.

National Pension Reserve Fund.

61. **Mr. Sargent** asked the Minister for Finance his plans to introduce legislation allowing the National Pension Reserve Fund to avoid investing in unethical industries, such as the arms and tobacco industries; and if he will make a statement on the matter. [24814/06]

Minister for Finance (Mr. Cowen): The goal set for the National Pensions Reserve Fund (NPRF) under its establishing legislation, the National Pensions Reserve Fund Act 2000, is to secure the optimal return over the long term, having regard to (a) the purpose of the Fund as set out in section 18(1) of the Act, and (b) the payment requirements of the Fund as provided for under section 20 of the Act, provided the level of risk to the moneys held or invested is acceptable to the NPRF Commission.

The National Pensions Reserve Fund Commission, which under the Act is independent of Government, controls and manages the Fund with discretionary authority to determine and implement its investment strategy.

The NPRF Commission announced in April this year that they had signed up to the United Nations' new "Principles for Responsible Investment". The Principles, which are voluntary and aspirational, are intended to encourage institutional investors to take account of environmental, social and governance (ESG) issues.

I understand that the Principles would not, for example, require disinvestment from certain sectors or companies. Instead, the Principles encourage institutional investors to engage on ESG issues with the companies in which they invest and generally to raise the profile of such issues by making it clear that they are a matter of concern.

I have no plans to amend the National Pensions Reserve Fund Act.

62. **Mr. G. Murphy** asked the Minister for Finance the terms on which funds in the National Pension Reserve Fund have been made available for public sector projects; the reason they have not been taken up; and if he will make a statement on the matter. [24925/06]

Minister for Finance (Mr. Cowen): The National Pensions Reserve Fund Commission is independent of Government in the exercise of its functions. It controls and manages the Fund with discretionary authority to determine and implement the Fund's investment strategy in accordance with the Fund investment policy set out in the National Pensions Reserve Fund Act 2000. This investment policy is effectively a commercial investment mandate with the objective of securing the optimal return over the long term subject to prudent risk management.

The independence of the Commission is a cornerstone of the legislation which ensures that the Commission will invest in a manner that maximises returns. Essentially, it is similar to the trustee arrangements that apply to private pension funds and places an obligation on the Commission to act commercially and in the best interests of the Fund.

With regard to commercial investment in public sector projects in this country, the Annual Report of the National Pensions Reserve Fund Commission for 2004 states that the Commission has made an initial allocation of €200 million for investment in public-private partnerships in Ireland and will increase this allocation should suitable opportunities arise. The Report also states that the Commission will make equity and/or debt finance available to the winning bidder in the tender process for public-private-partnership projects, provided it is satisfied with the prospective rate of return. I understand that, to date, no moneys have been invested by the Commission in any such projects.

The Commission was a member of a consortium — the Celtic Roads Group — which was a bidder in a competition for the contract to upgrade the M50 which was conducted by the National Roads Authority. The NRA abandoned the original competition some time ago and launched a new competition on different terms. The Celtic Roads Group consortium decided not to enter the new bidding competition and the Commission's involvement in that project as a member of a bidding consortium is accordingly now at an end.

Tax Code.

63. **Mr. Stagg** asked the Minister for Finance when he expects to meet targets set in the Programme for Government and Sustaining Progress that 80 percent of all taxpayers would pay at the standard rate of tax; the percentage of taxpayers currently paying only at the standard rate of tax; the percentage of taxpayers currently paying at the higher rate of tax; and if he will make a statement on the matter. [24963/06]

Minister for Finance (Mr. Cowen): The 80% target in An Agreed Programme for Government, which refers to "earners" rather than to "taxpayers", is given in the context of a broader economic and budgetary strategy which provides, among other things, that the public finances will be kept in a healthy condition and that personal and business taxes will be kept down in order to strengthen and maintain the competitive position of the Irish economy.

After Budget 2006 it is estimated that, in the current tax year, 35.9% of all income earners will be exempt from income tax and a further 32.2% of income earners will pay tax at no more than

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the standard rate. It is estimated 31.9% of income earners will pay tax at the higher rate of tax.

Further progress in this area will be a matter for consideration in the context of the Budget consistent with the Government's overall economic and budgetary strategy.

However, I would point out to the Deputy that the Government's tax policies have ensured that, since 1997, average tax rates have fallen for all categories of taxpayer and, for 2006, an unprecedented number of low paid income earners are projected to be outside the tax net altogether as is clear from the information provided in this answer. Also, after tax income, adjusted for CPI inflation, for a person on the average industrial wage, is now 44% higher than it was in 1997. About half of this increase is due to lower taxes.

Furthermore, the latest OECD data relating to the year 2005 indicate that for the single worker on average earnings, Ireland has the lowest tax wedge in the EU and one of the lowest in the OECD. For a married one earner couple with two children on average earnings, Ireland has the lowest tax wedge in the entire OECD.

One reason why many income earners pay at the higher rate is because incomes have increased significantly. As I have indicated to the House previously, this is an indication, not of a problem, but of a major economic success.

Public Expenditure.

64. **Mr. Durkan** asked the Minister for Finance if he expects public spending to remain on target for the remainder of 2006 and 2007; and if he will make a statement on the matter. [24859/06]

155. **Mr. Durkan** asked the Minister for Finance the extent to which he expects Government expenditure to increase throughout the various Government Departments in the next two years; and if he will make a statement on the matter. [25307/06]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 64 and 155 together.

On the basis of the end May figures (end June are being prepared and will be published on the 4th of July) the outturn for Voted expenditure in 2006 is expected to be broadly in line with the allocations set out in the Revised Estimates for Public Services published on the 23rd of February 2006, except for the reimbursement of long-stay charges in former Health Board funded institutions. Following the recent enactment of the Health (Repayment Scheme) Act, these are now expected to amount to €340 million for 2006 rather than the €400 million provisionally provided for in the Revised Estimates with the balance of €660 million likely to be required in 2007 and 2008.

The projections for 2007 and 2008 published as part of my 2006 Budget provide for total gross voted current expenditure of €46.7 billion in 2007 and €49 billion in 2008, inclusive of €1.5 billion and €2.8 billion in unallocated amounts respectively. These projections would represent year-on-year increases of 6.3% and 5% respectively.

A capital envelope covering the period 2006-2010 was also published on Budget Day and provides for total capital investment (Exchequer and PPP) within the envelope of €7.8 billion for 2007 and €8.4 billion for 2008 — year-on-year increases of 12.3% and 7.5% respectively.

These projections will be updated when revised Stability Programme economic projections are published in the autumn and in the context of the 2007 Estimates and Budget.

Tax Yield.

65. **Ms O'Sullivan** asked the Minister for Finance the value of stamp duty receipts received by the Exchequer for each year from 2000 to date in 2006; and if he will make a statement on the matter. [24971/06]

Minister for Finance (Mr. Cowen): The following table details the Exchequer stamp duty yield in each of the years 2000 to 2005 and in the first five months of 2006 also.

Year	Stamp Duty
	€m
2000	1,107
2001	1,227
2002	1,167
2003	1,688
2004	2,088
2005	2,725
2006 (to end-May)	1,293

The large increases in stamp duty receipts over the last number of years are due primarily to the continued buoyancy of the property market.

Garda Stations.

66. **Mr. Deenihan** asked the Minister for Finance the position regarding the provision of a new Garda station at Castleisland, County Kerry; and if he will make a statement on the matter. [24815/06]

Minister of State at the Department of Finance (Mr. Parlon): A brief of requirements for the new Garda Station at Castleisland, Co. Kerry has been received from the Department of Justice, Equality and Law Reform. Arrangements are in hand for the appointment of a design team which requires advertisement in the EU Journal. This procedure will take about 3 months to complete.

A Sketch for the new Station will be ready shortly thereafter for the approval of the Department of Justice, Equality and Law Reform and the Garda Authorities.

Public Service Employment.

67. **Mr. Eamon Ryan** asked the Minister for Finance his views on the addition of 40,000 employees to the public sector in the last Quarterly National Household Survey; and the details, including costing, of the new positions. [24134/06]

Minister for Finance (Mr. Cowen): The CSO Quarterly National Household Survey does not purport to be an indicator of public service employment. The CSO classification of “Public Services” includes sizable private sector elements in the Health and Education sectors including work without a public sector parallel. For example the health sector figure includes private sector health practitioners and providers and also private crèche workers. The education sector figure includes private schools, colleges, and training providers.

As regards public sector employment, a more relevant CSO series is that on Public Sector Employment and Earnings, although it should be noted that this survey includes the commercial State companies, which are not covered by the Government’s staff numbers policy. The most recent figures available under this series are in respect of December 2005, published on the 4th of May. This shows an increase of 2,500, from 246,600 to 249,100, between December 2004 and December 2005.

It is also worth noting that the CSO figures under both headings discussed above include all employees whether full-time or part-time. The surveys cover those who worked at least 1 hour in the reference week for most sectors. The most appropriate measure for the purposes of monitoring the effect of the Government’s policy on public service numbers is whole time equivalents. On this basis my Department’s figures show an increase in total public service employment of 7,070 from 281,581 at 31 December 2004 to 288,651 at the end of 2005.

The policy on numbers employed in the public service has succeeded in cutting back on the rapid rise in public service employment in the period 1997 to 2002. From 1997 to 2001 there had been an increase of almost 43,000, or 19%, in the number of public service employees. From the introduction of the policy in December 2002 to the end of 2005, the increase has been of the order of 7,600 or 2.5%. This took place at a time of significant increases both in employment in the economy generally and in the population with the corresponding increased demand for public services.

The Government has been prepared to increase numbers to meet priority needs in front-line and essential services, for example, new health units and the disability area in the Health sector, Special Needs Teachers in the education system and to increase the number of Gardaí; this is in line with the approach stated when the policy was launched.

It is important that an appropriate balance is struck between the need, on the one hand, to provide resources to improve front-line services and the need, on the other to control and regulate overall numbers in the context of providing value for money for the public expenditure involved.

Interest Rates.

68. **Mr. Costello** asked the Minister for Finance his views on the report by the OECD, and echoed by the European Central Bank, that another interest rate increase will place Ireland in the high risk category of experiencing a sharp house price reversal; if his Department has conducted an assessment of the implications of a house price reversal for the economy; and if he will make a statement on the matter. [24937/06]

Minister for Finance (Mr. Cowen): Interest rates in Ireland remain low in both historic and real terms. House prices are underpinned by fundamentals and modest interest rate changes are generally considered by commentators as unlikely to result in a sharp price reversal.

My Department continually monitors developments in the housing market from the point of view of analysing economic and fiscal developments.

Tax Code.

69. **Mr. Morgan** asked the Minister for Finance the median income of those who availed of tax breaks in respect of private pension contributions in each of the past five years. [24834/06]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that the most recent relevant information available is in respect of income tax relief allowed for contributions to “retirement annuity contracts” for the five income tax years 1998-99 to 2002, the latest year for which it is available, which are available to the self-employed and to employees not in occupational pension schemes.

The figures of median incomes for each year are set out as follows. The corresponding average incomes are also shown for comparison. Median and average incomes of contributors to retirement annuity contracts.

[Mr. Cowen.]

Income tax Year	Median income	Average income
	€	€
1998-99	32,682	49,553
1999-2000	34,884	52,590
2000-01	38,317	58,309
2001	31,620	48,188
2002	44,809	67,119

“Median income” is the exact middle income in a numerically ordered range of the individual gross incomes of contributors to “retirement annuity contracts”.

It is not possible to provide corresponding figures in regard to the take-up of the tax relief for pension contributions by employers and employees as the relevant data are not captured in such a way as to make this possible.

The information on incomes is based on income returns on Revenue records at the time the data were compiled for analytical purposes, representing about 95% of all returns expected.

A married couple who have elected or have been deemed to have elected for joint assessment are counted as one tax unit.

It should be noted that as PAYE taxpayers were charged to tax on their earnings in the period from 6 April to 31 December 2001 and self-employed taxpayers were assessed to tax for that short “year” on 74% of the profits earned in a 12 month accounting period, the cost figures will not be directly comparable with those of earlier or later years.

Financial Services Regulation.

70. **Mr. Cuffe** asked the Minister for Finance if he has examined the possibility of extending the guidelines for regulatory impact analysis of new regulations to the Financial Regulator as it has delegated responsibility for regulating businesses and has had to develop its own methodology of RIA which in turn may not have led to maximum objectivity in regard to the introduction of its regulations. [24806/06]

Minister for Finance (Mr. Cowen): Following a Government Decision on 21 June last year, Regulatory Impact Analysis (RIA) is now to be applied to all new proposals for primary legislation and significant Statutory Instruments that involve changes to Ireland’s regulatory framework, and proposals for EU Directives and significant EU Regulations when they are published by the European Commission.

While the Government Decision did not extend to regulations made or codes issued by the Financial Regulator, the Financial Regulator has committed itself to carrying out RIAs in relation to all major proposals. The manner in which the Financial Regulator proposes to undertake RIAs,

which was set out by its Chief Executive Officer at the Finance Dublin Conference last March, is fully consistent both with best practice standards and the principles of the Better Regulation initiative. Indeed the Deputy may wish to note that the Financial Regulator participates on the Department of the Taoiseach’s Better Regulation Group where it has assisted with the development of policies in relation to RIA and public consultation.

Revenue Commissioners’ Audits.

71. **Ms B. Moynihan-Cronin** asked the Minister for Finance if he will report on the work of the high-wealth unit of the Revenue Commissioners; the number of audits conducted each year from 2000 to date in 2006; the amount of money collected from audits in each year from 2000 to date in 2006; and if he will make a statement on the matter. [24943/06]

Minister for Finance (Mr. Cowen): The Revenue Commissioners report regularly on the work of their various Divisions and Units. I am advised by them that the High Wealth Individuals Unit of Revenues Large Cases Division was established in late 2003.

I am further advised that the work of the unit involves the monitoring of the tax compliance of approx. 300 individuals who are considered to be Ireland’s wealthiest individuals, each having, in general, a net worth in excess of about €50m. The number of taxpayers is not static and, on the basis of screening, taxpayers may be added to or subtracted from the caseload of the Unit. This unit also monitors the related trusts and private investment vehicles of these individuals. The monitoring involves building profiles of these individuals, researching tax risks associated with the approach of these individuals to the range of taxes for which they are accountable and carrying out a range of compliance interventions, including audits. The unit also provides the usual Revenue customer services to these taxpayers.

During 2004 the unit was primarily involved in identifying its caseload, carrying out research, building profiles and designing compliance programmes. In 2005, the first full year of operation, 21 compliance interventions (including audits) yielded c.€9.5m. To-date this year 19 interventions have yielded c.€13.6m.

Freedom of Information.

72. **Ms Shortall** asked the Minister for Finance his views on the speech of the Information Commissioner Ms Emily O’Reilly to the Institute of Public Administration on 20 June 2006 in particular on her statement that public bodies are avoiding contact with the public rather than making customer services more transparent and that the growing number of agencies, advisory bodies

and taskforces outside the remit of the Office of the Information Commissioner are threatening the transparency of the decision making process; and if he will make a statement on the matter. [24956/06]

Minister for Finance (Mr. Cowen): In the speech referred to by the Deputy, I understand the Ombudsman and Information Commissioner, Ms Emily O'Reilly, encouraged public bodies, when devising and implementing customer service initiatives, not to be too much in thrall to technology and to endeavour to ensure that, where necessary, members of the public can continue to make direct contact with members of staff.

I have no particular difficulty with this view. The modernisation programme over the past decade and more has had quality customer service as a core objective. A range of customer service initiatives have been introduced by public bodies in recent years which have helped to transform the way in which their services are delivered. Many of these initiatives have been assisted by improvements in Information and Communications Technologies. When devising and implementing such initiatives, I would recognise the need for public bodies to bear in mind the requirements of all clients, including those who may not have a high level of computer literacy. In fairness to public bodies, I think this requirement is recognised though I would accept that there may be instances, particularly at busy periods, where some people may have felt frustrated when trying to speak directly to a member of staff.

I would not accept that there are a growing number of bodies outside the remit of the Freedom of Information (FOI) Act. FOI has been extended gradually since its introduction over eight years ago. I made regulations recently that extended the Act to more than 100 bodies. This brings to over 500 the number of bodies covered by FOI, compared to 67 when the Act was introduced in April 1998. In February this year, I announced the introduction of a Code of Practice on Freedom of Information for the six North/South Implementation Bodies and Tourism Ireland Limited. These initiatives demonstrate the Government's commitment to deepening and widening the application of freedom of information in the public sector.

Public Expenditure.

73. **Mr. Hayes** asked the Minister for Finance the number of programme reviews completed under the Expenditure Review Initiative in 2005; the value of the programmes reviewed; and if there is a procedure in place for implementing the recommendations. [24893/06]

Minister for Finance (Mr. Cowen): Some 14 reviews, with an indicative estimated coverage of €2,156 million, were completed under the Expenditure Review initiative (ERI) in 2005.

Responsibility for the conduct of the reviews and for addressing their recommendations rests with individual Departments and Offices. Any questions regarding individual expenditure reviews should therefore be directed to the relevant Departments or Offices.

Under the arrangements in operation for ERI, Departments/Offices were required to: Publish all ERI reviews on their website and submit them to the appropriate Oireachtas Committees; Put systems into place to ensure that the responses to ERI recommendations are tracked and reported regularly to their MAC; Use their Annual Reports to detail progress on ERI reviews including implementing recommendations and the impacts achieved as a result.

In June 2006, the Government decided to recast ERI as a Value for Money and Policy Review process with a broader VFM focus, to include other policy reviews that impact on VFM. The VFM Reviews will focus on significant areas of expenditure and major policy issues and will, as a general rule, have a minimum coverage in the 2006-2008 period of 10-15% of each Department's and Office's Budget.

Some ninety VFM Reviews will be carried out for the period 2006-2008. Details of these reviews have been placed in the Library of the House. These reviews when completed will be published and submitted to the relevant Oireachtas Committee. Other policy reviews which impact on VFM may also, at the discretion of individual Ministers, be published and submitted to the relevant Committee. A list of all reviews, whether published or not, will be published in the Annual Report of each Department on its Statement of Strategy.

74. **Mr. G. Mitchell** asked the Minister for Finance his expectations for the capacity of the economy to sustain increases in public spending over the coming three years; and the way in which same should relate to the growth of income and the growth of tax revenue in those years. [24929/06]

Minister for Finance (Mr. Cowen): The Government's budgetary strategy is based on the objective of continued budgetary sustainability both in the medium-term and the long-run, in line with the requirements of the Stability and Growth Pact.

This Government considers that prudent fiscal policies underpin competitiveness, support growth and create flexibility to respond effectively to economic shocks. Of particular importance is the need to ensure that public expenditure growth is sustainable and broadly in line with

[Mr. Cowen.]

available resources and, within this, to increase the level of investment needed to tackle the economy's infrastructure deficit.

Consistent with this, we will continue to maintain the firm and disciplined approach to national budgetary policy that has been a keystone in our recent economic prosperity to date.

Private Sector Debt.

75. **Ms Enright** asked the Minister for Finance his views on changes in public policy in the context of rising interest rates and the pressures that this will cause a household's finances. [24919/06]

95. **Ms Lynch** asked the Minister for Finance his plans to address the issue of private sector debt following the report from the Central Bank on the 31 May 2006 that private sector borrowing grew in April 2006 to 29.6 per cent, its fastest rate in more than six years; if his Department has carried out an assessment of the likely implications for the economy of the increased rate of private sector borrowing; and if he will make a statement on the matter. [24954/06]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 75 and 95 together.

As the Deputy will be aware, within the implementation of the overall legislative framework, private sector credit growth and debt levels are, in the first instance, a matter for the Central Bank and Financial Services Authority of Ireland. This follows from its role as part of the European System of Central Banks and its functions, as the Financial Regulator, in relation to the prudential supervision of financial institutions and the protection of the consumers of those firms.

As far as looking after the interests of the individual borrower and the individual investor is concerned, the function of Government is to provide an appropriate legislative framework for regulation of the financial services sector — one that is both comprehensive and robust. I am satisfied that, on foot of the progress made over recent years, especially in establishing the Financial Regulator with a particular focus on the interests of the consumer, we have such a framework in place.

The Financial Regulator has developed a number of specific initiatives to help consumers make informed choices in terms of their financial products. These initiatives have been developed through the framework of the Financial Regulator's "It's Your Money" campaign and have involved publishing consumer guides on credit products, fact sheets, cost surveys on personal loans, all of which are intended to assist borrowers in making the most appropriate credit decisions given their circumstances. The Financial Regulator's guide called "Mortgages made Easy"

is available on its website or from its Consumer Information Office. Mortgage lending practices are closely supervised by the Financial Regulator and the Central Bank with appropriate stress testing of borrowers' ability to meet their obligations, not just in the current economically favourable circumstances, but also in more challenging times. The information being made available by the Financial Regulator, together with the statutory information and warnings in the case of mortgages, serve as an adequate basis for consumers to make a decision about the type of mortgage which best suits them.

The Financial Regulator recently introduced a technical prudential measure requiring financial institutions to put more capital aside for higher LTV (Loan to Value) loans. This reinforces the message consistently conveyed to lending institutions by the Regulator that mortgage lending policies and practices should be prudent and responsible.

A high proportion of private sector indebtedness in Ireland relates to borrowing for house-purchase which, in turn, involves the acquisition of an asset for the households. In the same way, borrowing by the business sector generally underpins investment, and the creation of business assets yielding future income. It therefore reflects the strong performance of the economy and confidence in Ireland's economic prospects. My Department continually monitors economic and financial developments, including private sector credit growth, with a view to analysing current developments and future economic prospects.

Whilst the pattern of mortgage growth and associated debt levels in the economy are supported by a range of fundamental factors such as growing employment, rising real incomes, favourable demographics and low inflation and interest rates, the Central Bank have highlighted the need for borrowers and lenders to factor into their financial decision-making the prospective impact of potential changes in the future economic and financial environment, including the impact of higher interest rates. I fully support the vigilance of the Central Bank and the Financial Regulator on the issue of personal credit and mortgage debt and in reminding both borrowers and lenders of the need for responsible behaviour.

Social Finance.

76. **Mr. Costello** asked the Minister for Finance if his attention has been drawn to the fact that the recent study by the Trinity College Dublin School of Business Studies which showed that voluntary organisations here get only 1.4 per cent of their funding in donations from the business community; if the social finance fund announced in Budget 2006 will include measures to encourage the wider involvement of the business com-

munity in community organisations; and if he will make a statement on the matter. [24952/06]

85. **Mr. Rabbitte** asked the Minister for Finance further to the Government's Social Finance Fund, the way in which applicants will be assessed when applying for a loan from the fund; if community projects with limited or no direct income from clients will be eligible for loans from this fund; if there will be a mentoring or skill transfer programme provided by the banks to reduce the numbers of community projects that failing to meet repayments; if the banks have agreed on an acceptable level of non-repayment to reflect the higher risk category of the community projects, in view of the fact that they are unable to access loans in the normal way; if there will be more flexible repayment structures than would usually be available; and if he will make a statement on the matter. [24953/06]

96. **Mr. Boyle** asked the Minister for Finance the banks which have agreed to provide €25 million seed capital for the social finance fund; and the security expected to be required by community and voluntary groups wishing to avail of this financial assistance. [24804/06]

Minister for Finance (Mr. Cowen): I propose to take Questions Nos. 76, 85 and 96 together.

A delivery model for the social finance initiative is currently being developed. This will involve the creation of a social investment vehicle that will essentially perform the role of a wholesale supplier of social finance funding. As far as the on-lending of the funds for individual projects is concerned, the idea is, as far as possible, to use existing agencies and established networks of social finance providers. The banks have indicated a willingness to contribute both seed funding of €25 million and their expertise to support the practical delivery of this initiative. My Department is conducting its discussions with the banks through their representative body, the Irish Bankers Federation, who are coordinating arrangements for participation by the banks.

Relative to the current scale of social finance provision nationwide, €25m represents a very significant volume of resources. This level of funding is aligned to what is expected to be appropriate to the next phase of the evolution of social finance provision. My priority is to ensure that the available resources are applied carefully in a focused way with clear objectives, avoiding bureaucracy, and with a view to market testing options for the further development of social finance. In my Budget speech, I indicated that I was keeping the door open to other contributors.

I am aware of the recent study referred to by Deputy Costello. The Deputy may wish to note that under the new social partnership agreement "Towards 2016", the Government will examine

ways to progress the investment of capital in social finance providers by charities, private individuals and businesses, as well as explore ways to facilitate philanthropic work, strengthen and deepen a culture of philanthropy in Ireland, and maximise the contribution of philanthropy to the common good. This will complement existing initiatives such as pilot funding for Philanthropy Ireland and funding support for Chambers Ireland's 2006 Corporate Social Responsibility Programme which is focused on promoting CSR in SMEs.

My Department is continuing to consult with the Office of the Attorney General in relation to a number of legal issues relating to the pilot implementation of the Social Finance initiative. With a view to developing an effective model my Department has, to date, also consulted with a number of public, private and voluntary bodies currently involved or with interests in this area, in addition to its discussions with the banking community. These consultations will inform the policies and procedures governing the implementation of the initiative.

Decentralisation Programme.

77. **Mr. Penrose** asked the Minister for Finance the anticipated costs, in terms of acquiring, and equipping premises and other related costs at the latest date for which figures are available of the original decentralisation programme announced in Budget 2004 and the slimmed down version announced in December 2004. [24951/06]

Minister of State at the Department of Finance (Mr. Parlon): The Government is committed to the full implementation of the Decentralisation Programme announced in Budget 2004, involving some 10,300 civil and public service jobs in more than 56 locations across some 60 Government Departments/Offices and Agencies.

My Office is in the process of procuring appropriate properties in the designated locations for the departments and agencies involved, with much progress having been made to date. Property acquisition negotiations are completed or are significantly advanced at 30 locations.

The prevailing property market conditions in each geographical area have a significant bearing on the cost of acquiring sites. As the acquisition process is still in progress, it is not possible at this stage to provide a precise estimate of the cost of the site acquisition programme. However, and for working purposes only, an indicative figure of €75 to €100 million (excluding VAT) is being used by the OPW.

Although property solutions will include leasing and fitting-out of existing buildings, it is anticipated that, in the majority of cases, the accommodation facilities will be provided by the construction of new office buildings and cost esti-

[Mr. Parlon.]

mation can be approached on that basis. However, in advance of actual market testing of any procurement methodology, it is possible, at this time, only to assign the most general measurements of cost to such a large-scale, diverse and complex programme.

It is estimated that approximately 210,000 sq. m of office space will be required to accommodate the total numbers included in the programme. OPW cost norms (April 2005) in respect of offices would indicate an average build-cost to fit-out standard, in the range of €1,800 to €2,200 per square metre for suburban/rural locations and €2,500 to €3,000 per square metre in city/town centre locations. Such figures exclude VAT, professional fees and inflation.

In addition the cost of equipping the accommodation to standard office equipment levels could be estimated at c.€4,000 per person. This would exclude the cost of Information and Communication Technology and specialised equipment requirements.

Such general measurements of cost do not include specialised facility and equipment requirements and other variables which would arise from the spread of possible procurement methodologies. In addition general cost indicators of this type show a snapshot in time.

It is self-evident that a firmer scale of costs for the decentralisation programme will only emerge on foot of actual cost proposals being received from the market. It will be some months yet before sufficient data can be extracted from a suitable range of tender competitions to provide a basis on which more robust estimates of the overall cost of the programme can be made. However on the basis of experience to date, there is no reason to adjust the original estimates for the overall programme.

78. **Mr. Eamon Ryan** asked the Minister for Finance if he will report on progress in implementing the Government's decentralisation policy; and if he will make a statement on the matter. [24812/06]

Minister for Finance (Mr. Cowen): The implementation of the Decentralisation Programme is proceeding steadily. Over ten and a half thousand civil and public servants have applied to relocate under the Programme. The Central Applications Facility remains open and continues to receive applications. It is anticipated that interest will increase further as building and movement timetables firm up.

Discussions have concluded on a number of human resource and industrial relations matters and are being progressed on other issues. Actual movement of staff within and between Departments and Offices is now well underway with

over 1,700 staff already assigned to civil service posts which will decentralise.

A facility is being operated through the Public Appointments Service to allow staff remaining in Dublin to express preferences in relation to the organisations to which they would like to transfer. This will be an ongoing process throughout the transition phase of the Programme and progress in this priority area will be monitored continually over the coming months.

Overall, the programme of site identification and acquisition is progressing satisfactorily. To date, property acquisition negotiations have been completed or significantly advanced in 30 locations.

The OPW are currently reviewing their indicative dates for completion of buildings in light of their experience to date.

A number of organisations have sought advance or temporary accommodation to facilitate early moves. These developments will greatly assist the decentralising Departments in taking in many of the civil servants who are currently based in provincial locations, thus giving the organisation a foothold in the new location.

Advance moves have already taken place to Sligo, Portlaoise, Thurles, Tipperary Town, Clifden and Na Forbacha in Galway. Over 200 officers have already relocated to new provincial locations under the Programme.

All Departments and Offices have produced implementation plans setting out the detailed arrangements they are putting in place to plan for relocation while also ensuring business continuity and effective delivery of services to customers. The plans are comprehensive and their preparation involved detailed reviews of business processes as well as the logistics of the move. Departments and Offices are taking a prudent approach in relation to assessing the risks involved and the adoption of appropriate measures to manage business risk.

Having already met with a number of Secretaries General, the Decentralisation Implementation Group is currently meeting with some of the Chief Executives of State Agencies to discuss their Implementation Plans, the planning framework in place, to assess progress to date and to hear about the challenges arising and steps proposed by the agencies to address them.

I am satisfied that good progress continues to be made on this ambitious programme.

79. **Mr. M. Higgins** asked the Minister for Finance the discussions he has had with other Government Departments or State agencies who are concerned at the reported potential loss of up to 20 per cent of the 1,700 specialists whose positions have been earmarked for decentralisation as a result of the Government's decentralisation programme; the steps being taken to

address these concerns; and if he will make a statement on the matter. [24950/06]

Minister for Finance (Mr. Cowen): When the Decentralisation Programme was announced in December 2003, a Decentralisation Implementation Group was appointed to drive the process forward. The Group's terms of reference include the examination of how decentralisation might enhance the efficiency and effectiveness of the public service.

The Implementation Group asked that all organisations participating in the programme should prepare detailed implementation plans, including risk mitigation plans. These plans were prepared and submitted to the Group. Each of the Departments and organisations scheduled as "early movers" has prepared a revised implementation plan detailing the steps that need to be taken in order to complete the moves to the new locations successfully.

There are of course particular challenges for the State Agencies in managing the degree of change involved. While the Civil Service has previous experience of significant decentralisation, this expertise is only now being developed in the wider state sector. The Decentralisation Implementation Group, in its June 2005 report, emphasised the responsibility of management within the various state agencies to progress the implementation of Government policy in this regard. It went on to state that progress should be monitored by the responsible department and requested that the next and deeper iteration of each agency's implementation plan should be prepared. I understand that agencies are preparing these plans at present.

I also understand that the Decentralisation Implementation Group has met with a number of Secretaries General and are satisfied with the level of planning in each of the Departments. The Group is currently meeting with the Chief Executives of a number of State Agencies to discuss the planning framework in place, to assess progress to date and to hear about the challenges arising and steps proposed to address them.

In the meantime, discussions are ongoing between my Department and the unions representing professional & technical staff on all aspects relating to implementation of the programme. I understand that my Department has put a range of proposals to IMPACT on options for placing staff in Dublin which will require further negotiations with a range of unions involved in the process. There are no quick solutions to this issue but I am confident that we can make progress towards addressing the needs of all staff. The experience in the Civil Service suggests that the needs of the programme can be effectively balanced against the needs of staff when all sides are willing to engage in constructive dialogue.

On a more general note, the Committee for Public Management Research (CPMR) has recently conducted a Review of Knowledge Management in the Irish Civil Service. The purpose of the review was to raise awareness of knowledge management and its potential to support organisations in achieving their business objectives. It recognised that knowledge management had been given greater priority in response to ever-increasing pressure to improve efficiency, together with a growing awareness of the importance of sharing knowledge across Government organisations to maintain a whole-Government perspective on policy making and service delivery. It also recognised that the need for this has been given greater impetus by the Decentralisation Programme and the likelihood of significant changes in personnel in many Departments. The review identifies concrete steps and cultural change required of Government Departments in order to use and share knowledge more effectively.

Tax Code.

80. **Ms Lynch** asked the Minister for Finance if he will report on the latest negotiation with the European Commission on the issue of the stallion tax exemption scheme; if he has received a final position from the Commission on the matter; and if he will make a statement on the matter. [24970/06]

Minister for Finance (Mr. Cowen): In line with my Budget 2006 announcement, the 2006 Finance Act provides for the termination of the tax exemption for stallion stud fees with effect from 31 July 2008. My Department has notified the European Commission of this provision.

As I announced in the Budget, it is intended to hold discussions with the Commission later this year on a new tax regime appropriate to the industry.

Revenue Investigations.

81. **Ms McManus** asked the Minister for Finance if he will confirm reports that 15 other major developers are being examined by the Revenue Commissioners following from the settlement between a company (details supplied) and the Revenue Commissioners; and if he will make a statement on the matter. [24939/06]

Minister for Finance (Mr. Cowen): As the Deputy is aware I cannot, for reasons of taxpayer confidentiality, comment on the tax affairs of individual cases. However, I am advised by the Revenue Commissioners that examinations of the tax affairs of property developers are a feature of the risk-based programmes operated by Revenue.

[Mr. Cowen.]

As the Deputy may be aware, Revenue has committed to applying 25% of its audit and compliance resource to the construction sector in 2006 and this project is underway. This project, which is progressing satisfactorily, will obviously include property developers in its scope.

As at 31 May 2006 the key results from the project are: 1,362 audits had been completed with a yield of almost €48m including interest and penalties; The audit figure includes 46 audits on large property developers and major infrastructural projects (value > €10m); A further €4m was collected from 12,424 assurance checks; 361 site visits have been carried out, covering contracts whose total value of exceeds €1,000,000,000; The Commissioners have further informed me that the High Wealth Individuals Unit in Revenue's Large Cases Division has included the audit of 15-20 property developers in its audit plan for 2006.

Tax Incentive Schemes.

82. **Mr. Hogan** asked the Minister for Finance if he has sought a review of the evaluation of tax relief for private hospital investment in view of the decision to permit these hospitals to use public lands adjoining public hospitals; and the way in which this alters the benefit to cost ratios of such projects. [24907/06]

Minister for Finance (Mr. Cowen): The plan for private hospitals in the grounds of public hospitals is designed to be a cost effective way of expanding the supply of beds for public patients. However, there have been no decisions yet in regard to approving any particular proposal. It will be a matter for the HSE to assess any proposals.

The scheme of capital allowances for the construction of private hospitals was reviewed by Indecon Economic Consultants as part of the overall review of property tax incentives in 2005. Indecon consulted widely in the course of their review, including consultations with the Department of Health and Children and the Health Service Executive. Their report was published on 6 February 2006 and is available on the Department of Finance's website. The review recommended that this scheme should continue as there was a need for on-going investment in private hospitals. The consultants observed that the construction of private hospitals could free beds in public hospitals used by private patients. It should also be noted that the consultants observed that the Government's plan for private hospitals in the grounds of public hospitals is designed to be a cost effective way of expanding supply and if properly managed will increase supply and competition.

The summary of the main findings from Indecon's analysis is as follows:

- 'There has been an overall increase in planning applications and approvals for private hospitals since 2000 but most have not proceeded to date.
- Most of the extra investment in the sector would either not have been undertaken, or would have taken longer to come on-line in the absence of the tax incentive scheme.
- While it is too early to provide detailed estimates of the impact of the scheme on the supply and on the costs of hospital beds, Indecon believes the scheme has the potential to address supply shortages in the sector and to reduce costs.'

Private health care is a long established feature of the system of health care provision in Ireland and acts as a strong complement to the publicly funded system. Private health care provision spans from general practitioner services through private beds in public hospitals and private hospitals to private nursing homes. The Government is committed to exploring fully the scope for the private sector to provide additional capacity in the health system. The key objective is to provide the required extra capacity, whether this is in the public or private sector. A number of Government policies/initiatives support the co-existence of public and private health care such as: the designation of private and semi-private beds in public hospitals; income tax relief on private health insurance premiums; income tax relief on medical-dental expenses; the National Treatment Purchase Fund sources capacity in private hospitals for public patients; and the Tánaiste's policy direction to the Health Service Executive to build private hospitals on public sites thereby freeing up beds for public patients.

Question No. 83 answered with Question No. 35.

Tax Code.

84. **Caoimhghín Ó Caoláin** asked the Minister for Finance his views on whether the high proportion of Government revenue which is raised through VAT, places an unfair burden on low income families; and if he will carry out a review of the impact of VAT on low income families. [24832/06]

Minister for Finance (Mr. Cowen): I reject the Deputy's suggestion that VAT places an unfair burden on low income families. A simple look at the facts will show that as far as EU law will permit, every effort is made to reduce the incidence of VAT and Excise on low incomes.

Firstly, there is no VAT on the main low income items such as food, oral medicines, chil-

drens' shoes and clothing. Secondly, there are special reliefs in the VAT system for medical and other equipment for the disabled. There is no VAT on public transport and diesel used in buses and trains is subject to reduced rates of excise. Most public services are not liable to VAT.

	1964/5	1975	1985	1995	2005
	%	%	%	%	%
VAT ¹	7	19	25	26	31
Customs & Excise	53	36	25	21	14
Income Tax	26	36	38	36	29
Corporation Tax	5	3	4	10	14
Capital Taxes	4	3	3	4	13
Other ²	5	3	5	4	—

1. Turnover Tax in 1965

2. Includes Road tax (from 1964/5), Agricultural levies (from 1975), Income/Youth employment levy (1985), Employment and Training Levy (1995)

As the Deputy can see, we are, in fact relying far less on indirect taxation, including VAT and Excise, than before, with the gap being made up by greater revenue yield from company tax and taxes on capital and property.

Indeed, as stated above, every effort is made, as far as EU law will permit, to reduce the incidence of VAT and Excise on low incomes, but, by their nature, such taxes are not direct taxes on income (this is why they are called indirect taxes) and cannot be easily related to one's ability to pay, however good one's intent.

Question No. 85 answered with Question No. 76.

Fiscal Policy.

86. **Aengus Ó Snodaigh** asked the Minister for Finance his views on whether the heavy reliance on revenue from VAT leaves the State unduly vulnerable to a sharp contraction in Government revenue in the event of a downturn in the property market or in the case of a sharp growth in interest rates and a consequent reduction in consumer spending. [24837/06]

Minister for Finance (Mr. Cowen): Tax revenues from whatever source are ultimately dependent on the level and composition of economic activity. A negative shock to the economy would be likely to have an adverse impact on tax revenues. The extent of any fall in tax revenues resulting from a downturn in the property market or from a slowdown in consumer spending would depend on the extent and nature of the downturn.

Special Savings Incentive Scheme.

87. **Mr. Stanton** asked the Minister for Finance his views on a new product to encourage people to continue saving after the special savings incentive accounts begin to mature in 2006; and if he will make a statement on the matter. [23102/06]

Furthermore, we are not relying more on indirect taxation now than in the past, as the following table will show.

Minister for Finance (Mr. Cowen): The SSIA scheme opened on 1 May 2001 and entry to it closed on 30 April 2002. The accounts mature between May 2006 and April 2007. A total of 1.17 million accounts were opened during the period outlined.

The specific goal of the SSIA scheme was to encourage people to save over a period of at least five years. Its effect has been to stimulate such savings over varying income ranges which is evident in the extensive take-up by many low-income earners. The scheme has been a success in those terms. The scheme has a specific duration. The findings of various surveys undertaken domestically would tend to suggest that, upon maturity, a large portion of the existing SSIA funds will continue to be saved. Therefore, there is much less need or justification to introduce a new tax-based savings scheme.

However, the Government have decided to use the success of the SSIA scheme to encourage a greater level of pension investment. A new pension incentive was introduced in this year's Finance Act to encourage modest-income SSIA holders to transfer part or all of their SSIA savings into an approved pension. The incentive has two features. Firstly, for every €3 of SSIA proceeds reinvested by an eligible SSIA holder in a pension product, the Exchequer will contribute €1 by way of a tax credit. This tax credit cannot exceed €2,500. Secondly, the Exchequer will contribute an additional tax credit to the pension product in proportion to the amount of SSIA transferred into the pension.

Housing Market Regulation.

88. **Mr. Cuffe** asked the Minister for Finance his views on the findings of the ten year review of the housing market based on data from ESRI and Permanent TSB house price index which highlights the Government's decision to abolish higher stamp duty rates for investors and to

[Mr. Cuffe.]

restore interest relief on rental properties as associated factors for the significant increase of, on average, 15 per cent per annum. [24807/06]

Minister for Finance (Mr. Cowen): I have noted the recent analysis of the housing market over the last ten years conducted using data from the ESRI/Permanent TSB house price index. While house prices have risen significantly over this period, the rates of increase must be seen in the proper context. In particular, there has been a large increase in household incomes due to higher employment, increases in earnings per capita and lower rates of income tax. In addition, demographic factors have been important; these include inward migration in recent years as well as the growth in the population in the household formation age cohort. Finally, interest rates have fallen significantly due to our participation in EMU.

While the appreciation in the housing market over the past decade therefore reflects a wide variety of economic factors, experience over the years has demonstrated that caution must be exercised in having recourse to taxation measures designed to influence the market. For example, in the light of recommendations of the first Bacon Report on House Price Developments, mortgage interest relief for investors was abolished for new loans in 1998. Likewise, a more onerous stamp duty regime for property investors was introduced in 2000, with more favourable rates for first-time buyers, in a move away from the traditional tiered set of stamp duty rates that applied uniformly in respect of all second-hand properties. However, after the introduction of these measures, the house-building industry began to experience a downturn and concerns arose as to the negative effect on investment in the private rental sector and on overall housing supply. In this context, it is noteworthy that the commission on the Private Rented Residential Sector which reported in July 2000 on all aspects of the sector made a general recommendation that mortgage interest relief for investors should be restored in the context of promoting a more professional management approach to the business of renting residential accommodation. Consequently, changes were introduced in Budget 2002 to reintroduce mortgage interest relief for investors in residential property, and to bring the stamp duty rates for investors in line with the rates applying for owner-occupiers of second-hand houses generally. These changes were successful in maintaining and increasing housing supply, while safeguarding employment in the construction sector.

Social Partnership Agreements.

89. **Mr. M. Higgins** asked the Minister for Finance if he will make a statement on the outcome of the recent partnership negotiations. [24962/06]

Minister for Finance (Mr. Cowen): Since 1987 Social Partnership has helped to maintain a strategic focus on key national priorities, and has helped to create and sustain the conditions for remarkable employment growth, fiscal stability, and a dramatic improvement in living standards which has benefited the people of this country. The challenges facing us now are no less complex or less important than they were back in 1987.

I believe Towards 2016 develops a new strategic framework to address key social challenges and focus on the needs of all in our society. This approach will take time to deliver and the Agreement sets out how we propose to measure and review progress over a ten-year framework period.

The Agreement sets out the terms of the pay increases for the private sector and the public service for a twenty-seven month period. While the total increase is significant, I am confident that it can be economically sustained. The Agreement also sets out an agenda for further modernisation of the public service. Payment of the increases in the public service will continue to be dependent on verification of satisfactory implementation of this agenda and the maintenance of industrial peace.

I am confident that the targets set out in the Agreement will be met.

Price Inflation.

90. **Mr. Penrose** asked the Minister for Finance his views on the recent increase in the consumer price index; if his Department has carried out an assessment of the expected implications for the economy of the increase in inflation; and if he will make a statement on the matter. [24958/06]

Minister for Finance (Mr. Cowen): Inflation, as measured by annual changes in the Consumer Price Index (CPI), was 3.9 per cent in May. A large part of the recent pick-up in the annual inflation rate is due to external factors such as higher oil prices and interest rate increases by the ECB.

On Budget day, my Department forecast that CPI inflation will average 2.7 per cent in 2006. This forecast was based on the usual technical assumption of unchanged interest rates. My Department will publish updated forecasts in the autumn.

When measured against the EU harmonised index of consumer prices (which excludes mortgages) our rate of inflation is 3.0 per cent compared to a euro area average of 2.5 per cent in May. When the impact of oil price increases and mortgages is completely stripped out, the rate of inflation falls to more like 2 per cent. While we cannot determine oil prices or interest rate changes and cannot be held to blame for them, the fact that they are increasing requires us as a nation to become more cost-conscious, more productive and more competitive going forward, all

three aims which Government fiscal policy, education policy and science and R&D policy is designed to support.

Tax Yield.

91. **Ms Shortall** asked the Minister for Finance if he will make a statement on the Exchequer returns for the first five months of 2006. [24965/06]

Minister for Finance (Mr. Cowen): As the Deputy may be aware, the monthly Exchequer Returns are available on my Department's website, as are my Department's receipts, expenditure and debt service profiles for 2006.

The results for the first five months of 2006 confirm that the public finances remain sound. The Exchequer Returns to end-May showed a surplus of €1,841 million, compared with a deficit of €143 million for the same period last year and a Budget Day forecast of an Exchequer Deficit of €2,927 million for 2006 as a whole.

Tax receipts to end-May, at €16,698 million were up 16.7 per cent on the same period last year and were €878 million or 5.5 per cent ahead of profile. The main excesses over profile were on Corporation Tax (€317m), Stamp Duty (€226m) and Capital Gains Tax (€188m). Receipts from all other tax heads were also above profile, with the exception of Income Tax receipts, which were €53 million below profile.

Overall issues for net voted expenditure for May 2006 were up €980 million or 7.7 per cent as compared to May 2005. Net voted expenditure at end-May was €490 million or 3.4 per cent below the published profiles, with capital €156 million below and current €335 million below.

Tax Code.

92. **Mr. Morgan** asked the Minister for Finance his views on the recommendation contained in the NESR report on housing that consideration should be given to a separate tax on second homes; if the Government is considering introducing such a tax; if so, the rate of such a tax; and if he will make a statement on the matter. [24835/06]

Minister for Finance (Mr. Cowen): I have no plans to introduce a tax on second homes. If any such proposal were to be made it would be necessary to consider the possible impact not only on the demand for such houses but also on the supply of new residences and on employment and output in the construction sector generally. The history of taxation intervention in the residential property market over the past ten years has shown that it is much easier to get the balance wrong than it is to get the balance right in terms of output, prices and employment.

Fiscal Policy.

93. **Mr. S. Ryan** asked the Minister for Finance the progress made to date with regard to the implementation of the 12 point programme to improve value for money in public spending, announced by him on 20 October 2005; and if he will make a statement on the matter. [24959/06]

Minister for Finance (Mr. Cowen): As I indicated in my reply to question 12386/06 on 30 March I wrote to my Ministerial colleagues on 20th October last enclosing a copy of my address of the same date to the Dublin Chamber of Commerce and requesting them to ensure that their Departments take all the necessary steps to implement the measures set out in my address. My Department issued a Circular Letter to all Departments on 25 January last outlining in detail the requirements to give effect to the measures in my announcement of 20th October 2005 as well as earlier decisions made by Government in relation to ICT and consultancy procurement. Copies of the Circular Letter were also placed in the Library of the House.

The Circular included changes to existing guidelines in relation to public procurement, consultancy and capital appraisal and outlined the necessary additional steps being taken to give effect to the various value for money measures announced. It is primarily a matter for individual Departments and their agencies to make the necessary arrangements and to implement the changes arising in their area.

Follow up on a number of measures outlined in the Circular of 25 January last falls within the direct responsibility of my Department. In relation to the fixed price contracts, following a very useful exchange of views with representatives of the construction industry earlier this month, I am currently reflecting on the points made with a view to finalising the contracts very shortly. When the contracts are finalised, essential training of the relevant public sector staff will take place to allow the contracts to be available for use by the end of 2006.

The inter-Departmental review group on the guidelines on commissioning consultants will circulate draft guidelines to Departments in the next few weeks for comment. When the guidelines are being finalised, any necessary action on foot of these comments will be implemented as a matter of urgency.

Two further peer reviews of major ICT projects are now underway bringing the total to six reviews.

As regards recruitment and training of specialist staff in ICT projects and consultancies, my Department is still in the process of conducting a survey of all Departments seeking details of areas where skills shortages currently exist. Plans to put in place a new project management course aimed at those in the public service who procure and manage capital projects are advancing.

[Mr. Cowen.]

Whilst not directly related to the measures which I announced on 20 October last, I would also refer the Deputy to my announcement of 11 June last which set out my plans to strengthen arrangements for carrying out Value for Money and Policy Reviews as part of the continuing process of putting in place a framework for achieving better Value for Money for public expenditure.

The existing Expenditure Review Initiative (ERI) will in future be titled Value for Money and Policy Reviews and have a broader coverage than the ERI. It will encompass formal Reviews for the period 2006-2008 already agreed to be carried out under the ERI as well as all other Policy Reviews conducted and commissioned by Departments which impact on Value for Money. The VFM reviews when completed will be published and submitted to the relevant Oireachtas Committee. Other policy reviews which impact on VFM may also, at the discretion of individual Ministers, be published and submitted to the relevant Committee. Departments will also report on progress on Value for Money issues in their Annual Reports and identify separately in their Estimates their expenditure on VFM and Policy Reviews.

Some ninety formal Value for Money Reviews will be carried out by Departments and Offices under a programme of reviews for the period 2006-2008. Details of these reviews have been placed in the Library of the House. Each Department's and Office's programme of reviews will focus on significant areas of expenditure and

major policy issues and will, as a general rule, have a minimum coverage of 10-15% of each Department's and Office's Budget.

A Central Expenditure Evaluation Unit is also being established in my Department. It will promote the Department's role in relation to VFM including reviewing compliance by Departments and Agencies with capital appraisal guidelines and recent VFM requirements such as audits of major projects. The Unit will also assist the implementation of the overall Value for Money Review Framework.

Question No. 94 answered with Question No. 35.

Question No. 95 answered with Question No. 75.

Question No. 96 answered with Question No. 76.

State Property.

97. **Mr. Gilmore** asked the Minister for Finance the position regarding the planned sale of State property announced by the Minister of State; the property sold to date and the amount raised; the way in which the money used has been raised; the properties planned to sell during 2006; and if he will make a statement on the matter. [24961/06]

Minister of State at the Department of Finance (Mr. Parlon): As part of the Transforming of State Assets programme the following properties have been disposed:

Disposed of in 2004

Property	Method of Sale	Price
		€
2 Church St., Dungarvan, Co. Waterford	Public Auction	337,000.00
Lad Lane, Dublin 2.	Public Tender	22,500,000.00
Blacklion Customs Frontier Post Site — Cavan	Private Treaty to Cavan Co. Co.	21,586.23
72-76 St Stephen's Green, Dublin 2.	Public Tender	52,300,000.00
Kilmacthomas G.S., Co. Waterford	Private Treaty to Waterford Co. Co.	100,000.00
14/16 Lord Edward Street, Dublin 8.	Public Tender	8,780,140.48.00
Thomastown GS, Co. Kilkenny	Public Auction	450,000.00
	Total 2004	84,488,726.71

Disposed of in 2005

Property	Method of Sale	Price
		€
Dungloe Former SWO, Co. Donegal	Private Treaty	300,000.00
Leighlinbridge GS, Co. Carlow — disposal of part of site	Public Auction	165,000.00
Ashbourne GS — disposal of part of site	Public Auction	2,125,000.00
St. John's Road site (Westgate)	Public Tender	44,916,551.79
Ballinskelligs Old Garda Station, Co. Kerry	Public Auction	409,693.03

Property	Method of Sale	Price
		€
Kilronan CGS, Galway. Sale of site to Údarás.	Private Treaty	1,416.53
Galway — 16 Eyre Square	Private Treaty	9,920.59
26-27 Eden Quay, Dublin 1.	Public Tender	4,205,000.00
Chantilly site, Rathmichael, Co. Dublin	CPO compensation	5,162,202.65
	TOTAL 2005:	57,294,784.59

Disposed of in 2006

Property	Method of Sale	Price
		€
The former Vet. College, Shelbourne Road, Dublin 4	Public Tender	171,558,110.36
Lynch's Lodge Hotel, Macroom, Co. Cork	Public Tender	2,300,036.08
Athboy Garda Station, Co. Meath — Disposal of rear of property.	Private Treaty	3,266.54
Tipperary former Military Barracks — Tenure & Disposal	Private Treaty (Tipperary UDC)	2,540.00
Tipperary former Military Barracks — Tenure & Disposal	Private Treaty (South Eastern Health Board)	4,444.00
Faculty Building, Shelbourne Road, Ballsbridge, Dublin 4	Public Tender (Closing date 30th June '06)	35,891,000.00
	Total (To-date) 2006	209,759,396.98

The proceeds of these sales are forwarded to the Department of Finance as extra Exchequer receipts to be offset against funding for decentralisation.

Properties identified to date for disposal in 2006 are as follows:

Property for Sale	Method of Sale	Guide Price / Sale Price
		€
Muff Garda Station, Co. Donegal	Public Auction	195,000
Bridgend former Customs & Excise Post, Co. Donegal	Public Auction	350,000
Gardiner St. former SWO, Dublin 1.	Private Treaty	Property swap plus €2.5m
CPO Ballyshannon SWO, Co. Donegal	CPO Compensation	2,500
38-39 Parnell Sq. West, Dublin 1	Public Tender (Due 7th July '06)	

Identification of properties surplus to requirements is continuously evolving; premature release of disposal information and timescales would affect the potential income from such disposals.

Question No. 98 answered with Question No. 59.

Decentralisation Programme.

99. **Mr. Gilmore** asked the Minister for Finance if he will report on the work of the Decentralisation Implementation Group; when they last met with his Minister of State; when they last reported on their work; and if he will make a statement on the matter. [24948/06]

Minister for Finance (Mr. Cowen): The Decentralisation Implementation Group last published a report to government in June 2005.

I met with the Chair of the Implementation Group recently to receive an update in relation to the progress being made in the implementation of the programme, the issues arising in the implementation of the programme, and to restate the Government's commitment to the implementation of the programme in full.

The Chairman provided me with an update on the outcome of the meetings the Group held earlier this year with Secretaries General of decentralising Government Departments. He has assured me that the Group is satisfied with the level of planning in each of the Departments, and is confident that the senior civil service are leading the implementation of this programme in a professional and carefully planned manner.

The Group is currently meeting with the Chief Executives of a number of State Agencies to discuss the planning framework in place, to assess progress to date and to hear about the challenges arising and steps proposed to address them.

[Mr. Cowen.]

My colleague, the Minister of State, has not met with the Group.

Budgetary Process.

100. **Mr. Sargent** asked the Minister for Finance if he will report on progress in reforming the budgetary process; and if he will make a statement on the matter. [24813/06]

Minister for Finance (Mr. Cowen): In my Budget speech last December, I set out the Government's proposals for reforming the budgetary process.

As I said I would on Budget Day, I subsequently wrote to the opposition Finance spokespersons and the Party Whips on 20 December last to invite them to a briefing on the Government's proposals for reform.

A briefing session on the reform process for all the Opposition Finance Spokespersons and Party Whips was organised for 10 May. This was attended by the Green Party and Independent Group spokespersons. A request has been received since from the Fine Gael Finance Spokesperson for the same briefing and I am looking at a mutually suitable date for holding such a briefing.

My Department continues preparations for replacing the traditional Economic Review and Outlook document with the updated three year economic and fiscal projections with a view to publication in the autumn.

In the meantime, Departments are continuing with their preparations of the annual output statement to be presented with their Estimates for 2007. This Department plans to hold a further seminar for Departments and Offices on 5th July next to assist them in this regard.

As I said in the Budget, once bedded down, these proposals can lay the ground work for consideration of a more unified Budget approach in the future.

State Agencies.

101. **Mr. Gogarty** asked the Minister for Finance if his officials, together with other Departments, have assessed the implications of the Institute of Public Administration report on the management of State agencies; and if policy changes are envisaged or have been implemented on foot of same. [24809/06]

Minister for Finance (Mr. Cowen): The officials in my Department are in the process of examining this report. The findings will be taken into consideration among other things, as part of the ongoing review of the Code of Practice for the Governance of State Bodies.

Special Savings Incentive Scheme.

102. **Mr. English** asked the Minister for Finance if he will review the exclusion of SSIA's from the terms of the DIRT refund scheme whereby pensioners or persons with a disability are entitled to a refund of tax on interest deducted at source. [24924/06]

Minister for Finance (Mr. Cowen): The SSIA's were introduced in the 2001 Finance Act and give a credit to all SSIA investors of 25%. The aim of the SSIA scheme was to encourage savings. This aim has been successfully achieved with over 1.1 million persons availing of the special scheme.

It is widely acknowledged that one of the reasons for the success of the SSIA scheme was its simplicity. It was clearly stated from the very outset that the SSIA investment returns would be subject to a 23% exit tax at maturity with no exemptions for anyone. I have no plans to change this. Although all SSIA accounts are subject to an exit tax, it should be noted that the SSIA scheme represented a very good deal for all of those taking it up. For example, a person who will have saved €254 per month over 5 years into their SSIA account, will receive a credit of €3,800 from the Exchequer even before any interest is taken into account.

It should be noted that DIRT on deposit interest was introduced in 1986 and only two reliefs apply, i.e. for those aged 65 or over and for the physically or mentally incapacitated, where the DIRT is deducted by the financial institution on the deposit interest and is refunded if the person claiming the refund is not otherwise liable to income tax on their total income. Thus, it is not a total tax exemption for all those aged 65 or over, or for the incapacitated.

Policy Proposal Costings.

103. **Mr. Gormley** asked the Minister for Finance the persons to whom information regarding political party policy costing requests are made available; the persons to whom they should not be available; and if he will make a statement on the matter. [24810/06]

Minister for Finance (Mr. Cowen): As the Deputy will be aware, for many years and with the agreement of successive Ministers for Finance, the Department has made available a facility for costing proposals of political parties on a confidential basis. The arrangements were reviewed following the last General Election and a report on the matter is now on my Department's website. The recommendations contained in the Report are being implemented.

The essential feature of the arrangements is, and always has been, that information on what proposals were costed, or the costs provided, are given only to those within the Department who

need to know for the purpose of meeting the request. In particular, information is not passed to the Minister, the Minister of State, or any political advisors or other political appointees.

The procedure to ensure confidentiality of the processing of such costings within the Department, or where other Departments or Offices are being consulted, is laid down in an Office Notice (3/06) and I will arrange to have a copy sent to the Deputy. Requests for costings are made direct to the Secretary General of the Department of Finance. Officials who carry out such costings exercises are not normally made aware of the source of the request and all relevant records of the Department on such costings are kept centrally, under lock and key, by a Principal Officer who co-ordinates the process and is a member of staff of the Office of the Secretary General for that purpose.

The same official acts as the Deciding Officer in respect of any request received under the Freedom of Information Act relating to such records. As the Deputy will be aware, Section 46 (1)(da) of the Freedom of Information Act 2003 provides that the FOI Act does not apply to “a record held by a public body relating to the costing, assessment or consideration of any proposal of a political party carried out for or on behalf of that party”.

I believe that the system in place protects the confidentiality of the requests and this should assuage the concerns of the Deputy in this regard.

Pension Provisions.

104. **Mr. Crowe** asked the Minister for Finance the cost of tax relief for private pensions in each of the past 10 years; and the average number of people who availed of such tax relief in each of those years. [24857/06]

Minister for Finance (Mr. Cowen): I am informed by the Revenue Commissioners that the relevant available information relates to the cost of tax relief on pension contributions by employers, employees and self-employed and the exemption from tax of income and gains in the pension funds. This information, together with the numbers of employee and self-employed contributors, is provided for the ten income tax years 1993-94 to 2002, the latest year for which it is available. The estimates of cost in relation to contributions by employers and contributions by employees are particularly tentative as this information is not captured in such a way as to enable more precise estimates to be compiled.

It should be noted that as PAYE taxpayers were charged to tax on their earnings in the period from 6 April to 31 December 2001 and self-employed taxpayers were assessed to tax for that short year on 74% of the profits earned in a 12 month accounting period, the cost figures will not be directly comparable with those of earlier or later years.

A married couple who has elected or has deemed to have elected for joint assessment is counted as one tax unit.

Income Tax relief relating to pension contributions

Estimated Cost	1993/94	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00	2000/01	2001	2002
Cost of tax relief on contributions by employers and employees and exemption of income and gains in the pension funds*	€565m	€750m	€902m	€1.2bn	€1.5bn	€1.8bn	€2.2bn	€2.4bn	€1.8bn	€2.5bn
Numbers of employees contributing to approved superannuation schemes**	n/a	n/a	n/a	n/a	n/a	n/a	569,220	629,800	670,500	709,300
Cost of tax relief on Retirement Annuity Contracts' available to the self-employed and to employees not in occupational pension schemes	€54m	€66m	€72m	€91m	€91m	€116m	€181m	€205m	€185m	€251m
Numbers	52,200	59,200	62,800	67,000	72,200	92,900	104,500	109,300	109,600	110,600

*These are extremely tentative estimates.

** Calendar year figures sourced from annual reports of the Pensions Board.

Economic Growth.

105. **Ms McManus** asked the Minister for Finance his views on the implications for the economy here of the recent quarter point increase in interest rates announced by the European Central Bank; and if he will make a statement on the matter. [24935/06]

Minister for Finance (Mr. Cowen): Interest rates are currently very low in historical terms, and the recent increases would appear to have had a limited impact on the economy so far. Future impacts depend on the scale of any further increases and on the state of the EU and world economy generally at the time.

Question No. 106 answered with Question No. 29.

107. **Mr. Durkan** asked the Minister for Finance if his Department has evaluated the likely impact of current or proposed interest rate increases with particular reference to future economic growth; and if he will make a statement on the matter. [24858/06]

Minister for Finance (Mr. Cowen): Interest rates are currently very low in historical terms, and the recent increases would appear to have had a limited impact on the economy so far. Future impacts depend on the scale of any further increases and on the state of the EU and world economy generally at the time.

Public Service Staff.

108. **Mr. Wall** asked the Minister for Finance the numbers of staff in the Department of Finance, the Office of Public Works and the Revenue Commissioners in the general service grades of principal officer, assistant principal officer, higher executive officer, executive officer, staff officer and clerical officer who have resigned in each of the years, 2002, 2003, 2004, 2005 and to date in 2006; and if he will make a statement on the matter. [24966/06]

Minister for Finance (Mr. Cowen): The following are the number of staff in general service grades from Principal to Clerical Officer in my Department who have resigned each year from 2002 to date:

Department of Finance	2002	2003	2004	2005	2006
Principal Officer	0	0	0	0	0
Assistant Principal	0	1	0	0	0
Higher Executive Officer	0	0	0	0	0
Administrative Officer	2	1	1	1	0
Executive Officer	1	0	0	0	0
Staff Officer	0	0	0	0	0
Clerical Officer	8	9	5	5	0

In relation to the Office of Public Works and the Revenue Commissioners, the following information has been supplied:

Office of Public Works	2002	2003	2004	2005	2006
Principal Officer	0	0	0	0	0
Assistant Principal	0	0	0	0	0
Higher Executive Officer	0	0	0	0	0
Executive Officer	0	1	0	0	1
Staff Officer	1	0	0	0	0
Clerical Officer	3	5	5	6	3

Office of the Revenue Commissioners	2002	2003	2004	2005	2006
Principal Officer	0	1	1	0	1
Assistant Principal	2	0	3	2	1
Higher Executive Officer	6	1	1	4	1
Administrative Officer	1	0	2	1	0
Executive Officer	6	3	12	10	2
Staff Officer	3	1	0	1	2
Clerical Officer	90	61	48	44	17

Fiscal Policy.

109. **Mr. Crowe** asked the Minister for Finance if the amount of revenue which the State raises from the housing sector by way of VAT on building materials and stamp duties has influenced his position in relation to the introduction of a tax on second homes; and if previously it was a factor in delaying the abolition of property based tax incentives. [24840/06]

Minister for Finance (Mr. Cowen): The Government's policy on property taxation is reviewed as part of the annual budget and Finance Bill cycle, taking into consideration circumstances of the housing market and economy as a whole.

In Budget 2006, I announced the termination of a range of property-based tax schemes, in light of a comprehensive review of this area conducted in 2005. The policy consideration referred to by the Deputy was not a determining factor in this review process.

Decentralisation Programme.

110. **Mr. Timmins** asked the Minister for Finance the position with regard to the acquisition of new premises, under the Government decentralisation programme, as it impacts on the Department of Defence; and if he will make a statement on the matter. [23783/06]

Minister of State at the Department of Finance (Mr. Parlon): Newbridge: The Office of Public Works has identified a suitable site in Newbridge Town for the Decentralising Department of Defence Offices for 271 staff and negotiations to acquire it are at an advanced stage.

OPW are hopeful, subject to all the outstanding planning, legal, technical and negotiation issues being resolved over the coming months, that the site can be acquired in time to allow construction to commence next year.

The Curragh: The new Defence Forces Headquarters will be constructed within the Curragh Camp Complex in County Kildare. Subject to a satisfactory outcome to the Part 9 planning process, it is expected that a contract will be placed at the end 2007 with work being completed on the project by mid 2009.

Question No. 111 answered with Question No. 35.

Question No. 112 answered with Question No. 52.

Public Expenditure.

113. **Mr. Quinn** asked the Minister for Finance the evaluations of public spending programmes which his Department has undertaken during the past 12 months; and if he will make a statement on the matter. [24957/06]

Minister for Finance (Mr. Cowen): My Department monitors expenditure on its programmes on an ongoing basis throughout the year. In addition, my Department has completed a procurement improvement project in the last 12 months.

As regards formal evaluations, the Department has, in the last 12 months, completed and published two evaluations under the Expenditure Review Initiative (ERI), of the Change Management Fund and the grant-in-aid to the Institute of Public Administration. The ERI has now been recast as the Value for Money (VFM) and policy review process, with a broader VFM focus, and my Department will complete evaluations under it of the Information Society Fund and the grant-in-aid to the Economic and Social Research Institute later this year.

In the area of taxation, my Department conducted reviews in 2005 of a range of tax schemes, in conjunction with the Office of the Revenue Commissioners, while independent reviews of the various property-based tax incentive schemes and renewal reliefs were commissioned from external consultants. As a result of this major review exercise, I announced in Budget 2006 that a range of tax schemes would be modified or terminated.

Finally, the National Development Plan/Community Support Framework (NDP/CSF) Evaluation Unit of the Department has completed the following reviews in the last 12 months:

- Evaluation of the In-Company Training Measures under the NDP/CSF 2000-2006
- Evaluation of Water Services Investment in the NDP/CSF 2000-2006
- Update Evaluation of the CSF for Ireland 2000-2006.

Tax Code.

114. **Mr. Sherlock** asked the Minister for Finance the rate of stamp duty applicable on the sale or leasing of farms; the cost to the Exchequer of applying stamp duty relief to farmers under fifty; and if he will make a statement on the matter. [24620/06]

Minister for Finance (Mr. Cowen): In the case of the sale of farmland stamp duty is payable on the purchase price. Where the purchase price exceeds the exempt threshold of €10,000 stamp duty is payable at rates ranging from 1% to 9% on the amount of the purchase price as set out in the attached table. The 9% rate applies where the purchase price is over €150,000.

A lease of farmland is chargeable to stamp duty on the basis of the term of the lease and the amount of the premium and rent payable on foot of the lease. As with sales of farm land, where the premium exceeds the exempt threshold of €10,000 stamp duty is payable at rates ranging from 1% to 9% on the amount of the premium. The 9% rate applies where the premium is over

€150,000. In addition stamp duty at the rate of 1% is payable on the average annual rent where the term of the lease is under 35 years. Where the term exceeds 35 years and is under 100 years the rate on the average annual rent is 6% and where the term exceeds 100 years the rate is 12%.

Information on the ages of transferees and lessees in property transactions, including farm transfers, is not required or maintained except where applications are received for Stamp Duty exemption on land transfers to young trained farmers. There is, therefore, no statistical basis on which an estimate could be provided for the cost of extending an exemption from Stamp Duties on both leases and sales of farms to all farmers aged under 50 years. The Deputy may be interested to know that the cost of the current stamp duty exemption for young trained farmers is estimated at €31 million in 2005.

In the case of a sale of farmland the bands and rates of stamp duty are as follows.

Purchase Price	Rate of Duty
Up to €10,000	Exempt
€10,001 to €20,000	1%
€20,001 to €30,000	2%
€30,001 to €40,000	3%
€40,001 to €70,000	4%
€70,001 to €80,000	5%
€80,001 to €100,000	6%
€100,001 to €120,000	7%
€120,001 to €150,000	8%
Over €150,000	9%

In the case of a lease of farmland stamp duty is payable on both the premium and the average rent payable under the lease. The same bands and rates of duty apply to the premium in a lease as apply to the purchase price in the case of a sale. In addition stamp duty is chargeable as follows on the average annual rent.

Term of Lease	Rate
Lease for a term not exceeding 35 years or for any indefinite term	1% of the average annual rent
Lease for a term exceeding 35 years but not exceeding 100 years	6% of the average annual rent
Lease for a term exceeding 100 years	12% of the average annual rent

Revenue Commissioners' Audits.

115. **Mr. Broughan** asked the Minister for Finance the number of random audits carried out by the Revenue Commissioners in each year from 2000 to date in 2006; the number of tax defaulters that were identified by these audits; the number of prosecutions that resulted from the audits; the

value of the money collected on the basis of these audits; and if he will make a statement on the matter. [24942/06]

Minister for Finance (Mr. Cowen): I am advised by the Revenue Commissioners that the details in relation to the audits settled under their random audit programmes from 2000 to 2005 are as follows:

Year of Programme	Number of Cases Selected	Number of Cases Settled	Number of Cases Providing Extra Yield	Yield
				€
2000	402	437	95	626,564
2001	1,000	740	230	3,381,890
2002	1,000	720	229	2,879,121
2003	1,000	274	122	3,434,791
2004 (Note 1)	NIL	25	13	155,153
2005 (Note 2)	411	351	91	1,015,456

Note 1. The random audit programme was reviewed in 2004. Cases on hands that were not substantially completed were not carried forward to the new 2005 'Taxpayer Compliance Testing Programme'. Hence, only 25 cases are recorded.

Note 2. These cases were settled in 2005 and 2006. As at 28 June 2006, 60 cases relating to the 2005 'Taxpayer Compliance Testing Programme' are ongoing.

I am advised that no prosecutions resulted from these audits.

I should point out that the methodology used in the selection of random audits was not the same for all of the years in question. Following discussions between Revenue and the Office of the Comptroller and Auditor General the programme was reviewed and replaced in November

2004 by the Taxpayer Compliance Testing Programme, which ensures that cases are selected on a purer random basis.

Following an evaluation of the 2005 programme the 2006 programme is due to commence shortly. The sample size for 2006 is expected to be in the region of 400.

Marriage Registrations.

116. **Mr. Neville** asked the Taoiseach the marriage rate per 100,000 in 2005. [25321/06]

Minister of State at the Department of the Taoiseach (Mr. Kitt): The number of marriages registered in 2005 was 20,723. This equates to 502 marriages per 100,000 population. This figure is subject to revision.

Birth Registrations.

117. **Mr. Neville** asked the Taoiseach the number of children born to single mothers in 2005. [25323/06]

Minister of State at the Department of the Taoiseach (Mr. Kitt): The number of births registered outside marriage in 2005 was 19,528.

Foreign Adoptions.

118. **Mr. Wall** asked the Tánaiste and Minister for Health and Children the procedures persons (details supplied) must take to adopt a child from the United Kingdom; the guidelines or conventions that would determine such an adoption; and if she will make a statement on the matter. [25302/06]

Minister of State at the Department of Health and Children (Mr. B. Lenihan): In accordance with the 1991 Adoption Act, in order to adopt, a person, or persons, who are resident in Ireland must apply for a Declaration of Eligibility and Suitability. Such Declarations are issued by the Adoption Board.

The application must be made through their local Health Service Executive Office / Adoption Society. A list of these offices is attached below for the Deputy's information.

The applicant(s) will be assessed by the Health Service Executive or Adoption Society to have their eligibility and suitability established. The assessment process itself involves a number of stages and the length of the process can vary between applicants depending on the particular circumstances of each case, bearing in mind at all times the best interests of the child.

List of HSE (Adoption Services) Countrywide:

PACT 15, Belgrave Road, Rathmines, Dublin 6.

H.S.E. Midland Area Health Centre, Dublin Road, Longford.

H.S.E. Mid Western Area Adoption & Fostering Centre, Parkbeg House, 2 Elm Drive, Caherdavin Lawn, Limerick.

St. Catherine's Adoption Society Clarecare Harmony Row, Ennis, County Clare.

H.S.E. North Eastern Area Adoption Service, St. Mary's Hospital, Dublin Road, Drogheda, County Louth.

H.S.E. North Western Area Regional Adoption Service, Custom House, 2 The Quays, Sligo.

H.S.E. Southern Area Adoption Department, Unit 4, South Ring Business Park, Kinsale Road, Cork.

H.S.E. South Eastern Area, 2 St. Andrew's Terrace, New Town, Waterford.

CLANN H.S.E. Western Area, The Annexe, West City Centre, Seamus Quirke Road, Galway.

H.S.E. Midland Area Fostering & Adoption Services, A.C.C. Building, Harbour Street, Tullamore, County Offaly.

H.S.E. Southern Area Kerry Adoption & Fostering Team, 6 Denny Street, Tralee, County Kerry.

H.S.E. South Western Area, Dartmouth House, Kylemore Road, Ballyfermot, Dublin 10.

Mucoepithelial Dysplasia Incidence.

119. **Mr. Neville** asked the Tánaiste and Minister for Health and Children the number of people in Ireland who suffer from Mucoepithelial Dysplasia; the support services and entitlements which are available to them. [25075/06]

Minister of State at the Department of Health

and Children (Mr. T. O'Malley): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Care of the Elderly.

120. **Mr. Ó Fearghaíl** asked the Tánaiste and Minister for Health and Children the policy in place in her Department for meeting the needs of Kildare's rapidly growing elderly population and in particular those people who require a public bed in a nursing home; and if she will make a statement on the matter. [25082/06]

Minister of State at the Department of Health

and Children (Mr. S. Power): Access to public nursing home care is based on the capacity of the Health Service Executive to deliver such care. This is itself subject to the resources available to the Executive having regard to all its responsibilities for the delivering of health services gener-

ally. Entitlement to public nursing home care is subject to resources and capacity.

The Report of the Long-Term Care Working Group which was established by the Tánaiste and Minister Séamus Brennan discussed issues relating to the future policy direction of long term care for older people and it is currently being considered by the Government.

Private Health Care.

121. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children if her Department has received proposals from private companies to build private medical care units on lands (details supplied) in County Wexford; the plans she has for such lands; and if she will make a statement on the matter. [25083/06]

Tánaiste and Minister for Health and Children (Ms Harney): I am not aware of any proposals from private companies to build on land owned by the Health Service Executive in County Wexford.

However, I have asked the Health Service Executive to investigate this matter and to reply directly to the Deputy.

Hospital Visits.

122. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children her plans to visit Wexford General Hospital; and if she will make a statement on the matter. [25084/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy will wish to note that it is my intention to visit Wexford General Hospital when I am next in the area.

Health Practitioners Regulation.

123. **Mr. O'Shea** asked the Tánaiste and Minister for Health and Children the proposals she has to regulate medical herbalists (details supplied) via the Health and Social Care Professionals Act 2005; and if she will make a statement on the matter. [25085/06]

Tánaiste and Minister for Health and Children (Ms Harney): It is not proposed to regulate medical herbalists under the Health and Social Care Professionals Act 2005. The twelve professions included in the Health and Social Care Professionals Act were chosen because they are long established providers of health and social care within the public health service and, in most instances, also have experience of self-regulation. In addition, the qualifications of the majority of these professions are currently regulated within the public health service. This is not the case for medical herbalists.

Section 4 of the Act provides for the inclusion, by Regulation, of additional professions in the proposed system of statutory registration. This

section also sets out the criteria the Minister shall have regard to in considering the designation of further professions under the Act. It would be a matter for the Health and Social Care Professionals Council, in the first instance, to advise the Minister on whether a profession should be regarded as a health and social care profession and be considered for regulation under the Act.

Drug Treatment Services.

124. **Aengus Ó Snodaigh** asked the Tánaiste and Minister for Health and Children if she will report on the number of residential detoxification beds for recovering drug misusers in the various Health Service Executive regions, run or funded by her Department or the HSE, for each year since 1996. [25086/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

125. **Aengus Ó Snodaigh** asked the Tánaiste and Minister for Health and Children if she will report on the number of state-funded drug treatment and rehabilitation programmes which are in accordance with the quality standards of the Health Service Executive as per Action 50 of the National Drugs Strategy; the number that fail; the action being taken to ensure 100 percent compliance; and if she will make a statement on the matter. [25087/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

126. **Aengus Ó Snodaigh** asked the Tánaiste and Minister for Health and Children her views on opening methadone clinics and needle exchange programmes in the State outside of Dublin to allow for local access to treatment for injecting heroin addicts; and if she will make a statement on the matter. [25088/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility

[Ms Harney.]

of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Health Services.

127. **Mr. Perry** asked the Tánaiste and Minister for Health and Children if she will intervene on behalf of a person (details supplied) in County Sligo and ensure that their treatment is carried out. [25089/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal, social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to respond directly to the Deputy in relation to the matter raised.

Hospital Services.

128. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children the reason a person (details supplied) cannot be given an appointment for a necessary knee replacement operation in Waterford Regional Hospital before 2007; and if she will make a statement on the matter. [25090/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Health Services.

129. **Mr. Kehoe** asked the Tánaiste and Minister for Health and Children when provision will be made for occupational therapy to be provided on a regular basis to enable a person (details supplied) in County Wexford to continue in main stream education; and if she will make a statement on the matter. [25091/06]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I have been advised by the Health Service Executive that the matter raised by the Deputy is currently being examined in the Local Health Office in Wexford.

130. **Mr. O'Dowd** asked the Tánaiste and Minister for Health and Children the number of nurs-

ing homes that tendered for high dependency and intermediate care for the former ERHA in 2005; the number of homes that were not successful; if she will name the homes and the dates on which any of these homes were found to have high dependent residents without adequate and appropriate care; the action taken as a result; the date of such action; if these residents are still resident in these homes; and if she will make a statement on the matter. [25092/06]

Minister of State at the Department of Health and Children (Mr. S. Power): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Health Service Staff.

131. **Mr. O'Connor** asked the Tánaiste and Minister for Health and Children the action she proposes to deal with the shortage of public health nurses which is affecting the delivery of services to mothers of new born babies; and if she will make a statement on the matter. [25093/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act, 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have the matter investigated and have a reply issued directly to the Deputy.

Food Safety.

132. **Mr. O'Connor** asked the Tánaiste and Minister for Health and Children the person who has responsibility for food hygiene in butcher shops; and if she will make a statement on the matter. [25094/06]

Minister of State at the Department of Health and Children (Mr. S. Power): Food hygiene in butchers' shops is the responsibility of the food business operator concerned. However, to ensure that the relevant legislation is complied with, inspections are carried out by authorised officers acting pursuant to a service contract with the Food Safety Authority of Ireland (FSAI). Environmental Health Officers (EHOs) of the Health Service Executive (HSE) have responsibility for the inspection of retail butchers. Where contraventions of the legislation are identified during such inspections, appropriate action will be taken.

In addition to their enforcement functions, EHOs also give advice on compliance to food business operators and the FSAI also provides advice and guidance.

Nursing Home Standards.

133. **Mr. O'Dowd** asked the Tánaiste and Minister for Health and Children if she will make a statement on the composition of the team that has been formed by the Health Service Executive to assess the implications of information relating to Leas Cross; when the team was set up; the number of meetings they have had to date; when it is expected that they will report and if their report will be published. [25095/06]

Minister of State at the Department of Health and Children (Mr. S. Power): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, the Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Hospital Services.

134. **Mr. Noonan** asked the Tánaiste and Minister for Health and Children the arrangements she is making to ensure that the 700 persons suffering from Parkinson's disease in the mid-west region have neurological services; if her attention has been drawn to the fact that at present they have the services of a visiting neurologist and one permanent nurse only; and if she will make a statement on the matter. [25177/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

135. **Mr. Gormley** asked the Tánaiste and Minister for Health and Children if a person (details supplied) who has a European health insurance card can be given kidney dialysis treatment here if they come home here for a week; and if she will make a statement on the matter. [25191/06]

Tánaiste and Minister for Health and Children (Ms Harney): Regulation (EC) 1408/71 provides for the coordination of social security systems, including healthcare, among EU member states. Under the Regulation, those who are insured with or covered by the healthcare system of one member state but who are residing or staying in

another member state receive healthcare in the state of residence or stay on behalf of the member state with which they are insured or covered. The European Health Insurance Card (EHIC) provides evidence of this entitlement.

Persons staying in Ireland and in possession of a valid EHIC may receive healthcare, through the public healthcare system that becomes necessary during their stay taking into account the nature of the care and the expected length of stay.

It is recognised that people requiring certain specialised treatments, in particular oxygen therapy or dialysis, are entitled to such care under these arrangements while on a temporary stay abroad, on the basis that prior agreements are entered into in regard to the availability of appropriate services. This arrangement is accepted by all member states, given that such specialised treatments may not be available in all locations. The aim is to ensure that freedom of movement is not adversely affected for a person requiring such treatments.

In this case, the person concerned should contact the Health Services Executive (HSE), North Eastern Area, Kells, Co. Meath — Tel: 00 353 (0)46 9240341 or e-mail info@HSE.ie — to make appropriate arrangements for dialysis care during her stay in Ireland.

Health Service Staff.

136. **Mr. Gormley** asked the Tánaiste and Minister for Health and Children the number of physiotherapists who qualify here each year; the number of sanctioned posts here for qualified physiotherapists; when this number was set; when this number is due to be reviewed; and if she will make a statement on the matter. [25192/06]

Tánaiste and Minister for Health and Children (Ms Harney): Four universities provide BSc degrees in physiotherapy. University College Dublin have 56 places on their undergraduate degree course and have 54 students graduating this year. University of Limerick have 30 places on their undergraduate degree course and have 27 students graduating this year. The Royal College of Surgeons in Ireland have 25/26 places on their undergraduate degree course and have 25 students graduating this year. Finally, Trinity College Dublin have 40 on their undergraduate degree course and have 47 students graduating this year.

My Department does not issue national employment quotas for individual health service grades. The number of posts in various staff categories is a matter for the HSE which, in determining posts, must have regard to service requirements and public sector employment policies. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Medical Cards.

137. **Mr. Gormley** asked the Tánaiste and Minister for Health and Children her views on the medical card scheme providing payment to general practitioners who employ a full or part-time physiotherapist in their practice, thus reducing demands on hospitals; and if she will make a statement on the matter. [25194/06]

Tánaiste and Minister for Health and Children (Ms Harney): Primary Care — A New Direction (2001) set out this Government's vision for the development of primary care as a central focus in the delivery of health and personal social care services. The Strategy aims to shift the emphasis from an over-reliance on acute hospital services to one where patients can access an integrated multi — disciplinary service in their local community. I am confident that this development of the services available in the primary care setting can reduce the demand on acute services in hospitals by meeting the vast majority of day-to-day health care needs in the local community.

There is currently no provision within the GMS contract for general practitioners to receive additional remuneration in respect of the delivery of a physiotherapy service in the manner suggested by the Deputy.

Implementation of the Primary Care Strategy is focusing on the development of integrated multi-disciplinary teams including general practitioners, nurses, health care assistants, home helps, occupational therapists, physiotherapists and others. The 2006 Estimate for the HSE includes an additional €10 million in revenue funding to enable the establishment of up to 100 new primary care teams. This will enable the provision of some 300 additional frontline personnel to work alongside GPs in order to provide integrated and accessible services in the community. The draft national partnership agreement, if ratified by the social partners will provide for the development of further primary care teams during the lifetime of the agreement.

138. **Mr. Timmins** asked the Tánaiste and Minister for Health and Children the situation regarding a general practitioner who wishes to set up a private practice in an area with respect to accessing medical card patients; if there are restrictions on the GP; if there is a limit to the number of medical card patients permitted per doctor; and if she will make a statement on the matter. [25228/06]

Tánaiste and Minister for Health and Children (Ms Harney): Entry to the General Medical Services (GMS) Scheme for general practitioners is normally through open competition and interview following advertisements in national and medical newspapers. All suitably qualified persons may apply for these positions. The Health Act 2004 provided for the Health Service Execu-

tive (HSE), 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 selection and recruitment of general practitioners to provide services under the GMS Scheme.

Applicants for GMS GP contracts, whether from this or another jurisdiction, must satisfy the provisions of EU Directive (93/16/EEC). This Directive facilitates the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications. It also stipulates the requirement in respect of vocational training for persons seeking to be considered for such posts.

As part of agreements between the Department of Health and Children and the GP representative body, the Irish Medical Organisation (IMO), made in 1999 and again in 2001 between the Health Service Employers Agency and the IMO, limited entry to the GMS Scheme was possible for suitably qualified GPs. These agreements allowed for those GPs who were interested and qualified to hold limited GMS contracts. These limited GMS contracts allowed GPs to treat their over 70s patients who qualified for a medical card for the first time, following the phased increase in the income level for eligibility assessment in 1999, and again following the introduction of the statutory entitlement to a medical card for all persons aged 70 years and over from 1 July 2001. After specified periods GPs holding these limited contracts would become eligible for full GMS contracts and be able to provide services to any medical card patient who might choose to be included on their patient panel list.

Also in June 2005 the Labour Relations Commission (LRC) recommended a once off entry arrangement be provided for doctors accepting GP Visit card patients and who met certain qualifying conditions.

Under the GMS Scheme general practitioners hold one of two contract types i.e. the Fee per Item contract (first introduced in 1972) or the Capitation contract (effective from 1989). These contracts reflect the agreed outcome of negotiations between the Department of Health and Children and the IMO. Both contract types contain provisions which were agreed between the parties on a range of issues including the limitation of numbers of patients placed on the list of the practitioner.

Under the 1972 and 1989 contracts the number of persons whose names may be placed on the list of the practitioner shall not exceed 2,000 save where the HSE, in exceptional circumstances, after consultation with the IMO, decide to apply a higher limit.

A review of the contractual arrangements for the provision of services under the GMS and other publicly funded schemes commenced in October 2005 and is being conducted under the

auspices of the LRC. As part of the contract framework the management team are seeking to agree open access to GMS contracts for all qualified GPs.

139. **Ms Shortall** asked the Tánaiste and Minister for Health and Children the reason old age pensioners with medical cards have to pay for a medical certificate in order to renew their driving licence; and if she will make a statement on the matter. [25277/06]

142. **Mr. Timmins** asked the Tánaiste and Minister for Health and Children the position in relation to the doctors charge for the over 70s who need an eye sight test for their driving licence renewal applications; if she will have same examined with a view to having this test covered under the medical card; and if she will make a statement on the matter. [25286/06]

Tánaiste and Minister for Health and Children (Ms Harney): I propose to take Questions Nos. 139 and 142 together.

In making arrangements for the provision of publicly funded GP services, under the General Medical Services (GMS) Scheme, an agreement was negotiated between the Department of Health and Children and the GP representative body, the Irish Medical Organisation (IMO). The provisions of this agreement took the form of the current GMS GP Capitation Contract. This contract is a treatment based contract and gives effect to the statutory requirement to provide free GP medical and surgical services to eligible people which includes people aged 70 and over who are automatically entitled to a medical card. The contract stipulates that the fees paid to the GMS GP's are not made in respect of certain certificates which may be required for example 'under the Social Welfare Acts or for the purposes of insurance or assurance policies or for the issue of driving licences'. As these non-treatment type services are outside of the GMS contract it is a matter between the GP and the person seeking the particular services to agree a fee.

While certificates for applications are provided by medical practitioners they are not a medical service and are not considered a core aspect of public health service provision. Requiring such services to be provided within the terms of the GMS GP contract would more than likely lead to a costly counterclaim by GP's which if allowed would not represent appropriate or best use of resources in terms of current health policy.

Survivors of Symphysiotomy.

140. **Mr. Gormley** asked the Tánaiste and Minister for Health and Children the steps she has taken to help the victims of symphysiotomy; if she has met the victims; and the action she intends to take to assist them. [25284/06]

Tánaiste and Minister for Health and Children (Ms Harney): My predecessor, Minister Martin, met with the Survivors of Symphysiotomy (S.O.S.) Group in late 2003 and agreed that a range of measures would be put in place to support the Group. My Department is advised by the Health Service Executive (HSE) that the current position with regard to the services now in place is as follows:

- The former health boards and the relevant voluntary hospitals have appointed liaison officers, who met and continue to meet with patients who have undergone symphysiotomy to discuss their healthcare needs.
- Independent clinical advice is available, on request, through the liaison personnel, to patients who have undergone symphysiotomy. This has already been availed of by a number of members of S.O.S. and appropriate follow-up has been arranged.
- An assessment service for patients was established at Cappagh Hospital, Dublin. This service is provided by a multi-disciplinary team which undertakes an assessment of patients, following which recommendations for care pathways are discussed with individual patients.
- Medical cards, based on medical grounds, have been granted, to S.O.S. patients.
- The HSE has issued replacement medical cards containing a unique patient identifier that is designed to allow for the fast-tracking of patients who require hospital appointments and/or treatments. The provision of certain non-GMS items recommended for patients by their GP and /or consultant will continue and the pharmacist/supplier will be reimbursed by the HSE.
- In addition, medical expenses related to symphysiotomy may be refunded, where necessary, to patients in respect of medication/private treatments required to address the effects of symphysiotomy.
- Applications for home help and house modifications are dealt with on an individual basis and applications are fast-tracked, where necessary.
- Independent counselling services are available to patients where requested.
- Information packs have been made available to general practitioners and relevant healthcare personnel.

I met with the Chairperson of the SOS Group on the 17th January last. The Chairperson expressed satisfaction with regard to progress made to date.

I am satisfied that considerable progress has been made in putting in place the required level of support for patients who have undergone sym-

[Ms Harney.]

physiotomy. The HSE will continue to oversee the provision of necessary support services for this patient group. With the increasing use of caesarean section as a means of delivery, symphysiotomy is now rarely employed in obstetric practice.

Hospital Services.

141. **Mr. O'Shea** asked the Tánaiste and Minister for Health and Children the reason no new funding has been received by Waterford Regional Hospital in 2006 to support further development of endocrinology services as a priority in the management of chronic illness in line with the National Development Plan objective and in context of equity of access and regional self-sufficiency; and if she will make a statement on the matter. [25285/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Question No. 142 answered with Question No. 139.

Services for People with Disabilities.

143. **Mr. Perry** asked the Tánaiste and Minister for Health and Children the directives she has issued with regard to the additional funding totalling €100 million which is to be included for the improvement of health funded support services for people with disabilities; the amount of the €100 million to address core under-funding and core staffing issues in services provided by the voluntary sector, having regard to the needs of people with disabilities which will be allocated to County Sligo and north Leitrim; if consideration of these needs will take into account an urgent case for funding of necessary services currently provided through FÁS employment schemes; and if she will make a statement on the matter. [25295/06]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): My Department has issued the following proposed developments to the Health Service Executive (HSE) in relation to expenditure for Disability Services in 2006. €58.8m has been provided in 2006 to meet costs associated with the following: Services for Persons with Intellectual Disability and Those with Autism; €39.5m 255 new residential places; 85 new respite places; 535 new day places; and €2.2m to continue the implementation of the transfer of persons with intellectual disability/autism from psychiatric hospitals and other inappropriate placements. Services for Persons with Physical or

Sensory Disabilities; €11.8m 80 new residential places for persons with significant disabilities who are currently placed in inappropriate settings; 250,000 extra hours of home support and personal assistance; and funding has also been provided for the employment of up to three Resource Officers to assist persons with sensory disabilities and for the provision of assistive/adaptive technology for people with sensory disabilities (€0.5m).

Mental Health Services; €7.5m.

€7.5m to support the provision of additional community based mental health facilities, including mental health day centres, day hospitals and community residential facilities.

Additional Disability Support Services:

In addition to the specific high profile disability services which are included in the programme outlined above, additional funding amounting to €41.2m has been provided as follows: Intellectual, Physical and Sensory Disability/Autism — €22.5m.

Additional funding amounting to €12.5m has been provided to enhance the level and range of multi-disciplinary support services available to adults and children with intellectual, physical and sensory disabilities and those with autism, with a priority in 2006 on enhancing the assessment and support services for children with disabilities.

Additional funding amounting to €10m has been made available to address core under-funding and core staffing issues in services for people with disabilities provided by the voluntary sector. The principles underpinning the allocation of this funding is to be the subject of further discussion between the relevant officials in the Department and the HSE. Mental Health Services — €18.7m.

Additional funding amounting to €17.5m has been provided to enhance the level and range of multi-disciplinary support services available to adults and children with mental illness.

Funding of €1.2m has been provided to support the implementation of "Reach Out — National Strategy for Action on Suicide Prevention 2005 — 2014". Decisions in relation to the specific matters raised by the Deputy regarding the allocation of funding are a matter for the HSE. Therefore my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Hospital Services.

144. **Mr. McCormack** asked the Tánaiste and Minister for Health and Children the steps she will take to ensure the establishment of a warfarin clinic at University College Hospital, Galway, in view of the fact that this is the centre of highest population in the western region; and if she will make a statement on the matter. [25322/06]

Tánaiste and Minister for Health and Children (Ms Harney): The Deputy's question relates to the management and delivery of health and personal social services, which are the responsibility of the Health Service Executive under the Health

Act 2004. Accordingly, my Department has requested the Parliamentary Affairs Division of the Executive to arrange to have this matter investigated and to have a reply issued directly to the Deputy.

Suicide Incidence.

145. **Mr. Neville** asked the Tánaiste and Minister for Health and Children the number of deaths and rates per 100,000 for suicide in the Health Service Executive regional areas and county for each of the years 2002 to 2005. [25326/06]

146. **Mr. Neville** asked the Tánaiste and Minister for Health and Children the number of deaths by suicide by county, gender and age group for each of the years 2002 to 2005. [25327/06]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): I propose to take Questions Nos. 145 and 146 together.

According to the Central Statistics Office, the number of registered deaths by suicide by age group and gender for each of the years 2002-2005 is as follows:

Age Group	2002	2003	2004	2005
1-4	0	0	0	0
5-14	3	4	2	3
15-24	105	112	93	80
25-34	127	91	94	94
35-44	77	107	98	90
45-54	74	80	79	80
55-64	52	63	61	44
65-74	28	23	21	29
75+	12	17	9	11
Total	478	497	457	431
Males	387	386	356	353
Females	91	111	101	78

Source: CSO.

In relation to the other information requested by the Deputy, I have asked the National Office for Suicide Prevention (NOSP) to investigate the matter and to reply to the Deputy directly.

Offshore Islands.

147. **Mr. O'Dowd** asked the Minister for Finance if he will make a statement on the State plans to purchase the Blasket Islands. [25076/06]

Minister of State at the Department of Finance (Mr. Parlon): The Office of Public Works has made formal offers to the landowners in relation to the purchase of their properties on the Island. The deadline for responses from the owners to the offers is the 7th July 2006 and the position will be assessed after that date.

Decentralisation Programme.

148. **Mr. Ó Fearghail** asked the Minister for Finance if his Department has made a final decision with regard to a site for the proposed offices, for those members of the Revenue staff who are to decentralise to Kildare Town; if the site identified for this purpose at Magee Barracks is to be developed; and if he will make a statement on the matter. [25077/06]

Minister of State at the Department of Finance (Mr. Parlon): The Commissioners of Public Works are in discussions with Kildare County Council, in relation to the provision of a suitable site in Kildare Town to accommodate a decentralisation office. At this point, no firm decision has been made in relation to the location of the proposed decentralisation site.

State Property.

149. **Mr. Kehoe** asked the Minister for Finance the amount of revenue raised through private companies using Office of Public Works property for events in each of the years 2000 to date in 2006; and if he will make a statement on the matter. [25078/06]

Minister of State at the Department of Finance (Mr. Parlon): The information sought by the Deputy is shown in the following tabular statement. The figures shown in the table are the income received by the OPW for the private hire and use of certain of the properties and facilities that are under the direct management of the OPW. The main properties concerned would be Dublin Castle Conference Centre and State Apartments, the Phoenix Park and Kilkenny Castle.

The income in each year relates mainly to the use of property and facilities by private companies but also includes some income in respect to use by private individuals and public sector companies.

Income received from private use/hire of OPW property and facilities.

Year	Revenue
	€
2000	406,646
2001	453,022
2002	293,503
2003	547,463
2004	548,345
2005	451,609
2006 (to date)	109,513

Financial Services Regulation.

150. **Mr. Neville** asked the Minister for Finance if examinations will be made into the further charge of €40, if a credit card account is closing which applies from 1 April 2006 to 31 March 2007 inclusive; and if he will accept that this is a double

[Mr. Neville.]

charge on the account; and if he will make a statement on the matter. [25079/06]

Minister for Finance (Mr. Cowen): A person who holds a credit card account with a credit card provider pays stamp duty on that credit card account once for each 12 month period ending on 1 April each year. Where a person cancels a credit card account within a 12 month period he/she pays the charge at the time of cancellation. This means that, in respect of any credit card account, an individual will only pay once for the year ending on the following 1 April. Where the individual closes a credit card after 1 April in any year, a stamp duty charge of €40 will arise, as the account has been maintained by the financial institution during the year ending on the following 1 April. This is consistent with applying a stamp duty charge for a year or part of a year for which the credit card account is held.

In addition, Section 128 of the Finance Act 2005 contained measures to eliminate a double stamp duty charge for the same year on the switching of financial cards. Where a credit card account is closed in the tax year the financial institution will issue a Letter of Closure to the holder of the account stating that the stamp duty has been paid for that year. Where the individual opens a new credit card account at any point in that tax year, the new financial institution, upon receipt of the Letter of Closure, will provide that the stamp duty on the new credit card, normally charged in the following April, will not be applied.

Tax Yield.

151. **Mr. Durkan** asked the Minister for Finance the receipts from stamp duty in each of the past five years; and if he will make a statement on the matter. [25303/06]

Minister for Finance (Mr. Cowen): The following table sets out the Exchequer Stamp duty receipts in each of the last five years.

Year	Stamp Duty
	€m
2001	1,227
2002	1,167
2003	1,688
2004	2,088
2005	2,725

The large increases in Stamp duty receipts over the last number of years are due primarily to the continued buoyancy of the property market.

152. **Mr. Durkan** asked the Minister for Finance the receipts accruing to the Exchequer from

capital gains tax in each of the past five years; his projections for the close of 2006; and if he will make a statement on the matter. [25304/06]

Minister for Finance (Mr. Cowen): The following table sets out the Exchequer capital gains tax receipts in each of the past five years.

Year	CGT
	€m
2001	880
2002	627
2003	1,443
2004	1,516
2005	1,960

The Budget day target for capital gains tax in 2006 is €2,035 million. While it is now expected that capital gains tax receipts will come in ahead of target this year, it is not possible to say what the outturn will be, given in particular that over 50 per cent of targeted revenues from capital gains tax are not due until November next.

153. **Mr. Durkan** asked the Minister for Finance the receipts accruing to the Exchequer from CAT in each of the past five years; his Department's projections for the close of 2006; and if he will make a statement on the matter. [25305/06]

Minister for Finance (Mr. Cowen): The following table sets out the Exchequer capital acquisitions tax receipts in each of the past five years.

Year	CAT €m
	€m
2001	169
2002	150
2003	214
2004	190
2005	249

The Budget day target for Exchequer receipts from capital acquisitions tax in 2006 is €260 million.

Public Expenditure.

154. **Mr. Durkan** asked the Minister for Finance the extent to which his Department has monitored public spending throughout all Government Departments in each of the past two years; the expected outturn for 2006 in respect of such expenditure; if this is expected to be in accordance with projections; and if he will make a statement on the matter. [25306/06]

Minister for Finance (Mr. Cowen): Since 2003, expenditure profiles for all Departmental Vote Groups for the year ahead are published in

January and my Department monitors expenditure against these profiles. Each Department and Office reports projected net current and net capital expenditure figures on an issues basis immediately prior to the end of each month. These figures are also included in the Exchequer Statement which is published on the second working day of the following month. I report to Government on a monthly basis on the emerging trends in the public finances.

In addition, Ministers responsible for the four Departments with the largest current spending allocations — Social and Family Affairs; Health and Children; Education and Science; and, Justice, Equality and Law Reform report bi-monthly to Government.

Since the beginning of this year the 5 large capital spending Departments — Environment, Heritage and Local Government; Transport; Education and Science; Health and Children and Enterprise, Trade and Employment — also report progress to Government on a bi-monthly basis on their capital spending.

On the basis of the end May figures (end June are being prepared and will be published on the 4th of July) the outturn for Voted expenditure in 2006 is expected to be broadly in line with the allocations set out in the Revised Estimates for Public Services published on the 23rd of February 2006 except for the reimbursement of long-stay charges in former Health Board funded institutions. Following the recent enactment of the Health (Repayment Scheme) Act, these are now expected to amount to €340 million for 2006 rather than the €400 million provisionally provided for in the Revised Estimates. The balance (€660 million) of the estimated €1 billion for this purpose is likely to be required in 2007 and 2008.

Question No. 155 answered with Question No. 64.

Tax Yield.

156. **Mr. Durkan** asked the Minister for Finance the way in which stamp duty receipts in 2006 to date compare with the corresponding period in previous years; and if he will make a statement on the matter. [25308/06]

Minister for Finance (Mr. Cowen): The following table sets out the Exchequer stamp duty receipts and the corresponding year-on-year growth rates for the period to end-May for each of the years from 2000 onwards.

Year (to end-May)	Stamp Duty	Year-on-Year % Change
	€m	
2000	449	+33.2
2001	540	+20.3
2002	425	-21.3

Year (to end-May)	Stamp Duty	Year-on-Year % Change
	€m	
2003	620	+45.9
2004	720	+16.1
2005	933	+29.6
2006	1,293	+38.6

The large year-on-year increases in Stamp duty receipts in recent years are due primarily to the continued buoyancy of the property market.

Economic Growth.

157. **Mr. Durkan** asked the Minister for Finance the extent to which his Department have monitored the expected impact of recent interest rate increases on the economy and the consumer; the way in which economic growth is expected to be affected in the event of further interest rate increases; and if he will make a statement on the matter. [25309/06]

Minister for Finance (Mr. Cowen): My Department continually monitors interest rate developments from the point of view of analysing current and future economic developments.

Notwithstanding recent increases, interest rates remain low in historical terms and recent increases would appear to have had a limited impact on the economy so far. Future impacts depend on the scale of any further increases and on the state of the EU and world economy generally at the time.

Tax Yield.

158. **Mr. Durkan** asked the Minister for Finance the extent to which income tax returns to date in 2006 compare with previous years; and if he will make a statement on the matter. [25310/06]

Minister for Finance (Mr. Cowen): The following table sets out the Exchequer Income tax receipts and the corresponding year-on-year growth rates for the period to end-May for each of the years from 2000 onwards.

Year (to end-May)	Income Tax	Year-on-Year % Change
	€m	
2000	3,762	+15.8
2001	4,110	+9.3
2002	3,506	-14.7
2003	3,152	-10.1
2004	3,841	+21.9
2005	4,035	+5.1
2006	4,421	+9.6

[Mr. Cowen.]

Income tax receipts to end-May 2006 are just 1.2 per cent below target. The Budget day target for Income tax in 2006 is for an increase of 4.8 per cent over the 2005 outturn.

Financial Services Regulation.

159. **Mr. Durkan** asked the Minister for Finance if banking charges here are in line with, ahead of or lower than other European Countries or within the Eurozone; and if he will make a statement on the matter. [25311/06]

Minister for Finance (Mr. Cowen): Regulation of non-interest bank charges, although a feature of the Irish legislative framework, does not apply in all EU Member States. The information requested by the Deputy is, therefore, not available to my Department. However, the Deputy may wish to note that a recent industry study based on seven members of the eurozone, including Germany, France, Italy and Spain, concluded that charges in Ireland compare favourably with other members of the euro area.

In line with its statutory consumer mandate, the Financial Regulator has produced a number of surveys that compare bank charges for specific products, to help Irish consumers compare charges between credit institutions operating in the State.

Finally, increased competition in the Irish banking sector, reflecting such factors as new entrants and the introduction of a switching code for both personal customers and now the business sector, will benefit consumers through increased choice, innovative products, lower prices and better service.

160. **Mr. Durkan** asked the Minister for Finance if he will indicate to what extent ongoing provision is made in the banking and financial service sectors to detect fraud, money laundering or other illegal financial transactions with a view to preserving the integrity of the banking system and preventing international transactions of the proceeds of crime; and if he will make a statement on the matter. [25312/06]

Minister for Finance (Mr. Cowen): The procedures for the prevention of money laundering in the financial system primarily involve the requirement on financial institutions (and other designated bodies) to identify their customers, to have adequate anti-money laundering procedures in place, including staff training, to keep records and to report suspicions of money laundering and terrorist financing offences to the Garda Síochána and to the Revenue Commissioners. These procedures arise under the Money Laundering Provisions of the Criminal Justice Act, 1994.

The Financial Regulator requires all institutions which it supervises to comply with the anti-money laundering legislation and relevant

sectoral guidance notes, and to have in place the necessary procedures and controls to ensure such compliance. The adequacy of such systems is reviewed by the Financial Regulator in the course of its ongoing supervision of institutions and requirements for improvement are advised to institutions as necessary. Furthermore, in accordance with its legal obligation under Section 57(2) of the Criminal Justice Act, 1994, the Financial Regulator is obliged to make reports to the Garda Síochána and the Revenue Commissioners where in the course of its supervision it suspects that an institution has breached the relevant money laundering provisions of the Criminal Justice Act, 1994.

The Garda Síochána and the Revenue Commissioners regularly receive reports from financial institutions and other designated bodies where they suspect that a money laundering offence is being or has been committed. All such reports are investigated and progressed as appropriate by the relevant authorities.

The Financial Action Task Force on Money Laundering (FATF), the international standard setting body in this area recently published a report on Ireland's systems to combat money laundering and terrorist funding. Ireland is one of ten countries evaluated to date in the FATF Third Round of Mutual Evaluations. Its overall ratings are comparable to those obtained by the other countries evaluated.

The revised FATF Money Laundering recommendations of 2003 — the standard against which Ireland's compliance was assessed — have been embodied in the 3rd EU Money Laundering Directive which came into force in December 2005 with a transposition deadline of December 2007.

Ireland opted to be evaluated early in the 3rd Round of Mutual Evaluations because this would be of considerable assistance in planning the transposition of the 3rd EU Money Laundering Directive into Irish Law. Many of the FATF recommendations on which Ireland is currently assessed as either partially compliant or non-compliant will be addressed in the transposition into Irish Law of the 3rd EU Money Laundering Directive. These include additional measures in relation to customer due diligence, measures relating to the identification of foreign politically exposed persons, the strengthening of the sanctions for breaches of money laundering rules and the regulation of non-financial entities.

On publication of the FATF report in March this year my colleague the Minister for Justice Equality and Law Reform and I jointly undertook to examine the Report's recommendations thoroughly and gave a commitment to further strengthen Ireland's anti-money laundering mechanisms. The process of reviewing and updating the Irish legal framework to meet both our domestic needs and international obligations is already under way and wide ranging consultation

with the banking, financial services and other relevant sectors has already taken place as part of this process.

European Council Meetings.

161. **Mr. Durkan** asked the Minister for Finance if discussions have taken place with a view to extending the Eurozone in the future; and if he will make a statement on the matter. [25313/06]

Minister for Finance (Mr. Cowen): The Ecofin meeting which took place on 7 June 2006 discussed the Convergence Reports produced by the European Commission and the European Central Bank regarding Slovenia and Lithuania. The Commission submitted a proposal for a Council Decision which would allow Slovenia adopt the euro with effect from the 1 January 2007. In accordance with the Treaty, the European Parliament was consulted regarding this proposal and the proposal was also considered by the Heads of State or Government at the European Council meeting on 16 June 2006. The Ecofin Council will reach a final decision on this matter at its next meeting, which is due to take place on 11 July 2006.

Architectural Heritage.

162. **Mr. P. McGrath** asked the Minister for Finance if he will respond to correspondence received (details supplied) regarding works to be carried out to a sculpture. [25324/06]

Minister of State at the Department of Finance (Mr. Parlon): The Office of Public Works has received a request from Mitchelstown Heritage Society to clean the Fanahan sculpture at Mitchelstown Garda Station. The cleaning project will be undertaken by the Office of Public Works in consultation with the sculptor, Clíodhna Cussen.

Garda Stations.

163. **Mr. Durkan** asked the Minister for Finance the position in relation to Leixlip Garda Station; if tenders are or have been invited; if contracts have been entered into or are pending; if it will take much longer to achieve the provision of the station, approval for which was first given ten years ago; the expected date for the commencement of said works or the opening of the station; and if he will make a statement on the matter. [25329/06]

Minister of State at the Department of Finance (Mr. Parlon): A formal decision by the Commissioners of Public Works in respect of the Planning Consultation Part 9 for the proposed new Garda Station for Leixlip is expected in a number of weeks. Commencement of the tendering process is dependent on the outcome of the Commissioner's decision.

Harbours and Piers.

164. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources the directive he has issued to Donegal County Council with regard to Buncrana Marina for the construction of a break water wall; and if he will make a statement on the matter. [25299/06]

166. **Mr. Perry** asked the Minister for Communications, Marine and Natural Resources if he will waiver the rent on the foreshore lease at Buncrana Harbour to allow for the construction of a break water wall for proper berthing of RNLI boat in all weather conditions; and if he will make a statement on the matter. [25218/06]

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne): I propose to take Questions Nos. 164 and 166 together.

The Department is obliged, under the terms of Department of Finance sanction, to accept nothing less than the valuation determined by the Valuation Office in respect of structures such as this. A revised proposal, however, has been received from the Local Authority involving a scaling down of the project. The Department wrote to the Local Authority on 31st May 2006 making certain recommendations and seeking clarification on some aspects of the proposal. The Department is awaiting a response to this letter following which a new assessment of value will be requested from the Valuation Office.

Fishing Industry Development.

165. **Mr. Kehoe** asked the Minister for Communications, Marine and Natural Resources the outstanding issues in relation to persons (details supplied) in the whitefish decommissioning scheme; and when they will be paid; and if he will make a statement on the matter. [25080/06]

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. Browne): An Bord Iascaigh Mhara (BIM) is the responsible authority for the administration of the scheme to permanently withdraw capacity from the whitefish and shellfish fleets which commenced in early October 2005. BIM has provided the following information in relation to the matters raised by the Deputy. It has confirmed that all premia have been paid in relation to the fishing boats the *William Joseph* and the *Martina Eilis*. In relation to the vessel the *Vrijheid*, the first payment has been paid by BIM and the second payment will issue on completion of the break up of the vessel. In relation to the vessel the *Nicola Sharon*, all the necessary conditions of the scheme have not been finalised. As soon as these conditions have been met the payment of the first instalment of grant aid can be made.

[Mr. Browne.]

There is no information on record with the reference, “the Burts”.

Question No. 166 answered with Question No. 164.

Foreign Conflicts.

167. **Mr. O'Connor** asked the Minister for Foreign Affairs if he is providing advice and assistance to pilgrims wishing to travel to the Holy Land; the contacts he has had with the authorities in Israel in the matter; and if he will make a statement on the matter. [25097/06]

Minister for Foreign Affairs (Mr. D. Ahern): The Department of Foreign Affairs provides travel advice to Irish citizens wishing to visit the Holy Land through its website. The current advice can be found at www.dfa.ie/services/traveladvice/01.asp. The number of Irish citizens travelling to Israel annually is estimated at less than 3,000. Only a limited proportion of these would be pilgrims. Most pilgrim sites in Israel and in Jerusalem can be accessed without problem for pilgrims. However, some sites in the Occupied Palestinian Territories, including Bethlehem, can be problematic and involve delays at military checkpoints and road-blocks. The Deputy can rest assured that Ireland's Missions in the Holy Land will continue to monitor access issues for pilgrims, including with the relevant authorities, and, of course, will be helpful to any of our citizens who wish to make contact.

Sports Capital Programme.

168. **Ms Cooper-Flynn** asked the Minister for Arts, Sport and Tourism if funding is available from his Department to assist a person (details supplied) in County Mayo to establish a sports facility to cater for local youth and sporting groups and tourists to the area. [25189/06]

170. **Ms Cooper-Flynn** asked the Minister for Arts, Sport and Tourism if funding is available from his Department to assist a person (details supplied) in County Mayo to establish a sports facility to cater for local youth and sporting groups and tourists to the area. [25188/06]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): I propose to take Questions Nos. 168 and 170 together.

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 under the Programme are only accepted from:

- voluntary and community organisations, including sports clubs;
- national governing bodies of sport and third level education institutions; and
- in certain circumstances, schools, colleges and local authorities.

As it appears that the project in question is not being developed by one of the above categories funding would not be available from my Department.

Arts Funding.

169. **Ms Harkin** asked the Minister for Arts, Sport and Tourism the timeframe for the proposed announcement regarding a successor to his Department's access scheme; and if he will make a statement on the matter. [25096/06]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): I expect to make an announcement in this regard very shortly.

Question No. 170 answered with Question No. 168.

Office for Employment Rights Compliance.

171. **Mr. Quinn** asked the Minister for Enterprise, Trade and Employment if he will provide details of the Office for Employment Rights Compliance; the number of staff to be assigned to this office; the location where this office will be headquartered; the manner in which the work of this office will be distinguished from that of the Labour Inspectorate; the formal procedures to be put in place for liaison between this office and the other relevant agencies under his Department's control; the funding to be allocated to this office; if this office will be established by legislation or by regulation; and if he will make a statement on the matter. [25175/06]

Minister of State at the Department of Enterprise, Trade and Employment (Mr. Killeen): The Social Partnership Agreement, Towards 2016, sets out a number of commitments with regard to employment standards and compliance including a commitment to establish an Office of the Director of Employment Rights Compliance. The Office will be established through the enactment of primary legislation and will be led by a Director at senior management level together with administrative support staff and a complement of 90 Inspectors/Authorised Officers. While the Office will retain a presence in Dublin it is anticipated that there will be a regionalised structure with the headquarters located outside of the capital.

The legislation establishing the new Office will also address a variety of issues in the area of Employment Rights Compliance including a move towards greater accessibility for employees

to redress via the Rights Commissioner Services. In that context it will be a matter for the new Director to develop a range of policies and procedures reflecting the changed landscape for employment rights enforcement. With a fivefold increase in the number of Inspectors/Authorised Officers since this Government introduced the National Minimum Wage in 2000, the implementation of a regionalised structure, and a specific budget being provided for the development and delivery of a structured and targeted programme of information provision, education and awareness of employment rights obligations and entitlements, the new Office will be exceptionally well equipped to very quickly and effectively establish its presence.

On the matter of formal procedures for liaison, again, informed by the detail of the new legislation that is to be enacted, this will be a matter for the new Director.

Corporate Law Enforcement.

172. **Mr. Quinn** asked the Minister for Enterprise, Trade and Employment the times that information has been shared in relation to potential tax or corporate law transgressions between the Office of the Director of Corporate Enforcement and the Revenue Commissioners; the nature of the information passed, for each instance; the agency which initiated the information exchange; if successful actions were taken on the basis of that information; and if he will make a statement on the matter. [25176/06]

Minister for Enterprise, Trade and Employment (Mr. Martin): The Office of the Director of Corporate Enforcement (ODCE) is required by law to keep confidential commercially sensitive information, which it obtains in the course of its work. However, the law also provides for the sharing of information between the ODCE and certain other regulatory authorities where the information is relevant to the remit of the regulatory authority. It also provides for the receipt by the ODCE of relevant information from certain regulatory authorities.

The ODCE has concluded formal arrangements on mutual co-operation and information sharing with a number of relevant authorities, including the Revenue Commissioners. I understand that these arrangements are working well and are proving mutually beneficial.

I am not in a position to comment on the detail of any exchanges of information between the ODCE and other regulatory authorities, including the Revenue Commissioners. Such matters are day-to-day matters for the ODCE and relevant authorities, for which I do not have responsibility. However, I would refer the Deputy to page 12 of the Annual Report 2005 of the Director of Corporate Enforcement, in which the Director reports on activity in this area under

the heading, Cooperation between Regulatory Authorities.

Work Permits.

173. **Dr. Cowley** asked the Minister for Enterprise, Trade and Employment when a work permit will be made available to a person (details supplied) in County Mayo; the reason there is a long delay in this area; and if he will make a statement on the matter. [25182/06]

Minister for Enterprise, Trade and Employment (Mr. Martin): The Work Permit Section of my Department received a work permit application in respect of the above named individual on 29 May 2006. The employer can expect to be contacted regarding this application within the next week.

Social Welfare Code.

174. **Mr. Carey** asked the Minister for Social and Family Affairs if, in view of increased rents in the private sector, there are plans to review the income limits for applicants to qualify for private rental supplement; and if he will make a statement on the matter. [25193/06]

Minister for Social and Family Affairs (Mr. Brennan): The supplementary welfare allowance scheme, which is administered on my behalf by the community welfare division of the Health Service Executive, provides for the payment of a rent supplement to assist eligible people who are unable to provide for their immediate accommodation needs from their own resources and who do not have accommodation available to them from any other source.

Rent supplements are subject to a limit on the amount of rent that an applicant for rent supplement may incur. Notwithstanding these limits, under existing arrangements the Health Service Executive may, in certain circumstances, exceed the rent levels as an exceptional measure, for example: where there are special housing needs related to exceptional circumstances for example, disabled persons in specially-adapted accommodation or homeless persons, where the tenant will be in a position to re-assume responsibility for his/her rent within a short period. Where the person concerned is entitled to an income disregard AND has sufficient income to meet his or her basic needs after paying rent, taking into account the appropriate rate of Rent Supplement that is otherwise payable in the case. This discretionary power is only used in special cases, but it ensures that individuals with particular needs can be accommodated within the scheme.

On 26 July 2005 regulations were introduced providing for new rent limits for the period 26 July 2005 to 31 December 2006. These new regulations provided for moderate increases in certain rent limits with no change in others. No rent limit

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was reduced. My Department is in regular contact with the community welfare staff of the Health Service Executive regarding the various elements of the scheme. In the course of these ongoing contacts, the prescribed upper limits on rent levels supported under the rent supplement scheme have not emerged as having a detrimental impact on the ability of eligible tenants generally to secure suitable rented accommodation to meet their needs.

My officials will again be reviewing the current levels of rent limits later this year in order to determine what limits should apply from January 2007 onwards. The review will take account of prevailing rent levels in the private rental sector generally, together with detailed input from the Health Service Executive on the market situation within each of its operational areas.

The review will also include consultation with the Department of Environment, Heritage and Local Government. In addition, it is expected a number of the voluntary agencies working in this area will also make detailed submissions. This process will ensure that the new rent limits reflect realistic market conditions throughout the country, and that they will continue to enable the different categories of eligible tenant households to secure and retain suitable rented accommodation to meet their respective needs.

Road Safety.

175. **Mr. Sargent** asked the Minister for Transport if Ireland has signed the European Charter of Pedestrian Rights; the means he foresees for its implementation; the progress in drawing up guidelines for its implementation that can form parts of development plans; the budget he allocates annually by county; and if he will make a statement on the matter. [25282/06]

Minister for Transport (Mr. Cullen): The European Charter of Pedestrian Rights was adopted in 1988 by the European Parliament. I will communicate shortly with the Deputy in relation to Ireland's formal position with respect to the Charter.

The Charter, which appears to have been targeted at local authorities sets out a range of transport and local environmental issues in order to safeguard the physical and psychological well-being of the pedestrian. A number of local authorities in Ireland adopted a policy in their Development Plans to improve facilities for pedestrians and access facilities for people with special mobility needs in line with the aims of the Charter.

In the period since the adoption of the Charter, my Department has overseen the implementation of a number of measures which fulfil many of the aims and aspirations outlined in the Charter. Measures being pursued as part of the Road Safety Strategy relating to traffic calming and the

introduction of a lower speed limit in residential areas are targeted at improving pedestrian safety.

The National Safety Council, the agency mandated with responsibility for road safety advertising and education, continues to run their "Text" and "Home" advertising campaign targeted at pedestrians.

Directive 2003/102/EC of the European Parliament and of the Council of 17 November 2003 was transposed into domestic legislation with effect from 28 May 2004. The Directive relates to the protection of pedestrians and other vulnerable road users. The Directive applies to cars and van-cars up to 2.5 tonnes gross vehicle weight and lays down the harmonised technical requirements for EU type approval of such motor vehicles with regard to pedestrian protection. The aim of the Directive is to reduce deaths and injuries to pedestrians and cyclists by motor vehicles through changes in the design of the fronts (i.e. bumper, bonnet and windscreen) of vehicles.

Directive 2005/66/EC of the European Parliament and the Council setting type approval standards in respect of frontal protection systems e.g. bull-bars, fitted to passenger cars and vans up to 3.5 tonnes gross vehicle weight, was adopted on 26 October 2005. Member States are required to adopt this Directive by 25 August 2006. The Directive in relation to passenger cars was transposed into Irish Law on 11 April 2006. It is intended to extend the provisions of the directive to new small vans before 25 August 2006.

It is a matter for local authorities to publish development plans for their areas. Policy matters relating to the making of development plans and the funding of local authorities is a matter for the Department of the Environment, Heritage and Local Government.

176. **Mr. Perry** asked the Minister for Transport when he will be issuing the guidelines that is, standard and type of belt, for the introduction of seat belts on private school buses; the reason for the delays; and if he will make a statement on the matter. [25297/06]

Minister for Transport (Mr. Cullen): I recently approved standards for buses fitted with safety belts for the purpose of the grant of Certificates of Roadworthiness (CRW) under the scheme of compulsory periodic vehicle testing administered by local authorities. Essentially, the standards are those set down in the EU type-approval directives relating to anchorages for safety belts (Directive 76/115/EEC as amended). Safety belts fitted to a bus must conform to EU or UN/ECE standards. The standards relate to buses generally and cover safety belts fitted to a vehicle at manufacture or as a retrofit. It is the intention, commencing in September 2008, to make it a requirement for the grant of a CRW for a bus fitted with safety belts that appropriate certification concerning the safety belt installation is provided to

the authorised tester (i.e. test centre) that carries out the roadworthiness inspection.

My Department has published a FAQ document in relation to the standards, which may be accessed at www.transport.ie/roads/vehiclestandards.

Light Rail Project.

177. **Mr. Crowe** asked the Minister for Transport his intention for the use of the €2.3 million subvention, which the Railway Procurement Agency, the developers of the LUAS, say they do not need in view of the profit of €0.2 million in 2005; and if he will make a statement on the matter. [25074/06]

Minister for Transport (Mr. Cullen): There was a provision of €2.583m in my Department's 2005 Estimates to cover operating deficits on the two Luas lines. €558,000 of this amount was drawn down by the RPA in respect of 2004. The surplus was surrendered to the Central Fund.

A provision of €361,000 was included in my Department's 2006 Estimates to cover a possible operating deficit on the two Luas lines. As none of this amount is now anticipated to be required in 2006 this provision will be available for re-allocation, as circumstances require.

Air Services.

178. **Mr. Kehoe** asked the Minister for Transport if there have been developments regarding a diverted flight (details supplied) in terms of an explanation from the corresponding English authorities. [25227/06]

Minister for Transport (Mr. Cullen): I refer the Deputy to my replies to Parliamentary Question Nos. 88 of 3 May 2006 and 358 of 23 May 2006 concerning the diversion into Prestwick Airport of an Irish registered aircraft because of a bomb scare. I wish to add that the National Civil Aviation Security Committee (NCASC) which is chaired by a senior official from my Department met on 31 May 2006 and discussed this issue. The Committee comprises representatives of Government Departments, State Airport Authorities, Regional Airports, the Garda Síochána, the Defence Forces, An Post, Customs and Excise, the Irish Aviation Authority and the Irish Airline Pilots Association. The Committee agreed that the Department and the Garda Síochána would review the policy guidelines for bomb threats to aircraft taking into account international best practice. This is a confidential review and will be completed as soon as possible.

Courier Industry Regulation.

179. **Ms Shortall** asked the Minister for Transport the way in which the courier industry and persons operating as couriers are regulated; and

if he will make a statement on the matter. [25278/06]

Minister for Transport (Mr. Cullen): The regulation of couriers does not fall within the remit of my Department. Matters in relation to the delivery of letters, parcels and small packages are the responsibility for the Department of Communications, Marine and Natural Resources.

Rail Network.

180. **Mr. Sargent** asked the Minister for Transport the studies planned in regard to a possible link between metro north and west and the Dart line at Howth Junction, Kilbarrack or Baldoye; and the way in which such studies are to be carried out. [25293/06]

Minister for Transport (Mr. Cullen): While Transport 21 involves a large commitment of financial resources, those resources are also finite. It has therefore been necessary to prioritise the investments to be made over the ten year period.

The Dublin Transportation Office's A Platform for Change continues to provide a strategic framework for the development of the Greater Dublin area's transport system. In that context further feasibility studies and planning work will also be undertaken over the period of Transport 21 on other projects not included in Transport 21, but contained in A Platform for Change. These projects include a proposed Luas line from Whitehall to Howth Junction. However, funding to bring such projects to construction is not included in the ten-year envelope.

Following the launch of Transport 21 in November 2006 I wrote to the Railway Procurement Agency, directing it to proceed over the course of the programme, with feasibility studies on light rail projects which are part of the Dublin Transportation Office A Platform for Change. It is a matter for the RPA to decide on the method of carrying out and the timing of this and other studies, having regard to the priority of proceeding with the implementation of the projects identified in Transport 21.

Legislative Programme.

181. **Ms Shortall** asked the Minister for Transport the Acts, or sections or other provisions of Acts, coming wholly or partly under the auspices of his Department, or for the commencement of which his Department is wholly or partly responsible, which are not in force and which require the future making of a commencement order; if, in each case, it is intended to make such an order; if so, when; the reason for the failure to make such an order to date; and if he will make a statement on the matter. [25294/06]

Minister for Transport (Mr. Cullen): Commencement orders in respect of Part 8 and section 130 of the Railway Safety Act 2005 have yet to

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be made. Part 8 of the Act provides for the establishment of a Railway Safety Advisory Council to advise both the Minister for Transport and the Railway Safety Commission on issues relating to railway safety. This part should be commenced before the end of the year. A commencement order in respect of Section 130 of the Act which provides for the increase in the level of the CIE guaranteed borrowing power from €317m to €600m is expected to be made in early July 2006.

Section 16 of the Road Transport Act 1999 provides for an on-the-spot fine system, in lieu of prosecution, for offences under the Road Transport Acts and under Regulations on drivers' hours and rest periods. That Act was commenced by means of a Statutory Instrument made in 1999. It was intended to commence section 16 by means of that Statutory Instrument but, following discussions with the Office of the Attorney General, advice was received that primary legislation would be required to bring this section into effect.

The Road Traffic Bill 2006, currently before the Dáil, contains provisions for the extension of the Fixed Charge Notices system to allow for the inclusion of the offences originally provided for under Section 16 of the Transport Act 1999. These provisions will replace the system provided for under Section 16 of the 1999 Act. I intend, therefore, to make provision in the Road Traffic Bill, by way of an amendment, for the repeal of Section 16 of the Road Transport Act 1999.

A commencement order to give effect to remaining provisions of Section 23 (repeals) of the Road Transport Act 1999 has yet to be made. The Road Transport Operating Licensing Division of my Department is planning to undertake a major project on consolidation of the Road Transport legislation and this will include a number of repeals of any outdated or defunct legislation.

There are no plans at present to commence Part 5 of the Road Traffic Act 2004. Its provisions were included in the Road Traffic Act to deal with the possibility that the current unlimited liability for third party motor insurance cover could prove to be unsustainable in the market. This situation has not arisen and therefore Part 5 has not been commenced. The provisions of section 93 of the Road Traffic Act 1961 relating to protection of bridges from excessive burdens, as amended by section 61 of the Road Traffic Act 1968, are being examined in the context of the review of the Traffic Signs Manual (1996) that is being undertaken at present. A decision regarding the commencement of this section will be taken when that review is completed.

Sections 11 and 12 of the Road Traffic Act 2002 relate to the operation and enforcement of the fixed charge system and, in the case of section 11, to the operation and enforcement of the penalty points system. These provisions, except in so far as already commenced up to 3 April 2006, will

be progressively commenced as the operation and enforcement of the fixed charge system and or, penalty points system, is extended to the specified offences. Section 13 of the Road Traffic Act 2002 is a broad enabling provision. There are no proposals to commence this section at this time. It is proposed that consideration will be given later in 2006 to the transfer of functions required under section 16 of the Road Traffic Act 2002 to local authorities.

Commencement of section 35 requires further consultation with the Commission for Taxi Regulation, An Garda Síochána and the Courts Service, to ensure that the appropriate arrangements for implementation are in place. Commencement of the remaining subsections (1), (1A), (2), (5) and (6) of section 36, (as amended by section 36 of the Road Traffic Act 2004) requires further consultation with the Commission for Taxi Regulation, An Garda Síochána and the Courts Service, to ensure that the appropriate arrangements for implementation are in place. Section 44 (5) of the Taxi Regulation Act 2003 will not be commenced pending the full commencement of section 36 of that Act.

Provisions of the Aer Lingus Act 2004 which provide the legal framework to facilitate a third party investment in the company will be commenced as appropriate in the lead in to an investment transaction and the provisions which facilitate ESOT Board representation will commenced as required.

The establishment of an Adventure Activities Standards Authority under the Adventure Activities Standards Authority Act 2001 is being reviewed in the light of the decision that the safety services provided by my Department, in particular the Irish Coast Guard and Maritime Safety Directorate, be brought together in a single agency responsible for all elements of marine safety and emergency response services, to ensure that there is no duplication of responsibilities and that the most effective and efficient structures are put in place.

The Sea Pollution (Hazardous Substances) (Compensation) Act 2005 gives effect in Irish law to the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea 1996. The Convention has not yet entered into force internationally as not sufficient States are in a position to become Parties thereto. It is intended that the commencement date for the Act should, if possible, coincide with international entry into force which is not yet known.

Section 28 of the Act amends the Merchant Shipping (Liability of Shipowners and Others) Act 1996 to give effect to the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims 1976. Consideration is being given to commence this provision separately in advance of the remaining sections of the Act.

A commencement order is currently being prepared for the commencement of sections 86 and 87 of the Harbours Act 1996. Commencement of these sections of the Act were not required to date but an order is now being prepared in light of Government policy regarding the transfer of regional harbours to local control.

Road Traffic Offences.

182. **Mr. Perry** asked the Minister for Transport the measures which will be introduced to carry out driver blood sample testing in regard to the widespread use of cocaine and other drugs; and if he will make a statement on the matter. [25296/06]

Minister for Transport (Mr. Cullen): It is illegal to drive while under the influence of drugs to such an extent as to be incapable of having proper control of the vehicle. Section 49 of the Road Traffic Act 1961, as inserted by Section 10 of the Road Traffic Act 1994 prohibits the driving of a mechanically propelled vehicle by a person while under the influence of an intoxicant. An intoxicant includes alcohol and drugs, and any combination of drugs and alcohol.

The Medical Bureau of Road Safety continues to analyse blood and urine specimens received from the Garda Síochána under the Road Traffic Acts for the presence of a drug or drugs where the level of alcohol determined is under the legal limit, or when a specific request for drug analysis has been received from the Gardaí when the alcohol result is above the legal limit. Prosecution of offences relating to driving while under the influence of drugs is a matter for An Garda Síochána.

Irish Language.

183. **Mr. Kenny** asked the Minister for Community, Rural and Gaeltacht Affairs further to Parliamentary Question No. 346 of 20 June 2006, the 27 public bodies with which he has agreed a language scheme and the 70 bodies which he has asked to prepare a scheme; if he is satisfied that it will be feasible for these bodies to implement the Act as outlined at section 9(3) of the Official Languages Act 2003; and if he will make a statement on the matter. [25219/06]

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): A full list of the 27 public bodies with whom I have agreed language schemes to date, as well as a list of the 70 public bodies whom I have requested to prepare draft schemes, is available on the website of An Coimisinéir Teanga, www.coimisineir.ie.

Section 9(3) of the Official Languages Act 2003 is one of the directly applicable provision of the Act which apply to all public bodies covered by the Act. As I have outlined on a number of occasions in this House, I am satisfied that public

bodies will be able to fulfil their obligations under Act, including those set out in section 9(3), and I am confident that they will accept this challenge with a positive attitude and in the proper spirit. As I have stated from the beginning, while it will not be possible to achieve everything overnight, my objective is that improvements in the range and quality of services available through Irish will be achieved over time, subject to demand.

Drug Treatment Services.

184. **Aengus Ó Snodaigh** asked the Minister for Community, Rural and Gaeltacht Affairs the drug treatment and rehabilitation programmes that are currently available for teenagers under the age of 18; and if he will make a statement on the matter. [25274/06]

185. **Aengus Ó Snodaigh** asked the Minister for Community, Rural and Gaeltacht Affairs the number of illegal drug abusers availing of the various treatments funded by the Health Service Executive; if he will list same; his plans to expand the range of treatment options for recovering drug misusers, in particular counselling and therapeutic services; and if he will make a statement on the matter. [25275/06]

186. **Aengus Ó Snodaigh** asked the Minister for Community, Rural and Gaeltacht Affairs the number of State funded drug treatment and rehabilitation programmes which are in accordance with the quality standards of the Health Service Executive as per Action 50 of the national drugs strategy; the number that have failed; the action which is being taken to ensure 100% compliance; and if he will make a statement on the matter. [25276/06]

Minister of State at the Department of Community, Rural and Gaeltacht Affairs (Mr. N. Ahern): I propose to take Questions Nos. 184 to 186, inclusive, together.

The issues raised by the Deputy are matters for my colleague, the Tánaiste and Minister for Health and Children, Deputy Harney.

Water and Sewerage Schemes.

187. **Mr. Ring** asked the Minister for Community, Rural and Gaeltacht Affairs when CLÁR funding will be provided to Mayo County Council in order that a group water scheme (details supplied) can be completed. [25328/06]

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): I am pleased to inform the Deputy that on 9 June 2006, I announced the approval for the allocation of CLÁR top-up funding of €603,504 for the Shraheens (Aughagower) Group Water Scheme in County Mayo. This funding will enable work amounting to €1,760,208 to be carried out, with the balance being paid by

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the Department of Environment, Heritage & Local Government and by private contributions from the Group members.

A total of 72 households will benefit from the Scheme with savings of €8,382 per household.

When Mayo County Council submit a claim for funding, supported by a certificate of completion to this Department, the CLÁR top-up funding will be paid.

Installation Aid Scheme.

188. **Mr. N. O’Keefe** asked the Minister for Agriculture and Food the criteria which has to be met to qualify for a farm grant (details supplied) for new farmers starting up. [25057/06]

Minister for Agriculture and Food (Mary Coughlan): The current Installation Aid Scheme was established under the National Development Plan 2000-2006 and provides a once-off grant of €9,523 to farmers under the age of 35 who have been set up in farming for the first time on or after 1 January 2000.

In order to apply for Installation Aid a farmer must, *inter alia*, be set up on a holding of at least 5 hectares of eligible land and be between his/her 18th and 35th birthday on the date of set up.

An application can be made to my Department’s Office in Johnstown Castle, Wexford.

Grant Payments.

189. **Mr. N. O’Keefe** asked the Minister for Agriculture and Food the position regarding payment of the EU single farm payment in respect of a person (details supplied) in County Cork following the submission of documentation recently. [25058/06]

Minister for Agriculture and Food (Mary Coughlan): Following direct contact between an official of my Department and the person named, medical evidence is awaited from the person named, following receipt of which an immediate decision will be made regarding the 2005 Single Payment Scheme application of the person named.

190. **Mr. Connaughton** asked the Minister for Agriculture and Food the reason forestry premia in respect of 2003, 2004 and 2005 has not been awarded to a person (details supplied) in County Galway; and if she will make a statement on the matter. [25174/06]

Minister for Agriculture and Food (Mary Coughlan): The delay in payment in this case was related to the change of ownership of the plantation. In addition there was a problem relating to the actual area claimed. These issues have now been resolved and I expect payment to be made within the next three weeks.

Legislative Programme.

191. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform if he has plans to establish a national register for joint guardianship agreements; if this will require legislation; and if he will make a statement on the matter. [25183/06]

192. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform if he has plans to allow grandparents become guardians of their grandchildren; if this will require legislation; and if he will make a statement on the matter. [25184/06]

193. **Mr. Stanton** asked the Minister for Justice, Equality and Law Reform if he has plans to introduce legislation regarding the guardianship of children; and if he will make a statement on the matter. [25185/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 191 to 193, inclusive, together.

The Guardianship of Infants (Statutory Declaration) Regulations 1998 (S.I. No. 5 of 1998) prescribe the form of the joint statutory declaration to be made by the mother and father of a non-marital child who wish the father of the child to become a guardian of the child jointly with the mother in accordance with section 2(4) (inserted by the Children Act 1997) of the Guardianship of Infants Act 1964. The prescribed form indicates that the document is important and should be kept in a safe place. The next and obvious step of entry of the father’s name on the register of birth of the child that is the subject of the guardianship agreement is a matter for the parents themselves to arrange. I have no plans to establish a national register for joint guardianship agreements.

Under the law as it stands, grandparents may be the testamentary guardians of their grandchild, if appointed as guardians by deed or will. Grandparents may also, under certain conditions, make application to court to obtain access to their grandchild under section 11B of the Guardianship of Infants Act 1964 as inserted by section 9 of the Children Act 1997. There are no proposals for change in this area.

Visa Applications.

194. **Mr. F. McGrath** asked the Minister for Justice, Equality and Law Reform if he will assist persons (details supplied) in Dublin 9; and if he will work with the Department of Foreign Affairs on this case. [25071/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The individuals concerned are advised to submit their visa applications for consideration to their nearest Irish Embassy or Consulate. Comprehensive information on making a

visa application is available on my Department's website at www.justice.ie.

Garda Vetting Services.

195. **Ms F. O'Malley** asked the Minister for Justice, Equality and Law Reform the Garda clearance process; and the reason for the delays and discommoding this causes. [25072/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I assume the Deputy's Question relates to the Garda vetting service provided in respect of prospective employees recruited to work with children and vulnerable adults.

As a means of promoting the safety and security of these vulnerable client groups, criminal history vetting is conducted by the Garda Central Vetting Unit (GCVU) on behalf of, inter alia, registered organisations which recruit personnel to work in a substantial, unsupervised capacity with children and vulnerable adults.

Vetting applications are submitted in writing to the GCVU by the human resource department of the registered employer/agency. In response, following an interrogation of its criminal history information against the personal details supplied, the GCVU issues a reply to the requesting organisation disclosing, as appropriate, criminal conviction and related information in respect of the subject of the vetting. Recruitment and selection decisions remain at all times with the recruiting organisation.

The average turnaround time for processing valid vetting requests received by the GCVU is appropriately four weeks. I do not consider that this average turnaround time constitutes a delay. Moreover, recruiting organisations are aware of the processing timeframe and are advised to factor it into their recruitment and selection processes.

Residency Permits.

196. **Mr. Timmins** asked the Minister for Justice, Equality and Law Reform the position in relation to a person (details supplied) who are on their fifth work permit; if they can apply for residency to stay here; the action they need to take; and if he will make a statement on the matter. [25073/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The position in relation to granting long term residency is as follows: Persons who have been legally resident in the State for over five years (ie: 60 months) on the basis of work permit/work authorisation/work visa conditions may apply to the Immigration Division of my Department for a five year residency extension. In that context they may also apply to be exempt from employment permit requirements.

The dependants of the aforementioned, who have been legally resident in the State for over

five years (ie: 60 months) may also apply for long term residency. This particular long term permission does not exempt the person from employment permit requirements.

The Immigration Division of my Department is currently giving priority to applications for a long term residency extension in respect of persons who fulfil the legal residency criteria and whose permission to remain expires in the coming weeks.

In considering such applications the following documents are required: a clear and legible copy of passport (all pages) — in the event that the passport has been renewed since commencing employment a copy of the previous passport must be provided; a copy of the Certificate of Registration; copies of work permits/working visa endorsements/work authorisation endorsements.

Road Traffic Offences.

197. **Ms O. Mitchell** asked the Minister for Justice, Equality and Law Reform if the existing speed cameras in use are analogue or digital; and if he will make a statement on the matter. [25186/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda authorities that the mobile speed cameras operated by An Garda Síochána use analogue video (GATSO vans) and the fixed speed cameras use wet film. The Deputy will be aware that the Road Traffic Bill before the Oireachtas at present will allow for the outsourcing of the operations and provisions of speed cameras.

Residency Permits.

198. **Mr. Kehoe** asked the Minister for Justice, Equality and Law Reform if he will grant residency to a person (details supplied) in County Carlow or allow the person permission to leave the State temporarily. [25195/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The person in question arrived in the State on 6 September 2001 on a holiday visa. This visa was subsequently extended on two occasions for three months duration each time. She applied for asylum on 25 March 2002 which was refused on 10 October 2002. An appeal of this decision was made to the Refugee Appeals Tribunal and this was refused on 31 March 2003. A notification of proposal to deport from the State under Section 3 of the Immigration Act 1999, together with the refusal to grant a declaration of refugee status, issued on 29 April 2003.

Representations were received in relation to the proposal to deport and while they were being considered an application for permission to remain in the State based on marriage to an Irish national was received from the person concerned in June 2006. Applications of this type, in fairness

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to all other such applicants, are dealt with in strict chronological order and currently take approximately fourteen months to process. It should be noted that marriage to an Irish national does not confer an automatic right of residence in the State.

The Deputy should note that a person who is awaiting a decision on a residency application based on marriage to an Irish national is free to leave the State at any time. A visa required national must be in possession of a valid Irish visa to allow the person concerned travel to the State. As the person in question is a visa required national, she would require a re-entry visa to return to the State. It is not the normal practice of my Department to assist persons who do not have residency in the State with a re-entry visa prior to travelling except in certain emergency circumstances. Applications of this emergency nature are considered on a case by case basis by the Irish Naturalisation and Immigration Service of my Department and any such request for a re entry visa should be made in writing to them.

Garda Remuneration.

199. **Mr. Kenny** asked the Minister for Justice, Equality and Law Reform if he is satisfied that the arrangements for payment of Garda gaeltacht allowance as approved in 1934 are still relevant (details supplied); his views on whether in the context of these allowances being paid in Galway west, Kerry and Donegal that they should also apply in districts in County Cork and Mayo; and if he will make a statement on the matter. [25222/06]

201. **Mr. Kenny** asked the Minister for Justice, Equality and Law Reform the number of recipients of Garda gaeltacht allowance in each of the past ten years; and if he will make a statement on the matter. [25224/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I propose to take Questions Nos. 199 and 201 together. An allowance amounting to 7.5% of gross pay is payable to members of An Garda Síochána serving in defined Gaeltacht areas who perform their duties through the medium of Irish and whose knowledge of the language is certified as adequate for that purpose.

I have been informed by the Garda authorities that Garda Districts in the Division of Galway West were approved by the Government for payment of the Gaeltacht allowance in 1934. Garda Districts in the Divisions of Donegal and Kerry were approved by the Government for payment of the Gaeltacht allowance in 1935. No other Districts have been approved for payment of the allowance since that date.

I have been further informed that when the Gaeltacht allowance was introduced in 1934, it was decided that it would only be paid in areas

where Irish was the general medium of speech and where all the members of the force were proficient in Irish and were required to perform their duties in Irish. The areas where these allowances were to be paid were determined on the basis of Garda Districts. These are Garda administrative areas, each comprising of a number of Garda Stations, under the supervision of a Superintendent. It was not regarded as practicable to arrange for members of the force in any particular Station to conduct all their duties in Irish if Irish was not also in use at the District Headquarters.

The arrangements for the payment of Gaeltacht allowances are among the issues being examined at present by an Interdepartmental Group on the use and promotion of the Irish language in An Garda Síochána, particularly taking into account the needs of Gaeltacht areas and the requirements of the Official Languages Act 2003. This Group consists of senior representatives of An Garda Síochána, my Department and the Department of Community, Rural and Gaeltacht Affairs. I expect to receive the report of the Interdepartmental Group shortly, and I will carefully examine whatever recommendations are made. I have been further advised by the Garda authorities that the number of personnel in receipt of the Gaeltacht allowance on the final pay run for each year 1997 to 2005 (inclusive), and as at 29 June 2006, was as set out in the table hereunder:

Year	
1997	366
1998	361
1999	360
2000	353
2001	352
2002	336
2003	336
2004	332
2005	331
2006	329

Garda Strength.

200. **Mr. Kenny** asked the Minister for Justice, Equality and Law Reform the numbers currently employed in the PULSE system located at Davitt House, Castlebar; the breakdown of grade and skill level; the location from which each employee was transferred; the number to be employed; the areas from where calls are received and logged presently; and if he will make a statement on the working of the system to date. [25223/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): There are currently 129 staff employed in the Garda Information Service

Centre (GISC) in Castlebar, comprising 1 Principal Officer, 3 Assistant Principals, 11 Higher Executive Officers, 15 Executive Officers, 10 Staff Officers and 89 Clerical Officers. Some 55 employees of the GISC transferred from the Department of Agriculture and Food and were already based in Castlebar, while 30 others were recruited directly through the Public Appointments Service. The remainder of the GISC staff transferred from other Government Departments in locations around the country, including Dublin, Galway and Sligo. It is expected that the GISC will employ over 160 staff when it is fully operational this September.

The facility whereby members of An Garda Síochána can call the GISC and have crime data logged on PULSE is currently operational in the Southern Region (Cork and Kerry), the South-Eastern Region (Tipperary, Waterford, Kilkenny, Wexford and Wicklow), and the Dublin Metropolitan Region (DMR) Eastern Division. The system is being rolled-out to other Divisions in the DMR and to the Traffic Corps (DMR) this week, and will be fully operational nationwide in September. I am pleased to say that the operation of the GISC has proved very successful to date. It is already making a major contribution to freeing-up Garda resources for front-line policing duties.

Question No. 201 answered with Question No. 199.

Garda Equipment.

202. **Mr. Kenny** asked the Minister for Justice, Equality and Law Reform if he will make a statement on the receipt of tenders on 21 June 2006 for the supply of 11,000 anti stab ballistic vests; and when he expects an order to be placed for same. [25225/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): An RFT for the supply of an additional 11,000 Anti Stab Ballistics Vests (and without prejudice or commitment to purchase a further quantity of no more than 4,000 over the duration of the contract) was published in the EU Journal and the Government's tendering website on 8th May, 2006 with a closing date for receipt of tenders of 21st June, 2006. A total of eleven companies submitted tenders which are currently being evaluated. It is anticipated that the order for the supply of these vests will be placed in early August 2006.

These lightweight and flexible vests will be worn generally as an outer garment but can be concealed under a jacket/coat and will be navy blue in colour. They will have to conform to the HOSDB HG1A/KR1 protection standards for ballistic and anti-stab resistance with an option to upgrade these vests to HG2/KR2 standard. The

estimated value of the contract is approximately €3m.

In addition to the above an RFT for the supply and delivery of 1,500 Ballistic Vests with anti-stab properties and without prejudice or commitment to purchase a further quantity of no more than 600 over the duration of the contract, was published in the EU Journal and the Government's tendering website on 6th April, 2006 with a closing date for receipt of tenders of 24th May, 2006. A total of 9 companies submitted valid tenders. These tender proposals are currently being evaluated by An Garda Síochána. The vests will have to conform to the HOSDB HG1/KR1+SP1 protection standards for ballistic and anti-stab resistance. It is anticipated that the order for the supply of these vests will be placed shortly. The estimated value of this contract is approximately €750,000.

Garda Deployment.

203. **Mr. Deasy** asked the Minister for Justice, Equality and Law Reform the number of Gardaí in Waterford Garda Station currently engaged in duties that could be undertaken by civilians. [25231/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have been informed by the Garda Commissioner that the personnel strength of An Garda Síochána increased to a record 12,641 (all ranks) on Thursday 8 June with the attestation of 273 new members. This compares with a total strength of 10,702 (all ranks) as at 30 June 1997 and represents an increase of 1,939 (or 18.1%) in the personnel strength of the Force during that period.

I have been further informed that there are currently four (4) Gardaí employed in administrative posts at Waterford Garda Station. Garda management state that the figure of 4 Gardaí is based on those personnel who are in receipt of either designated post or ex-gratia allowances and as such are employed on administrative duties. Of these 4 Gardaí, two members are in receipt of a designated post allowance and two members are in receipt of an ex-gratia allowance. The latter two members have opted for outdoor duty in the event that civilian personnel become available to fulfil the duties carried out by them.

While progress in relation to the appointment of additional Clerical Officers to Garda Stations has been stalled for some time now owing to the equal pay case taken by the Civil, Public and Services Union (CPSU), I am pleased to say that other elements of the Civilianisation Programme are continuing apace and are contributing to the freeing-up of Gardaí for front-line policing. I would refer the Deputy in particular, to the establishment of the Garda Information Service Centre (GISC) in Castlebar. Whereas previously

[Mr. McDowell.]

Gardaí had to return to their Stations following a crime event to enter data on PULSE, they now make a call to GISC, where civilian colleagues input the data for them, allowing officers to remain “on the beat”. This new system, which has already been rolled out in the South-East Region, including Waterford, is yielding enormous benefits for An Garda Síochána.

It is the responsibility of Garda management to allocate personnel to and within Divisions on a priority basis in accordance with the requirements of different areas. These personnel allocations are determined by a number of factors including demographics, crime trends, administrative functions and other operational policing needs. Such allocations are continually monitored and reviewed along with overall policing arrangements and operational strategy. This ensures that optimum use is made of Garda resources, and that the best possible service is provided to the public.

I should add that the current recruitment drive to increase the strength of the Garda Síochána to 14,000 members, in line with the commitment in the Agreed Programme for Government, is fully on target. This will lead to a combined strength, of both attested Gardaí and recruits in training, of 14,000 by the end of this year. The first group of newly attested Gardaí under this accelerated recruitment programme came on stream in March and the second such group did so on the 8th of June. Further tranches of approximately 275 newly attested Gardaí will follow every 90 days thereafter until the programme is complete. The Garda Commissioner will now be drawing up plans on how best to distribute and manage these additional resources, and in this context the needs of Waterford Garda Station will be given the fullest consideration.

Residency Permits.

204. **Mr. Kehoe** asked the Minister for Justice, Equality and Law Reform the status of a person (details supplied) in County Carlow who is here with their spouse who has a work permit until 27 April 2007. [25271/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I understand the Immigration Division of my Department has requested a report in the matter from the Garda National Immigration Bureau. On receipt of this report the immigration status of the person concerned will be further considered.

Garda Deployment.

205. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the number of Gardaí attached to Coolock Garda station; the population and the area covered by the station;

and the number of such Gardaí ordinarily on duty between 6 pm and midnight on Sundays.

[25287/06]

Minister for Justice, Equality and Law Reform

(Mr. McDowell): I have been informed by the Garda Commissioner that the personnel strength of An Garda Síochána increased to a record 12,641 (all ranks) on Thursday 8 June with the attestation of 273 new members. This compares with a total strength of 10,702 (all ranks) as at 30 June 1997 and represents an increase of 1,939 (or 18.1%) in the personnel strength of the Force during that period.

I have been further informed by the Garda authorities that the personnel strength of Coolock Garda Station as at 27 June, 2006 was 89 (all ranks). Garda special units designed to fight serious crime are also available to Garda management at Coolock Garda Station. The Garda Síochána employs a range of techniques in the fight against serious crime. The national bureau of criminal investigation is the Garda specialist unit tasked with the role of tackling organised crime and it carries out this role by conducting intelligence driven operations in close co-operation with other specialist units, specifically, the national criminal intelligence unit, the Garda national drugs unit, the Garda bureau of fraud investigation and the Criminal Assets Bureau. The population figure for the Coolock sub-district, as sourced from the CSO Census of Population of 2002 (the latest date for which such figures are currently available), was 47,918.

Garda management state that for security and operational reasons it is not Garda policy to disclose the number of personnel on duty in any given area at any specific time.

It is the responsibility of Garda management to allocate personnel to and within Divisions on a priority basis in accordance with the requirements of different areas. These personnel allocations are determined by a number of factors including demographics, crime trends, administrative functions and other operational policing needs. Such allocations are continually monitored and reviewed along with overall policing arrangements and operational strategy. This ensures that optimum use is made of Garda resources, and that the best possible service is provided to the public.

I should add that the current recruitment drive to increase the strength of the Garda Síochána to 14,000 members, in line with the commitment in the Agreed Programme for Government, is fully on target. This will lead to a combined strength, of both attested Gardaí and recruits in training, of 14,000 by the end of this year. The first group of newly attested Gardaí under this accelerated recruitment programme came on stream in March and the second such group did so on the 8th of June. Further tranches of approximately

275 newly attested Gardaí will follow every 90 days thereafter until the programme is complete. The Garda Commissioner will now be drawing up plans on how best to distribute and manage these additional resources, and in this context the needs of Coolock Garda Station will be given the fullest consideration.

Garda Operations.

206. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform if he will provide details of the investigation by a Garda superintendent from outside the relevant Garda district into the death of a person (details supplied) including issues that may have been raised; and if he will make a statement on the matter. [25288/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): A Detective Superintendent from outside the relevant Garda Division was appointed immediately after the incident to carry out a detailed investigation into all the circumstances surrounding the person in question’s arrest, detention and removal to hospital. The Garda authorities submitted the relevant file to the Director of Public Prosecutions on the matter and furnished a copy to me also. The Director issued instructions that no prosecution should ensue.

It is necessary for the proper functioning of the Garda Síochána that the contents of a criminal investigation file be kept confidential — not least on the basis that persons who have assisted have done so on the express or implied understanding that information which they have given will be used solely for the purposes of that investigation and no other purpose. In this instance the statements have been supplied to the Coroner for the purposes of an Inquest into the death which is ongoing at present.

I have already offered financial assistance to the person’s family to facilitate their legal representation at the Inquest. When the inquest has been completed and a verdict returned I will consider the matter further.

Proposed Legislation.

207. **Mr. J. O’Keeffe** asked the Minister for Justice, Equality and Law Reform the measures he has or intends to put in place to prevent the death of a person in Garda custody; and if he will make a statement on the matter. [25290/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The treatment of persons in custody in Garda stations is governed by the Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987. The objective of the Regulations is to ensure that members of the Garda Síochána

act with due respect for the personal rights of persons in custody and their dignity as human persons. The Regulations include provision for the assignment of a member of the Garda Síochána in each Garda station to be responsible for ensuring that the treatment of persons in custody is in accordance with the Regulations.

The responsibilities conferred by the Regulations on members include provisions which are designed to ensure the welfare of persons in custody who are drunk or under the influence of drugs (regulation 19), to protect persons from ill treatment (regulation 20) and to ensure that persons receive medical treatment from a doctor where necessary (regulation 21). Failure to comply with the Regulations on the part of a member of the Garda Síochána constitutes a breach of discipline.

On a prospective note, I will shortly publish new draft disciplinary regulations which will be less complex than those currently in place and will be swift and fair with a simple appeal process. Furthermore, the Ombudsman Commission will provide for a more robust and effective independent system for the investigation of cases involving death or serious harm. Under the Garda Síochána Act 2005 the Garda Commissioner is obliged to refer to the Ombudsman Commission any matter that appears to him to indicate that the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person. Even in the absence of a referral, the Ombudsman Commission itself is obliged, where it is of the view that such conduct may have occurred, to ensure an investigation.

As the Deputy will be aware, the members of the Garda Ombudsman Commission have been appointed and are expected to commence operations early in 2007.

Prison Suicides.

208. **Mr. Neville** asked the Minister for Justice, Equality and Law Reform the number of attempted suicides and deliberate self-harm in prison custody which were attributed to suicide for each of the years 2000 to 2004. [25317/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The statistical information sought by the Deputy is as follows:

Year	Reported Self-Injury by Prisoners
2000	73
2001	73
2002*	144
2003*	180
2004*	170

* Source — National Suicide Research Foundation.

[Mr. McDowell.]

The National Suicide Research Foundation (NSRF) established the National Parasuicide Registry in 2000 as a national monitoring system for the occurrence of parasuicide. The National Suicide Research Foundation define parasuicide as any non-fatal act which an individual deliberately undertakes knowing or believing that it may cause them physical harm or even death. It includes acts involving varying levels of suicidal intent including definite attempts at suicide and acts where the individual had no intention of dying.

The Irish Prison Service agreed with the Foundation in 2001 that the Registry should include prisons and places of detention in its statistics and the Foundation undertook to compile the statistics from records kept within each prison or place of detention. The Foundation has included a chapter on prisons and places of detention in their annual report for 2002, 2003 and 2004. The NSRF recorded 144 episodes of parasuicide in Prisons and Places of Detention in 2002. Based on the criteria applied by the NSRF the number of reported incidents for 2003 and 2004 was 180 (involving 100 individuals) and 170 (involving 121 individuals) respectively.

Crime Levels.

209. **Mr. Neville** asked the Minister for Justice, Equality and Law Reform the number of homicides registered in 2005 by gender. [25318/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The information requested by the Deputy is available in the 2005 Annual Report of An Garda Síochána, a copy of which is available in the Oireachtas library.

Crime Levels.

210. **Mr. Neville** asked the Minister for Justice, Equality and Law Reform the number of indictable crimes committed in 2005. [25319/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The figure for the number of headline offences in 2005 is available in the annual report of the Garda Síochána, a copy of which is available in the Oireachtas library.

Prison Suicides.

211. **Mr. Neville** asked the Minister for Justice, Equality and Law Reform the number of deaths in prison custody which were attributed to suicide for each of the years 2000 to 2004. [25320/06]

Minister for Justice, Equality and Law Reform (Mr. McDowell): All deaths in prison custody are the subject of an internal investigation, a Garda investigation and an inquiry by a Coroner. The cause of death is determined on foot of the Coroner's inquiry or by the jury on the basis of the

information presented to the Coroner's court, if a plenary inquest is held. The number of deaths in prison custody which are attributed to suicide are as follows:

Year	
2000	3
2001	1
2002	4
2003	2
2004	3*

*An Inquest stands open and adjourned in relation to one death in 2004. The apparent cause of death in this case would indicate that the death is likely to be attributed to suicide.

Schools Building Projects.

212. **Mr. Haughey** asked the Minister for Education and Science if permission to go to tender will be given for a project involving three schools (details supplied) in Dublin 5; and if she will make a statement on the matter. [25059/06]

Minister for Education and Science (Ms Hanafin): I am pleased to advise the Deputy that the extension and refurbishment project for the schools in question, was listed to proceed to tender and construction as part of the 2005 School Building and Modernisation Programme. The Department's Technical Unit is currently examining revised Stage 3 documentation submitted by the school and will be in contact with the school and their Design Team as soon as the examination is completed.

213. **Mr. N. O'Keeffe** asked the Minister for Education and Science the number of classrooms which will be included in a new school (details supplied) in County Cork; and the other facilities which will be provided. [25060/06]

Minister for Education and Science (Ms Hanafin): The long-term accommodation needs of the school referred to by the Deputy has been determined as 12 mainstream classrooms plus appropriate ancillary accommodation. The building project required to deliver the school accommodation is being considered in the context of the School Building and Modernisation Programme 2006-2010.

Special Educational Needs.

214. **Mr. Gogarty** asked the Minister for Education and Science the reason special education services are being denied to Youthreach; the plans she has to introduce such services; and if she will make a statement on the matter. [25100/06]

215. **Mr. Gogarty** asked the Minister for Education and Science if the non-provision of special education services to Youthreach is in breach of

Section 7.1 of the Education Act 1998; and if she will make a statement on the matter. [25101/06]

216. **Mr. Gogarty** asked the Minister for Education and Science the reason the National Council for Special Education is denying special needs services to Youthreach until the full implementation of the Education for Persons with Special Needs Act 2004. [25102/06]

Minister of State at the Department of Education and Science (Miss de Valera): I propose to take Questions Nos. 214 to 216, inclusive, together.

Youthreach provides two years' integrated education, training and work experience to young people aged 15-20 years who are at least six months in the labour market and who have left school early without any qualifications or vocational training. The programme provides a strong emphasis on personal development, on the core skills of literacy/numeracy, communications and IT.

It is my Department's policy to seek to encourage and facilitate the participation of people with disabilities on programmes offered in the Further Education Sector. Generally, issues of access for individuals to Further Education Programmes are addressed at local level. Where a student with special needs is admitted to a Youthreach centre, educational supports, equipment and training, as appropriate, are provided in the centre in accordance with the learning aims and objectives of the programme.

Currently my Department has provided €500,000 for a national programme for staff training. This training will allow staff, as a team, to identify and respond to the special needs of their learners on an individual basis. The focus of this training is on individual assessment, programme planning, student mentoring and interagency work. This interagency work involves collaboration between centres, other statutory agencies and community based services, eg. The Health Service Executive, Probation Service, Addiction Services etc.

In 2005 special grants of €1.5 million were provided by my Department to Vocational Education Committees to upgrade services through the purchase of equipment and materials, or refurbishment or minor structural works or materials to enhance the provision for students with disabilities. With effect from 1 January 2005 the National Council for Special Education (NCSE) took over key functions from my Department in relation to special educational provision. The NCSE was formally established as an independent statutory body on 1 October 2005 and acts under the broad policy direction of my Department. The Council does not at present provide a service to students with special needs in Youthreach centres but it is expected that such a service will be available when all the provisions

of the Education for Persons with Special Educational Needs Act, 2004, are fully implemented.

The special needs of learners attending Youthreach centres are under active consideration at present.

Youth Services.

217. **Mr. Gogarty** asked the Minister for Education and Science the funding provided to Youthreach on a yearly basis over the term of this Government to date; the number of people employed on a yearly basis; the number of people trained on a yearly basis; and if she will make a statement on the matter. [25103/06]

Minister of State at the Department of Education and Science (Miss de Valera): Youthreach provides two years integrated education, training and work experience to young people aged 15-20 years who are at least six months in the labour market and who have left school early without any qualifications or vocational training. The programme provides a strong emphasis on personal development, on the core skills of literacy/numeracy, communications and IT. The information on staffing in Youthreach centres is not maintained centrally in my Department as staffing of Youthreach centres is a matter for Vocational Education Committees.

Funding for Youthreach and the approved number of trainee places on the programme in each of the last four years is as follows:

Year	Expenditure Approved	Trainee Places
	€	
2002	36,939,315	3,258
2003	38,024,023	3,258
2004	44,645,204	3,258
2005	45,334,433	3,282

Schools Building Projects.

218. **Mr. Gogarty** asked the Minister for Education and Science if her attention has been drawn to the accommodation problems being experienced by students and teachers at a school (details supplied) in Dublin 22; the action her Department will take to overcome the obstacles that exist in relation to discussions between landowners and the Office of Public Works over the past five years; the actions her Department will take to remedy the situation; and if she will make a statement on the matter. [25104/06]

Minister for Education and Science (Ms Hanafin): My Department has acknowledged the need for a permanent solution to meet the long-term accommodation needs of the school referred to by the Deputy. The school is currently occupy-

[Ms Hanafin.]

ing rented accommodation which is being grant aided at the rate of 95% by my Department.

Officials are actively looking at proposals regarding an alternative site for the school. However, due to commercial sensitivities surrounding site acquisitions, the Deputy will appreciate that I am unable to comment on specific site purchase issues.

School Enrolments.

219. **Mr. Gogarty** asked the Minister for Education and Science the number of places available at a school (details supplied) in Dublin 20 for September 2006; if there is spare capacity at this school; and if she will make a statement on the matter. [25105/06]

Minister for Education and Science (Ms Hanafin): In September 2005, 397 students were enrolled at the school referred to by the Deputy. This figure represents an overall decrease of 20% over the last five years. This would indicate that there is spare capacity at this school. In addition, my Department is not in receipt of a request for additional accommodation from the school authority.

220. **Mr. Gogarty** asked the Minister for Education and Science the number of places available at a school (details supplied) in County Kildare for September 2006; if there is spare capacity at this school; and if she will make a statement on the matter. [25106/06]

Minister for Education and Science (Ms Hanafin): In September 2005, 587 students were enrolled at the school referred to by the Deputy. This figure represents an overall decrease of 14% over the last five years. This would indicate that there is spare capacity at the school. In addition, my Department is not in receipt of a request for additional accommodation from the school authority.

221. **Mr. Gogarty** asked the Minister for Education and Science the number of places available at a school (details supplied) in County Dublin for September 2006; if there is spare capacity at this school; and if she will make a statement on the matter. [25107/06]

Minister for Education and Science (Ms Hanafin): In September 2005, 514 students were enrolled at the school referred to by the Deputy. This figure represents an overall decrease of 4% over the last five years. My Department recently completed an extension at the school to cater for a long-term projected enrolment of 725 pupils. I am satisfied that this development together with spare capacity in other schools in the general area will be sufficient to meet the needs presenting for the foreseeable future.

222. **Mr. Gogarty** asked the Minister for Education and Science the number of places available at a school (details supplied) in County Dublin for September 2006; if there is spare capacity at this school; and if she will make a statement on the matter. [25108/06]

Minister for Education and Science (Ms Hanafin): In September 2005, 805 students were enrolled at the school referred to by the Deputy. Enrolments have been stable at this school for the last five years. A refurbishment project for the school is in architectural planning. Progress on the project is being considered in the context of the School Building and Modernisation Programme from 2006 onwards.

223. **Mr. Gogarty** asked the Minister for Education and Science the number of places available at a school (details supplied) in County Dublin for September 2006; if there is spare capacity at this school. [25109/06]

Minister for Education and Science (Ms Hanafin): In September 2005, the enrolment at the school referred to by the Deputy was 235 pupils. However, my Department recently completed a new school building which will cater for a long term projected enrolment of 600 pupils. Therefore, I am satisfied that there is considerable spare capacity at this school which I expect to be used as output increases from developing feeder schools.

224. **Mr. Gogarty** asked the Minister for Education and Science the number of places available at a school (details supplied) in Dublin 22 for September 2006; if there is spare capacity at this school; and if she will make a statement on the matter. [25110/06]

Minister for Education and Science (Ms Hanafin): In September 2005, 355 students were enrolled at the school referred to by the Deputy. This figure represents an overall decrease of 15% over the last five years. This would indicate that there is spare capacity at this school. In addition, my Department is not in receipt of a request for additional accommodation from the school authority.

225. **Mr. Gogarty** asked the Minister for Education and Science the number of places available at a school (details supplied) in County Dublin for September 2006; if there is spare capacity at this school; and if she will make a statement on the matter. [25111/06]

Minister for Education and Science (Ms Hanafin): In September 2005, 822 students were enrolled at the school referred to by the Deputy. Enrolments have been stable at this school for the last five years. An application from the school for specialist rooms and some increased capacity

is awaited. In the meantime, I am satisfied that, with the extent of the availability of places in other schools in the area, there is sufficient accommodation overall to meet the current need presenting.

School Closures.

226. **Mr. Sargent** asked the Minister for Education and Science if she will report on the future of a school (details supplied) in Dublin 13; if she will ensure plans for the closure of this community school are reversed; and if she will make a statement on the matter. [25112/06]

Minister for Education and Science (Ms Hanafin): A decision was taken by the Trustees of the school to which the Deputy refers that it will close in June 2007. This decision was taken because, in line with demographic changes in the area, the school has experienced a steady decline in enrolments in recent years. Current enrolments in feeder primary schools indicate that this decline will continue. In fact, a general decline in enrolments in the area where the school is located has resulted in spare capacity of an estimated 2,300 places at post primary level. Coupled with the decline in enrolments, my Department was also concerned about the ability of the school in question to offer a broad and balanced curriculum given the relatively small number of pupils enrolled. In all of the circumstances, my Department concurred with the Trustees decision to close the school and there are no plans to reverse this decision.

When it closes, ownership of the school property, which is currently vested in the trustees, will revert to my Department. In the period leading up to the closure, my Department will consider all available options with regard to its future use.

Disadvantaged Status.

227. **Mr. Ring** asked the Minister for Education and Science if a school (details supplied) in County Mayo will be included in Delivering Equality of Opportunity in Schools on consideration of their review application; if the review has been carried out on this school; if so, the way in which it was carried out and by whom; the outcome of the review for this school; and if she will make a statement on the matter. [25190/06]

Minister for Education and Science (Ms Hanafin): DEIS (Delivering Equality of Opportunity in Schools), the action plan for educational inclusion, provides for a standardised system for identifying levels of disadvantage and a new integrated School Support Programme (SSP). The School Support Programme will bring together, and build upon, a number of existing interventions in schools with a concentrated level of disadvantage.

The process of identifying primary and second-level schools for participation in the SSP was managed by the Educational Research Centre (ERC) on behalf of my Department and supported by quality assurance work co-ordinated through the Department's regional offices and the Inspectorate. As a result of the identification process, 840 schools were invited to participate in the SSP. These comprised 640 primary schools (320 urban/town schools and 320 rural schools) and 200 second-level schools. I am delighted to say that 833 of the schools invited to join the new programme accepted the invitation.

Schools that did not qualify for the new programme will keep the extra resources they are getting under existing schemes for the 2006/07 school year and after that they will continue to get support in line with the level of disadvantage among their pupils.

A review mechanism has been put in place to address the concerns of schools that did not qualify for inclusion in the School Support Programme but regard themselves as having a level of disadvantage which is of a scale sufficient to warrant their inclusion in the programme. The review process will operate under the direction of an independent person, charged with ensuring that all relevant identification processes and procedures were properly followed in the case of schools applying for a review. The school referred to by the Deputy has submitted a review application.

The review process is currently underway and it is intended that the review process will be completed by the end of the current school year.

Site Acquisitions.

228. **Ms O'Sullivan** asked the Minister for Education and Science the progress which has been made in providing a permanent school for a school (details supplied) which is in temporary premises since 1994; and if she will make a statement on the matter. [25221/06]

Minister for Education and Science (Ms Hanafin): The Property Management Section of the Office of Public Works, which purchases sites for new schools, was requested by my Department to explore the possibility of acquiring a site for the school to which the Deputy refers. Following an advertisement placed by the OPW seeking possible site proposals, a number of responses were received. Six sites were visited and their technical suitability as a location for the school was considered. The preferred location for the new school is a 3 acre site on the existing Tipperary Rural and Business Institute (TRBDI) site. The site is in the ownership of TRBDI. However, the TRBDI has proposed to my Department that its campus in Clonmel be relocated to a large-scale technology park. Approval to this proposal is conditional on, inter

[Ms Hanafin.]

alia, the Institute assisting my Department in the matter of the provision of a site for the school.

Expressions of Interest have been sought by TRBDI from private sector property developers to determine what exactly could be provided at the technology park in exchange for the Institute's current property in Clonmel. The Expressions of Interest sought required the incorporation of a suitable site for the school in question on the current campus or on an alternative site approved by my Department and the Office of Public Works. The Expressions of Interest received by TRBDI are currently being evaluated.

I want to assure the Deputy that the permanent accommodation needs of this school are being addressed and the provision of a permanent building for the school will be progressed in the context of the School Buildings and Modernisation Programme when a suitable site has been acquired.

School Accommodation.

229. **Mr. Crowe** asked the Minister for Education and Science if her attention has been drawn to the situation in a school (details supplied) in Dublin 24; her views on whether parents are entitled to send their children to the school in their catchment area; and if so, if she will release the funding required for two prefab classrooms for the start of the new school year in September 2006. [25281/06]

Minister for Education and Science (Ms Hanafin): The school to which the Deputy refers made an application to my Department for additional accommodation for September 2006. However, this application was refused on the basis that my Department is satisfied that there is considerable spare capacity in neighbouring schools. My Department's main responsibility is to ensure that schools in an area can, between them, cater for all pupils seeking school places. While, this may result in pupils not obtaining a place in the school of their first choice, this approach ensures that the use of existing accommodation is maximised and that the development and support of one school over others does not occur.

School Enrolments.

230. **Mr. Durkan** asked the Minister for Education and Science when school placement will be offered to a person (details supplied) in County Kildare; and if she will make a statement on the matter. [25314/06]

Minister for Education and Science (Ms Hanafin): Enrolment decisions are the responsibility of the Board of Management of each individual school. My Department has no role in

relation to processing applications for enrolment by schools. Section 29 of the Education Act 1998, provides parents with an appeal process where a Board of Management of a school or a person acting on behalf of the Board refuses enrolment to a student. Where a school refuses to enrol a pupil, the school is obliged to inform parents of their right under Section 29 of Education Act 1998 to appeal that decision to the Secretary General of my Department. Where an appeal under Section 29 is upheld, the Secretary General of my Department may direct a school to enrol a pupil. The National Educational Welfare Board (NEWB) is the statutory agency which can assist parents who are experiencing difficulty in securing a school place for their child. The NEWB can be contacted at National Educational Welfare Board, National Headquarters, 16-22 Green Street, Dublin 7 or by telephone at 01-8738700.

Defence Forces Property.

231. **Mr. Kenny** asked the Minister for Defence the reason sufficient investment has not been made to have accommodation at the military barracks, Castlebar brought up to standard for the conduct of training camps; if he intends to allocate moneys in 2006; and if he will make a statement on the matter. [25220/06]

Minister for Defence (Mr. O'Dea): Castlebar Military Barracks is primarily a Reserve Defence Force facility that provides training facilities, office accommodation and storage facilities for Permanent Defence Force Cadre and Unit personnel of Units stationed in the Barracks. The estimated cost of the refurbishment works necessary to effect compliance with building, health and safety, and fire regulations in order to provide permanent accommodation and catering facilities for RDF summer camps raises significant value for money considerations. Therefore, there are no plans at present to carryout any major building or refurbishment works on the barracks. Minor works will continue to be carried out, as necessary, to facilitate personnel currently stationed in the Barracks. The military authorities have assured me that the Western Brigade has sufficient accommodation and training facilities to cater for RDF training camps in 2006.

Overseas Missions.

232. **Aengus Ó Snodaigh** asked the Minister for Defence the person who was in command of SFOR in Camp Butmir in January 2002. [25279/06]

233. **Aengus Ó Snodaigh** asked the Minister for Defence the protocol governing the responsibilities of soldiers participating in international missions such as SFOR who become aware of abuses by soldiers of their own or another nationality during their service on the mission including the

chain of command to whom it should be reported and detailing who would be responsible for investigating the abuse. [25280/06]

Minister for Defence (Mr. O’Dea): I propose to take Questions Nos. 232 and 233 together.

Between mid-1997 and January 2003, a Defence Forces military police contingent (of 50 personnel) served in the NATO-led Stabilisation Force in Bosnia and Herzegovina (SFOR), following Dáil Éireann approval in July 1997. The Irish contingent formed part of the International Military Police Company at SFOR Headquarters in Sarajevo. The Military Police contingent was withdrawn from SFOR in January 2003. A small number of Irish personnel remained in service at SFOR HQ during 2003, and twelve personnel continued to serve with the mission until December 2004, when it was replaced by an EU led Operation “Althea” or EUFOR.

Animal Welfare.

234. **Ms Burton** asked the Minister for the Environment, Heritage and Local Government the measures which are in place to regulate the keeping of exotic animals, their living conditions and methods of transport, in particular in relation to large circus animals; if there are plans to introduce new legislation in this area; and if he will make a statement on the matter. [25187/06]

Minister for the Environment, Heritage and Local Government (Mr. Roche): The Protection of Animals Acts, which are the responsibility of the Minister for Agriculture and Food, deal with issues of animal welfare. My Department is represented on an Interdepartmental Working Group on the Keeping of Exotic Species which was established by the Department of Agriculture and Food a number of years ago.

Building Regulations.

235. **Mr. G. Murphy** asked the Minister for the Environment, Heritage and Local Government the reason one of his building inspectors refused to give a floor area certificate for houses (details supplied) in County Cork due to his interpretation of building regulations; and if it is not the case that interpretation and enforcement of building regulations is the responsibility of the building regulation section of Cork County Council. [25056/06]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): Floor Area Compliance Certificates are issued where a house meets conditions and standards specified by my Department and, in particular, that the construction of the house is in compliance with the requirements of the building regulations. These conditions are set out in the FACC explanatory memorandum HA1. I understand, that in this particular case, certifi-

cates have issued in respect of over half of the properties concerned. The remainder of the certificates will issue on receipt of notification that outstanding necessary works have been completed.

Local Authority Grants.

236. **Ms Sexton** asked the Minister for the Environment, Heritage and Local Government if he will name the local authorities which insist on attaching claw-back provisions to disabled persons grants; the legal or statutory basis for such provisions; and if he will make a statement on the matter. [25098/06]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): The Housing (Disabled Persons and Essential Repairs Grant) Regulations 2001, which came into effect on 19 December 2001, govern the operation of the disabled persons and essential repairs grant schemes. The administration of the disabled persons grant scheme is delegated to local authorities within the framework laid down in these regulations, which as far as is practicable, is designed to give an appropriate degree of flexibility at local level.

The majority of local authorities have reviewed their schemes over recent years in order to streamline their operation and have introduced a variety of mechanisms to ensure that the available resources are targeted to those in most need. In a number of cases, this includes a claw-back mechanism whereby the grant advanced is secured by way of a charge on the property for a certain number of years. In the event of the property being sold or otherwise transferred within that period, a certain proportion of the grant advanced would fall to be repaid to the local authority. This is intended to ensure that works, which are grant aided, serve the needs of a disabled person for a certain specified minimum period of time.

While my Department is aware that a number of local authorities implement a claw-back mechanism, it does not have detailed definitive information on a countrywide basis. The issue of claw backs has been considered further in the context of the overall review of the disabled persons grant scheme which was recently finalised. Proposals for the future operation of the scheme are being prepared in my Department and I hope to be in a position to announce these shortly.

Air Pollution.

237. **Mr. Gogarty** asked the Minister for the Environment, Heritage and Local Government the agency which is responsible for monitoring the fumes and pollution arising from jets taking off over houses adjacent to aerodromes; the recourse a householder has if they believe that pollution levels are of a dangerous concentration;

[Mr. Gogarty.]

and if he will make a statement on the matter.
[25099/06]

Minister for the Environment, Heritage and Local Government (Mr. Roche): Under the Air Pollution Act 1987, primary responsibility for monitoring air quality, as well as the nature, extent and effects of emissions, is assigned to local authorities. Local authorities also have enforcement powers under the Act, including power to require measures to be taken to prevent or limit air pollution. Any person concerned about the effects of fumes or pollution from any source on the ambient air quality should raise the matter with the local authority concerned.

Local Authority Housing.

238. **Mr. M. Higgins** asked the Minister for the Environment, Heritage and Local Government if in relation to Parliamentary Question No. 437 of 13 June 2006, he will submit the information requested to be compiled. [25283/06]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): I wrote to the Deputy on 22 June 2006 setting out the information requested.

Waste Management.

239. **Mr. Perry** asked the Minister for the Environment, Heritage and Local Government the orders he will issue to Sligo County Council to address the issue of accumulated backlogs of farm plastics by operating on a pilot basis a free service in 2006 where farmers may deposit stockpiled farm plastics; if he will ensure that the necessary funding is ring-fenced for Sligo County Council for this service; and if he will make a statement on the matter. [25300/06]

Minister for the Environment, Heritage and Local Government (Mr. Roche): To address the issue of accumulated backlogs of farm plastic, designated facilities are being provided this year on a temporary basis by local authorities where farmers may deposit stockpiled farm film plastic and silage wrap. This is operating on a pilot basis in the first instance in Counties Galway, Clare, Mayo, Offaly and Waterford. It is planned to roll out this service to other areas after the initial trial, which will assist in determining the quantities of plastic likely to be recovered for recycling under this initiative. This service will be free to the farmer and funding to assist the local authorities will be made available from my Department through the Environment Fund. Collections have commenced in most pilot areas.