

SEANAD ÉIREANN

—
Dé Céadaoin, 4 Feabhra 2004.
Wednesday, 4 February 2004.
 —

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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Paidir.
Prayer.
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Business of Seanad.

An Cathaoirleach: I have received notice from Senator Morrissey that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for Transport to outline the mechanisms and procedures within his Department with regard to the issuing of licences for bus routes, both city and countrywide, and to state the number of licences under application and the length of time it is taking to deal with these applications.

I have also received notice from Senator Quinn of the following matter:

The need for the Minister for Justice, Equality and Law Reform to urgently appoint more judges to the High Court, in order to avoid the unnecessary high costs currently being imposed on parties to actions whose cases are postponed without any actual hearing taking place.

I have also received notice from Senator Finucane of the following matter:

The need for the Minister for Justice, Equality and Law Reform to outline the status of the new Garda station promised for Galbally in County Limerick and if it will include living accommodation.

I have also received notice from Senator Bannon of the following matter:

The need for the Minister for the Environment, Heritage and Local Government to explain why towns, which did not qualify under the original scheme, but urgently need incentives to survive, are not allowed to participate in the town renewal tax incentive scheme.

I have also received notice from Senator Feighan of the following matter:

The need for the Minister for Health and Children to intervene in relation to the

proposal to replace kitchen staff in the Plunkett nursing home in Boyle, County Roscommon, with outside caterers and if this proposal is part of a wider policy by the Department to close down such facilities.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Morrissey, Quinn and Finucane and they will be taken at the conclusion of business. Senators Bannon and Feighan may give notice on another day of the matters they wish to raise.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, An Bord Bia (Amendment) Bill 2003 — Committee Stage to be taken at the conclusion of the Order of Business and conclude not later than 12.15 p.m. If Members wish to take Report and Final Stages, and if there is time, that will be in order; No. 2, statements on the third interim report of the Commission to Inquire into Child Abuse to be taken at 12.15 p.m. and to conclude at 2 p.m., with the contributions of spokespersons not to exceed ten minutes and those of other Senators not to exceed eight minutes, and Members may share time; No. 3, Equality Bill 2004 — Order for Second Stage and Second Stage to be taken at 3 p.m. and to conclude at 5 p.m., with the contributions of spokespersons not to exceed 12 minutes and those of all other Senators not to exceed ten minutes, and Members may share time, the Minister to be called on to reply not later than five minutes before the conclusion of Second Stage; and No. 15, motion No. 21, in the name of the Independents, to be taken from 5 p.m. to 7 p.m. There will be a sos between 2 p.m. and 3 p.m.

Mr. B. Hayes: I welcome the inclusion of No. 2 on the Order Paper today and thank the Leader for organising a debate on the very damning report from Ms Justice Laffoy on the Government's handling of the whole child abuse saga. Is the Leader making provision at the end of the debate for a brief question and answer session where Members can put questions directly to the Minister in charge as happened in the other House yesterday evening? It would be useful if that could be organised. It is worth noting that we are spending a greater period today debating this matter than the other House did yesterday. A report so critical of the Government's handling of this entire issue should be debated fulsomely in the House. I ask that a question and answer session be included, if at all possible.

I want to raise with the Leader the issue of electronic voting. Before we go beyond the point of no return, it is very important that the Government, through the Minister for the Environment, Heritage and Local Government, makes a statement in this House today because, while many of us are in favour of the principle of electronic voting and want to see it introduced, it

[Mr. B. Hayes.]

is vital that there is cross-party confidence and support in the process. It is unbelievable that the Minister sponsoring the measure is himself director of elections for the main Government party in this year's local government elections. That is unacceptable — it would not happen in Bolivia or Haiti.

Mr. Lydon: The Senator should show some humility.

Mr. B. Hayes: The Minister has no difficulty with humility. I am sure he is well able to take it.

On 18 December last, the joint committee responsible for this matter met and a total of 42 questions were put to the Department of the Environment, Heritage and Local Government. To date, none of those questions has been answered by the Minister or his officials. It is very important that a free and fair voting procedure which we all respect is supported by all parties. I further point out to the Leader that in the United States of America following the fiasco of Florida in the last presidential election, all new voting machines must give a receipt to each voter. The paper trail, therefore, can be followed.

Many questions must be answered in this regard. It is important that the public and all parties in both Houses give it full support but that support cannot currently be given because the remaining questions have not been answered.

Mr. O'Toole: Last week, there was a perfect example of how badly the Department of Justice, Equality and Law Reform does its business and tries to interfere with the running of this House.

Mr. Norris: Hear, hear.

Mr. O'Toole: It is worthwhile that we should keep an eye on how it does its business. Members from all sides of the House — the wisdom is not just on this side — have raised on several occasions in recent weeks the issue of the huge level of crime. I have just checked the situation. Is the House aware that there have been 200 early releases from our prisons in the first two weeks of last month and of the impact that is having? There are 500 people at large. Apparently, the A wing of Mountjoy Prison has been re-opened despite being closed 18 months ago because it was substandard. A tin of paint or an ounce of Polyfilla has not been applied to it in the meantime; it has simply been re-opened. Prisoners are on mattresses in Castlerea. This is all because the Minister and his Department cannot sort out what is going on. Perhaps these issues relate to prisoners' rights and I will leave them to one side.

The man murdered last week in Fatima Mansions was let out after serving just four years of a ten year sentence. That is absolutely appalling, and that should be said by all sides. One of those involved in the alleged rape in

Ennis has been released from Limerick Prison to make space for the prisoners being taken from Spike Island. What is going on is appalling and we will pay a price for it with people being raped and murdered. This is all because the Department of Justice, Equality and Law Reform cannot do its business, run its operations or deal with industrial relations. It is time we told the Minister to come to the House to account for his Department and to tell us what exactly is going on in our prisons at present, how we can be sure that people are safe on the streets and the consequences and impact of his Department's inefficiency and incapacity to deal with the problems with which it is charged. It is an appalling situation and the Minister should come to the House to explain himself.

Mr. Ryan: I agree totally with Senator Brian Hayes's point regarding electronic voting systems. If Members opposite are interested, I will show them the websites where they can read reports on failures of the new electronic voting systems used in the United States since the last presidential election. There is documented evidence in this regard. Unless one knows nothing about computers, one knows they make mistakes. They are not perfect and can go wrong, and anybody who believes otherwise is living in cloud cuckoo land. Therefore, it is necessary to provide a back-up. If the Government is saying that it is not prepared to answer questions, the Opposition is entitled to ask why. It is profoundly dangerous to transform the system of elections when the Opposition has legitimate evidence and questions about the reliability of the system. At this stage I am not implying a sinister motive on the part of Government. The Minister is determined to do something, perhaps because it is cheaper or he wants to prove he is modern. The fundamental aspect is that people should trust elections. If something goes wrong in next June's elections, people will no longer trust the electoral system. There is no reason not to answer the questions and deal with the issues. The Minister is waving his hands and saying everyone thinks it is perfect. We have heard this from Departments about other issues when we were told everything was perfect. Landfills were perfect until people looked at the rest of Europe and they turned out to be appalling places. Departments are wrong as often as they are right and, therefore, we are entitled to answers to our questions.

The financial returns for January were published recently. People are being told there is no money for a dozen different things, yet we discover that the Government spent less money in some areas this January than it did the previous January. I would like the Minister to come to the House because we all know what is going on. A war chest is being stashed up which will be released in time for the elections. The Government is play-acting with the state of the public finances, something which should not be done.

Dr. Mansergh: There are elections this year.

Mr. Ryan: This is a case of running away from people. There was sufficient money saved in January to cover the 16 savage cuts in social welfare introduced by the Minister, Deputy Coughlan. Last January alone would have paid for them. An assault on the poor is being carried out to win an election.

I agree with Senator O'Toole about the prisons. It is an absolute disgrace that Fintan Lane was in jail for two months because he broke down a fence in Shannon while rapists and murderers are being released early. He was a political prisoner and this country should be ashamed of itself.

Mr. Kitt: Many Senators have questioned the use of technology and computers. I am raising this issue to try to ensure computers are retained in some of our post offices. The Leader was the Minister for Public Enterprise and she dealt with post offices in the past. I am concerned at the move nationally to take computers and automation out of post offices and reduce them to postal agencies. This will happen in Kiltormer near Ballinasloe this morning when An Post takes away computers. It is very unfair in an area where two sub-post offices have already closed down and 50 businesses use the post office that a change of ownership is being used as an excuse to take away this technology. This issue should be debated in the House and I would like to raise the matter on the Adjournment. An Post should not withdraw services from rural Ireland as is happening in many small towns throughout the country. It is using the excuse of a change of ownership to take away post office automation and computers.

Ms Terry: I condemn the remarks made by Deputy Noel Davern towards the end of last week about the little women in our Irish Parliament.

An Cathaoirleach: That is not a matter for this House. The two Houses are separate.

Ms Terry: It is an equality issue. It is very important in terms of the women of this House.

An Cathaoirleach: The Senator can raise the issue during a debate on equality issues.

Ms Terry: That is what it is.

An Cathaoirleach: The two Houses are separate. We have no function in advising—

Ms Terry: A member of one of the Government parties in these Houses made a comment that women were not fit to go to cities in Europe because it is not appropriate for them.

An Cathaoirleach: It is not a matter for this House.

Ms Terry: I respect the Cathaoirleach's guidance on the issue, but I am very unhappy—

An Cathaoirleach: This is not a matter for this House.

Ms Terry: —with comments made, such as that about the women of the two Houses.

An Cathaoirleach: It is not a matter for this House.

Dr. Mansergh: What about Deputy Jim O'Keeffe? Let us not be partisan.

Ms Terry: Deputy Davern went much further—

An Cathaoirleach: Order, please. I said this is not a matter for this House and I ask the Members to accept my ruling.

Ms Terry: I will.

There is a great need to replace the many social workers in the Eastern Health Board area who have either retired or left the profession through natural wastage. The lack of social workers is putting children at risk. When somebody makes a complaint that a child is at risk in its home, that child cannot be assessed for months and must continue to live in a dangerous environment. Despite everything we have heard about child abuse in the past week, we are continuing to allow children to be subjected to it because of the lack of social workers. This issue needs to be addressed by the appropriate Minister and I ask the Leader to ensure that it is.

Mr. Hanafin: I also share in the calls for a debate on electronic voting, but I would like to see balance in the debate. As with the electronic system, our current system is imperfect. Many of us are aware that a surplus may be distributed on the basis of a representative sample rather than counting all the number two votes. However, under the electronic system, this may not happen. I am not suggesting for one minute that we take the electronic system at face value without many checks and balances, but it would be worthwhile having a debate in order that all aspects could be discussed.

Mr. B. Hayes: Hear, hear.

Mr. Hanafin: I call for a debate on the National Treasury Management Agency, which will affect many of us. It was an excellent use of the bounty derived from the sale of Eircom. It is timely to have a discussion on the future funding and expenditure of this agency.

Mr. Norris: I support the comments of my colleague Senator O'Toole regarding the Minister for Justice, Equality and Law Reform. It seems that he has displayed to the House substantial arguments leading to the conclusion that his

[Mr. Norris.]

Department is liable to a fair degree of maladministration and inefficiency. In light of this, the Department would be of far more use to the taxpayer if it directed its attention towards running its own affairs instead of attempting to run Seanad Éireann, as it did last week. This is not its business and is quite undemocratic.

Will the Leader confirm that there is no legislation in Ireland governing the acquisition and keeping of exotic pets, such as pumas, lions, alligators and snakes? In this regard, an event occurred in Northern Ireland that became quite serious — a puma escaped and caused danger to livestock and human beings. Legislation in this area should also cover exotic birds. It is very important that we have this legislation, particularly in light of the avian flu and the possible pandemic that may arise. If we find we have no legislation to control the import of birds that may be carriers of the virus, we could be in trouble. It would be responsible behaviour on the part of this House to look into what may at first sight seem rather amusing and extraordinary, but it does have repercussions for the ordinary citizen. Am I correct in assuming that the Republic and Northern Ireland have no legislation to address this matter? England has such legislation. In light of circumstances that have arisen, it is appropriate to consider its introduction.

Mr. Glynn: I support Senator Terry's call for additional social workers, the lack of whom is causing difficulties. Not so long ago, the Midland Health Board had great difficulty in recruiting social workers. There is a very strong case to suggest that career guidance teachers should encourage boys and girls at second level to take up social work as a career. Social workers play a pivotal role in the process of adoption. The Midland Health Board had to go to South Africa to recruit social workers because they were unavailable in Ireland. There is a great difficulty which should be addressed.

Mr. Bannon: I support my colleague, Senator Brian Hayes, and others who raised the issue of electronic voting. The Minister needs to make a statement on this because he has ignored expert advice. There is great concern among the public and in local authorities following demonstrations to officials. It is important we address this matter before it is too late.

I call on the Minister for Health and Children to come to the House to debate the issue of deteriorating health services. I want independent inquiries into the circumstances surrounding the deaths of two children, one in my county and the other in the neighbouring County Cavan, over the weekend. It is wrong that health boards are investigating themselves. We need independent inquiries into the circumstances and the findings of those inquiries should be debated in the

Houses of the Oireachtas with a view to bringing about improvements in the health service.

The health service is in crisis. Yesterday we heard that 200 people throughout the country were awaiting hospital beds. There is a crisis in every accident and emergency unit. I have met doctors and nurses who are retiring from the health service because of stress. There is currently a national emergency that must be addressed by the Government, which has shamelessly let down the people on this issue.

Ms O'Meara: I too support calls on the Minister for the Environment, Heritage and Local Government to immediately call a halt to his current plans regarding electronic voting. I understand he will launch the system this morning. I supported the idea of electronic voting in principle, but I am greatly concerned now, based on what I have read and heard. Those concerns are shared by the public. We are facing an election in a few months' time in which people do not have full trust in the system they are being asked to use. It is up to the Government to correct that situation. It is not good enough. I accept Senator Hanafin's view that there may be glitches in the current system. However, the fact remains that people must have trust in a system that is transparent and open. Given that there is cross-party concern about this issue, I ask the Leader of the House to ask the Minister to take our views on board and to take them seriously.

I ask the Leader of the House to organise a debate on the issue of the care of the elderly. In light of the remarks of the Tánaiste, Deputy Harney, on this matter, it is very important that we clarify policy on this issue. I have long been of the view that it is time to call a spade a spade when it comes to current Government policy on the care of the elderly, which is to privatise such care and make it extremely expensive. We have reached a stage where many people cannot afford to have their relatives cared for.

I ask the Leader to give her view on the comments of her colleague, Deputy Davern——

An Cathaoirleach: That is not in order. I have ruled that out of order.

Ms O'Meara: ——on the ability or otherwise of women to take their place at the Council of Europe. Deputy Davern's remarks were more like——

An Cathaoirleach: I call Senator Dooley.

Mr. Dooley: Will the Leader try to arrange, at the earliest possible date, for the Minister for Transport to come to the House to debate the implications of yesterday's ruling by the European Commission? There is much confusion in the mid-west and in County Clare in particular regarding Shannon Airport. There is much concern as to the implications of this ruling for the airport and for regional publicly controlled

airports as opposed to private airports in other parts of the country. There is confusion because the industry does not seem to have responded in a uniform way. Ryanair seems to think it will have dreadful consequences whereas companies such as easyJet think the opposite. We are somewhat confused. We would like some clarity and direction from the Minister at the earliest possible date.

Mr. Coghlan: I too look forward to hearing the Leader on the question of electronic voting and call on the Minister for the Environment, Heritage and Local Government to allay all reasonable fears. As has been said, all legitimate questions do not appear to have been answered on this subject to people's satisfaction. Concerned citizens do not appear to be satisfied beyond all reasonable doubt that the matter is in order. The biggest fear relates to the fact that there will be a total absence of a paper trail. I look forward to hearing the Leader and the Minister because trust and confidence—

An Cathaoirleach: We will not have a debate on that matter now.

Mr. Coghlan: I appreciate that we will not have a debate now. Trust and confidence are vital. If the public who are the voters do not have trust and confidence, then I suggest we have a crisis on our hands.

Mr. Wilson: Regarding what Senator Bannon said about the Department of Health and Children, I would like to take the opportunity to put the views of the people of County Cavan regarding their hospital. The matter has been bandied about in the national media in recent days. The people of County Cavan are proud of their hospital and its staff. Recent events are a cause of genuine concern to many. I would like to extend my deepest sympathy to the Sheridan family—

An Cathaoirleach: That is not entirely appropriate to the Order of Business.

Mr. Wilson: —of Cootehill, County Cavan on the death of their daughter, Frances. I am also confident that the Minister, his Department and the health board will work well to resolve the current concerns about the hospital.

An Cathaoirleach: We cannot debate that now.

Mr. Browne: I ask the Leader that if the Minister for the Environment, Heritage and Local Government is coming to the House, his attention be drawn to the fact that the management of U2 intends to invoke a rarely used provision in the Planning and Development Act 2000 whereby taxpayers will pay for their failed appeal to An Bord Pleanála on the

compulsory purchase of their studio at Hanover Quay. That is somewhat rich for the group concerned. It is an abuse of power. Considering residents' associations must pay their own bills, it would be outrageous if that happened and I hope it does not. I hope the Leader agrees with me on that.

Ms O'Rourke: Senator Brian Hayes, Leader of the Opposition, asked whether there could be a question and answer session at the end of the debate on the report of the Laffoy Commission. I will have to make inquiries about that, because the difficulty is I do not know what Minister is coming to the House. The Minister for Education and Science, Deputy Dempsey, is attending Committee Stage of the Education for Persons with Disabilities Bill 2003 today. However, I will make inquiries. I understand such a session did take place in the Dáil.

Senator Hayes commented that the Minister for the Environment, Heritage and Local Government is in charge of electronic voting and will also be director of elections for Fianna Fáil. We are delighted he is director of elections as he will make a good campaign manager. He is also in charge of voting matters. I understand electronic voting was debated and demonstrated at the Joint Committee on the Environment and Local Government. I presume there are Senators on that committee and that they attended the demonstration and debate. I accept that difficulties still remain as well as loss of confidence regarding it. It is being launched in the Mansion House this morning at 11.15 a.m. We would like to hear an account of the demonstration and their views on it from Members of this Chamber who are on the Joint Committee on the Environment and Local Government. It would be a good idea to invite the Minister for the Environment to address the House and I will request this. Many people in my constituency have spoken to me on the subject over the last two weeks. It may be that they are nervous about it. Research shows that far from older people being nonplussed about electronic voting, the opposite is the case. They are quite *au fait* with the prospect and feel they can manage it. Anyway, we will invite the Minister to address the House. On the paper trail, a receipt for one's vote as it goes through the system would reassure people.

On crime, Senator O'Toole mentioned there were 200 early releases. The most notorious of them are reoffending more or less immediately. That in itself sounds a cautionary note against early prison releases. The Senator asked for a general debate on crime and the prisons. We have that on the agenda. It is a question of when the Minister is available.

Mr. Ryan: The Minister can get here quickly enough when he wants to.

Ms O'Rourke: I agree with the Senator that there are legitimate questions to be asked on the subject of electronic voting. Are the Members on the Joint Committee on the Environment and Local Government in the House?

Senator Ryan spoke about the financial returns at the end of January and intimated there was a good deal of money about. I do not know if that is true. The elections take place this year, so it is not a matter of having money to splash around because the budgets are set. He also asked that social welfare cuts be redeemed—

Mr. Ryan: I asked that they be reversed.

Ms O'Rourke: Sorry, that they be reversed — redeemed is a good word too. He also asked for a debate on the early release of prisoners.

Senator Kitt asked about Kiltormer where the computers are being taken away instead of being brought in. It sounds an exotic situation, to use the word Senator Norris used earlier. I will inquire about it this morning. Senator Terry condemned remarks about “little women” in the Irish Parliament and said it was an equality issue. The remarks were made by two people, Deputies Davern and Jim O’Keeffe. That matter could be discussed when we debate the Equality Bill 2004 later today. It was suggested that women could not go to airports, but I do not know what happens to women at airports; nothing ever happened to me.

An Cathaoirleach: The matter can be discussed during the debate on the Equality Bill.

Ms O'Rourke: I never had an adventure at an airport.

An Cathaoirleach: That matter has been ruled out of order.

Mr. Norris: The Leader should try Schiphol.

Mr. B. Hayes: She should not try Charleroi.

An Cathaoirleach: Please allow the Leader to reply on the Order of Business.

Ms O'Rourke: I have had many adventures in my life, none of which occurred at an airport.

I understand the point made about social worker numbers in the eastern region. It is important that young, vulnerable children are individually assessed and can meet with a social worker to whom they can relate.

Senator Hanafin asked for a debate on the National Treasury Management Agency, which I will arrange. Senator Norris raised matters relating to the Department of Justice, Equality and Law Reform, prisons and crime. He also asked if legislation exists regarding exotic pets and birds. I will inquire about that matter for the Senator.

Senator Glynn spoke about the recruitment of social workers and suggested that career guidance

teachers should provide advice to and influence young people to take up those positions. It is interesting that the OECD report rated us tops in Europe for career guidance. That is good news. We have a former career guidance teacher in our midst.

Ms Ormonde: Thank you.

Ms O'Rourke: Senator Bannon raised his concerns about electronic voting and asked that there be an inquiry into the deaths of the two young children. Senator O’Meara also asked about electronic voting and called for a debate on care of the elderly. The Tanáiste did us a service bringing up that topic.

On the earlier point of remarks made about women by two gentlemen in particular, I consider those remarks offending.

Mr. McCarthy: What is the name of the other person?

Mr. Bannon: Was it Albert?

An Cathaoirleach: Order, please.

Ms O'Rourke: Senator Dooley asked for a debate on the effect of the EU ruling on regional airports. He also said Ryanair takes a different view of the matter than easyJet. I am sure it does. EasyJet is delighted with the news because it appears it will now get some of the action.

An Cathaoirleach: Order, please.

Ms O'Rourke: I did not mention a name. Senator Coghlan also called for a debate on electronic voting and expressed his concerns about the absence of a paper trail. Senator Wilson, quite rightly, spoke of how proud people in County Cavan are of their hospital and its staff and wished to pass on his sympathy to the Sheridan family on the sad death of their daughter.

Senator Browne raised the matter of U2’s exploitation of a loophole in a planning Act to escape paying moneys due on its studio at Hanover Quay. I will inquire about that matter from the Minister for the Environment, Heritage and Local Government, Deputy Cullen.

Order of Business agreed to.

An Bord Bia (Amendment) Bill 2003: Committee Stage.

Sections 1 to 13, inclusive, agreed to.

SECTION 14.

Mr. McCarthy: I move amendment No. 1:

In page 8, line 9, to delete “2001” and substitute “2003”.

This is a technical amendment. The year 2001 concludes the collective citation and this should be updated to 2003.

Minister for Agriculture and Food (Mr. Joe Walsh): This worthwhile amendment to the collective citation of the Companies Acts is, in principle, acceptable following the enactment of the Companies (Auditing and Accounting) Bill 2003. I propose to make this amendment, along with a number of others, on Committee Stage in the Dáil. I give an undertaking that I accept the amendment and will make it on Committee Stage in the Dáil. The Bill will go to the Dáil and will be returned to the Seanad. I will make the amendment in the Dáil for technical reasons.

Mr. Quinn: The Minister accepted the amendment and then he did not accept it. I raise this from the point of view of the Seanad itself. I always get a little upset when a Minister says he accepts an amendment but will make it in the Dáil. The reason we have Second Stage, Committee Stage and Report Stage is to do exactly that. I am expressing disappointment on behalf of my colleagues who detected this flaw and drew it to the Minister's attention. He graciously accepted the amendment but said he would make it in the Dáil instead. I am disappointed this has not been done in the Seanad.

Mr. McCarthy: I agree with Senator Quinn. There is a good reason for the format used to process legislation in the House. It is salient to raise the issue in terms of the purpose of Committee Stage. However, I accept the Minister's comments and, on the basis that he is committed to making the amendment on Committee Stage in the Dáil, I will withdraw it.

Amendment, by leave, withdrawn.

Section 14 agreed to.

Sections 15 to 17, inclusive, agreed to.

SECTION 18.

An Cathaoirleach: Amendment No. 4 is related to amendment No. 2 and both may be taken together by agreement.

Mr. Coonan: I move amendment No. 2:

In page 9, paragraph (a), line 3, to delete "2" and substitute "one".

I tabled this amendment because I am concerned that horticulturalists may not be represented on the board. For example, somebody with experience of the food industry or a giant in the food industry could represent them on the board. If amendment No. 2 is accepted, section (14)(a) will state not less than one of the persons appointed to be an ordinary

member shall be a person who is a practising horticulturalist.

It is essential this happens because we have seen the difficulties that have arisen with Teagasc. The unwritten policy within Europe seems to be to do away with all the smaller producers, if possible, because it is easier to handle the major producers. It is vital that a person who is a practising horticulturalist is appointed to the board.

Mr. Quinn: I am not sure that I understand Senator Coonan's point. I understood that he wanted to increase the number of board members who are practising horticulturalists.

My point is that there is a grammatical error in the new paragraph 3A. I think I am correct in saying that the word "less" refers to bulk and the word "fewer" should refer to numbers. Therefore, it is grammatically incorrect to say "not less than 2 of the persons". It should say "not fewer than 2 of the persons".

I do not understand the gist of Senator Coonan's point. I am happy that not fewer than two of the persons appointed to be ordinary members of the board shall be persons who have knowledge or experience of horticulture, rather than one. I accept that this amendment will not be accepted until Report Stage, but I suggest that the term should be "fewer" rather than "less".

Mr. Dardis: I apologise for the fact that I could not contribute on Second Stage. I had serious concerns that horticulture might not be adequately represented and I was disappointed at the loss of An Bord Glas to Bord Bia. However, I can understand why it should happen.

Amendment No. 4 appears to contradict amendment No. 2. If adopted, the section would have to state that the provision is subject to 3A. In other words, one of the two board members would have to be a practising horticulturalist. I believe that section 18(a), which speaks of people having a knowledge or experience of horticulture, covers Senator Coonan's point. It does not matter whether a person is a practitioner within the industry, although that would be desirable, or an academic from one of the universities, provided the sector is adequately represented.

Horticulture is an important sector. I note from the report on the amenity profile which was prepared by An Bord Glas that the farm gate value of the food and amenity sectors is €406 million. The amenity sector is very important in my county and that was the origin of my reservation regarding the absorption of An Bord Glas into Bord Bia. Since it is not dealing with food, it is a slightly different area, albeit within horticulture. However, the provisions of the Bill meet my reservations about the absorption of An Bord Glas and I do not see the need for the amendment, given that the Bill specifies that two board members must have knowledge or experience of horticulture. In any event, section 19 makes provision for a subsidiary board which

[Mr. Dardis.]
will deal with horticulture. People will be adequately represented on that board.

Mr. Coonan: The Bill states that the member shall have knowledge or experience of the food industry or horticulture. If that provision was put into practice, it would mean that the member might merely be in the food industry. It is possible, under the terms of the Bill, that no one from the horticulture sector would be on the board. I am seeking to ensure that a person from the horticulture sector will be a member of the board and that the sector's voice will be heard. It is vitally important for the industry. This is a niche industry involved in a very specific area of production. It is vital that the Bill provides for representation from that group.

Mr. Dardis: It does.

Mr. Coonan: I am insisting that the sector is adequately represented. Under the terms of the Bill it is possible that it will not be adequately represented. A member from the food industry could be someone from a major processing plant which has nothing to do with horticulture.

Mr. McCarthy: It is my understanding of section 18 that it provides precisely what Senator Coonan is seeking. I understand the general point he is making, but not in the context of this section. The subsection to be inserted will read:

(3A) Not less than 2 of the persons appointed to be ordinary members shall be persons having knowledge or experience of horticulture.

Senator Coonan's proposal in amendment No. 4 is enshrined in the Bill, as it stands.

Mr. Dardis: Yes.

Mr. McCarthy: I say this in order to be constructive.

Mr. Quinn: The difference between the amendment and what is contained in the section relates to the word "practising". Senator Coonan's amendment refers to a "practising horticulturist", whereas the section refers to "persons having knowledge or experience of horticulture". I am quite happy with the Bill as it stands and I do not believe there is a need for the amendment. I understand the Senator wishing to insert the term "practising" but I would be satisfied with the use of the term "persons having knowledge or experience of horticulture". However, I still believe that the term "fewer" is more apt than that of "less".

Mr. Joe Walsh: It is considered that the use of the "not less than 2" formula is reasonable,

proportionate and gives a good weighting to horticulture. On foot of this formula, it will be open to the Minister of the day to appoint three or four people with knowledge or experience of horticulture to the main board. However, there will be not less than two with such knowledge or experience.

It would be extremely restrictive to use the word "practising" because we are discussing a promotion and marketing board. There could be someone with a good deal of experience of marketing and promoting the national and international profile of the industry who would be suitable to serve on the board. The position is similar to that which exists in respect of the establishment of panels of persons for election to the Seanad. In that context, knowledge or experience in a particular area plays a major part. Knowledge and experience widens the scope of different disciplines within a particular industry. In this instance, knowledge and experience are what we are seeking. We want to ensure the remit covers people with wide experience and not just those who are practitioners. However, the latter will also be included. For example, there is an amenity horticulturist in Kildare who is already a member of An Bord Glas. Practitioners make a tremendous contribution to the board. We are serious about the industry, food, horticulture and the capabilities of the people who will be appointed. I, therefore, cannot accept the amendment as proposed.

Senator Quinn raised an interesting issue about the use of the term "not less". If the term was input into a computer, a red line would probably appear underneath it because that is what happens when there is a misspelling or when a word is used incorrectly. Language has moved on and I am sometimes surprised by the language we hear on national radio and television. This language is sometimes referred to as being "mid-Atlantic" in nature. I was not taught that kind of English when I attended primary school in west Cork. In any event, the point about the term "not less" is moot. We brought this matter to the attention of the Parliamentary Counsel who insisted that the term is legally sound. However, I will consider the matter further before Report Stage and, by the time I return, I may have a more elaborate clarification for Senator Quinn.

Mr. Quinn: I am an expert on this matter because my company used to have signs on its many dozens of express checkouts which said "Not less than ten items". I received many letters from experts in grammar about these signs and, as a result, I went to considerable pains and cost to change them and substitute the word "fewer". I understand that the term "less" refers to bulk, while that of "fewer" refers to numbers. Having gone to all that trouble, I just want to ensure that everyone else does so also. I had a similar

experience in respect of changing wordings at Heathrow Airport. I cost the authorities there many hundreds of thousands of pounds to change the spelling of the word “trolleys” on its signs. The company had put up signs about trolleys not being left unattended with the word spelled as “trollies”. I did something similar at Dublin Airport when the first sign was put up. The Bill should be correct not only from a legal point of view but also from a grammatical point of view.

Mr. Dardis: No wonder the new book on grammar is a bestseller.

Dr. Mansergh: On a grammatical point, I am not sure that the phrase “not fewer” is correct. Perhaps it should be “no fewer”. That point could be considered as well.

Amendment, by leave, withdrawn.

An Cathaoirleach: Amendments Nos. 5 and 9 are related to amendment No. 3. Is it agreed that amendments Nos. 3, 5 and 9 be discussed together? Agreed.

Mr. Coonan: I move amendment No. 3:

In page 9, paragraph (a), line 4, to delete “or” and substitute “and”.

This is a similar argument. I am seeking to delete the word “or” and substitute “and”. I have spoken to people involved in the horticulture industry and there is concern that they will be ignored in the composition of this new board,

particularly the producers who are doing an excellent job. I am concerned that this Bill is not catering for them. There is a danger that the appointee could be just somebody from the food industry. We anticipate that there will be a representative of the food industry on the board but we need a cast iron assurance from the Minister that there will also be somebody from the horticulture producing sector. Inserting the word “and” instead of “or” is the only way to ensure that.

Mr. Joe Walsh: This amendment is similar to the previous one. I am strongly of the view that “knowledge or experience” is better terminology. The criteria for appointment of five ordinary members to the board is based on “knowledge or experience” and the other five ordinary members will be appointed following consultation with the industry. The existing board of An Bord Glas is broadly representative of the horticulture industry, edible and amenity, and I hope to see that continuing on the sub-board, with two members on the main board with knowledge or experience of horticulture. The amendment is unacceptable.

Question put: “That the word proposed to be deleted stand.”

An Cathaoirleach: The voting interval during which Members may cast their vote will be one minute. The time remaining will be shown on the display board. I ask Members to remain in their seats until the result has been announced.

The Committee divided: Tá, 29; Níl, 15.

Tá

Bohan, Eddie.
Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Daly, Brendan.
Dardis, John.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.

MacSharry, Marc.
Mansergh, Martin.
Minihan, John.
Morrissey, Tom.
Moylan, Pat.
O'Brien, Francis.
O'Rourke, Mary.
Ó Murchú, Labhrás.
Ormonde, Ann.
Phelan, Kieran.
Ross, Shane.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Bradford, Paul.
Burke, Paddy.
Burke, Ulick.
Coonan, Noel.
Cummins, Maurice.
Hayes, Brian.
Henry, Mary.
McCarthy, Michael.

McHugh, Joe.
O'Meara, Kathleen.
Phelan, John.
Quinn, Feargal.
Ryan, Brendan.
Terry, Sheila.
Tuffy, Joanna.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Coonan and Cummins.

Question declared carried.

Amendment declared lost.

Mr. Coonan: I move amendment No. 4:

In page 9, paragraph (a), line 5, to delete “horticulture.” and substitute the following:

“horticulture.

(3B) Not less than one of the persons appointed to be an ordinary member shall be a person who is a practising horticulturalist.”.

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

Mr. Coonan: Amendment declared lost.

Mr. Coonan: I move amendment No. 5:

In page 9, paragraph (d), line 14, to delete “or” and substitute “and”.

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

Mr. Coonan: Amendment declared lost.

An Leas-Chathaoirleach: Amendments No. 6, 7 and 10 are related and may be discussed together. Is that agreed? Agreed.

Mr. Coonan: I move amendment No. 6:

In page 9, paragraph (d), line 16, to delete “the food industry or”.

The argument here is that while the food industry is provided for in Bord Bia, which we welcome, the concern is that the horticulture industry is not adequately provided for in the Bill. The reason for tabling the amendment is to ensure that at least two members are specifically from the horticultural sector. From speaking to members of the horticulture industry, I have serious concerns. They are concerned they will not be adequately represented on the new board. It is a niche industry providing a particular type of production in horticulture which has made enormous strides in recent years and is worth considerable money to the economy. We must ensure the industry is adequately protected. I am concerned that this is not happening. We have to be serious about what is happening. Following various items of legislation enacted in the farming area, thousands of farmers are being driven off the land. I have no doubt that unless a particular effort is made to protect the horticultural sector, the same will happen and it will be expedited under this Bill.

The unwritten policy in Europe is to get rid of as many producers as possible, particularly the smaller variety, and to concentrate them into larger producers who will be easier to look after. It is of the utmost importance that we have a voice that will speak out strongly and clearly for the horticultural sector on the new board

proposed by the Minister. I am concerned that this is not adequately provided for under the Bill.

Mr. Dardis: I cannot understand the reason for this amendment. Under the terms of section 18 (a)(3A), provision has been made for two persons. I note that the original amendment sought to reduce the number from two to one. I cannot understand that; one could not exclude the food industry. The horticulture industry is safeguarded under the terms of the Bill. The food industry is synonymous with horticulture and agriculture. They are the type of people we need. If one looks at the composition of the board of Bord Bia, some of the best people involved in the food industry are on the board and make a huge contribution. If we are serious about exporting our food, they are the type of people we need to have on the board.

Dr. Mansergh: I wish to reinforce what Senator Dardis said. We are talking about the principal Act, which is the An Bord Bia Act 1994. To seek to delete the food industry, which is the core of Bord Bia, is totally absurd. I take the point that the interests of horticulture are adequately protected in this legislation.

Mr. Joe Walsh: In the principal Act, knowledge and experience of the food industry is a criterion. Section 14(5) states:

The chairman and the persons appointed to be ordinary members shall be persons having knowledge or experience of the food industry and of consumer requirements.

What we are doing here is adding horticulture to the new board so that there would be a board representative of the food industry with no fewer than two members being representatives of the horticulture industry. That is to give the full broad canvas to food and horticulture. To seek to delete the food industry is incomprehensible and I cannot understand the reason the amendment has been tabled. We want parity of esteem between members representative of the food and horticulture industries. For that reason the proposed amendment is not acceptable.

Mr. Coonan: On a point of clarification, I am not speaking about the principal Act. My amendment is specific and deals with membership of a horticulture subsidiary board and term of office of its members.

Dr. Mansergh: Section 14 of the principal Act.

Mr. Coonan: The heading on the section of the Bill in front of me states: Membership of horticulture subsidiary board and term of office of members. That is the section we are dealing with and I want horticulture adequately represented on the subsidiary board.

Mr. Dardis: The first words of section 18 state: “Section 14 of the Principal Act is amended- ”.

An Leas-Chathaoirleach: I call Senator White.

Ms White: I do not want to interrupt this discussion; I will come back again.

An Leas-Chathaoirleach: Does the Senator wish to speak on a different section?

Ms White: Allow the other Senators to conclude the matter under discussion.

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

Amendment declared lost.

Amendment No. 7 not moved.

Section 18 agreed to.

SECTION 19.

Mr. Coonan: I move amendment No. 8:

In page 9, line 21, after "members" to insert " , not less than six of whom shall be women".

This amendment is about equality on the board. The section as presented is rather vague. I would prefer a more definite commitment from the Minister that there would be greater equality on the board.

Mr. McCarthy: I support this amendment. What is being sought here is worthwhile. This issue was raised on the Order of Business this morning. It is worth remembering that comments were made by two senior parliamentarians last week about female members of the Oireachtas attending conferences abroad. To be frank, that kind of attitude by parliamentarians, of any political description and none, is unhelpful and does not do anything to advance the cause of equality, bearing in mind that equality is for men and women.

Dr. Mansergh: I also would be keen on the subject of equality, but this amendment goes beyond the guidelines of successive Governments which have suggested that 14% of board members be of either gender. That is a good rule that provides flexibility. Unfortunately, it has not been uniformly observed by any manner of means, but 50:50 goes beyond established policy under successive Governments. That goes too far but the Minister and his colleagues should pay attention to the 40% guideline in place for appointments to all semi-State boards. Many people of both genders are involved in the horticulture industry in particular.

Mr. B. Hayes: I support my colleague on this matter. Senator Mansergh is correct that there has been for some time broad acceptance of the 40% principle with regard to all State agencies and boards and appointments made by Government. The difficulty is that the principle

is not being observed. A range of problems has emerged regarding why we are not getting a larger number of women on the various boards which have responsibility through legislation to the Houses of the Oireachtas.

One of the dilemmas we will shortly have to address is in regard to the idea behind Senator Coonan's amendment. We will have to raise the bar higher, primarily because the level of success to date has been quite muted. The suggestion put forward by Senator Coonan is a novel one, particularly given the agricultural and horticultural nature of the proposals put forward by the Minister and the number of women within the industry who have gone totally unrecognised for a generation.

There is considerable merit in this amendment. While the Minister would be breaking the accepted guidelines of all Departments, he would be breaking new ground and many progressive forces would welcome such a move. The Minister is capable of accepting good ideas. If he was to make his mark in this area, he would be supported.

Ms White: I had the honour of being appointed by the Minister for Agriculture and Food, Deputy Walsh, to the board of Bord Bia. I wish to make it clear that in my position as a Senator, I will continue to raise the issue of the equality of women and the democratic deficit for women in the Oireachtas. Female representation in the Houses is at just 17% whereas women now comprise 50% of the workforce.

The Minister has been very generous on this issue. He is very supportive of women in his organisation and believes in women. I ask him to encourage his colleagues to raise the ante on the participation of women on boards. There does not seem to be any sense of how undemocratic this is, although I was honoured to be nominated to the board by the Minister and I loved the position.

Regarding the comments of other Senators, many of the key buyers in food industry multiples are women; Senator Quinn would endorse that point. It is good to have women in such positions. The food industry is concerned with issues such as product identification and knowing what the consumer wants and it is the buyers who know most on these issues. Senator Quinn knows that if one was to get well in with buyers, they could tell one what consumers want. Women are clever people. I ask the Minister to impress on his Cabinet colleagues the need for more women on boards when appointments are made.

Dr. Mansergh: While endorsing what Senator White said, I do not follow the logic of Senator Hayes's contribution which is that because Government has so far failed to clear the bar, it is right to raise the bar higher. That does not make sense. What makes sense is that there is proper and conscientious implementation of the

[Dr. Mansergh.]
existing guideline. That provides for the proper degree of flexibility.

Mr. Quinn: I listened carefully to Senator Brian Hayes. I thought it perfect for a debate on horticulture that he encouraged the Minister to break new ground.

Mr. Dardis: He is about to dig in.

Mr. Quinn: Senator White referred to the experience of women in the grocery business, many of whom are buyers, including many of the senior buyers in my company. However, they are not there because they are women but because they are the best people for the job. They have earned their positions. No company I know of, including my own, has appointed women because they felt they had to but because they were the best people for the job. I am reluctant to tie a Minister's hands and to say that if suitably qualified candidates for a job were both male and female, the female must be appointed. The same applies in the other direction in that if the best person for the job was female, I would not like to find that we had restricted this area and that a female could not be appointed because somebody else was unable to get that job. The fewer restrictions in this area, the better.

I am impressed by what Senator Hayes said. However, if we are not reaching the level of 40%, I do not understand how raising it to 50% would achieve anything, as Senator Mansergh pointed out. We should do our best to reach 40% before lifting the bar to another height.

Mr. B. Hayes: I wish to reply to the points made by Senator Mansergh. By lifting the bar to the level set out in the amendment, this issue will be put into legislation and it will be determined that a number of women be appointed to the new board. The lead must come from the legislation. The general approach has not worked to date, as the Minister knows, and we will have to look at more aggressive ways of ensuring proper representation for women on these boards. The way to do that is through legislation, not outside it.

Dr. Mansergh: The logic of that position would be to put 40% in the legislation, not 50%.

Mr. B. Hayes: We are trying to do it in legislation.

Mr. McCarthy: I point out that the Minister is leading by example in that there is no male civil servant among the officials accompanying him in the House. That speaks volumes.

Ms White: Hear, hear.

Mr. McCarthy: I urge the Minister not to dig a hole for himself on this issue.

Mr. Joe Walsh: There is some great alliteration in this debate. If one was to visit my office in Agriculture House, one would find that the staff is entirely composed of women.

We are trying to have adequate, reasonable and appropriate gender balance which is what the Bill attempts. Subsection (9) states that we should have regard to the desirability of achieving appropriate gender balance. We want to appoint the best people for the job, as Senator Quinn mentioned. As Minister for Agriculture and Food, I meet regularly with representatives of the co-ops and co-op plcs. To the best of my knowledge, there is not a single woman at their top echelons, whether on committees, boards or the executive, although one of the main agri-food companies, IAWS, is an exception to that rule and has an exceptionally talented woman member of the board, with connections to this House.

The Minister of the day has a certain number of appointments to the new board. There are nominating bodies for various social partners and farming and food organisations. It is *12 o'clock* my experience that the gender balance issue is left to the Minister of the day. Not many examples can be given where nominating bodies nominate women and this applies to the trade unions also, which is to be regretted. I have always written to the nominating bodies asking them for a nominee and pointing out that I would like to have the gender balance observed and would welcome the appointment of women because, as Senator White pointed out, 51% or so of the workforce is made up of women. In many cases, they are very talented people and I would like to give expression to that on State boards. I have tried to do that as far as possible. There is a limit, however, in most of the agriculture and food boards where a substantial number of places are made up by nominating bodies. The Minister is then limited in what he or she can do.

The amendment is very discriminatory against men. I would have thought that in the interest of proper gender balance there would be at least six men included. If there are six women on the board—

Mr. B. Hayes: They are only another species.

Mr. Joe Walsh: —endangerment of the species would be carried a bit far and one could neglect the men folk. For these reasons, and given that gender balance is already dealt with in subsection (9), I cannot accept the amendment.

Amendment put and declared lost.

Amendments Nos. 9 and 10 not moved.

Section 19 agreed to.

Sections 20 to 22, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

Mr. Callanan: I thank the Minister and his officials for coming to the House and dealing with the Bill expeditiously and genuinely understanding the comments of members of the Opposition.

Mr. Coonan: I thank the Minister for debating the amendments with us. It is the first Bill in which I have been involved and I found the experience something to which I will look forward again. I thank Members and the Minister for their contributions. At least debate on the issue was encouraged. I take this opportunity to wish the new board every success because it is vital to the future of the country and the industry.

Mr. Quinn: I would like to add my words of appreciation to the Minister and his officials. The Second Stage debate was very useful because it reminded us a great deal of the issues we wish to cover. We have not been very successful as a food island despite huge opportunities. What Bord Bia has done and is continuing to do deserves a huge amount of support which the Minister and his officials are providing. The amalgamation of Bord Bia and An Bord Glas will achieve what we are setting out to do. We need huge commitment which has the Minister's support, enthusiasm and commitment. This is a good Bill on which I congratulate the Minister.

The amendments were tabled in good faith even though they were not accepted. It was agreed to take Senator McCarthy's amendment and to look grammatically at another amendment which was not accepted on that basis.

Mr. McCarthy: I thank the Minister and his officials for their attendance and overseeing the safe passage of the Bill through the House. The first Bill on which I spoke was introduced last year by the Minister, Deputy O'Donoghue, which dealt with Bord Fáilte. There was a huge issue of gender balance associated with the Bill. If memory serves me correctly, Senator Quinn was also involved with that Bill. This opens up other channels of debate and proves that we do not restrict ourselves to one item. It is good that we can broaden the horizon in terms of the debate.

The amendment this morning is the fourth one I have been successful in having accepted in approximately 18 months. There was one amendment in Stormont in the early 1970s so I have already broken that record. I thank the Minister and his officials and wish them well.

Mr. Dardis: I thank the Minister and his officials and wish the new board and everyone associated with Bord Bia well. They have a very important task. This is a flagship for the country. The welfare of many producers depends on our

success as an exporting food nation. This is a matter of crucial importance and I know that under the Bill the horticultural industry will be adequately protected. I hope the amenity part of it will also be protected.

I recommend that these bodies, including the farming organisations, which have a right to submit names to the Minister for consideration, will give due regard to gender balance.

Ms White: I would like to put on record that it was the Minister for Agriculture and Food, Deputy Joe Walsh, who had the vision initially to set up Bord Bia. As a participant in the small food industry in Ireland, this cohesion and concept for a consolidated and indigenous food industry was an excellent idea. The Minister had the initiative and vision to see this was necessary. I congratulate him on rationalising the industry and amalgamating Bord Bia with An Bord Glas. It was a fractious industry in the past but the Minister had the vision to get this concept off the ground.

I do not understand why Senator Quinn was a little bit sceptical. Bord Bia has promoted Ireland as a food island in Europe. It is an indigenous and successful industry which currently employs 10% of the population. The food industry is the only successful indigenous industry.

Minister for Agriculture and Food (Mr. Joe Walsh): I thank Senators for a constructive debate. I was able to give an undertaking to Senator McCarthy and Senator Quinn on grammatical matters.

The Irish food industry is exceptionally important and has developed positively over the past decade. The image of Ireland as a serious food producer is enhanced since the original Bord Bia was established. I am pleased at the way Bord Bia has established Ireland as a food island. When I travel around Europe and mention Ireland, Ireland the food island is immediately referred to, which is very positive. We export approximately €7 billion worth of food and beverage products each year. These make up almost 25% of our foreign export earnings because of the low import content. The regional importance of the food and horticultural industry impacts on all corners of the country.

I was happy to initiate the Bill in the Seanad. The Seanad is an appropriate place to initiate Bills and I try to do this as often as I can. It allows for constructive debate, including public debate outside the House. The Bill is then in a much better position and those promoting it have a broader outlook on it when it goes to the Dáil.

Mr. B. Hayes: I would like to raise a matter with the Minister on the selling Irish foodstuffs abroad and throughout Europe. This matter was brought to my attention last week by an Irish person living abroad and he asked me to raise it with the Minister. I did not realise I would have an opportunity to do this so soon. Unfortunately,

[Mr. B. Hayes.]

we have a number of agents and non-food producers throughout Europe who are claiming to sell Irish products, such as butter and cheese, although they are sourced in Germany and other countries. I know the Minister spoke about this in the past. It is a real problem in that people go into supermarkets in countries such as Spain and Italy and purchase butter “Irlandais”, although it is not Irish butter at all. This is not doing anything for our industry abroad.

I thank the Minister for taking the time to listen to my point and I ask him to do whatever he can to ensure that something is done about those who bought patents years ago that allow them to sell German butter or milk in other countries and claim they are sourced in Ireland. Something must be done to protect the name of Ireland as a trademark. The individual who raised this issue is furious about the way in which people throughout Europe are using our name and falsely claiming to have products from this country.

Mr. Joe Walsh: I will be glad to take that up.

Question put and agreed to.

Sitting suspended at 12.10 p.m. and resumed at 12.15 p.m.

Third Interim Report of the Commission to Inquire into Child Abuse: Statements.

Minister of State at the Department of Education and Science (Miss de Valera): I welcome the opportunity to address the House on the third interim report of the Commission to Inquire into Child Abuse, and related issues. It is important to remind Members of the House that the Government is the first in the history of the State to listen to what the victims of abuse were saying, to apologise to them on behalf of the State for the wrongs that had been committed against them as children and to take action to provide redress. It is as a result of the apology offered by the Taoiseach that so much has been achieved for the victims of abuse to date. The process started by the Government in 1998 continues.

Since 1998, the Government has put in place initiatives designed to assist former residents of institutions in which wrongs were committed. In particular, we have put the following in place for the first time: the Commission to Inquire into Child Abuse, comprising both the confidential committee and the investigation committee; a nationwide programme of counselling, operated under the auspices of the health boards, providing a free counselling service to all victims of abuse in childhood; a redress scheme through which victims of abuse in residential care can get financial compensation — the Residential Institutions Redress Board administers this scheme; ongoing support for survivor groups to ensure an information and referral service is

available on a local and national level; outreach services are provided in the United Kingdom so survivors who moved there have access to all relevant information and advice; and the Barnardos Origins service to assist survivors in family tracing. I thank Ms Justice Laffoy and the Commission to Inquire into Child Abuse for the completion of its very detailed report. I welcome the report and am pleased to see that it provides at least some closure and confirmation of their experiences for the former pupils of the Baltimore Fisheries School. I remind everyone that the very valuable work the commission has completed in respect of Baltimore was one of the main purposes for which the commission was established, namely, to inquire into the abuse that occurred in these institutions and to report on it. This was the Government’s intention at the time the commission was being established and continues to inform the manner in which the Government is dealing with this issue today.

The report deals with many aspects of the commission’s work since its previous interim reports of May 2001 and November 2001. At the end of the remit of the commission, this report will form part of the broader picture of life for children in our institutions and will assist the commission in making recommendations for the future protection of vulnerable children.

The review refers to the manner in which requests for additional resources were dealt with and the manner in which the Department of Education and Science interacted with it in its role as a respondent to the commission. I would like to deal with each of these issues in turn.

The Department of Education and Science is the sponsor of the commission. Since the publication of the third interim report there have been renewed calls for this role to be removed from the Department. The position of Government on sponsorship of the commission by the Department of Education and Science is that it is appropriate that it should continue to act as sponsor. The Department of Education and Science’s sponsoring of the commission is similar to the position of other Departments that are responsible for inquiries that come within their remit. For example, sponsorship of the Mahon tribunal lies with the Department of the Environment, Heritage and Local Government and the sponsorship of the Barr and Morris tribunals lies with the Department of Justice, Equality and Law Reform.

Since its establishment on a non-statutory basis, the Department has responded to the commission’s request for resources as quickly as possible. As with all other Departments, this Department must and did submit each request for resources to the Department of Finance and-or Government for their consideration. The Department has been and will continue to be committed to supporting the commission.

The resourcing delays to which the commission refers in its third interim report primarily relate to the period since June 2002. The commission

had requested a virtual doubling of its resources. Between June and December 2002, the Department corresponded with the commission on a number of occasions in order to clarify the commission's position regarding timeframe for delivery of its final report and estimated costings should these resources be sanctioned.

The Government, upon consideration of the matter, agreed in principle to the provision of the additional resources but was concerned that the provision of these additional resources in itself might not result in the work of the investigation committee being completed in a timely manner, taking into account its apparent lack of progress. It considered that the request for additional resources could not be considered in isolation and that it was also imperative to have the commission's procedures and underlying legislation reviewed to establish whether there was any scope to change or amend the Act which would expedite its work and reduce the cost to the Exchequer while still achieving the original objectives of the legislation.

The Government's view was that the difficulties faced by the investigation committee were more fundamental than the issue of resources. This has been confirmed by both the review conducted by the Attorney General and by Judge Ryan's report on the working of the commission. It was and still is the view of Government that to allow the commission to continue with the hearing of more than 1,700 individual cases without any thought to the huge legal bill being incurred would not have been in the interest of either the survivors themselves or society.

The Department has at all stages made every effort to co-operate with and assist the work of the investigation committee of the commission. In this regard, the Department voluntarily handed over to the commission more than 500,000 pages of documentation between 2000 and 2002. Furthermore, by June 2003 it had provided the commission with approximately 1,900 statements relating to cases before the investigation committee. The commission has confirmed in its report that no statements are outstanding. In addition, it responded to 16 discovery directions issued to it.

It is accepted that there were some difficulties encountered, especially in complying with a small number of the discovery directions. However, in this regard, the commission's third interim report acknowledges that "some of the difficulties were caused, or contributed to by the Committee in that for example there was not sufficient clarity in the direction as to what was sought, or insufficient time was being allowed for compliance". In an effort to resolve difficulties that had arisen, the Department re-organised the manner in which it dealt with the commission in early 2003 and the residential institutions redress unit of the Department has since then acted as a focal point for dealing with all commission-related matters. That unit then seeks assistance

or information, if required, from relevant sections. This approach ensures that this one unit is aware of all issues relating to the commission and, consequently, the Department is in a position to respond more effectively to discovery directions and any other matters. The commission confirms in its report that by the beginning of 2003, the Department was in the position of being able to engage constructively with it.

Furthermore, and in order to ensure that the Department's processes are above board, last December the Minister for Education and Science ordered an independent review of the process and procedures for the making of discovery by the Department of Education and Science to the commission. His intention in directing that such a review should occur was to ensure there would be full and complete co-operation with the commission and that any changes to be made in the manner in which discovery was being processed would be addressed. The former chairperson of the Bar Council of England and Wales, Mr. Matthias Kelly QC, was appointed to conduct this review. In addition to being completely independent of the Department, Mr. Kelly has considerable experience of sexual abuse litigation and is co-author of an article entitled "Child Abuse in Residential Homes" in the *New Law Journal*.

Mr. Kelly conducted his review over a two-week period that commenced on 5 January 2004. His terms of reference were to review the processes and procedures operated by the Department of Education and Science in making discovery to the Commission to Inquire into Child Abuse and to make recommendations, as appropriate, regarding discovery by the Department of Education and Science.

In the course of conducting his review Mr. Kelly met with officials in the Department of Education and Science involved in the discovery process and with the legal team representing the Department as well as representatives of the Commission to Inquire into Child Abuse. He also had access to all of the Department's records. The process of meeting with and interviewing persons relevant to his review has concluded and Mr. Kelly has returned to Britain to conclude his work on his report.

Considerable staffing resources have been put in place within the Department to ensure that the Department is in a position to fulfil its obligations to the commission both as sponsor and respondent. None of the staff within the Department dealing with this issue had any role to play in the operation of the institutions nor have any allegations made against them. All of the Department's efforts, both as sponsor of the commission and as a respondent to it, have been to ensure that the commission is enabled to carry out the task set it by the Oireachtas.

In this regard, the Department has, when necessary and in order to meet the deadlines imposed by the commission, increased the numbers of staff working on the responses to

[Miss de Valera.]

particular directions. For example, in responding to the abuse specific discovery direction of 10 March 2003, the Department took on an additional 16 persons, including six documentary counsel, to ensure the material was provided to the commission on time.

The House can be reassured that, in the event that at any future stage the issue arises of it being necessary to put additional resources in place within the Department in order to meet the requirements of the commission, they will be put in place.

Following the announcement by Ms Justice Mary Laffoy on 2 September 2003 of her intended resignation as chairperson of the Commission to Inquire into Child Abuse, the Government, on 26 September 2003, appointed Mr. Sean Ryan, SC, as chairperson designate of the Commission to Inquire into Child Abuse. At that time and in advance of his being appointed to the chairmanship, the Government requested Mr. Ryan to immediately undertake an independent review of the working of the commission. Judge Ryan's report is a lengthy one running to more than 70 pages. It was published on 15 January 2004 together with a review completed by the Office of the Attorney General. Judge Ryan has concluded that a combination of legislative amendments to the original Act and alternative procedures being adopted by the investigation committee would result in the commission being in a position to complete its work within a reasonable timescale and without incurring exorbitant costs.

The Government has accepted Judge Ryan's report and is currently arranging for the legislative changes recommended by him to be included in the amending legislation. Furthermore, Judge Ryan has indicated that he intends to engage in a consultative process with a view to obtaining the opinions of all parties to the commission's work on the best way forward. The Department of Education and Science will participate fully and constructively in this process.

The Government wishes to publish and put in place the legislation amending the Commission to Inquire into Child Abuse Act as quickly as possible to enable the commission to proceed quickly and efficiently with its work. However, the ongoing litigation involving the Christian Brothers is an issue that must be taken into account before the legislation can be finalised. Indeed, Judge Ryan in his report states that notice must be taken of the Christian Brothers' case and the potential effect of the ultimate judgment on the proceedings of the investigation committee. In his report Judge Ryan states: "It is impractical to suggest that there could be amending legislation processed and enacted until the Murray/Gibson (Christian Brothers) litigation is determined."

As the final version of Judge Abbott's judgment in this matter was issued on 27 January, there is now a 21-day period during which parties

to that case can decide whether to appeal to the Supreme Court. Therefore, the issue of when amending legislation may be published will become clearer over the next two to three weeks.

In conclusion, this Government remains totally committed to ensuring that the process to bring healing and some form of closure to those of our citizens who as children suffered abuse while in institutional care, will be completed within a reasonable timescale.

Mr. U. Burke: I welcome the Minister of State at the Department of Education and Science, Miss de Valera, to the House. I am glad of the opportunity to express our opinions on the third and final interim report of Ms Justice Laffoy. From the Minister of State's address on behalf of the Minister for Education and Science, Deputy Dempsey, it would seem he is still in a state of denial in so far as he expresses the many things he has supposedly done in a positive way. The record speaks for itself. To claim, at the outset, that there is some form of closure at this point is an argument without substance. The third report is damning. It indicates a litany of failure by the Minister, his predecessor and the Department as sponsors in this particular case. The evidence is quite clear that the Department of Education and Science cannot justifiably continue as sponsor and respondent as the commission continues under a new chairman. I wish Mr. Sean Ryan every success in his work. He has a difficult task, bearing in mind the history of what has occurred.

Three main issues are to be considered. When the commission was established, following the Taoiseach's apology to the victims on behalf of the nation, most people believed he was sincere in what he said. Whether intentionally or otherwise the public can see for itself that all the commitments given then subsequently rang hollow. The failure was in three areas, the first of which is the question of the commission's resourcing. It may be, as the Minister of State said, that this was doubled during the course of its investigations. In reality, Ms Justice Laffoy brought it to the attention of the Minister and the Department that it was necessary to provide adequate resources, at the time of the review initiated by the Minister, Deputy Dempsey.

Up to June 2002 matters were all right and the commission and the chairperson fully accepted that the resources promised at its inaugural meeting would be provided. Alas, they were not. The Minister's first intention and act were to review the situation. Ms Justice Laffoy immediately wrote to the Attorney General and outlined the consequences of the intention behind this review, which was essentially to reduce the commission's remit. This was the start of the Minister's lack of co-operation and obstruction in this particular issue. This led, thereafter, to a sense of tension that was never repaired and finally to the resignation in September last of Ms Justice Laffoy. If the

Minister can justify his continuing sponsorship of the commission, he does so from a weak position in that it is he who must take full responsibility for a litany of failures.

Many independent observers would say he provoked the situation in which the commission was not allowed to do its work on the basis on which it started out. Its remit had to be changed and the Minister provoked the situation which brought that about. If that is the Minister's record on this matter, it is time he realised he must let go and allow an independent Department to take over. I am not sure whether the Department of the Taoiseach is the best option, even though Ms Justice Laffoy ruled out the Departments of Health and Children and Justice, Equality and Law Reform on the grounds that their involvement would be improper.

Why did the Minister deny the files requested by the commission? He justified that by saying more than 500,000 documents had been presented. The reality is that most of them were useless and superfluous to the task at hand. The Minister of State says that there are huge resources within the Department by way of staff — 11 lawyers and 37 other personnel. If the departmental personnel could only find that the majority of the 500,000 documents were useless, how could anybody, especially the victims and the public as taxpayers, have any confidence in the continuance of the investigation under the auspices of the Department of Education and Science?

Apart from resourcing, on which the Minister has failed, there is the whole question of refusal and obstruction. If the Minister was serious and wanted to bring closure to the issue, he would have demanded that staff in the Department provide files as required.

It was difficult to access files. The Department was given ample notification by the commission that it required all files relating to particular institutions. Is administration within the Department of Education and Science so chaotic that it was impossible to provide them? The result was a manifestation of obstruction rather than helpfulness and co-operation. That is a damning indictment of inefficiency, non co-operation and obstruction. Is it any wonder the eminent judge was forced to resign having exhausted her patience?

The commission will soon reconvene under a new chairperson. The time has come for the Minister to bring about closure for those who want it — 67% of whom are aged 50 years or more. They are crying out to have their stories heard. I was a member of the education committee to which many of them relayed the horrific facts that tortured them and each member who listened to them. Many of those who live to tell their side of the story are to be denied an opportunity to do so because of the new concept of grouping cases. Many of the people involved have told the Minister that is not satisfactory. Again, it is an issue of resources.

The Minister for Education and Science may say this matter is the collective responsibility of Government, but he is the Minister with responsibility for distributing resources within the Department of Education and Science. He has failed in that regard. If we are not to provide victims with the opportunity to tell their stories we have broken the first guarantee given by the Taoiseach when he announced his apology and the setting up of the commission. We were told by the former Minister for Education and Science, Deputy Woods, that resources would not be a problem. That promise too has been broken. He walked away from this issue and all the promises he made. The deals he made are now a sorry saga of failure.

The Minister for Education and Science should reconsider his position and allow this matter to be handled by another Department. I ask that victims who wish to present their cases individually, something for which they have lived, be provided with the facilities and opportunity to do so. Whatever resources are required by way of staff and so on to bring closure to this matter should be provided by Government and the relevant Minister or, perhaps, the Taoiseach. The Minister for Education and Science should cease justifying what he has done in this regard. All he has done is to drive a very eminent chairperson to retire and caused disappointment to those victims who thought somebody was going to listen to and respond to them. We have an obligation not alone to the victims, but to the public to provide answers to the terrible deeds perpetrated by lay or religious staff operating institutions on behalf of the State. All of this will be in vain if we do not get proper answers.

Mr. Fitzgerald: I welcome the Minister of State to the House. I am delighted to have an opportunity to contribute to the debate on the third interim report of the Commission to Inquire into Child Abuse. I am disappointed, having listened to the debate on this matter in the other House last night, to hear the Opposition here trump up various allegations, accusations and insinuations against the Minister for Education and Science and his Department, all bordering on the insidious. None of them is proven and there is no detailed reference to evidence of any kind. The upshot of these muddled and confusing allegations is that the Minister should resign.

I cast my mind back to last October when the Opposition was shouting from the roof tops that functions of the redress board were compromising victims' rights. They confused and, I suggest, deliberately muddled the board's role *vis-à-vis* victims' rights to go to the courts. They then attacked the investigation committee in the same way. It is the Opposition, not the Minister, who is in denial of the obvious and glaring difficulties which pertained to the investigation committee at that time. Those wild, unfounded and over-the-top allegations have not succeeded and the Opposition is now calling on the Minister

[Mr. Fitzgerald.]
to resign or to step aside and to allow sponsorship of the commission to be handed over to another Department. No evidence has been put forward to justify that assertion.

Mr. U. Burke: The Senator should read the report.

Acting Chairman (Mr. J. Walsh): Senator Fitzgerald without interruption, please.

Mr. Fitzgerald: It is an assertion, nothing more. Not one scintilla of genuine, logical evidence has been put forward to support that argument other than that a Department whose files are being investigated by the commission should not be the sponsoring Department. That is the only logic being put forward to support the arguments made. It is a desperate attempt to once again make political capital from the sad misfortune of the survivors of abuse in residential institutions, some of whom have relayed their horrific experiences to the commission.

The Taoiseach is the first in the history of the State to respond positively to the cries and approaches of victims and their support groups.

Ms White: Hear, hear.

Mr. U. Burke: It is a disaster.

Mr. Fitzgerald: The Opposition is in constant denial and in a permanent state of nausea at that fact. The Taoiseach publicly acknowledged the abuse and apologised for it on behalf of the State. Allegations that there has been no progress, that there has been only denial by the Minister for Education and Science, that there have been a litany of complaints from the various workings of the commission, that the Taoiseach's sincerity is questionable, that the review was brought about to reduce the remit of the commission, and that independent observers have stated the workings of the commission have been a disaster and a failure are wild, unfounded and totally unsubstantiated. I regret they have been made on the record of the House today. The Opposition is repeating the pattern of debate which took place in the other House last October and again last night.

The purpose of the commission, as Members are aware, was to investigate and inquire into alleged abuses that took place in institutions and to report on them. Chapter 8 is central to this matter. It outlines the detail of the commission's remit which is to do its job as stated under legislation adopted by both Houses of the Oireachtas. I take this opportunity, by way of vindication of the rights of and our belief in the credibility of witnesses to read into the record some of the detail of Chapter 8 of the report. On page 110, the commission outlines life in Baltimore school as described by the witnesses and states:

Experience of life in Baltimore school, as recounted by the witnesses, was so harsh and deprived by the standards of today as to verge on the unbelievable were it not for the fact that a contemporaneous record is available to give credence to the testimony.

The report, on page 111, states:

The witnesses described the appalling accommodation they were living in; the large dirty dormitories, the poor quality with flea infested and urine saturated mattresses and bedding...

The witnesses recalled the clothing provided for the pupils was not only inadequate but also a source of embarrassment. . .

Even by the standards of the time, the lack of hygiene and unhygienic practices described by the witnesses seem remarkable. . .

On the evidence the most startling failure in the treatment of the pupils in Baltimore schools related to food and diet. Every witness commented on the inadequacy of the food. The witnesses recalled that the pupils were not merely hungry; they were literally starving. They were compelled to supplement their diet by eating raw vegetables and vegetation — potatoes, turnips, mangolds, carrots and sorrel — by eating barnacles at the sea shore and by scavenging, begging and stealing in the village of Baltimore.

The chapter goes on to describe in detail the physical hardship, the conditions pertaining and the physical punishment and sexual abuse perpetrated on the residents of Baltimore school. However, the committee prefaced the account of the allegations of sexual abuse by stating:

Before summarising the evidence given by the witnesses in support of the allegations that they made of sexual abuse, it is important that the committee emphasises again that the evidence could not be challenged or contested by the persons implicated in the allegations or on their behalf.

The chapter, nonetheless, outlines harrowing details but is central to the commission's work.

It is necessary to respond to the assertions made by Senator Ulick Burke. Throughout this good report, criticisms are made of the commission's procedures. The Minister acknowledged that a number were justified but the Opposition has made little attempt to put the issue in perspective. Chapter 8 addresses the issues before the commission. Following publication of this report, the Minister gave his response publicly and in the other House and the Minister of State has responded on behalf of the Department but the Opposition has chosen again to denounce and harass the Minister and to sidestep the issue. If the criticism is positive and intended to improve the process, it must be commended but it is quite the contrary.

It should be borne in mind that the Government is the first in the history of the State

to acknowledge these serious problems and meet the survivors and its support groups. It is a little rich of the Opposition to denounce the Minister and the Government given that no Minister of the rainbow Government saw fit to take time out to meet support groups despite many approaches to do so.

The Government's strategy has involved setting up the commission and a number of other structures whereas the rainbow Government did nothing and ignored the survivors because it was in denial. Reference has been made to the failure of the Government and the Department to provide resources. While significant resources were provided, they proved inadequate, but the Minister never asserted he had the wisdom of Solomon. He acknowledged from the outset he was on a learning curve. The only similar inquiry took place in Queensland where, within one year, a report was drawn up. The Government was in a different position because of the Constitution and, as time has passed, the Minister, the Department and everybody else have been learning.

The contributions made by Opposition Members during the debates on the establishment of the commission highlight a lack of wisdom on their part in terms of the best way to approach its establishment. However, we are all wise in hindsight. Overall, the Minister has performed exceptionally well in responding to the difficulties that have unfolded. The report acknowledged there were problems in the Department and in regard to the quality of the directives that issued from the commission to the Department. The Minister has responded fittingly and positively and he has established reviews to ensure future responses will be even more efficient.

Dr. Henry: I welcome the Minister of State. This is a critical report on the workings of the commission to date and its relationship with the Department of Education and Science. The Government is committed to doing the best it can for the survivors of abuse in the various institutions but, while the spirit is willing, the flesh may be weak. We should be not be party political about this issue because all of us have encountered various people who resided in the institutions and we all want to progress the matter. However, the rate at which the commission is proceeding is similar to molasses flowing in January. It is unbelievably slow and this must be a cause for worry.

It must also be a cause for worry that a woman as distinguished as Ms Justice Laffoy has made such strong criticisms of the Department and they must be taken seriously. I take the Minister of State's point that it is normal for Departments against which criticism is made to conduct the investigation into the criticism and she referenced the Morris and Mahon tribunals and so on but, perhaps, a mistake is being made by doing so in this instance. We were all in the House when the

legislation was introduced and we thought we were doing a good job but the report's criticisms of the delays in obtaining documents and funding and staff shortages are serious. Criticisms are also made of a number of people working with the survivors, for example, solicitors who were seeking compensation.

However, the issue must be seriously examined because it is dragging on. We have all been contacted in recent times by a number of the people involved. Their lives are continuing and some of them have cancer or are dying. Members of the commission have been good as they have travelled to interview survivors who were ill and cases have been brought forward. However, these people are concerned about Judge Ryan's review of the proposal that the legislation should be changed and the Minister's comments regarding sample cases and so forth. There is terrible unease among those who suffered, whom we are all trying to help. There is no more or less to it than that and the Government is not trying to do them down.

I am worried about the depletion of the commission's membership. Of the initial number, only three members remain. Ms Justice Laffoy resigned and Mr. Bob Lewis, CBE, a retired director of social services was only in position for a few months. He was appointed on 23 May and resigned on 19 July 2000 because there was a conflict of interest regarding cases of abuse in which he had been involved professionally. It took 18 months to replace him. Ms Ann McLoughlin, a senior social worker, was appointed on 23 January 2002. That was bad but, worse still, Dr. Patrick Deasy, a retired consultant paediatrician, and Dr. Kevin McCoy, a retired chief inspector attached to the social services inspectorate in Northern Ireland, both resigned in April 2003. Subsequently, the confidential committee comprised only two members — the chairperson, Ms Nora Gibbons, a child care director, who was appointed when the commission was established, and Ms Ann McLoughlin. That is entirely unsatisfactory.

Worse still, the investigation committee now consists of only two people. How can anything function like that? What are the views of the four remaining people regarding this report? Has any effort been made to find out? Why have they remained when the report contains such serious criticisms of the Department of Education and Science and why have the other people not been replaced? Are people throwing up their hands at the problem and is the Government's flesh too weak in term of replacing people?

The depleted commission has been in place for a very long time. It must be demoralising for those who remain. How can one have confidential inquiries when only two people are available? They must be working full-time. No wonder there is such a backlog of cases and investigations if so few people are involved. This must be looked at immediately. I would like answers from the

[Dr. Henry.]

Minister of State regarding the views of the four remaining people of this report. Is there any intention of replacing the people who have retired, or is it very difficult to find anyone to take their places in view of the controversy about the whole matter?

Professor Edward Tempany, a retired consultant paediatrician, is still there. He was brought in in November 2001 when we added the vaccine trials commission. At that time I said, in this House, that I thought we had strayed far beyond the bounds of physical and sexual abuse by including the vaccine trials in this area. I have known Dr. Irene Hillery and Professor Meenan for a long time; they are two of the most respected researchers in the country. No one has suggested that any harm was done to the children involved. The worst that has been suggested is lack of consent for the children to be involved in the trials and, as we know, consent in the 1960s was very different from consent in 2004.

A case regarding Dr. Irene Hillery which is ongoing in the courts is referred to in the vaccines section of the report. She put the vaccines division of the commission on notice that she is seeking a judicial review. She is threatening legal action if the Government does not revoke the order including the vaccines section. She and her legal team say it is *ultra vires* the Act. We know that when Professor Meenan told the court that he should not have to give evidence because of his age and lack of memory and the long time that had elapsed since the trials took place, the Government pursued the case to the High Court. In the Supreme Court, the Chief Justice, Mr. Justice Ronan Keane, and Mr. Justice Adrian Hardiman both said that they could not understand why the vaccine trials section had been included. This whole area was to be brought up when Dr. Hillery was seeking a revocation on 20 January last, but both the Government and the commission asked for extra time to present their cases as to why it should be included.

This sort of thing is causing delay and great amounts of money. It is all very well to talk about reviews, reports and so forth, but the Oireachtas, Ministers and Departments are receiving monumental criticism for the number of reviews we are bringing forward. I am sure the Minister of State knows this just as well as I do.

I notice that Judge Ryan, in his report, did not reply to the question regarding why the commission should not be moved and work under another Department. However, when Ms Justice Laffoy sent the information to the Attorney General, I am sure he told the Government. We would like more information as to why it is not being moved. To say it is not traditional is not good enough. Mr. Matthias Kelly's review — another review — is pending and I am sure it will be welcomed. There has been delay after delay, not to mind what is being said in the courts by the Chief Justice and Mr. Justice Hardiman.

The legalistic view taken by the religious bodies is most unfortunate and is much regretted. I commend those who did not take that road, but I suggest there are many things that could be done to speed up the commission. I would be very grateful for some reply regarding the depleted commission, the views of those who remain on it and the situation regarding this interminable court case about the vaccine trials.

Ms Ormonde: I also welcome the Minister of State to the House. I am delighted to see her looking so well again.

I will try to speak positively because I have heard a litany of negative opinion in the past half hour. I have examined the statements on this report and I accept that there were difficulties. The Government was the first to make a commitment to look into cases of sexual abuse and to try to redress the harm inflicted. That is a stand-alone statement. The Taoiseach and the Government apologised to the victims on behalf of the State. That is also a first. Let us be fair.

Under the commission's terms of reference, two committees were established. The confidential committee gave everyone an opportunity to make his or her case and extensive counselling was provided. That was welcome and important. The process allowed people to examine what had happened for themselves. The problem arose with the investigative committee. As the Department was on a learning curve, it did not have a real feel for what was involved. That can happen. I have made many mistakes in all of my professions to date. I am sure there is no one in this room who has not made professional mistakes, no matter how good they are at their jobs. The Department found that there were difficulties. I welcome the Minister's decision to try to put things right.

I could not believe the recommendations that the commission should be taken from the Department of Education and Science and placed under the Department of the Taoiseach.

Mr. Ryan: Quite right.

Ms Ormonde: What more could the Department of the Taoiseach do on this issue than the Department of Education and Science? I find this recommendation difficult to understand. The same work has to be put in no matter what Department is involved. The Minister for Education and Science made a commitment. He is the sponsor of the commission and he is responding to the difficulties that have arisen. He has made a commitment to provide additional resources. He stated, in his reply, that the fundamental issue regarding the investigative committee was that much of the homework had not been done and that staff employed did not understand the impact of what was involved. A specialised unit within the Department is required to implement this process. I welcome the Minister's commitment on that issue. Correct processes and pro-

cedures must be put in place and the right people, who can discover documents when required by the investigative committee, must be made available. This is where the delay has arisen. If those measures are put in place, the commission will do its work.

I congratulate Ms Justice Laffoy on the work she has done to date. I am sorry that she had to resign. I wish the new chairman, Mr. Ryan, every success. I hope he will speed up the process because he has an understanding of what is involved. As already stated, we were previously in uncharted waters. Now that we have established an independent process to review how we can speed up matters, I am sure that results will be forthcoming. The associations representing victims of sexual abuse are responding well and have acknowledged that the Government is attempting — we may not succeed — to put matters right.

I welcome the report. I also welcome the fact that the difficult areas relating to processes, procedures and how best to put in place the unit designed to redress the wrongs were highlighted in it. I have no doubt that, in the wake of this report, the new chairman will help to bring about closure.

Mr. Ryan: It is good that the Taoiseach apologised. However, he apologised on behalf of the State and everyone within it. We were all, therefore, encompassed by his apology. To claim that the apology was made on behalf of the Government is to undermine its significance. Before we made our first communion, we were informed that saying one was sorry without being prepared to take the necessary steps was fairly meaningless. What we must consider is not whether mistakes were made — of course they were made — but whether people were culpable for those mistakes and whether evidence which is incontrovertible suggests that other agendas were being pursued.

I must reiterate something I said when the legislation relating to the Laffoy commission passed through the House. What emerges from this and subsequent reports ought to give salutary warning to people who lament the loss of the good old days. These were the good old days for thousands of young people and memories of them are not pleasant ones to have. We locked children up in dreadful conditions for a variety of reasons. Few of these were reasons for which the children themselves could be made culpable.

As we acknowledge the enormity of what was done to children in that awful period, the phrase used by the Minister of State that: “It was and still is the view of Government that to allow [in other words the Government is claiming the right not to allow the Commission to do things] the commission to continue with the hearing of over 1,700 individual cases without any thought to the huge legal bill being incurred would not have been in the interest of either the survivors

themselves or society.” If there was a Minister of State present who had the courtesy to listen——

An Cathaoirleach: Order, please.

Mr. Ryan: ——I would inquire as to why a huge legal bill would not be in the interests of the survivors, particularly if it was necessary to allow them to be heard. Why do we discuss matters of this nature when it comes to the most vulnerable?

When the National Roads Authority struck a deal with farmers to compensate them for their land, nobody said that we could not do so because of the enormous bill involved. Why is it not in the interests of the survivors of abuse that a huge bill should be incurred for legal expenses? Why should each of the 1,700 not be heard? Is cost the only reason? What troubles the survivors is not the cost; they feel that what they have been put through has cost them their lives. The cost in financial terms is impossible to estimate. Why is the legal cost an issue? As for society, we must be required to confront our history. Any way which is not agreeable to the victims is not a confrontation of history.

There is a suggestion that difficulties arose as a result of inexperience. When the commission wrote to the Department on 26 July 2002 in an attempt to obtain clarification regarding the issue of compensation, the final statement about a decision in principle to provide for a compensation fund did not arrive until 3 October 2002. That was not inexperience. It was the pace of decision-making to which Departments are accustomed. It was the Department’s determination that the matter would be dealt with in its way and in its time.

There is an account in the report about the extraordinary toing and froing regarding additional resources between June and December 2002. This is not my political opinion; it is what Ms Justice Laffoy wrote in her report. She stated that coupling the question of additional resources with a review of the commission’s operations placed the latter in an impossible position. I did not say that, nor did the Opposition; it is stated in the report.

When the issue of selecting cases arose, Ms Justice Laffoy suggested that it should be statute-based whereas, quite clearly, the Government wanted the commission to carry out the selection. A letter about that matter was written to the Department on 25 March 2003. It took almost a month, in a letter dated 17 April 2003, for someone to reply to the commission. Ms Justice Laffoy was told that the publication of the review was a matter of political judgment. In other words the Government accepted responsibility for the delay. It was not a mistake. It was a political judgment. That is what is in the letter that was sent to the commission. It was not a mistake or an accident. It was a political decision for which the Government claimed authority and, therefore, responsibility.

[Mr. Ryan.]

Ms Justice Laffoy also stated that commission was devoid of any real independent capacity to perform its statutory functions. I did not say that, nor did the Opposition; it is stated in the report. That is what was done to the commission. Ms Justice Laffoy proceeds to discuss the issue of compensation and the protection of the religious orders. She referred to the inconsistency between the Minister's statements about State culpability and the documentation supplied to her commission to justify it. Somebody is coddling someone else. Statements were made accepting responsibility. Ms Justice Laffoy reasonably stated that if the State accepts that it has a major culpability, there must be some evidence to support it. The Department of Education and Science could, however, produce no evidence. This is the history of this matter. This is not me or the Opposition exaggerating; it is stated in the report. The most upsetting aspect of the Minister's speech is the failure to address those issues.

An order for discovery was issued on 10 March 2003 and the affidavit was supplied on 27 July 2003. Ms Justice Laffoy points out that this discovery affidavit did not appear to comply with the rules of the superior courts. Does the Department of Education and Science not know the rules of the superior courts about affidavits? Does it not have legal advice on how to do these things? Of course it does. We have to conclude there was a reason for not doing so. Ms Justice Laffoy also criticised the format. She concluded in the report that the Department has not adopted a constructive approach. That is not a suggestion of mistakes; it is a clear statement about the Department.

The Department has referred to the huge volume of material. Did it not know what was involved when it established the commission? The officials appear to have been surprised. Members of the Oireachtas knew what was involved but apparently the Department did not. However, the Department was quick to give itself extra resources due to the volume of work. That was quite correct but it is a pity it demonstrated an extreme reluctance to give similar increases in resources to the commission. That was a deliberate decision too.

The establishment of a review of the way the Department complies with discovery began on 5 January and has not yet reported. Ms Justice Laffoy has been talking about the Department's ineptitude in this area for two years but the Department only started the review, as a political cover, on 5 January. This is not simply a matter of mistakes being made but of political, administrative and managerial priorities. Clearly, this commission is low in the Department's priorities.

Mr. Kitt: I welcome the third interim report of the Commission to Inquire into Child Abuse. The report refers to the investigation into the

Baltimore school and is most important. Senator Fitzgerald dealt with some of the issues relating to Baltimore.

The Government has listened to the victims of abuse and an apology has been made on behalf of the State. I hope we can take positive action to redress the wrongs inflicted on the victims of abuse in the past. In the last Dáil I was chairman of the joint committee on education, of which Senator Ulick Burke was also a member, which dealt with the legislation on this issue. The committee held hearings, which took place over a long period of time, that were attended by many different organisations. While they were trying to achieve the same goal, there were differences in emphasis between the various groups. It amazed me that groups of emigrants came to visit the committee. There were two groups in London, a women's group and a men's group, whose members, at great inconvenience, came before the committee. The committee tried to facilitate these groups by holding meetings in the afternoons. They had a sad tale to tell and it was harrowing for both the groups and the members of the committee. I particularly recall Seamus O'Brien from Clonmel describing the abuse he suffered.

The differences in emphasis among the groups were always going to be difficult to resolve. Obviously, and especially given the age of the people involved, some groups were anxious to settle with the Department while others had other priorities, such as telling their story and giving evidence. It was difficult to deal with that but the Minister made it clear that he intended to do his best to resolve and achieve closure on the various issues.

I am disappointed to hear people criticising the Department and the accusation that it is not co-operating with the committee. I do not believe that is the case. The Minister of State, Deputy de Valera, and the Minister, Deputy Noel Dempsey, have both spoken about the huge amount of documentation which has been voluntarily handed over by the Department. It includes approximately 1,900 statements relating to cases before the investigation committee. The third interim report acknowledges that some of the difficulties were caused or contributed to by the committee in that, for example, there was insufficient clarity in the direction as to what was sought or insufficient time allowed for compliance. That demonstrates the difficulties. In addition, a significant number of people and a considerable amount of documentation are involved. If there is a problem with staffing or resources, it should be dealt with and I hope the Minister will do that.

In paying tribute to Ms Justice Laffoy, I also pay tribute to Judge Ryan for his work. The best way to go forward is through the allocation of adequate staffing and resources. There is no point advocating that the matter be taken from the Department of Education and Science and be made the responsibility of the Taoiseach. What

will that resolve? The Department has been dealing with this matter for many years, certainly since 1999 and 2000 when the education committee held hearings on it. That committee dealt with the issues as fairly as possible and, hopefully, it gave a chance to the people who came before it to tell their story.

I am also a little disappointed with the comments about the religious orders. The Minister spoke last night about the situation *vis-à-vis* the Christian Brothers. Judge Ryan said that notice must be taken of the Christian Brothers' case and the potential effect of the ultimate judgment in the case on the proceedings of the investigation committee. I received documentation from the Congregation of Christian Brothers last October. The congregation stated it was co-operating with the commission. In its news release, however, it outlined the legal argument it was making and the preparation being conducted by senior counsel. It is not fair to criticise the congregation by saying it is not co-operating. That is not the case. The congregation is co-operating but the challenge it is making in the High Court affects the issues and, as the Minister said, we must await its outcome.

I welcome the work done by Ms Justice Laffoy and Judge Ryan. However, teaching is a difficult profession and the provision of education, even today, is difficult. I worry when teachers say they do not feel they are supported. I hope we will give them the support they require. There were different circumstances in the situation dealt with by the report. It is not fair to criticise today's teaching staff for the serious mistakes made in the past.

I hope teachers will not be fearful or negative in their approach to education. Education should be a positive experience, although it certainly was not positive in the situations we have been discussing. Teachers say burnout is being experienced in the profession. I suppose burnout is being experienced in every profession but teachers need support, perhaps through the inspectorate, which did not exist in the past, because we can never let such a situation arise again. I do not believe it will arise again but I hope the work of this commission will be successful and that we can get around to dealing with the cases we heard vividly about in our hearings at the education committee in the past three or four years.

Mr. Browne: The blame for this fiasco lies squarely at the feet of the Government parties, the Progressive Democrats and Fianna Fáil. Their mishandling of the whole affair and lack of co-operation was referred to in Ms Justice Laffoy's interim report which stated that it had to be observed that, in general, the Department, as respondent to the vast majority of allegations which the committee is investigating, had not adopted a constructive approach to its role in the inquiry. The blame for that must surely fall at the

feet of the Minister who is the head of that Department. The report also stated, on page 157, that the committee was assured that the issue of resources would be addressed but over a year later, resources were still an issue. The blame for that lies with the political parties and the Minister for Education and Science, Deputy Dempsey, must accept responsibility as head of the Department.

A constituent of mine is awaiting the publication of the redress Bill and wants the institutions she attended to be listed in it. We were given assurances before last Christmas that it would be published in the last Dáil term, but now it has been moved to this Dáil term. The lady for whom I am working is dying from cancer. She wants closure in this case but the inaction of the Minister and the Government has added greatly to her distress. It is embarrassing for me to find out one day that the matter will be resolved before Christmas, only to find it dragging on beyond Christmas. We are now back to square one again. That is very unfortunate for the lady involved and her family. I imagine there are many similar cases because, invariably, many of those who went through these institutions are quite elderly now and would not have good health. Unfortunately, many who have passed away will never get redress.

It is important to point out also that many religious played a major part in educating people in the past. Unfortunately, the Government's mishandling of this whole affair has tarred all religious orders with the same brush. If the Government had given the necessary resources to Ms Justice Laffoy and ensured a speedy conclusion to the work of the commission into child abuse in residential institutions, it would have brought closure to these cases. The many religious and non-religious in residential institutions who played a positive and constructive part in people's lives in the past would be acknowledged but, unfortunately, the issue is dragging all of those into the same area of disrepute, which is regrettable. It is worth pointing out that in many cases if it were not for the religious orders, many people would not have received an education. It is easy for us now to criticise them, but times were different then.

I heard one of the panellists on "Questions and Answers" make the valid point that child abuse is still taking place. This morning on the Order of Business, a Fianna Fáil Senator agreed with Senator Terry who raised the issue of the lack of appointments of social workers. The educational welfare officers were appointed but a dispute took place which lasted over a year during which schools could not report students missing. This Government is responsible for a litany of failures which amount to modern day child abuse. No doubt in 30 years' time, people could throw similar accusations at us.

I became aware of a case lately where a school reported a family missing to a social worker but did not get any word back on the case. The school

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contacted the social worker some weeks later only to be told that the social worker visited the family in question but there was no one at home. When the principal involved asked the social worker, "What did you do then?", the reply was "Nothing". That represents a complete breakdown of social work and the Government must take responsibility for it.

I could list many other cases where the State is failing to protect children in this modern age, namely, sub-standard school buildings. I became aware of a case lately where a secondary school was promised a new building by the Government Deputies in the constituency. A student in a wheelchair could not use the main part of the school. The school was never built, however, even though the Taoiseach arrived in the constituency involved and posed for photographs. The student in the wheelchair has since left the school having reached the age of 18 but she had to go through her secondary school years unable to access the PE hall which, for some reason, was on the second level of the school. That is a form of child abuse because that student was denied a basic right.

An area of concern I would share relates to the cost of all these commissions. Like many Senators in the House, we have all been part of delegations on behalf of schools in our constituencies looking for funding, only to be told that no money is available. We need to get a balance in terms of the cost of the commission versus the actual current needs of schools. That is why it is very important to reach a speedy conclusion to this issue, but the Government is not capable of ensuring that happens. That is a disadvantage to the victims, their families and those associated with the institutions involved.

There is a question mark over whether the Minister for Education and Science is capable of co-operating fully with the inquiry and the suggestion has been made that the inquiry should be moved to the Taoiseach's Department. I would welcome such a move for everyone's sake because it might result in a speedier conclusion to the issue. People accept that those who were wronged in this case deserve compensation and it is up to us, as legislators, to ensure that happens.

I urge the Minister and the Government to allocate the resources necessary to this area. It is well able to do so in other areas. We do not want to face another costly inquiry due to Government inaction. I was struck by the fact that London is bidding to host the Olympic Games at a cost of €2.2 billion. I heard a figure of €1 billion for this inquiry, which would cause grave concern. That is an interesting comparison. It is time for action from this Government. Having appointed a commission, it should give it the resources necessary for everyone's sake.

Ms Feeney: Like other speakers, I, too, welcome Ms Justice Laffoy's report and am glad to have an opportunity to contribute to the

debate. Regardless of the House of which one is a Member, the report opened our eyes and our minds to the terrible tragedy that was Baltimore, on which we are all in agreement. It made me reminisce about the time I watched the film of Dickens's *Oliver Twist*. The report brought us all back to late Victorian times. That is all I could think of when I read it.

The report also brought us back to today, so to speak, and how wonderful we all are — I am choosing my words carefully — in that we can almost stand up and say that we, with the knowledge we have today, have a right to judge what went on up to 50 years ago.

It is such a different society and a vastly different world. We have only to look at how we deal with our own children to know the different society we live in today. I do not often read Kevin Myers, and he will not like to hear that, but I was interested to read his article in *The Irish Times* today, where he talks about 20 years ago when he, as a younger journalist, wrote about an abuse case. When he had finished writing the article — I suppose this happens always — he handed it to the editor and it was edited for him. All references to the abuser — a religious institution — were omitted from the article when it was printed. When Kevin Myers asked why, he got a sad shake of the head and it was implied that he was out of touch with political reality.

Twenty years is not a long time ago. I had a child 20 years ago and it only seems like the other day that child was born. Nobody then had the full picture. Everybody had a tiny part of the picture and none of us choose to put the big picture together. I agree with other speakers that we were right as a nation, through our Taoiseach, to apologise. I say to the Opposition that we had the guts to do it and to recognise what happened. Previous Governments, whether Fianna Fáil, Fianna Fáil led or rainbow coalition Governments, did not take it up. We took it up and apologised, not on behalf of the Government, or Fianna Fáil or the Progressive Democrats, but on behalf of the State. We are all culpable and we all had a part to play in it.

Those opposite say responsibility should be taken from the Department of Education and Science and moved to the Department of the Taoiseach. Does Senator Browne, who has just said that, want to victimise and further disrupt the lives of people who are already victims, as he has outlined? It would further delay matters to take it from the Department of Education and Science, where it has known a home and has been progressed, given the Minister, Deputy Noel Dempsey, said on "This Week" on RTE last Sunday that he was on a learning curve. The only people who would be marginalised by that would be the victims. When the Opposition comes up with an idea such as that, I wonder whether it is thought out. It is said that we are making a political football of the investigation into abuse. I am sure those victims, if they were here today, would want to scream that at us. It is cheap of

the Opposition to come in and try to make political gain on it.

It has been pointed out also that abuse is still occurring today. There are more types of abuses, physical and sexual, happening in places other than institutions. As we all know it can happen anywhere, even in a child's home. Yesterday much air time was taken up with a tragedy that happened in my own neck of the woods in the north west where a family and young children were the victims of savage abuse at the hands of a member of that particular family. It was raised on the Order of Business this morning. Let us learn from the mistakes. Let us look at the good recommendations that are now put in place and let us progress them. Let us all, as public representatives, ensure those recommendations are implemented and put in place for the protection of children in society.

I am glad I spoke here before Christmas when we appointed Ms Emily Logan as the ombudsman for children. Ms Logan will have a huge role to play in the protection of children, in ensuring children's rights are adhered to and that there is protection for them whether in institutions, in the home, in schools, in clubs or wherever they are. It is right to bear in mind also that it is not only children who suffer abuse as adults can also suffer abuse.

In welcoming Ms Justice Laffoy's report I congratulate her on the work she has done to date. It is invaluable and will stand the test of time in getting through all of this. I avail of this opportunity to wish Judge Sean Ryan well in his role. It will not be easy, but I know Judge Ryan and I have worked with him on other fora. He is a capable man and I am sure there will be a satisfactory outcome for all involved.

Dr. Mansergh: The subject matter of this debate is a painful and harrowing aspect of our past. The Government and the Taoiseach deserve great credit for facing up squarely to this issue with all its painful aspects. It is never easy for a State or a Government to apologise or to accept that grievous wrong happened in the past for which it is accepting some degree of responsibility. I regret the degree of conflict that has arisen between Ms Justice Laffoy and the Government and the Department. As has been said already, she has done very good work which is now being carried on by Judge Ryan.

I would like to bring a few perspectives to bear on aspects of this debate. We are quite wrong to think we are the only country to face this type of problem and that it is a particular indictment of our society as opposed to others. Many of these things happened in other countries and to varying degrees they have been exposed. For example, in Australia there was its treatment of the Aborigines. One thinks of the sterilisation policies of certain Nordic countries and the abuse of children in other countries.

I would not necessarily criticise the Department of Finance at the end of 2002

because demands for more resources should be looked at critically. All of us have some problems with the way our various tribunals have been operating. I would like to think that perhaps in the future when setting up tribunals we would set a finite period in which a tribunal would carry out its work. It would then be up to the tribunal chairman to prioritise the inquiries to ensure that aim was achieved.

This will cause horror in the legal profession. We are not talking about courts of law but tribunals and whether tribunal lawyers should be salaried and whether particular fees should be set in advance in the same way as the VHI does for certain medical operations. Lawyers can decide whether they want to take up the work. Many of our problems have to do with the exorbitant costs of the legal process. I do not accept that absolutely nothing can be done about that.

There is no real understanding by tribunals of the difficulty of retrieving documentation from Departments from the relatively recent period let alone the distant past. At the time I entered the EU division of the Department of Foreign Affairs, if I wanted to find out what had happened 18 months previously, I would have to retrieve perhaps 18 different files. It is by no means easy.

I hope there is no suggestion that anybody in the Department of Education and Science is in some way trying to protect or cover up what happened 20, 30 or 40 years ago, which I do not believe to be the case. We are talking about paper rather than computer files and all tribunals significantly underestimate the difficulty of finding the documentation required. Files go missing or cannot be found, not necessarily from sinister motives.

I do not agree with suggestions that responsibility for this issue be shifted to the Taoiseach's office, which would be quite inappropriate. The Taoiseach has more than enough to deal with without taking on questions extraneous to his main duties. Over the past ten years, under different Taoisigh, there have been attempts to move out many of the matters which are not central to the responsibilities of the Taoiseach.

Regarding people in religious orders being wrongly accused, the present climate is unfortunately such as could be conducive in some, I hope limited, instances to the making of false or partly false allegations. People are entitled to protect their reputations and one cannot adopt the attitude that once an allegation is made, all are guilty.

Reference was made by Senator Feeney to a newspaper article this morning. I deprecate — a mild word to use — attempts by certain commentators and commentaries to blacken or vilify the entire role of the Catholic church in this country, particularly when working with public authorities or, going even further, to use it to try to denigrate the entire record of the State since independence. That is wholly unjustified. At the

[Dr. Mansergh.]

time, when resources were sparse, the church through various social welfare agencies did its best to supply basic needs. We are discussing a dark side and should not attempt to minimise the seriousness of that. However, we should not try to use those episodes to underwrite a blanket indictment.

In an entirely different context, I spoke last week on an authoritarian culture. Although its extent can be exaggerated beyond all reason, there is no doubt there was a more authoritarian culture in this country 30, 40 and 50 years ago and I am glad we have moved beyond that. The drawback of that culture was not that those in authority set out to systematically abuse vulnerable individuals but that there was not the degree of questioning and accountability inside and outside of institutions. This meant that abuses were able to go undetected or to be brushed under the carpet. To that extent, I am glad we have moved away from that culture.

I wish the tribunal under a new judge every success with its work and hope it will be able to conclude this work, for the sake of victims more than anyone else, with a reasonable degree of expeditiousness.

Mr. O'Toole: I welcome the Minister to the House. I refuse to make any political point on this issue and we should all move away from making such points. There is no point trying to blame those currently in authority. I do not believe anybody in Government is trying to cover up anything in this regard, although they might not have handled it as well as I would like.

I would like a more pragmatic approach to dealing with the issue. Certain guidelines and matters of principle should be considered so that every victim should have the opportunity to have a person or issue investigated. That does not mean we must have every single complaint dealt with individually as long as no person against whom an allegation is made is let off the hook. It could then be said, for example, that there has been consideration of an investigation arising from a complaint made by a named person and that it is also understood that 24 other people made similar complaints. The most serious allegation could be investigated on that basis and a conclusion reached, and it would also be known that a certain number of other people have spoken to the other tribunal.

In this regard, there is a general principle which we have avoided. While it was avoided for the best reasons in the world, it does not help people just because one can go to several different places to have this issue dealt with. It is easier if people are helped to get their story told and their sufferings recorded. It is not necessary in that regard to investigate every single allegation as long as the most serious of the allegations against every single person and institution against whom

an allegation is made are specifically investigated. It is not a matter of trying to get overall agreement on that. If the Minister were to do that, and consultation followed with those who also have allegations against a similar person, the State could point to the fact that it had investigated a person, as well as noting other allegations, and found him completely guilty, that the State accepts this and, on that basis, the person or particular institution can be considered to have been dealt with. We can do that.

There is a lack of understanding in political life in that the legislation in this regard was discussed and passed in the Houses but came in different pieces. Members do not understand precisely the relationships between the investigation, the hearing and redress, which are quite complex in regard to how one moves from one to another. It is important we recognise and understand that.

Those are just the practicalities. The real issue is the suffering and pain caused, on which Members are all agreed. What bothered me most about the report was its reference — I am sure we will hear more about it — to a complaint made in 1995 or 1996 by the management of an institution about a member of staff who had been found to have been abusing children therein. The complaint was not dealt with in any way.

There is no record in the Department of Education and Science of the complaint made by this person, which is appalling. We should say it is appalling. This is the kind of thing that creates a lack of confidence and this is why there is a lack of confidence in the Department of Education and Science on this issue, which I can well understand.

Whatever the amount of money involved, it will never repay these people for the way their lives have been wasted and destroyed. They are carrying with them baggage, pain and mental distress which will be part of their lives forever. The only institution dealt with was the fisheries school. Complaints had been made in that instance. In other words, the structure was in place for someone to carry out an examination. The institution was examined, a report was sent in and nothing happened because Bishop Moynihan decided he did not want to do anything about the matter. This is where the problem lies.

Members on all sides have the best of intentions. We are all focused on the same objective and conclusion. The Government must regain our confidence in this regard. It must listen to the views offered on this side of the House as well as in the other House and try to solve the matter.

Sitting suspended at 2.05 p.m. and resumed at 3 p.m.

Equality Bill 2004: Order for Second Stage.

Bill entitled an Act to amend the Employment Equality Act 1998 and Equal

Status Act 2000 for the purpose of making further and better provision in relation to equality of treatment in the workplace and elsewhere; to give effect to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation and Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principles of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; and to revoke in part and enact in respect of proceedings under this Act the European Communities (Burden of Proof in Gender Discrimination Cases) Regulations 2001, which gave effect to Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex.

Mr. Kett: I move: "That Second Stage be taken today."

Question put and agreed to.

Equality Bill 2004: Second Stage.

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

Minister of State at the Department of Justice, Equality and Law Reform (Mr. O'Dea): The measures I bring before the Seanad today are intended to meet Ireland's obligations as a member of the European Union to implement Community initiatives provided for under Council Directives 2000/43/EC and 2000/78/EC, adopted under Article 13 of the EC Treaty, and Council Directive 2002/73/EC, adopted under Article 141 of the treaty. The directives, commonly known as the "equality directives," provide for equal treatment on the grounds of gender, racial or ethnic origin, religion or belief, disability, age and sexual orientation.

The race directive, 2000/43/EC, provides a flexible general framework for combating discrimination on the grounds of racial or ethnic origin in both the employment and non-employment areas. The framework employment directive, 2000/78/EC, provides a general framework for the prohibition of discrimination associated with employment and occupation on the grounds of religion or belief, disability, age or sexual orientation. The equal treatment in employment directive, 2002/73/EC, updates and improves the 1975 equal pay directive and the 1976 equal treatment directive.

The overall effect of the three directives is to require member states to prohibit direct discrimination, indirect discrimination and

harassment on grounds of gender, racial or ethnic origin, religion or belief, disability, age and sexual orientation regarding employment, self-employment or occupational and vocational training. Sexual harassment and victimisation are also prohibited. The race directive also applies to discrimination in the access to and supply of goods and services.

As Members of the House will be aware, Ireland is already to the fore in its promotion and protection of the principles of equality and freedom from discrimination as a result of the ground-breaking legislation enacted in this regard in 1998, with the Employment Equality Act, and in 2000, with the Equal Status Act.

This legislation prohibits both direct and indirect discrimination in the areas of employment and access to goods and services on nine grounds, which include gender, marital or family status, sexual orientation, religion, age, disability, race or membership of the Traveller community. Thanks to the quality, effectiveness and far-sightedness of our existing equality legislation, many of the amendments required by the EU directives are relatively minor and chiefly of a technical nature. There are some new provisions in the directives which require transposition into our national law, for which it is both necessary and appropriate to make provision in primary legislation. I propose to provide for their transposition through amendments to the Employment Equality Act and the Equal Status Act, as provided for in the Bill. The forthcoming Social Welfare Bill 2004 will provide for the transposition of the directives with respect to matters relating to occupational pensions.

It is important to ensure that a coherent and consistent approach is maintained in our legislative and administrative infrastructure for equality. This will facilitate ease of access for persons who claim they have been discriminated against, particularly where more than one ground for discrimination is cited. For this reason, amendments arising from the three directives are being implemented at the same time in one Bill. In addition, with a view to preserving coherence across the nine grounds in our legislation, it is intended to implement requirements of the directives in a way which applies their provisions to each of the nine grounds and to both employment and service provision where this is feasible and appropriate.

An opportunity arises in this process to align more closely the provisions of the Employment Equality Act and the Equal Status Act. As already referred to, the general principle is to broaden the scope of any such provision, for example, to extend discrimination under the Employment Equality Act to include discrimination by association or imputation, as is the case under the Equal Status Act, and to extend protection from sexual harassment under the 1998 Act to encompass same-sex sexual harassment, as already provided for under the

[Mr. O'Dea.]

2000 Act. It is also appropriate to take this opportunity to amend the Employment Equality Act to incorporate the provisions of the gender directive, which reflect European Court of Justice case law in regard to discrimination on the grounds of pregnancy or maternity leave within the meaning of the Maternity Protection Act 1995.

A consolidated approach to the amendment process is also reflected in the decision to incorporate directly into the Employment Equality Act and Equal Status Act the provisions of SI 337 of 2001 implementing Council Directive 97/80/EC. The directive, which applies to gender discrimination only, provides for the transfer to a respondent of the evidential burden of proof where a complainant establishes a *prima facie* case of discrimination. Under the race and framework employment directives, this provision will extend to proceedings on the discriminatory grounds and in the circumstances covered by those directives. For the purposes of consistency and transparency of the legislation, I intend to amend both the Employment Equality Act and Equal Status Act in a way that applies the provision to all nine grounds, including the ground of gender.

As a result of the framework employment directive the obligation on employers under the Employment Equality Act to provide reasonable accommodation to meet the needs of people with disabilities is being broadened. As a result, employers will be required to take appropriate measures to make such accommodation available, except where it would impose a disproportionate burden. The broader focus of the new provision will contribute to increased access for people with disabilities to the workplace. The constitutional limitation which has confined the requirement in respect of reasonable accommodation under national law to a threshold of nominal cost will continue to apply in the case of the Equal Status Act as there is as yet no similar EU provision in the area of goods and services.

A significant extension to the scope of application of the Employment Equality Act is to be made in respect of the self-employed and partners in firms. As a result, persons who are or were employed under a contract personally to execute any work or labour, as well as partners and former partners in firms, will be protected from discrimination in the workplace. The Bill also provides for revision of some of the categories of exclusion which are allowed under the Employment Equality Act. As a result, there will no longer be blanket type exclusions in the case of employment in the Garda Síochána and Prison Service.

I also propose to deal with certain other exclusions, currently provided for under sections 26 and 37 of the Employment Equality Act and section 6 of the Equal Status Act, which apply on a broad basis to private households. The current exclusions in this regard applicable to

employment and the provision of accommodation in small premises in which the owner also resides are not being retained in the context of the race and framework employment directives and will be replaced with new provisions which relate specifically to employment involving the provision of personal services and the provision of accommodation in a person's home where the private or family life of those concerned is affected. This will balance the protections afforded under the Acts to one person's right to privacy and another person's right to equal treatment.

The opportunity is also being taken to introduce a number of technical, procedural and other minor amendments to the Employment Equality and Equal Status Acts, arising from experience gained in the operation of the Acts as well as consultations with relevant interests. These amendments include, among others, clarification of time limits for referral of cases, date of occurrence of discrimination, treatment of cases involving more than one discriminatory ground, enforcement of determinations, decisions and mediated settlements, award of expenses and rules in relation to parallel claims and awards of compensation or redress.

I am also pleased to take this opportunity to amend the Equal Status Act in two further important respects. The first of these will provide certainty in regard to the ability of a parent or representative of a person with an intellectual or psychological disability to act in place of the person concerned in seeking redress. The second will enable licensed drivers under the age of 18 to have recourse to the Equal Status Act in cases of unreasonable treatment in relation to motor insurance.

In preparing the legislation as proposed, I have consulted widely. I will now deal with the main provisions of the Bill, which is divided into three parts. Part 1 contains preliminary and general technical provisions regarding collective citations, construction and interpretation of the Bill. Part 2 deals with amendments to the Employment Equality Act 1998. Part 3 deals with amendments to the Equal Status Act 2000. Part 2 comprises sections 3 to 41 of the Bill, each of which provides for amendments to the Employment Equality Act, for convenience referred to below as the Act of 1998.

It is proposed to amend the definition of "contract of employment" for the purposes of the Act of 1998 to include contracts to personally execute work or services and to deem references under the Act to employees or employers to include the parties to such contracts. In addition, it is proposed to amend the definition of "employee" to include, where the context admits, members or former members of a regulatory body and to exclude persons employed in the provision of personal home services affecting the private or family life of those concerned.

The existing definitions of "discrimination" and "the Director" will be amended to include, in the

former case, the issue of an instruction to discriminate and to replace, in the latter case, “Equality Tribunal” for “Equality Investigations”. In addition, the scope of the definition of “proceedings” is being widened to include any proceedings, including subsequent proceedings, before a person, body or court dealing with a request or referral under the Act of 1998. For clarity and drafting purposes, it is proposed to define “personal services”, the term “persons” in sections 19, 22, 29 and 31, and “provision”.

Subparagraph (a) provides for the replacement of section 6(1) of the Act of 1998 to include less favourable treatment by imputation or association with another person. This parallels the provision under the Equal Status Act and is one of a number of amendments proposed for greater consistency between the Acts. Subparagraph (b) provides for a new section 6(2A) of the Act to provide that less favourable treatment on a ground related to pregnancy or maternity leave comes within discrimination on the gender ground. Subparagraph (c) provides for a new section 6(3) of the Act, in accordance with the framework employment directive, to substantively amend the existing exclusion from discrimination on the age ground in respect of persons less than 18 years or 65 years or over.

Section 5 is a technical amendment to section 10(2) of the Act of 1998, the effect of which is to simplify the text and refer to a characteristic mentioned in any of the discriminatory grounds rather than to a “relevant characteristic” which is no longer defined for the purposes of the Act. Section 6 is a further technical amendment to provide for the deletion of section 12(3) of the Act of 1998. Regarding section 7, in extending the scope of the Act of 1998 to the self-employed, it is proposed to include, in a new section 13A of the Act, a specific provision in respect of partners within partnerships, including general partners within limited partnerships.

Section 8 incorporates a new section 14A. Under the directives a common approach is taken to the treatment of harassment and sexual harassment on any of the discriminatory grounds. It is proposed to reflect this approach by inserting a single new provision on harassment and sexual harassment and removing the current separate provisions in section 23, in respect of gender related sexual harassment, and in section 32, in respect of non-gender related harassment.

Section 9 replaces the provision under section 16(3) of the Act of 1998 regarding the duty of employers and persons engaged in vocational training to accommodate the needs of people with disabilities to enable them to access and participate in employment or training as applicable. At present, the requirement on employers is limited to cases where this gives rise to no more than a nominal cost. This will extend it to cases where it does not impose a disproportionate burden on the employer.

Regarding section 10, under section 17(2) and (4) of the Act of 1998 compliance with specified

statutory provisions is excluded from discriminatory action on the grounds of race and age. Having regard to the framework employment directive, it is proposed to replace these provisions. Paragraph (a) amending section 17(2) gives effect to Article 3.2 of the framework employment directive excluding differences of treatment based on nationality with particular reference to the provisions and conditions relating to the entry into and residence of third country nationals and stateless persons in the member states and to any treatment arising from their legal status from the scope of the directive. The provision is limited in its application to actions taken in accordance with a statutory condition or provision governing access to employment or occupation and applicable to persons not lawfully resident in the State or who have not yet gained such permanent status. Paragraph (b) takes account of the difference of treatment on the grounds of age which are permitted in accordance with Article 6 of the framework employment directive.

Section 11 is a technical amendment to section 18 of the Act of 1998, arising from the amendment in section 4(b) of the Bill to section 6 of the Act. Section 12 provides for an amendment to section 19 which deals with entitlement to remuneration. Paragraph (a) provides for a technical amendment to section 19(2) of the Act of 1998 to delete the definition of “employed” for the purposes of the section. This is no longer required having regard to the amended definition of “employee” proposed in section 3 of the Act. Paragraph (b) amends section 19(4) of the Act of 1998 in regard to the definition of indirect discrimination on the gender ground in relation to equal remuneration.

Regarding section 13, it is proposed to amend section 22(1) of the Act of 1998 dealing with indirect discrimination on the gender ground other than in relation to remuneration in line with the amendment to section 19 of the Act outlined under section 12 of the Bill. Section 22(4) of the Act, which makes separate reference to the grounds of marital and family status, is no longer required as a result of this amendment and is being deleted. As in the case of section 12, Senators will also note that this provision is paralleled in the non-gender area in section 20 amending section 21 of the Act.

Section 15 involves an amendment bringing the provision for positive action measures under section 24(1) of the Act of 1998 more closely in line with the provision in this regard under Article 2.8 of the gender directive. Section 16 replaces the provision in section 25 of the Act of 1998, permitting discrimination on the gender ground where a person’s gender is an occupational qualification with a more limited provision in respect of access to employment in line with Article 4 of the framework employment directive.

Section 17 provides that, in addition to the new provisions in section 25 of the Act of 1998

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permitting difference of treatment based on gender having regard to occupational requirements and the parallel provision on the other discriminatory grounds which will apply under the new provisions in section 37 of the Act, a new, single exclusion in respect of certain employments relating to private and family life is being provided for in place of those currently provided for under sections 26(2) and 37(5) of the Act. This is provided for within the definition of "employee" provided for in section 3 of the Bill.

Section 19 replaces the provisions in section 29(4) of the Act of 1998 as regards indirect discrimination in regard to remuneration other than on general grounds. The new subsection (4) applies section 19(4) of the Act, already dealt with under section 12 above, which deals with indirect discrimination on gender grounds as regards equal remuneration.

Section 20 replaces the provision in section 31(1) of the Act of 1998 as regards indirect discrimination on a ground other than gender and other than on remuneration grounds.

Section 22 brings the provisions for positive action measures under section 33 of the Act of 1998 more closely into line with the provision in this regard under Article 7.1 of the framework employment directive. Article 6.2 of this directive permits discrimination on the age ground in respect of occupational benefits schemes. It is proposed to amend section 34(3) of the Act of 1998 to reflect this principle and to delete the exclusions currently permitted on the grounds of age or disability.

Section 24 is intended to clarify that the exemption from discrimination on the disability ground in section 35(1) of the Act of 1998, in respect of the payment to an employee with a disability a particular rate of remuneration, applies only where the rate is determined on the grounds that the worker in question has a lesser output of work in a particular period when reasonably compared to that of an employee without the disability.

In parallel to the proposed amendment to section 25 of the Act of 1998 relating to differences of treatment on the gender ground, section 25 of this Bill amends the corresponding non-gender provision in section 37(2) to permit differences of treatment based on the characteristic related to a discriminatory ground where it constitutes a genuine and determining occupational requirement and the objective is legitimate and the requirement proportionate. Provision is also made in new subsections (3) and (4) for certain operational requirements applicable to the Garda Síochána and the prison and emergency services. Subsection (5) provides for a continuation of the exemption for the Defence Forces in respect of age and disability grounds. As referred to when outlining section 17 of the Bill, the exclusion under subsection 37(5) of the Act in respect of employment in private

households is being replaced with a new single exclusion relating to private and family life.

In section 26, paragraph (a) provides for a technical amendment to the definitions of "equality mediation officer" and "equality officer" in section 74(1) of the Act of 1998 arising from the related amendment in section 27 of the Bill to section 75 of the Act.

In section 27, paragraphs (a) to (c) make a number of necessary technical amendments to section 75 of the act of 1998 arising from the proposed renaming of the Office of the Director of Equality Investigations as the equality tribunal. Paragraph (d) makes necessary deletions in sections 75(3) and 75(4) of the Act to remove references to equality officers of the Labour Relations Commission and empowers the director to issue guidelines or guidance notes, appoint persons as equality mediation officers and delegate functions.

In section 28 the effect of the proposed amendment to section 76(2) of the Act of 1998 will be to include as material information which may be sought by an employee claiming discrimination information, other than confidential information, about the scale or resources of the employer's business.

Section 29 proposes a number of amendments to section 77 of the Act of 1998 to provide greater clarity and effectiveness to the operation of the redress procedures under the Act.

In section 30 it is proposed to insert a new provision in the Act of 1998 to allow the director or the Labour Court to dismiss claims which they consider to have been made in bad faith or to be frivolous, vexatious, misconceived or trivial.

Section 31 is a technical amendment to section 78(7) of the Act of 1998 to stipulate that an application for a resumption of a hearing shall be in writing and, where a notice has been issued by an equality mediation officer, to remove the requirement that it be accompanied by a copy of a notice, where issued by an equality mediation officer.

Section 32 refers to the amendment proposed in paragraph (a) of section 32 of the Bill. It will introduce a minor technical change to the operation of section 79 of the Act of 1998, which will facilitate a more streamlined approach to the investigation and determination of individual sets of circumstance where more than one discriminatory ground is involved.

Section 33 adds a number of new provisions to section 82 of the Act of 1998 including a new provision at section 82(6) of the Act which also deals with the issue addressed in section 32 above where one set of circumstances involves claims of discrimination on more than one discriminatory ground.

Section 34, inserting a new provision as section 85A of the Act of 1998, takes account of Article 8 of the Race Directive and Article 10 of the framework employment directive, the effect of which is to place the burden of proof on the respondent where a *prima facie* case of

discrimination has been established by the complainant. It is proposed that the provision will be applied to all of the discriminatory grounds.

Section 35 will provide that the respondent in a mediated settlement may apply for an order to enforce the terms of a settlement and that, where such an application is made by the Equality Authority, the court may award costs to the authority.

Section 36 is a technical amendment to section 98(1)(b) in the Act of 1998 to align the reference therein to section 74(2) of the Act as a result of the amendment to that section provided for in section 26.

Section 37 inserts a new section 99A in the Act of 1998 to empower the Labour Court or director to order a person obstructing or impeding an investigation or appeal to pay travelling and other expenses reasonably incurred by persons in connection with the investigation or appeal, excluding expenses in respect of representation.

Section 38 is intended to remove the present impediment to provision of redress by the Equality Tribunal in unfair dismissal cases initiated in the Labour Court. As a result of the amendment proposed to section 101(5) of the Act of 1998, the Labour Court may, in appropriate cases, direct that an alternative avenue of redress may be pursued.

In section 39 it is proposed to insert a new section 101A in the Act of 1998 to ensure that where a person who has been dismissed or constructively dismissed seeks redress for an act of discrimination or victimisation from the director and the Labour Court, redress may not be awarded by both.

Section 40 is a technical amendment which will add cases referred to the director under the Anti-Discrimination (Pay) Act 1974 or the Employment Equality Act 1977 to the list of references which may, after one year of referral, be struck out by the director where they are no longer being pursued by the complainants.

Section 41 is a technical amendment to section 105, paragraph (a) to replace the reference to the Director of Equality Investigations with a reference to the director of the equality tribunal, as proposed under section 27.

Part 3 of the Bill relates to amendments to the Equal Status Act 2000. It comprises sections 42 to 58 of the Bill. Section 42 widens the scope of the definition of "proceedings" to include any proceedings, including subsequent proceedings, before a person, body or court dealing with a request or referral under the Act of 2000. It also provides for the definition of a new term, "provision", meaning a term in a contract or a requirement, criterion, practice, regime, policy or condition affecting a person. It helps to clarify the relevant date to be applied as regards a claim of prohibited conduct.

Section 43 amends section 3(1) of the Act of 2000 by inserting a new definition of indirect discrimination to reflect the more advanced definition in the Race Directive. A new

subsection provides that statistics are admissible for the purpose of determining whether indirect discrimination has occurred. This is being applied in accordance with recital 15 to the Race Directive, which provides, in accordance with the rules of national law or practice, that such rules may provide in particular for indirect discrimination to be established by any means, including statistical evidence.

Section 44 provides for a narrow exemption excluding the provision of accommodation by a person in a part other than a separate and self-contained part of the person's home, where the provision of the accommodation affects the person's private life or that of any other person residing in the home.

Section 45 amends section 7 to provide that the Minister for Education and Science does not discriminate where in the exercise of his or her powers he or she prescribes requirements for the making of grants for the purpose of assisting persons to attend or continue to attend an educational establishment, providing higher or further education, which confines the making of such grants to persons who are nationals of member states of the European Union and persons who are not.

Section 46 redefines harassment as any form of unwanted conduct related to any of the discriminatory grounds, and defines sexual harassment as any form of unwanted verbal, non-verbal or physical conduct of a sexual nature. The section also provides that a person's rejection of, or submission to, sexual or other harassment, may not be used by any other person as a basis for a decision affecting that person. These changes are to apply the newer definitions set out in the relevant directive.

Section 47 provides for an exclusion from the provision of the Act of 2000 as regards persons who are not nationals and their entry to and residence in the State for statutory and non-statutory schemes, this being permitted under Article 3 of the Race Directive. The Government is of the view that as far as possible, discrimination on the grounds of nationality should not be permitted. It is proposed, therefore, that section 14 be amended to provide that, save in issues of asylum and immigration and difference of treatment in the provision of public services to asylum seekers and those not lawfully resident in the State, the Equal Status Act 2000 ought to apply to differences of treatment based on nationality.

Section 48 extends the definition of complainant to allow a parent or guardian of a complainant with an intellectual or psychological disability to act in place of the person concerned. Section 49 proposes a number of amendments to section 21 of the Act of 2000 to provide greater clarity and effectiveness to the operation of the redress procedures under that Act. Paragraph (a) provides for a technical amendment to section (2)(a)(ii) by inserting "to seek redress under this Act" for "to seek redress by referring the case to

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the Director." Paragraphs (b) to (f) provide for amendments to revise some provisions and the creation of new provisions to facilitate late claims to be accepted where there is reasonable cause or where there is misrepresentation by a respondent and to clarify the relevant date to be applied for a claim of prohibited conduct.

Section 50 inserts a new provision, as section 21A of the Act of 2000, to provide clarification that the date on which a claim or appeal is lodged is the date it is received by the director or Circuit Court. Section 51 provides for an amendment that allows for a method of appeal against a decision of the director to dismiss a claim because it has been made in bad faith or is frivolous, vexatious or misconceived or relates to a trivial matter.

Section 52 is a technical amendment to section 24(6) of the Act of 2000 to stipulate that an application for a resumption of a hearing shall be in writing and, where a notice has been issued by an equality mediation officer, to remove the requirement that the resumption request be accompanied by a copy of the notice. The amendment proposed in section 53(a) will introduce a technical change to the operation of section 25 of the Act of 2000 to keep in line with amendments under the Employment Equality Act 1998 on investigation and determination of individual sets of circumstances where more than one discriminatory ground is involved. Similarly, where a set of circumstances gives rise to more than one claim of discrimination across more than one of the grounds, they shall be investigated as one case, and where one or more claims of prohibited conduct include a claim on the ground of victimisation, they may be investigated as a single case. It will continue to be the case that a decision shall be made in respect of each of the claims. A minor textual amendment is also proposed under paragraph (b).

Section 54 proposes to insert a new section 25A in the Act of 2000 to provide for representation for any party to any proceedings under section 24 or 25 of the Act to be represented by an individual or body authorised by the party to represent him or her in the proceedings. Section 55 includes a minor technical amendment proposed under paragraph (a). Paragraph (b) adds a number of new provisions to section 27 of the Act of 2000 including a new provision in section 27(3), which also deals with the issue addressed in section 53 above, where one set of circumstances involves claims of discrimination on more than one discriminatory ground. In addition to investigating such claims as a single case, compensation will be awarded on the basis of a single case. It is also considered appropriate to exclude the Equality Authority, as a statutorily funded agency, from awards of compensation.

Section 56 will provide, in section 31 of the Act of 2000, that the respondent in a mediated settlement may apply for an order to enforce the terms of a settlement and that, where such an

application is made by the Equality Authority, the court may award costs to the authority. Section 57 inserts a new section 37A in the Act of 2000 to empower the director to order a person obstructing or impeding an investigation or appeal, to pay travelling and other expenses reasonably incurred by persons in connection with the investigation or appeal excluding expenses in respect of representation. Section 58, which inserts a new section 38A in the Act of 2000, takes account of Article 8 of the race directive, the effect of which is to place the burden of proof on the respondent where a *prima facie* case of discrimination has been established by the complainant. It is proposed that the provision will be applied to all discriminatory grounds.

While it is generally accepted that Ireland's existing equality legislation and institutional framework brings us into substantial compliance with our obligations under the directives, I am not complacent in regard to the need to be fully compliant with these obligations without undue delay. The due dates for implementation of the directives are 19 July 2003 for the race directive, 2 December 2003 for the framework employment directive and 5 October 2005 for the gender equal treatment in employment directive.

It would have been possible to discharge our duty to transpose the directives by means of secondary legislation under the European Communities Act 1972. However, I believe that such a narrow approach would have resulted in serious anomalies within the corpus of the equality legislation. As I have already stated, the directives are being applied more widely than is strictly required under their respective terms and this requires the rather complex legislation we are discussing here today. Having regard to what I believe is an equally essential obligation to implement the requirements effectively and with due regard to necessary consultation and legal advice, I am satisfied that there has not been undue delay in progressing these issues.

I look forward to Senators' contributions on this important legislation and I commend the Bill to the House.

Ms Terry: I welcome the Minister of State and his officials to the House. We are certainly seeing a great deal of him here.

Mr. O'Dea: I might become a Member of this House.

Ms Terry: I welcome the Bill which makes a series of textual amendments to the Employment Equality Act 1998 and the Equal Status Act 2000 to allow for the implementation of a number of EU directives. It is a simple Bill which must be welcomed although it could have gone further and we should have availed of the opportunity to do so.

I thank the officials who, from a drafting point of view, are to be congratulated for avoiding the

use of non-textual amendments. I hope we can now expect the Department to produce statute law restatements of our equality legislation. This legislation is being introduced under pressure from the EU. While we should thank the EU in that regard, the Government is becoming more reactive. It would be much better if it was a proactive Government which introduced necessary legislation. Why must we wait until we are rapped on the knuckles by the EU before we introduce this type of legislation? I am glad the EU is acting as a watchdog for Ireland.

The Bill addresses many aspects of citizens' equality. However, it does nothing to reinstate the citizen, Traveller and anti-racism awareness programmes terminated by the Minister for Justice, Equality and Law Reform when he took office. I would like the Minister of State to respond to that point. The Bill also fails to address the equality of the Irish language. When the Leader of Fine Gael, Deputy Kenny, questioned the Taoiseach on this matter, the Taoiseach was far from convincing about his intent in this regard.

I am not satisfied that the Government is acting at this opportune time to give the Irish language the status it deserves and is entitled to in the European Union. The silence of the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, on this issue is in sharp contrast to that of the 20 other European Governments whose languages will have official recognition in the EU. Ireland has an ideal opportunity, during its Presidency of the EU, to ensure the Irish language is recognised. We should not lose the opportunity with which we are now presented. Our MEPs, when they speak in the European Parliament, cannot use the Irish language. We should not accept that and we now have an opportunity to address that matter.

This legislation represents another lost opportunity to encourage employers to introduce family friendly workplace practices. The Minister of State was in this House for the debate on the Maternity Protection Bill. While small advances have been made, they do not go far enough. A great deal more could be done regarding family-friendly work practices and politicians should be to fore in promoting such practices. Members have called for them often enough. We encourage women who have been out of the workplace for many years to return but the structures are not provided to enable them to do so effectively. The Government is not giving a lead in providing crèches, which is one of the most basic requirements. Ireland is falling way behind in this regard.

I have concerns about section 9, which deals with the rights of persons with disabilities to have access to employment. Words such as "burden", "disruption" and "detriment" are used in the context of determining whether a person with a disability should be facilitated. The Government's approach to disability is more akin to an accountant's cost-benefit analysis. This is

reprehensible, particularly at a time when the Government has published one disability Bill but has persistently delayed publication of another.

An opportunity has been missed in the legislation to prevent discrimination relating to parental, paternity and adoptive leave. Discrimination in this area affects everybody and the Bill should have addressed this. I am also concerned about section 24 under which employers are openly permitted to give a different rate of pay to a disabled person. This is a regressive step and marks a departure from the EU-wide principle of equal pay for equal work, regardless of one's ability. I am absolutely shocked that the Government is taking this route and I ask the Minister of State to clarify this. The Minister may be well intentioned in proposing the section, which lends statutory legitimacy to discrimination and represents an avenue for the exploitation of vulnerable people who, out of fear of losing their jobs, will be reluctant to complain. The section, at the very least, should state a disabled person cannot be paid a wage lower than the minimum wage.

Other issues, which should have been addressed in the legislation, are being ignored. For example, a number of Senators over the past year have raised the issue of discrimination against secretaries in the Oireachtas regarding their pay. A number of secretaries are being paid at a lower rate but this has nothing to do with grading and so on. Secretaries who took up their positions one month after other colleagues are paid a different rate. If people are to be encouraged to work, there should be equality in their workplaces. Those who start work at the same time doing the same job should be paid the same rate. I ask the Minister of State to address this issue. It is an opportune time to raise it because it results from the implementation of the Equal Status Act 2000. The Act removed several points on the age scale and the Department of Finance used this to create the disparity. This could and should be rectified easily. The Minister of State should do what he can to address this issue.

Young people applying for car insurance are unfairly treated and politicians should be proactive in addressing this. The issue has been debated for many years but nothing has been done to reduce insurance premia for young people, who are discriminated against. Our aim is to outlaw discrimination wherever we can. Such discrimination needs to be addressed as well as discrimination against the elderly. There has been much debate in this area over the past few weeks. The elderly and people living in poverty are being discriminated against. Legally, people should not be discriminated against on the basis of their sexual orientation but we know that is not the case. We must stand up against that to ensure there is not discrimination.

I refer to comments made by two senior Deputies in the past week regarding women participating in the Council of Europe. It is

[Ms Terry.]

unacceptable for any Deputy to speak of women in the way they did. Ireland has not come far in terms of promoting equality if Deputies are saying ladies may not be able to look after themselves when they travel abroad. Such comments are not acceptable and those Deputies should apologise. While I welcome the Bill, I will address a number of its provisions on Committee Stage.

Mr. Kett: I welcome the legislation, which transposes EU directives into domestic law. I welcome all legislation which seeks to assist or enhance the lives of people who feel marginalised or feel they are on the periphery of society. We have come a long way over the past ten years in terms of legislation and people's attitudes to equality. The Government parties were at the helm when most of the legislation in this area passed through the House.

The introduction of the Employment Equality Act 1998, part of which will be amended under this legislation, outlawed discrimination in the workplace. The nub of the Act was to outlaw discrimination regarding employment and conditions of employment and it introduced equal pay for work of equal value among others. The Equal Status Act 2000 affords protection to people outside the workplace on the same nine grounds provided for under the Employment Equality Act 1998. Both Acts complement the Unfair Dismissals Act, which provides redress to people who feel they are getting a raw deal in their employment, particularly women who are going on maternity leave. As Senator Terry said, they were targeted by unscrupulous employers.

In addition, the Human Rights Commission Act 2000 was introduced. It benefits all sectors of society and it established the independent Human Rights Commission, which was responsible for protecting, cultivating and developing human rights in this State. My interest in this area is confined to disability. Back in the mid-1990s the Commission on the Status of People with Disabilities was set up and its remit was to meet people who had disabilities, ascertain how they were being done down and make proposals in order that such people could move forward. That commission produced a document, A Strategy for Equality, which was a fine piece of work and still holds good today. When reading some of the submissions made at the time, I was amazed by the sheer sense of frustration felt by people with disabilities. One would have thought that frustration would have related to their personal experience of pain and discomfort, their impaired function, the incurable nature of their disabling condition or the vexed question of "Why me?". However, that was not the case. They were most frustrated by the oppressive social barriers which prevented them from participating in life in as normal a way as possible. The other issue that emerged was that these people felt that they were being pushed to the

margins of society. At the time, they believed that they were not being given an opportunity to fully participate in society. Full participation would have allowed them to realise their potential.

In practical terms, the most serious problems at that time related to access and transportation. The built environment then was totally inaccessible. However, by virtue of legislation introduced in the interim there have been tremendous improvements in this regard. For example, anyone planning a building, domestic or otherwise, must adhere to the regulations under Part 10 of the Planning Act. These regulations suggest that even houses must be accessible because a person with a disability might be in the market for a new home in the future. All domestic dwellings must now be accessible for people with disabilities.

Any disabled person will attest to the fact that if one cannot access a building, all the other things to which one might aspire, such as accessing employment, education or leisure activities, are adversely affected. I have no doubt there are still individuals who, in terms of the planning regime, would try to cut corners in order to make savings. That is why the legislation has been put in place. We must ensure people comply with that legislation and do not get away with such behaviour.

I was interested to discover how those involved in the area of transport were affected by the new onus placed on them. I contacted the Department of Transport in respect of this matter and congratulated it and others on the way they have coped with the introduction of various items of legislation in this area. Since 2000 all major refurbishment programmes at bus and rail stations, together with the construction of all new stations and the purchase of trains and buses by State-owned public transport operators, take account of the needs of people with disabilities. Bus Éireann services Galway, Limerick, Cork and Waterford with low-floored buses which assist people with disabilities. Dublin Bus has approximately 450 such buses, which constitute 41% of its entire fleet. These buses operate on 37% of the company's routes. That is a good achievement on the part of an organisation which operates the largest transportation system in the city and which had much to do in terms of infrastructural considerations.

DART and rail services are also accessible. Trains on the Belfast to Dublin route are totally accessible and it is hoped to have basic accessibility on all inter-city trains by 2006. Money is also being invested in terms of educating front-line staff, which is commendable. None of this would have come about if the legislation compelling change had not been put in place. I would like to think differently but if the legislation was not in place such things would not happen. We must ensure that those charged with the responsibility of ensuring that people conform to the legislation do their work in that regard.

Senator Terry referred to insurance. It is impossible for people under the age of 25 to obtain insurance in this city. That is a matter at which we must look from an equality perspective. However, people who are disabled face even further obstacles in attempting to obtain insurance. I read recently about a 77 year old who was refused insurance on no grounds other than his age. That is immediate evidence of one of the nine conditions not being adhered to. There was also an outrageous judgment in recent weeks relating to a man suffering with diabetes who lost his licence because of his illness. I hope that gentleman receives whatever assistance he needs to fight his case. That was a ludicrous judgment and it should not stand. That is why the Equality Authority and the Office of the Director of Equality Investigations are vital. Those independent bodies have a role to play and I hope they will attend to issues such as those I have outlined.

Reasonable accommodation is also an important element in the equality legislation. The Equal Status Act requires that providers of goods and services accommodate the needs of persons with disabilities by making reasonable changes in what they do and how they do it where, without these changes, it would not be possible for those people to obtain the goods or services on offer. The Employment Equality Act requires employers to do all that is reasonable to ensure that people in their employ have all the necessary means to perform their duties in a capable manner. As the Minister of State indicated in a different context, both requirements are subject to a nominal cost exemption. It is reasonable to say that the changes required in this regard are generally of low cost in any event.

The failure of employers and service providers to make this reasonable accommodation has been one of the main features of most case work on disability grounds to date. Discrimination against people with disabilities has emerged as a significant issue under both Acts. In 2002, 19% of case files under the Employment Equality Act and 11% under the Equal Status Act related to disability issues in that regard.

The Minister of State alluded to section 9 of the Bill which amends section 16 of the Employment Act. Section 9 places a greater onus on employers where a person with a disability is involved in either a recruitment or promotional issue unless this gives rise to a cost which is not a nominal cost. I welcome that provision. In 1977, the then Government made provision for a 3% target in terms of employment within the public sector of those with disabilities. I do not believe this target has been reached. The Departments of Finance and Justice, Equality and Law Reform recently commissioned a study on career progression for people with disabilities within the public sector. If the results of this show that we have not reached the 3% target, we should set about doing so at the earliest opportunity. I contacted Dublin City Council about this matter

yesterday and was informed that 4% of those it employs are people with disabilities. I welcome that. An onus should also be placed on people who provide services, contractors applying for State business or voluntary organisations which receive funding to meet the requirements as set out.

I wish the Bill safe passage through the House. I wish the Minister of State well in respect of the other legislation, the Disability Bill, which is occupying his attention at present. I have had discussions with people in the sector and am aware they have complete confidence in his ability and his commitment. I have no doubt the Disability Bill will come before us in due time and not before its contents have been fully agreed. I wish the Minister well with both Bills.

Dr. Henry: I welcome the Minister of State and the Bill. As Senator Terry asked, where would we be but for EU directives? At least we do not seem to be seeking derogations to the same extent as in the past. As a veteran of the derogation that was sought from the EU directive on equal pay for men and women, I can vouch for the progress that has been made.

Unfortunately, there is still a disappointing attitude in this country towards equality legislation. There are still people who are reckoned to be more equal than
4 o'clock others and it is sad that we must introduce so much legislation at the last minute to ensure changes are enforced. After the Good Friday Agreement, the Irish and British Governments established an institution in Queen's University Belfast, the Centre for Advancement of Women in Politics in the School of Politics and International Studies. After the discovery last week that Ireland and Malta are the only countries out of 45 which did not amend their representation to the Council of Europe to include at least one woman as required, one wonders if the two governments should not establish a reciprocal centre in the Republic. The centre produces good booklets which I regularly receive. If anybody wishes, they are welcome to read them. I have a particular interest in a recent one entitled, "How can women MPs make a difference? Reconsidering group representation and the responsible party model", written by Helena Catt.

When the Council of Europe suggested that the composition of the national representation there should be changed to include at least one woman, it did not do so for statistical reasons or because it would be nice to see a pink or red suit among the grey. It did so for the reasons that people elect women to parliament and other bodies, so they can represent the half of the electorate which is poorly represented in these Houses. It is not that men cannot represent women's issues or that women cannot represent men's issues. However, one has to reckon with the fact that one may be in a better position to conduct the representation in the place where the decisions

[Dr. Henry.]
are being made. For a start, one will be bringing forward original rather than secondhand information.

Every representative is contacted by interest groups and stakeholders and everybody knows that, especially within this House, it is better to have this type of representation because it leads to better decision making. However, the House is poorly representative from a socio-economic point of view. Few Members of either House are from the lower socio-economic groups. When people have managed to become Members of the Houses of the Oireachtas, the least we can do is try to ensure, when other bodies request that there be some type of gender equality in the country's representation, that we try to fulfil that request. They are not making such requests for their entertainment.

Women have a special responsibility. Many of them were elected for party political reasons but given our use of the single transferable vote system, it is possible that some people voted for them within that party because they were women and they wanted more women in parliament so more women's issues might be brought forward. Our presence has nothing to do with feminism but with representation of the electorate, some of whom have interests which they believe might be better represented by women. Fortunately, if they want women in parliament, they are in a position to elect them.

It is interesting to see the change that has occurred with what one might describe as the hereditary seats. In the past, the seat went from grandfather to father to son. Now, one sees some seats going to daughters, some of whom have been extremely effective representatives. One has to look on this as an improvement.

In some areas it can be essential to have women on a delegation. I discovered the importance of this recently when I was asked to go with a delegation of international parliamentarians to see projects in Ethiopia that were being promoted by the World Bank. One of the difficulties was seeing the conditions in Muslim households. A great mistake the American Army has made in Iraq is bursting into women's bedrooms when raiding houses because that will never be forgiven. The delegation I was on was composed of equal numbers of women and men and some of the women were asked to go and see what the situation was in the houses. A man could not be sent and first hand information was needed about what was happening. There might be a useful role for people in that regard.

It was extraordinarily disappointing to hear the comments from two Members of the other House, one from Fianna Fáil and one from Fine Gael, on why women might not want to be on the Council of Europe. I was particularly disappointed by the Fine Gael Member's comments because I had travelled with him, former Deputy Moosajee Bhamjee and former

Senator Dan Kiely to darkest Romania. Was there ever a more representative group? We even travelled near Dracula's castle and I was not the slightest bit frightened. Indeed, I was extremely entertained by former Senator Dan Kiely playing the spoons. He was a great success, as I told the Taoiseach when I returned home.

An Cathaoirleach: He is no longer a Member of the House and Members should not discuss people who are not in the House.

Dr. Henry: Our parliamentary debates can influence public opinion and we can relay useful information as well.

We are thankful that Senator White has returned from her dangerous mission to Colombia. She was most courageous because that is a far worse place to visit than most of the places visited by members of the Council of Europe. I was the first person to go into Tehran after the first Gulf War. I went up to the mountains to see what was happening there with the supplies from the International Red Cross. I was sent because I was a middle aged Irish woman and it was thought I was the least likely person to encounter trouble. A Dutchman was the follow-up party. Sometimes it is an advantage to have women on delegations.

The comments I mentioned were an indirect form of discrimination. I look forward to one of the Fianna Fáil members being replaced by one of the women Fianna Fáil members. That would be the best approach because the party has some excellent members who could be most useful on the Council of Europe. There is no reason that preference should be given to another party.

I have devoted my contribution to discussing women, which is no harm. However, I have been sent some amendments by FLAC which is concerned about discriminations in the Bill against non-nationals. I hope the Minister will be willing to accept them. They refer in particular to education and education grants. We will discuss them on Committee Stage.

An Cathaoirleach: I call Senator White.

Ms White: We agreed earlier to change the order and that Senator Tuffy would speak next.

An Cathaoirleach: The procedure is to cross the floor and I am sticking to that procedure.

Ms White: It is clear from the Minister of State's previous contributions in the House that he has empathy with this subject. I wish to draw the Minister's attention to a survey on equality in the home which was carried out in Northern Ireland in 2002. It examined gender roles and involved 1,800 adults. The general conclusion of the survey was that there are more women participating in the paid labour market and that women want to be economically independent.

I will continue when the Minister is finished consulting his advisers.

An Cathaoirleach: The Senator can proceed.

Ms White: I want the Minister to hear my contribution.

An Cathaoirleach: He is consulting his advisers.

Ms White: I want him to listen to me.

An Cathaoirleach: He is listening.

Mr. O'Dea: I can listen and take advice at the same time. I can hear what the Senator is saying.

Ms White: I am making my point to the Minister of State.

An Cathaoirleach: I appreciate that.

Ms White: To clarify, I am not criticising the Minister. I would just like him to hear what I am saying.

On a survey of 100 households in the North and the attitudes of men and women to participation in the workforce, the general consensus was that people in society now agree that women fully deserve to participate in the workforce, of which half are women, not only for economic independence but for economic necessity; they have to pay today's high mortgages. However, when a survey was done on men's participation in housework activities, excluding child care and leisure, it was found that men only did 5.92 hours of housework whereas women did 17.15 hours. We are talking about equality in the workplace but from this survey done in Northern Ireland, the results of which I believe would be the same here, women are still carrying the burden of child care and housework.

We talk about a cultural change but I was very surprised by the remarks made by two Deputies last week on the Council of Europe and as a Senator I want to pick up the points raised. Deputy Jim O'Keeffe said that—

An Cathaoirleach: You cannot refer to Members outside the House.

Ms White: I apologise. One of the Deputies, who is a gentleman — when I meet him in the corridor we engage in a friendly “Hello” but I will have to ask him to account for himself on the next occasion — explaining the reason there were so few women in Irish politics and why there was not a woman on the Council of Europe, said that the notion of going off alone to these meetings for a woman would be quite unattractive. The other Deputy, who shall be nameless and who had a few comments to make about me going to Colombia, made equally derogatory remarks.

We are questioning the reason so few women are Members of the Oireachtas, which is the most exclusive men's club in Ireland. I must qualify that statement, however, by saying that the majority of those who voted for me were men, to

whom I am deeply grateful. I would like to see a critical mass of women Members of these Houses so we could achieve more for women in society.

One of the most serious problems facing society is that women want to participate in the workforce but the cost of child care is approximately €800 to €1,000 per month. Young families in the 30s age group have told me that the problem is horrendous. Women who are educated are deciding to stay at home because it is too expensive to pay for child care. Unless we have more vision in terms of legislation, we will deprive ourselves of the economic benefit to society of half the population who are highly educated.

The top priority on my agenda is the peace process in Northern Ireland but my second priority is an improvement in women's participation in the workplace and bringing about harmony between the workplace and the family. When my daughter started school at the age of three and a half, my employer allowed me to go home at 2.30 p.m. to collect her. I was able to make that arrangement but many employers are not so amenable.

It is sad that two experienced Members of this Oireachtas made statements to the effect that we are all too delicate to partake in a parliamentary delegation to eastern Europe. It was said in the Dáil last week that we were not available to participate in this delegation but I would like to record that I was not asked to go.

The Minister misunderstood me when I was trying to explain what I meant. I did not intend to be derogatory in any way. I know he is very interested in this issue but I just wanted to get the ear of the Minister.

Ms Tuffy: I welcome the Minister of State. On the question of women in politics, it is my experience that one is not generally discriminated against in politics. I accept what was said in the past few days was inappropriate and old-fashioned but that is not the rule. My party encourages women to become involved in politics and to put themselves forward as candidates. My experience in the Labour Party as a candidate, a councillor and a Senator has been, in the main, positive.

To encourage more women to become involved in politics we need to promote politics as a career and improve its image to ensure that both men and women, who do not consider politics as a worthwhile career, would reconsider that view. That is one approach.

A survey was done recently by an academic who surveyed women practising as councillors, Deputies and so on. The overwhelming response was that they did not experience discrimination. Their general view was that they were not discriminated against as practising politicians but that other issues to improve women's experience of politics needed to be addressed. We mentioned one of those when we talked about maternity protection in that facilities needed to be provided

[Ms Tuffy.]

to parents to allow them participate in the workforce.

I welcome the Bill and the fact that consultation took place beforehand, as mentioned by the Minister of State. The Minister also mentioned ground-breaking and far-sighted legislation. I would like to claim some credit for that on behalf of the Labour Party because it was the Labour Party which first raised this issue in its 1992 manifesto and in the subsequent Government. I am aware there were problems with the legislation we introduced but it started the ball rolling.

Many of the changes in the Bill are welcome, including the provision regarding discrimination by virtue of association, the provision regarding motor vehicle insurance, the change regarding those under 18 and the statutory school leaving age, and the broadening of the provision regarding accommodation for employees with disability. On that point, much more needs to be done. For example, a recent report in *The Irish Times* stated that disabled people are almost twice as likely to be unemployed as the rest of the population according to the Government's own think-tank.

A particular area for criticism is the public service because it has failed to achieve a target of employing 3% of disabled workers agreed 27 years ago. The Minister mentioned the constitutional impediment. If there is a constitutional impediment we need to do something to address it. The public service in particular needs to show the way and we need to do much more proactive work to ensure that people with disabilities, and the other categories of people who are discriminated against, are not discriminated against in the workplace.

The extension of protection to self-employed people who are on contracts and their partners is welcome because so much of our employment now is on a contract basis. Many of the multinational companies are making their employees redundant and then re-hiring them on a different contract. People in those circumstances need to be protected.

I want to mention in particular discrimination against older people. There has been some progress in this legislation but much more needs to be done. The Equality Authority's 2002 annual report stated that the fourth largest category of complaints concerned age-related discrimination. The Equality Authority's report, *Implementing Equality for Older People*, found widespread ageism in our system, and it has made a number of recommendations, as have other bodies such as the National Council for Older People. We need to give priority to this area. People are living longer and have much potential as they get older but we are not using that potential to the best advantage. That is not good for the economy.

Our attitude to older people in society is terrible. One of the cases the Equality Authority dealt with involved a 77 year old man who was

turned away from a bar. Another case involved a woman of 29 years of age and a woman of 36 years of age who were turned away from a bar because they were considered too old for the image of the premises. That is an ugly side of Irish society. There is a need for more positive action to try to prevent such incidents. While it is not provided for in the legislation, we should look at prohibiting the fixing of compulsory retirement age in the future. That should be the next step following this legislation. Those who want to work after the age of 65 should be able to choose whether to do so. Their choice to do that should be protected in legislation.

Obviously other things need to be done that relate to older people and other groups. More needs to be done to promote more flexible working arrangements because older people may want to take advantage of that and it may suit their lifestyles. There is a need for a better life-work balance. That would take into account the needs and wishes of other groups in society such as parents. This is the type of area that needs to be looked at.

The largest category dealt with by the Equality Authority concerned those cases that dealt with discrimination on grounds of gender. While progress is being made in our legislation, much more needs to be done. As has been mentioned, the Government needs to lead by example and to improve its record on the appointment of women to State boards.

I stated previously when debating the maternity protection legislation that more needs to be done about parents' rights, paternity rights and parental leave. Ireland is way behind many other EU countries in that regard. That persons can be discriminated against on grounds of race is a growing issue here. In the 2002 report of the Equality Authority, this was the second largest category of complaints. In its literature, the Equality Authority suggests we look at underpinning rights for those who could be discriminated against on grounds of race, by means of legislation similar to what we have tried to do for those with disabilities.

While the Government is putting in place this forward-looking legislation, the same Department, through the Minister for Justice, Equality and Law Reform, has introduced legislation which has introduced many backward steps in terms of our approach to equality. The Intoxicating Liquor Act means that certain categories of people have to go to the courts instead of, as heretofore, to the Equality Tribunal. Pubs are allowed to discriminate on grounds of age, and generally impose an age limit for younger people. The culture, whereby people are discriminated against on these grounds, is being allowed to creep back in.

An Cathaoirleach: It is very disrespectful to the Senator in possession that other conversations should be in progress. I ask Senators to please refrain from such conversations.

Ms Tuffy: That is an issue I ask the Minister of State to examine. If we are serious about doing more to promote equality in society, we should review the Intoxicating Liquor Act.

Mr. Bannon: I welcome the Minister of State. This Bill, which amends the Employment Equality Act 1998 and the Equal Status Act 2000, which in turn amended the 1998 Act, is in line with the need to keep equality legislation under constant review. It is regrettable that it took pressure from the EU to bring forward the legislation. There is much in the legislation that I welcome.

The current law as it pertains to the prior Acts is too weak and needs to be strengthened and upgraded. It is important that we, as legislators, address the many areas of discrimination highlighted in statements, reports and so on of those who have been marginalised over the years, as a matter of urgency. We are on the hind tit with regard to reform in Europe. It is an issue that needs to be addressed and revisited time and again.

In the 16 years since the introduction of the Employment Equality Act and the Equal Status Act which followed, the countrywide profile of our citizenship has changed considerably. We need even more radical changes to Acts, laws and so on, that discriminate against persons on grounds of gender, disability, age, sexual orientation, race or religion. All citizens deserve the right of citizenship and I am fully committed to ensuring all our citizens have equal rights. Any legislation has to incorporate the necessary legislative change and support for initiatives needed within society to bring an end to discrimination and ignorance.

Discrimination inevitably leads to less favourable treatment. Issues regarding incitement to hatred must be looked at as an absolute priority. Equality and acceptance of difference are the key factors that must be addressed if we are to establish the grounds for a multi-ethnic society. It is important that all involved in political parties in local and national government should work to eliminate all remaining areas of discrimination against any of our citizens, with equal immigration and citizenship rights being given to partners of current citizens. The partners of those who came from the Philippines to work in some of our hospitals were debarred from coming into this country. This is an area that should be examined. They did not have the same rights as those coming to work here.

Segregation and lack of equality undermines the benefits that could pertain to a multi-ethnic community. Diversity of culture, language, beliefs, values and practices must be recognised and supported. From speaking to my colleagues in city constituencies I am aware of the representations they have received on discrimination and the number of times they have met with stonewalls and barriers in dealing with the Department of Justice, Equality and Law

Reform and other Departments, in their representations on behalf of constituents.

Recent research has shown that managers of small and medium enterprises have only a scant idea of their duties and obligations under equality legislation. Some even express fear and uncertainty about how to comply with such legislation. There is a need for training in this area. Concerns have also been expressed about the cost of equality and the potential tensions, disruption and discontent in the workplace.

In terms of legislators, Ireland has among the lowest percentage of women in national parliaments in Europe. The figure of 14% is far removed from the UN target of 30% or 32%. Unfortunately, Ireland has an embarrassing record on gender equality in public life. As recently as two months ago there were posters and hoardings around the Seanad and the other House highlighting this record.

The UNIFEM report published last May shows that sub-Saharan African states such as Uganda and Mozambique have a much higher female representation in their national parliaments than Ireland.

Although introduced in 1977 the 3% quota of public service jobs reserved for people with disabilities has now been achieved for the first time in the Civil Service. It has not, however, been achieved across the board in the public service. The abilities of people with disabilities and their potential contribution to the economic and social development of this country have not yet been fully recognised.

Disability groups, which have consistently campaigned for rights based legislation which should be enforceable in the courts, are justifiably disgusted by the proposed disability Bill which will not legally oblige the State to provide extra services for the disabled. Services will be offered if resource constraints permit, which is shameful. Once again, the Government is showing its priorities as being Exchequer driven and the weakest in our society are paying for the Government's broken promises and financial ineptitude. Where is the equality in this regard?

We must assist in the removal of all remaining forms of discrimination in the areas of employment, tax and inheritance law. There should be no bars to any partnership arrangement receiving concessions from employers in regard to taxation rights, benefits and pension rights on the same basis as married couples. This should also be the case with the inheritance of property. As legislators, we must assist in the removal of all remaining forms of discrimination in the areas of civil rights, employment, education and leisure pursuits. Anything less is a derogation of our legislative and humanitarian duties and responsibilities.

The Minister should revisit this issue from time to time. Nothing in society is permanent except change and it is important we do not lag behind the rest of Europe on equality legislation. Real action should be taken in order that we do not

[Mr. Bannon.]
have to wait for the EU to push us on issues such as equality.

Mr. Quinn: I welcome the Minister of State, Deputy O’Dea, to the House and I also welcome this move to update our equality legislation. However, I want to signal a note of protest regarding the manner in which this movement is taking place. This approach of so heavily amending an original piece of legislation that it becomes quite incomprehensible, especially where both documents are read simultaneously — I found it impossible to get through the two documents — flies directly in the face of the Government’s declared intention to make legislation easily understandable and fully accessible to the widest possible public.

Nowhere is this needed more than in equality legislation, which affects a wide range of people. In terms of accessibility to its provisions, the Bill is a step backward rather than the step forward it should be in every respect. On a number of occasions, we have dealt with amending legislation which does just that — amend. I do not suggest that anybody involved is lazy and realise there are time limits within which things must be done. However, it seems a shame that little is achieved with regard to amending legislation, with some exceptions — I accept that some Ministers and Departments have decided to create single pieces of legislation which are easy to understand.

That is my protest. I want to focus my contribution on one of the grounds of discrimination in particular, that of age, which Senator Tuffy has just discussed. Before I deal with that, I want to raise a different issue, which touches on a matter I do not quite understand although the Minister referred to it in his speech. On section 3, the explanatory memorandum to the Bill states:

With respect to the protection of private and family life, a limited exclusion from the definition of “employee” is provided for in the case of personal services affecting private or family life provided in the home.

That intrigued me and I became even more puzzled when I looked at the actual text of the section itself, the relevant part of which reads:

‘employee. . . does not include a person employed in another person’s home for the provision of personal services for persons residing in that home where the services affect the private or family life of those persons.

The effect of this is to exclude all people who are employed in a person’s home from the protection of equality legislation, across every one of the nine grounds of discrimination. Under this exclusion, I am sure my colleague, Senator Norris, will be appalled to learn that a gay butler is stripped of all protections in my reading of this provision. More generally, the home is precisely

the place where many vulnerable people find employment, including those who come from abroad, to which there has been reference in the House today. I am thinking of the widespread use of foreign nannies or *au pairs* who are all too often exploited by their employers. These workers seem to be those most blatantly discriminated against.

I can think of no possible reason for this exclusion and I ask the Minister to provide an explanation for it, and a justification if he can. I realise the Minister has touched on this in his contribution. He used the phrase “in the context of the race and framework employment directives”. The Minister might explain that as I do not understand where it fits in.

I was particularly disturbed to note when I read the EU directive on which this updated legislation is supposed to be based, that there is no mention whatever of this exception in that document. The directive is, in fact, quite explicit in stating that the intention is to apply it to all kinds of employment without exception. On the face of it, the exclusion set out in section 3 is bizarre, highly undesirable and may be illegal from an EU perspective. I am sure the Minister has an explanation and I await enlightenment on this issue with considerable interest.

However, as I said at the outset, I would like to focus on the age ground of discrimination. With the indulgence of the House, I will talk not about something that is in the Bill but about something that is not although in my view it should and, I hope, will be inserted if I can make a sufficiently convincing case to the Minister. I have a particular interest and experience in this area, not just because I have reached retirement age but because more than a decade ago, in 1993, when I had been in this House just a few weeks, I succeeded in having an amendment on this very issue accepted by the Government of the day.

The measure concerned was the Unfair Dismissals (Amendment) Bill 1993 which had passed all Stages in the Dáil without anyone noticing that it did not include the age ground as the basis of an unfair dismissal. To give the relevant Minister full credit, the lady who is now Leader of this House, Senator O’Rourke, immediately recognised that a goof had been made despite the Bill having gone through the Dáil and various consultations. When I drew the matter to her attention, she immediately agreed to accept my amendment.

It is tempting to think we have come a long way in the ten years since then but I wonder if this is really true. Our population is steadily getting older but we show very little sign of having come to terms with that. One symptom of this is that there is nothing in this Bill, or in the whole corpus of equality legislation, that sets out to attack the concept of compulsory retirement.

I will make my position on this matter quite clear. I do not wish, as apparently the Society of Actuaries does, to raise the age of retirement. I have no wish to force anybody to work beyond

the accepted retirement age. While I realise the Government is poised to introduce a measure that will raise the retirement age in the public service, that is a separate question to the one I raise. I am not talking about forcing anybody to work up to a certain age or to work beyond that age but about a situation where a person is able and willing to continue working, but is prevented from doing so by a compulsory retirement age.

People vary greatly in their wishes on this subject which is why I am against compulsion in this regard. Some people cannot wait to get their gold watch and are happy to move on to a life of retirement. Others are greatly distressed at the thought of stopping work and argue that they are fully capable of carrying on. Others again would like to work part-time or in a reduced capacity but find that the taxation and pension regimes make that more difficult to arrange than it should be.

I suggest to the Minister that the time is fast approaching — indeed, that it has already come — to outlaw the entire concept of compulsory retirement at an arbitrary age. The key word here is “arbitrary”, which is where the discrimination arises. No one would argue that older people are as physically capable as younger people. No one would argue that some extremely old people do not begin to lose some of their mental faculties. For such people, an honourable retirement is an appropriate way to spend their last days. To argue that at a particular set age, usually 65, all people, without exception, become incapable of further employment is not just untrue but flagrant discrimination. As such, it should feature in equality legislation that purports to remove all discrimination on any of the nine grounds.

I am not arguing that abolishing the concept of compulsory retirement would achieve all we are setting out to do in restructuring our society or coping with the challenge of an ageing population, to which we have referred on a number of occasions in this House. In that picture, making compulsory retirement illegal would be a very small dot on a large canvas. It would be an important start because it would signal our alertness to the problem. Making compulsory retirement illegal would be a measure with considerable benefits with almost no cost at all. At a personal level, no one would be forced to work beyond whatever was the normal retirement age for their occupation. At a business level, no one would be forced to go on employing a person who was incapable of doing their job. Such a change would be a huge boon to people who would prefer to go on working. In most cases there would be a clear benefit to the companies for which they work. To the wider community, the benefits of having someone continue to be economically active are too obvious to need spelling out.

I express the hope that during the time it takes for the Bill to pass through the legislative process, the Minister will reflect on what I and others have said here today. Why not make a little bit of

history by taking this small step forward? Apart from the omission on which I have focused, I welcome the Bill and wish it well. I am particularly pleased as an employer to see a strengthening of the conditions under which employment must be provided for people with disabilities. The existing legislation in this regard is much too weak. It provides an easy way out for any employer who wishes not to employ disabled people. The new provision is far more balanced and should be fair to everyone concerned.

I welcome the Bill. I have made some points which I hope the Minister of State will take into account.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. O’Dea): I thank the Senators who contributed for their helpful advice and recommendations.

My colleague, Senator Kett, asked if we had reached the 3% target right across the public service. The latest figures indicate that we have reached 2.7%, which is fairly close to the 3% target, but we will not become complacent if we reach the 3% target. Our aim is to improve on that figure.

Senator Tuffy referred to the 1992 Labour Party manifesto. While I am not familiar with the document, I assume it contained all these wonderful ideas about equality legislation and so on. As usual, it was my party which put them in place. Senators Quinn and Tuffy were concerned about ageism in society and introducing legislation to prohibit the fixing of a compulsory retirement age. I understand and empathise with everything the Senators said. To the best of my recollection — I am open to correction on it — the Minister for Finance touched on the issue in his budget speech. He certainly adverted to the possibility of raising the compulsory retirement age from what it is at present in the public service. He also referred tangentially to considering whether the idea of fixing a compulsory retirement age should be abolished by law. I would like to make history on the issue. It is decision for Government with wide socio-economic implications. Significant people in Government are thinking in that direction and I will convey to them the views of Members of the Seanad.

Senator Tuffy referred also to State boards. I have put a system in place to regularly monitor how we are succeeding in increasing female representation on State boards. It involves getting a six monthly report from Cabinet and across the public sector. I have already done two of these and the situation has improved from one to the other. I will shortly get the next report and I hope the situation will have improved again. If not, I will speak to some people.

Senator Bannon said the Government’s approach to people with disabilities was Exchequer-driven. “Exchequer-driven” is one of the clichés which is trotted out occasionally. Woe betide the Government that is not Exchequer-

[Mr. O'Dea.]

driven. It is basic economic common sense, national school stuff, that when one is deciding what to spend, one must take account of what is coming in. Otherwise one would find oneself in the position in which the Government left us in 1987. After coming into office in 1983 on the basis that the outgoing Government, led by Mr. Haughey, was spending too much, the next Government more than doubled the national debt in four years. It took years to get out of that hole. That was the result of policies pursued by a Government which was not Exchequer-driven.

Ms Terry: They were different times.

Mr. O'Dea: We will return to those bad times if we pursue policies which take no account of what is coming into the Exchequer.

The reality is that the Government has a serious commitment to assisting people with disabilities. Currently we have done something which is done on very rare occasions in regard to legislation which Members of the Oireachtas, either Dáil or Seanad, have not yet seen. We have asked our officials to discuss the matter with the disability legislation consultation group. We asked everyone to treat the matter confidentially because it would be nonsensical to have a discussion in the public domain on legislation which Members of the Oireachtas have not yet seen. Unfortunately, someone — I will not point a finger — has broken the commitment of confidentiality by going to the national press and quoting verbatim from meetings with Government officials. I was asked to go on radio on Monday to discuss the matter with the disabilities legislation consultation group. My reply to RTE was that I would not discuss legislation which Members of the Oireachtas had not seen. I will not get into a discussion on the forthcoming disabilities Bill today for the same reason. However, Senator Bannon and others can rest assured that as soon as the Bill is published, which will not be too long, I will be available for debate and consultation at all times on all aspects of it.

Senator Quinn referred to the complexity of the legislation, with which I have a certain sympathy. I will talk to my officials about the matter. The legislation appears to be unnecessarily complex in the way it is drafted — perhaps there is not a better way to do it. It does not make the legislation easier to access, so to speak.

The Senator is the only Member who specifically raised the issue of section 3. He must understand it is not a step backwards, just a step forward. The Employment Equality Act 1998 outlaws discrimination in regard to employment on nine grounds. A section in the Bill excludes all people working in private households. These people get no protection under the legislation and could be discriminated against on any one of the nine grounds and they would have no case. They are completely discriminated against. We are

narrowing that exception to people employed in a family home, doing certain types of defined employment, where there is a balance to be found between the right of the employer — the householder — to privacy and the right of the person who is working there to be treated the same as any other worker in any other location. I have looked at the section and I am not happy with certain aspects of it. As it could lead to certain undesired results, I have asked my officials to look again at the issue. I will table an amendment on Committee Stage when we can discuss the matter in more detail.

Senator Terry referred to the rates of pay for secretaries in the Dáil. I am not familiar with that issue but I will inquire about it. She also referred to the fact that the Government is reactionary in regard to equality legislation. I refute totally that remark.

One has to say something that sounds critical of the Government or legislation, but there is no point opposing on grounds that are completely spurious and demonstrably false. The reality is that in any trip I have made to Europe in the short period since we assumed the Presidency, I noted that our EU colleagues are absolutely astounded at the advances Ireland has made on equality legislation. The fact that three EU directives form the basis of this Bill proves this point. However, 95% of what the European Union wants is already in place as a result of the 1998 Act and the Equal Status Act 2000. We are one of very few countries in the European Union, if not the only one, to have reached this level. Regardless of the Labour Party manifesto in 1992, we started the process in 1998 and built on it with the equal status legislation in 2000. The people in the Commission who are proposing and drafting the measures in question were absolutely astounded at the advances in our equality legislation. I can think of several individuals who expressed such sentiments, but I do not want to address this topic today.

On the Traveller programme that was terminated by the Minister for Justice, Equality and Law Reform for very good reason, provision has been made in the Estimates to replace it. An announcement will be made very shortly on what I believe will be a more comprehensive and focused programme.

It was suggested that the Government does not want to encourage family friendly work policies, but it has just presented a Maternity Protection Bill and will shortly introduce an adoptive leave Bill in the Seanad. I will be introducing the maternity protection legislation in the Dáil. We are introducing such legislation in the face of the most sustained opposition from employers and those in the business sector. They say they are not against women working or giving people rights to maternity leave, etc, but that it is anti-competitive and putting a disproportionate burden on employers. Despite such statements, we introduced legislation and will take the risk. We are in an era in which the media are constantly

haranguing us about competition and anti-competitive practices in the Irish work environment and we need to be careful because we are now competing with countries that can offer much cheaper labour, etc. It is a dangerous time to be placing extra burdens and costs on employers. It might not be very popular, upmarket or politically correct to say this — it is politically incorrect — but it is a fact and Governments must deal with facts. We will be putting relevant legislation through the Dáil tomorrow.

I do not have the exact figure, but we are spending almost €1 billion on the provision of child care. This is a substantial contribution given the size of the economy. I live in the real world and, like everyone else, I have to go to the doorsteps and catch votes. I had to go to doorsteps with our councillor so he can get re-elected and with new candidates so they can get elected in the upcoming local elections. I am aware of the problems on the ground associated with child care. It is a question of balancing one's resources. I would love the Government to be able to find more imaginative ways to address this issue, such that we would be able to provide more child care places, at a cheaper cost, for all the taxpayers' money we are laying out. The other side of the coin is that when people are entrusting their children, who are the future of this country, to others to look after them, there must be appropriate safeguards in place. This is where the cost begins to come into effect. As I stated, we have committed a considerable sum of taxpayers' money to this issue. I wish we could either spend more money on it to further alleviate the problem or else obtain better value for the money we are spending.

When Senator Terry re-examines section 9 of the Bill and the Employment Equality Act 1998, which provides the context for it, she will note that the section, rather than insulting the disabled through the use of words such as “burden” and “disproportionate”, is designed to help the disabled in a dramatic way. The Supreme Court has decided that employers cannot be required to accommodate the disabled if their accommodation imposes more than nominal cost. In other words, the court has ordained that an employer can be compelled to spend only a pittance on accommodating the disabled. This is the Supreme Court's interpretation of Article 43 of the Constitution.

As a result of an EU directive on employment, we are in section 9 able to go further than the Supreme Court judgment. The directive allows us to compel employers to provide measures that will not impose a disproportionate burden. This is recognised as taking us much further than where we already stood. The language used, such as “burden” and “disproportionate”, might sound off-putting but it is taken directly from the European directive. There will also be a section in the disability Bill dealing with this area. I have discussed the wording in question with the disability legislation consultation group and I can

breach confidentiality in respect of our discussions to the extent that I can say the group is absolutely over the moon about it. It is absolutely delighted and feels in no way offended or upset by the fact that we are doing something to compel employers to accommodate them far more substantially.

Section 24 alludes to the lower rate of pay for a person with disability when that person has a lesser output of work in a particular period when reasonably compared to that of an employee without the disability. This is allowed under the legislation as it stands and under the relevant European directives, to the best of my knowledge. Section 24 is an attempt to improve the situation and to narrow the exclusion that already exists. If I had more time to explain this, I would do so, but suffice to say that I suspect that behind the thinking of those in Europe and those who framed the original legislation in 1998 is the view that if an employer has the choice of employing a disabled person or an able-bodied person, he will naturally employ the able-bodied person if the disabled person does not produce or cannot produce as much work as the able-bodied person in a particular period, given that the output can be directly measured. The section is to enable employers to take on people with a disability where they would not otherwise do so.

Ms Terry: That could lead to abuse.

An Cathaoirleach: Order, please.

Mr. O'Dea: It could lead to abuse but if the provision did not exist, there would be even more abuse because the disabled person would not get the job in the first place. We have discussed this with people who represent the disabled and they are very enthusiastic about it. Any provision brought in to help people can be subject to abuse, but that should not stop one from trying to help them if one can.

On discrimination against young people trying to obtain car insurance, we have for the first time removed the lower age limit of 18 in respect of insurance matters. We are saying that anybody of any age, including a 17 year old with a driving licence, can as a result of this legislation make a claim stating he or she is being discriminated against in so far as insurance is concerned.

Reference was made to remarks made during the week by two of my colleagues in the Lower House on women travelling to the Council of Europe. I join with everybody in deploring and regretting those remarks and I dissociate myself and the Government from them entirely. I thank Senators for their contributions and I am sure we will have a very lively and informed Committee Stage debate on the Bill.

Question put and agreed to.

Committee Stage ordered for Thursday, 5 February 2004.

Israel-Palestine: Motion.

An Leas-Chathaoirleach: I welcome the Minister of State at the Department of Foreign Affairs, Deputy Tom Kitt, to the House. He informs me that the Minister will be here shortly.

Mr. Norris: I move:

That Seanad Éireann:

—commends the Government for its balanced policy towards Israel/Palestine and in the light of recent tragic events affecting both communities and of Ireland's Presidency of the EU requests that the Government use its position to ensure that this problem remains a priority area for the EU;

—notes with satisfaction the presentation of the common EU submission on the construction of the wall separating and encircling the Palestinian population of the West Bank to the International Court of Justice;

—welcomes the presentation of a national submission outlining Ireland's views on the matter; and requests that the Government

(1) ensure that Ministers Cowen and Kitt continue to monitor the situation in depth and in particular to continue the practice of visiting both Israel and the West Bank/Gaza,

(2) continue to raise human rights issues with both sides, and

(3) maximise opportunities to support the beleaguered inhabitants of the West Bank and Gaza in their current distress through humanitarian projects.

I have deliberately framed this motion in a way that, with the help of the Leader of House, it will not be challenged but will go through unopposed. It is such a sensitive issue that it is important we have consensus on it.

I have travelled backwards and forwards to Israel and Palestine for the past 30 years. I have a long-term relationship and we live very close to where the recent tragic suicide bombing took place. I would like particularly to draw the Minister's attention to something quite important, namely an exchange of letters that took place between myself and President Arafat, whom I visited recently. There has been much criticism stating that he has not properly condemned suicide bombing. I wrote to him thanking him for his hospitality and stated:

One matter however remains to which I feel it is necessary to return — and that is the question of suicide bombing which has tragically resumed. While I appreciate the suffering and distress to which the Palestinian people have been subjected I feel that such acts present a very serious barrier to progress. I am convinced as are all the senior representatives

of the Palestinian Authority that I met that such action is not only grossly morally wrong but also politically counterproductive. Such events merely provide an alibi for further Israeli mistreatment. They also seriously undermine the work that a number of us within the democratic parliaments of Europe are attempting on behalf of the Palestinian people.

With the help of Dr. Ali Halimeh who transmitted this message directly to President Arafat I received this morning the following communication from Ramallah in which Dr. Halimeh says:

I have been instructed directly by President Arafat to state the following:

The President and the Palestinian National Authority strongly condemn all attacks against civilian targets.

Suicide bombings do not serve the national interest of the Palestinian people.

We consider all attacks directed at innocent civilians as terrorist attacks.

The Palestinian National Authority, despite the total destruction of its security infrastructure, especially in the West Bank, has managed to intercept sixteen suicide bombers in three months. We have alerted the Israeli security forces to those who we have failed to stop.

President Arafat assures you and the people of Ireland of his commitment to do everything possible to put a halt to these attacks.

That finally nails the statement, frequently heard on RTE, among other places, that President Arafat encourages them. It is a very important development and I draw the attention of the House to it.

I am naturally closer to the Israelis than to the Palestinians in the sense that this has been my lived experience. I admire the Israelis for their courage, their ingenuity, their technical skills, for making the desert blossom and so on. However, being close to them also means that I have become more aware of the betrayal of the humanitarian ideals of the Jewish people by the present Government and its descent into moral chaos. I do not believe that the use of murder by a Government as an instrument of policy should be tolerated in any society. However, I make the point that the soul of Israel is not dead for the ideals of Judaism are nobly incarnated by people like Esru, a Jerusalem plumber, an ordinary man who goes every Saturday to Hebron to try to help the distressed people, taking the elderly to hospital, collecting their medicine, trying to rebuild their shattered homes and documenting abuse like that of the Physicians for Human Rights that I witnessed at Tulkarum, distinguished consultant surgeons humiliated and abused by their fellow Israelis guarding the ghetto and kept waiting in the rain before they are allowed into the camps where they perform

operations and bring in medical supplies. One of these men told me that he has been coming every Saturday for 15 years. I must also mention the Israeli soldiers and airmen who have refused to obey orders which they consider a violation of human rights laws, protocols and international laws. I quote from an open letter written to Sharon by members of the commando unit Sayeret Matkal and published in *The Irish Times* of Monday, 2 February, in which they stated: "We shall no longer take part in the deprivation of basic human rights from millions of Palestinians, we shall no longer serve as a shield in the crusade of the settlements, we shall no longer corrupt our moral character in missions of oppression."

That there are decent people of conscience and of courage in Israel who plainly detest the road towards full-scale ethnic cleansing, towards which Sharon is speeding a frightened and confused nation, can be confirmed also by the position taken by one of the so-called refuseniks, Itai Swirski, who said:

We are there [in the territories] to protect 5,000 Israelis in Gaza living amongst 1.2 million Palestinians. How do we discriminate? We treat the person by the colour of his skin, by the colour of his ID card, by the colour of the licence plate on his car, by whether he wears the Kippa or not. If the person is not a settler you will see him immediately as an enemy as you will stop him at the check point and make him wait for hours losing a large part of his school time, not being able to reach a hospital, his daughter's school, his work place. If a settler, he is gone in a minute.

These idealistic young people have been denounced in the Israeli Parliament but have had the moral courage to continue their protest issuing public statements such as the following which some have seen as treasonable but which I see as the highest form of morality:

They say we did an antidemocratic act, they say we damaged Israeli democracy. This democracy has a backyard. This democracy has a basement and in this basement 3.5 million people are imprisoned, they do not take part in this wonderful democratic show that is being played on stage.

This democracy sends out soldiers to make sure that those people stay behind the scenes and do not interrupt the show. We will not take part in this show anymore. International protest must show solidarity with these brave figures.

These are Israeli voices. It is also noticeable that the four previous heads of Shin Bet, the Israeli secret service, issued a joint statement describing Sharon's policy as catastrophic, as did a former Israeli Army chief. Even more remarkable are the activities of the Association of the Bereaved in which Arab and Jewish people who have lost family members to violence meet together to help

the process of personal healing and to advance the cause of peace.

Israel was established in 1948 as a result of a United Nations resolution. However, there was another part to this resolution. This sought to provide a state also for the original Palestinian inhabitants from the remains of the divided land. We are still waiting for that second shoe to drop. It is astonishing that 60 years after Europe solved its problem of conscience at the expense of the Palestinian Arabs there is still no Palestinian state. Of course, the surrounding Arab countries did little to help, and their record is shameful. In many instances they treated their Palestinian brothers as badly or worse than the Israelis. Then they fought a series of incompetent and wasteful aggressive wars against Israel — an already traumatised people. Although it was subject to attack, Israel has also consistently abused its position both in terms of morality and international law in what has come to be known as the Occupied Territories. I could quote from any number of legal sources to show that international protocols have been exceeded.

I have just returned from a visit with two Oireachtas colleagues, Deputy Liz O'Donnell and Deputy Simon Coveney, at the invitation of Christian Aid. The experience of witnessing on the ground the lived reality of the Palestinian people even for a moment was instructive. We were the victims of the capricious arrogance of some of the soldiers and security guards at the crossings although others among them were decent, humane and friendly.

One of the points I would make is that forcing young people into these situations and encouraging them to treat without respect their fellow humans is a violation of their moral spirit and a degradation of everything for which the state of Israel stood in the past and should continue to stand for. How easy is the slide into moral chaos. At the Erez checkpoint on the way into Gaza, one of the young Israeli soldiers, otherwise a pleasant lad, remarked: "I don't know why you are going in there. It is full of Arabs." It was just a casual remark and the true and awful significance only dawned on me later upon reflection. I doubt it would ever dawn on that soldier.

The Gaza Strip is a pathetic little rasher of land surrounded on three sides by Israel. It is further subdivided into three by Israeli military installations at crossing points. These can be used to isolate each separate area at the discretion of the occupying forces. There are also 16 Israeli settlements controlling 14% of the land mass. Most of the coastal fishermen are so severely restricted by the Israeli marine authorities that they cannot fish. There is 62% unemployment, the average industrial wage is less than 10% of that of Israel, 80% of the people live beneath the poverty level while 40% of the children are undernourished and anaemic. Water resources for the area are depleted by artesian wells bored

[Mr. Norris.]

within illegal settlements which export water to the irrigation projects in the Negev Desert.

In Gaza we witnessed the wholesale destruction of houses for strategic purposes, the laying waste of farm lands, bulldozing of greenhouses and farmers corralled behind electric fences watching impotently as their crops rotted on the trees. We managed to get caught in one of the arbitrary Israeli closures that take place even within the Palestinian territory while a gun battle was fought out over our heads. Although frightening I was glad that we had the opportunity to experience some of the lived daily reality of the civilians within the Gaza area. When we visited a local school, on the headmistress's desk there was an array of shell casings and ash trays full of spent bullets. These are the everyday playthings of the children in the school yard. The drawings of young children from six to 18 show the same horrifying vividly caught images of dismembered bodies, rockets appearing from the sky blowing the roofs off buildings, injuring and maiming women and children. Nor can this be discounted as propaganda. As the Bible tells us, "Out of the mouths of babes and sucklings shall come forth truth", and this is what these children live with. Where will they be in ten years time if not in Hamas, Islamic Jihad, al-Qaeda or something even worse?

On the coastal strip we met a fisherman and his wife with eight children living in tiny Soweto-like cramped conditions, the smell of sewage heavy even in the primitive kitchen. This is how people live there. Yet in these awful circumstances they retain their dignity, cleanliness and courteous hospitality. One must be careful not to blame the Israelis entirely for this because in many cases poor conditions existed before the Israeli occupation. However, it was partly as a result of Israeli action that work on the sewage ponds was halted so that now on the outskirts of Gaza city people live literally in their own excrement. Children are affected by bronchial asthma and upper respiratory tract infections and this is something for which Israel, the European Union — which started the project but lacked the guts to finish it — and the Palestinian Authority, whose corrupt practices helped to syphon money away from the project, all have a responsibility. To all of them it is a moral reproach. I would like in particular to ask if the Government during its Presidency of Europe could not at least do something about the situation by providing decent sanitary arrangements or at least stopping the overflow of raw sewerage.

At Qualqilya, the wall bites deep into the heart of Palestinian territory to throw a cement noose complete with hostile machine gun posts and one functioning exit to surround tens of thousands of Palestinians. This used to be a positive interface between Israel and Palestine and there were many joint enterprise businesses. They are all in the process of collapse, co-operation being

replaced by antagonism. The go-ahead young mayor of this important urban region is being undermined by constant harassment from the Israeli side, while the extreme elements find the discontent so caused to be fertile ground for recruitment.

On this occasion we also visited a small mountain village called Jayyus. While there we met a group of farmers. One of the officials told me that one of these old men of the soil who had not wept at his son's funeral had to turn away as he was describing to an interviewer what was happening to his farmland — as his eyes filled up with tears and he was ashamed. Love of the land is something with which we in Ireland can empathise.

I promised these people at the least that I would tell their story through the Irish Parliament to its people and let it stand upon the record. The first man, through an interpreter, told me how on 30 November last his nine year old daughter became seriously ill. He brought her to the gate so that she could visit a doctor to get treatment. He talked to the soldiers. They said that orders were not to open the gate even at the advertised opening times on that particular day — bear in mind this is not a border, it is people imprisoned deep within their own territory. He was told that the keys were with a roving military vehicle. He ran over to the car which swerved to avoid him but which would not stop. He waited for the authorities. A military car arrived, stopped 20 metres from him and now the girl had a very high fever. They telephoned the doctors and one came, but when he wanted to give the girl an injection through the fence he was prevented, so he threw over a box of tablets instead. Luckily she survived.

A second man similarly had a son, four years old, who was very sick. There were many people waiting at the gate. Soldiers pushed them back. He waited 15 minutes, but again was refused permission to let the car through. Soldiers told him to carry the child but it was too far. He said, "The boy will die". To this the soldiers replied that they did not care. He then laid the child on the ground in front of the vehicle and said: "This is my son. It is your fault if he dies. If he does die I will kill you." After an hour and a half they eventually allowed him to take the child through. The child luckily survived.

A third farmer told of 43 students going to school the previous day. It started raining at about 12 o'clock. The children were kept waiting in the rain for one and a half hours. The children even touched the electric fence to try and draw attention to their plight, but nobody came. Eventually a guard arrived and after another 20 minutes they were allowed through. This happens virtually every day when there are instances of police chasing and firing at Palestinians.

One well established farmer we met in the previous village took us to the fence so that we could see his incubators. Some 4,000 chicks died in one day and 7,000 on another day because they

are not allowed to visit the plant to see to essentials such as food, water and heat. Now his brother lives in a shed on the premises at risk of his life.

During our brief visit we had a meeting with some Irish Jewish families who have chosen to make their life in Israel. The response to our visit was quite mixed, some being actively hostile. One of the most interesting guests was not Irish, but married to a Cork man. She was from Bratislava originally and carried the terrible tell-tale mark of a tattoo number from Auschwitz on her wrist. She told us that when she was sent to Auschwitz she was selected by the infamous Dr. Mengele who tapped her with his riding crop, brought her forward and said to her: "But you are not Jewish. You are too beautiful with your blond hair and blue eyes." She, however, confirmed that she was Jewish. He then asked her age and she replied, "13". With a subdued but powerful emphasis he said into her ear: "You are not 13, you are 16, repeat this after me, 'I am 16 years old' and if anybody asks you your age, you say you are 16," and she did. This was how she escaped when all the children under 16 were gassed.

She told me that every time there is a bomb in Jerusalem she has nightmares. She sees again the camps, the dogs and the brutal Gestapo officers. She also said she sympathised with the plight of the Arabs but, she said, "What are we to do? We only want to live."

It is very difficult to respond in the light of such testimony. As a Christian one can only be humbled and shamed by what was inflicted upon such innocent decent people. However, I would also have to ask: would her nightmares not have been worse if she had come with us and seen the wall and the ghetto, for such it is, that has been created by Jewish people into which they have put their Semitic cousins, the Palestinians? If she had seen the concrete watch towers and automatic machine gun emplacements, the guards, the uniforms and the dogs, could she have borne it? I believe this is one of the problems in Israel, that many decent people cannot confront what is being done in their name by the Sharon Government and some of its predecessors because if they did, their whole moral universe would collapse.

The Israeli Government collaborates with them in their blindness. I gave an example the other day of the wall at Tulkarm which is four storeys high and of grey concrete from the Israeli side. It looks like and is felt by most Israeli civilians to be a noise barrier. With regard to the infamous wall, few people who have the experience of driving along its course could accept this primary function of security. If it was it would be along the green line, the 1967 border. It reaches insidiously into Palestinian territory which is already sprinkled with spots and looks, on the map, like it had an attack of measles.

Presently under construction, apparently with the collaboration of firms with connections to Irish companies such as Cement Roadstone

Holdings, the wall when finished will have a devastating impact on about 60 towns, villages and refugee camps. I regard any such collaboration by Irish companies as infamous, shameful and indefensible and I call upon Cement Roadstone to investigate the situation and take immediate steps to disinfect itself from such a reprehensible undertaking. I thank the Leas-Chathaoirleach for his indulgence. I will complete my contribution at the end of the debate.

Mr. Ross: I second the motion and congratulate Senator Norris on a powerful explanation of what is going on in the Middle East following his trip there.

Senator Norris's report is particularly potent in that despite the fact that he has skilfully managed to obtain all-party agreement on this issue and that he has managed to produce a balanced motion, he has reached conclusions which must be difficult for him because he has had a tradition in this House of being particularly understanding of the Israeli point of view. That required a great deal of courage. The report, therefore, also carries a great deal of credibility and conviction because in it Senator Norris says things extremely hurtful to the Israeli Government. It is important such things are said by people sympathetic to the Israeli people.

The delegation to the Middle East was sponsored — Senator Norris can correct me if I am wrong — by Christian Aid which, as far as I know, has no particular bias or axe to grind in the Middle East. It holds only Christian and humanitarian values. Senator Norris's companions, who presumably agree with the substance of what he had to say, were two Members from the other House who are not identified in the public mind, and certainly not in mine, with the Palestinian cause. The credibility of the report should not be underestimated. I find it extremely impressive because I have long been sympathetic, like Senator Norris, to the State of Israel and have believed for a long time that it has been a nation and people under siege. Everyone in this country identifies to some extent with a nation in that position, fighting a war for existence more than anything else. The problem, as explained to us this evening, is that particular fight for existence and survival has, in certain instances, turned into a war of oppression, domination, aggression and slaughter and it is making life miserable for sections of people there.

Senator Norris made a powerful contribution. It is important that people like Senator Norris, when returning from such visits, do their parliamentary duty and explain what is happening to Government which often does not hear as much on the ground as it hears from its advisers and those who sit in Iveagh House. I do not wish to be pejorative, it is simply a reflection of what has happened. Senator Norris's contribution was very significant. Perhaps the

[Mr. Ross.]

Minister of State will relay his remarks to the Minister when he informs him about this debate.

The letter which Senator Norris read from Yassar Arafat's representative — much of what he said should be emphasised — stated quite specifically that Yassar Arafat's organisation condemned the suicide bombings. The message should go out that he stated that unequivocally. There is a great deal of ambiguity in that regard.

On many occasions, I have heard Israeli spokesmen saying Yassar Arafat and his followers refuse to condemn suicide bombers. It is important, if we are to deal with people like Yassar Arafat, as the Government does, that we recognise that he condemns suicide bombings and that they have no support, tacit or open, from him. It is also important the Israeli Embassy in Ireland and the Israeli Government understand that many people now understand and accept that message.

It is important we recognise the dangers of what can happen in such situations. Whereas we may sympathise with Israel's great fear of persecution, something which makes all nations behave in a manner we may not understand and which history has shown us people do when under threat, the result of that fear will be — this was mentioned in Senator Norris's speech — that it acts as a recruitment for the worst type of terrorists on the Palestinian side. We have seen this in situations closer to home where oppression has led to the creation of terrorists and public support for terrorism. There is a danger that people from these sectors will flock to the al-Qaeda flag and that, in desperation, not that it can offer them a great deal, they will become involved in acts of violence with which they would not normally be associated, and acts of pseudo-anarchy in a demonstration against those whom they view as their oppressors. There is a real danger of that happening closer to home also.

Where does the United States stand on this issue? Ireland has a great deal of influence in the United States. Does it support the war so vividly described by Senator Norris? Can the Irish Government put pressure on the United States, which provides tacit support for the worst atrocities of this regime? I think it can and it is important the Government does so. What can Ireland do to help? We will not persuade Prime Minister Sharon to do a U-turn.

I was struck by the fact that Cement Roadstone Holdings, one of our main companies, is assisting in the building of the wall. We are entitled to ask whether we should approve of one of the largest public companies in this State taking what is obviously not a neutral stand but one very much in favour of one side in this conflict. I am not an advocate of ethical investment in the purest sense because one then goes down a road and it is almost impossible to stop. One cannot, in a situation of war and slaughter, be neutral if one is assisting one side in the creation of a ghetto.

In such a situation, one cannot wipe one's hands saying it has nothing to do with one while providing the concrete which creates that ghetto.

I thank Senator Norris for bringing to the attention of this House a matter which would otherwise not have been debated but for his vivid description of the situation. I ask the Minister of State to take Senator Norris's message to the Minister for Foreign Affairs who will then, presumably, discuss it at the meetings of the EU Foreign Affairs Ministers under the Irish Presidency and where he will exert whatever influence he can on Israel, the United States and the Palestinians to take the messages of this visit to heart.

Mr. Mooney: I compliment our colleagues led by Senator Norris, who was strongly influential in ensuring the motion was tabled. He and I have visited the Middle East together as part of parliamentary delegations and he travels there regularly in a personal capacity. His information, therefore, is more relevant and up to date than that in the media reports on which most of us rely. It is salutary that Senator Norris, in condemning the most recent suicide bombing and its consequences in the streets of Jerusalem, also pointed out that eight Palestinians died the same day, yet this had not been conveyed to the international media with the same force. That is part of what is going on.

All of us are familiar with the propaganda war perpetrated during the Troubles from 1970 until the ceasefire in 1994. Propaganda was an extremely effective weapon used by both sides as they sought to influence the hearts and minds of the public. The same is happening between the Israeli Government and the Palestinian Authority. There is a constant battle for the hearts and minds of the international community and, depending on one's level of emotional response, there is no more potent image than bleeding bodies and discarded limbs lying on a street in Jerusalem. This is followed by publication of the most shocking photographs or video images of a smiling suicide bomber telling us what he or she had intended to do.

The most recent example was not only disgusting but sad. A young mother with two children believed she was dying for her faith and going to paradise, yet she left a husband and two small children motherless. One wonders whether any cause is worth that. I am reminded of Daniel O'Connell's famous quote in the 19th century which was often misinterpreted and reinterpreted depending on which side one took on the Nationalist question. He said the freedom of Ireland was not worth the shedding of one drop of Irish blood. That is as relevant today in Ireland and internationally, particularly in the Middle East, as it was then.

I will concentrate on one or two issues as Senator Norris has covered wide ground. I visited the Middle East twice and one aspect of the trips that remained with me was my journey to the

refugee camp at Gamala in the West Bank. We visited a medical centre funded by UNRWA. There was one medical doctor, two nursing staff and at least 200 young Palestinian mothers queuing with their babies for medical attention. The centre was totally under resourced and the staff were fighting a losing battle in attempting to come to grips with the medical problems with which they were being presented every minute. The final recommendation in the motion, "to maximise opportunities to support the beleaguered inhabitants of the West Bank and Gaza in their current distress through humanitarian projects", should be acted on by the Minister of State.

Mr. T. Kitt: I will travel to the Middle East shortly.

Mr. Mooney: I am pleased the Minister of State intends to travel to the area in the near future.

Mr. Norris: That is splendid.

Mr. Mooney: I refer to a document recently presented by Mr. Olav Axelsen of Norway to the Parliamentary Assembly of the Council of Europe, of which I am privileged to be a member, on the position of Palestinian refugees. He draws attention to their plight in two sections of the draft recommendations. The document states:

"4. The situation of 3.9 million refugees registered with the United Nations Relief and Works Agency for Palestinian refugees in the Near East (UNRWA), including 1.2 million living in camps in very miserable conditions, is not only unacceptable from a humanitarian point of view but constitutes a major threat for the stability and security in the region.

5. The Assembly considers that the services of UNRWA must be fully maintained until a permanent solution is found. The international community should step up its voluntary financial contribution to the budget of UNRWA with a view to at least allowing it to reflect the natural growth of the Palestinian refugee population being assisted by this Agency."

I implore the Minister of State to ensure, through the EU or other intergovernmental agencies with which he is working, the funding for UNRWA is not only be maintained but significantly increased. The current contribution to UNRWA is like dropping a pebble in the sea even though we may salve our consciences by thinking we are doing something that will achieve a solution.

I have been studying the question of school text books in both Israel and Palestine for some time. A powerful Jewish lobby is in operation, mainly out of the United States. Many American politicians are cowed to such an extent on the Israeli-Arab conflict that they do not engage on the issue publicly or, if they do, they parrot whatever they believe will win votes, which is

usually a pro-Israeli position. That will not lead to effective dialogue and, consequently, a just solution. Severe criticism have been made of the Palestinians. A documentary broadcast by the BBC a few months ago highlighted a shocking indoctrination in Palestinian children of vicious, anti-semitic rhetoric. However, when I delved further, I discovered the position is not much better in Israel. The Palestinian Authority has managed to improve the position. The main reason these quotes appeared in the television documentary and on American-based pro-Jewish websites is that up to 1994 the Palestinian Authority used Egyptian and Jordanian text books, which had been printed in the early part of the century. Similarly, many Israeli text books in the 1950s and 1960s were based on a pre-independence position and contained much invective about Arabs.

Israeli school text books as well as children's story books, according to recent academic studies and surveys, portray Palestinians and Arabs as "murderers, rioters, suspicious" and generally backward and unproductive. Direct delegitimisation and negative stereotyping of Palestinians and Arabs are the rule rather than the exception in Israeli text books. On the other side of the coin, many of the text books used in Palestine do not take account of the reality in Israel. For example, Israel is not on the maps published therein. The Palestinian ministry of education argues that, until the territorial question is resolved, they cannot show maps.

There are many examples of anti-Jewish sentiment in the books but the Palestinian Authority has made improvements and is trying hard to reduce and eliminate such traditional invective so that children on both sides of the conflict will have a growing tolerance of each other's position at least. However, we should return to this issue because it is complex and extremely important in the context of the attitude and tolerance level among school children who will comprise the next generation. Will the Palestinian children put on uniforms and act similarly to their forebears? Will the Israeli children become part of another intifada?

I wish the Minister of State well on his visit to the Middle East and I also wish the Minister for Foreign Affairs, in his capacity as president of the European Council of Ministers, well. His bravery and courage in the face of severe Israeli criticism have been well justified. During his most recent visit to the country, the Israelis admitted Ireland has taken an even-handed approach to the resolution of the conflict. The Irish position is about equality, fairness, justice and the right of the Israeli state to exist within secure borders but it is also about the right of the Palestinian Authority and its people to achieve self-determination.

Mr. B. Hayes: I support the motion in the names of Senators Norris, Ross, O'Toole, Henry and Quinn and I fully endorse the sentiments it

[Mr. B. Hayes.]
contains. I thank Senator Norris for his excellent contribution.

Senator Norris placed a significant statement from Ramallah on the record of the House. It is significant that Chairman Arafat has stated in unequivocal terms the total opposition of the Palestinian Authority and its people to the suicide bombers, the result of whose actions we see on a constant basis on television. I ask the members of the Irish media who report on our debate to highlight that statement in order to ensure there is no confusion.

A former colleague, the late Deputy Jim Mitchell, visited the West Bank in the latter years of his life. He described to me in clear terms the abject poverty that exists there and in Gaza. I was struck by Jim Mitchell's comments because there is no doubt that the region in question is a wealthy part of the world. Senator Norris outlined appalling statistics to the effect that the unemployment rate in the region runs at 62%. Such statistics provide the kind of incentive necessary to force people to go to fanatical extremes and take up arms against the Jewish people. We have a responsibility, as Europeans in a neutral state and as supporters of the peace process in this country, to do everything in our power to support the road map which is in place but which is faltering.

I have always been a supporter of the Israeli State. The collective guilt on all Europeans after the Second World War should never be forgotten. It was only right and proper that after that war the Jewish people were given a homeland which they could call their own. However, that should not be misinterpreted as ensuring that the Israelis have a right to do what they will with the people, particularly Arabs and Palestinians, around them.

We need to be even-handed and balanced in our debates. The type of balance contained in the motion and in the excellent contribution of Senator Mooney needs to be put in place. Otherwise our debates will simply take the form of statements on the last atrocity. There have been so many atrocities on all sides over such a long period it would be the wrong impression to give. I support the right of the Israeli people to their own state. I also support the right of Palestinians to have their own state. I further support efforts towards peaceful co-habitation in that region and, as Europeans, we have a responsibility to bring that about.

There have been two positive developments in recent days. Whatever one's view of Mr. Sharon and his coalition Government in Israel, I welcome the statement he made yesterday in which he gave an unequivocal commitment to bring about the beginning of the end of the process of the settlements in the Gaza Strip by the summer of this year. I accept that huge questions hang over whether he can bring this about. However, even independent commentators in the region are saying that the veracity of his statement yesterday

and the tone of an interview he gave last Monday are such that he cannot go back on what he has said. The House should monitor that commitment, which I welcome. Mr. Sharon said yesterday that because of the security burden he has now accepted the legitimacy of ending the settlement process. For a range of reasons, it cannot make sense for the Israeli State to continue the ridiculous policy of containment and of ensuring further settlements in the region. I support what Mr. Sharon said yesterday but we must see the colour of his money in terms of bringing about what he has promised. The House and the European Union have an absolute responsibility to ensure his commitment is enforced.

The Israeli Labour Party of Shimon Peres has shown tremendous courage in the face of terrible provocation from Mr. Sharon and his party, particularly during the last general election, in supporting the statement made yesterday. The Israeli Labour Party should be supported for saying the difficult things that need to be said to the Israeli people at this time. I welcome the significant exchange of prisoners that was made last week. However, there is a need for further such exchanges.

It does not make sense for the Israeli Government to continue its war of attrition against the Palestinian people for a host of reasons, not least of which is the fact that the Israeli economy is in tatters. The economy of Israel was very successful until recently but because of the massive security bill it is being obliged to foot, it is now in tatters. It makes pure economic sense for the Israeli Government to reach out and make peace with the Palestinian people.

I welcome the Minister for Foreign Affairs, Deputy Cowen, who has arrived in the House for this important debate.

If we were to achieve a state of peace between the Palestinians and the Israelis it would be internationally recognised and would do a great deal to help the emerging and constant tension between the Arab world and the rest of the world and also that between Muslims, Christians and Jews. This is a theatre of international action in which we must make every effort to bring about a peaceful resolution.

Two weeks ago there was an excellent article by Ms Nuala Haughey in *The Irish Times* in which she delved into the mind of the suicide bomber. Ms Haughey was reporting on the then latest atrocity which had been carried out by a female suicide bomber. I congratulate her on bringing to our attention this kind of fanaticism. Even if a workable deal can be brought about and enforced, we must see an end to violence by Hamas and other extreme terrorist organisations on behalf of the Palestinian people. This is an important issue. Nuala Haughey identified the kind of fanaticism that is at the centre of many of the suicide bomb attacks. If I was an Israeli, how would I react to the bombings that are constantly

taking place in Tel Aviv, Jerusalem and other parts of Israel? The only way forward is for a complete end to violence in the region. Those groups that may not be central to the current Palestinian Authority must play their role in that regard.

I commend the motion to the House and I thank Senator Norris and his colleagues for tabling it. We should monitor the new commitments made 24 hours ago in order to ensure that they are honoured.

Minister for Foreign Affairs (Mr. Cowen): I apologise that I was not present for the earlier part of the debate. I always enjoy coming to the Seanad and listening to the debates, which are always good, vibrant and stimulating. Unfortunately I have another appointment at 6.30 p.m. with the new US envoy to the North, Mr. Reiss, so I will not be able to stay as long as I would like. However, I will study Members' contributions in due course once they have been printed.

I welcome this opportunity to inform the House about our Presidency programme and action in respect of the Middle East peace process. There have been few positive developments in the region in recent months and I must be frank and state that prospects for progress in the short term are not overly encouraging. Nonetheless, I attach great importance to this issue, and during our Presidency we shall play an active role in international peace efforts, in particular as a member of the international quartet of the EU, Russia, the US and United Nations.

We have conducted an intensive round of meetings in the last few weeks. Beginning in December, the director general of Israel's Foreign Ministry visited Dublin, where he had intensive discussions with me and with officials of my Department. The Palestinian Foreign Minister, Nabil Shaath, came to Dublin on 9 January for meetings with the Taoiseach and myself. I then visited Israel on 15-16 January, where I had discussions with President Katsav, Prime Minister Sharon, Foreign Minister Shalom and the leader of the opposition, Shimon Peres. I subsequently travelled to Egypt where, on 17 January, I met President Mubarak, Foreign Minister Maher and the Secretary-General of the Arab League, Amre Moussa. On Monday of this week, senior officials of my Department had meetings in the occupied Palestinian territories with President Arafat, Prime Minister Qurei and Foreign Minister Shaath. Prime Minister Qurei is due to visit Dublin next Monday, his first visit outside the territories, to meet the Taoiseach and myself.

Our aim has been to urge an end to violence and to explore with the parties possible means for breaking the current deadlock on the implementation of the road map agreed by the quartet and endorsed by the UN Security Council in Resolution 1515. I have made considerable

efforts to build confidence in the Presidency and the European Union as viable interlocutors. I gave particular emphasis to this matter in a speech which I delivered at Tel Aviv University on 15 January, the text of which is available on my Department's website.

The road map contains a series of steps to be taken by both parties with a view to building confidence and security, leading eventually to a Palestinian state. It is time bound and was intended to be implemented over two years. It sets measurable objectives for both sides and provides for the development of international monitoring mechanisms. Unfortunately, neither side has fulfilled its obligations under the road map. Either for political or practical reasons, the steps envisaged in the first phase of the road map have not been taken.

During my recent visit to Israel and Egypt, and in my discussions with the Palestinian Foreign Minister in Dublin, I advanced the idea that perhaps, in the first instance, smaller steps should be taken. I suggested that if the significant initial steps envisaged by the road map are too difficult or steep at this time, they might be broken down or implemented in phases. These small steps could begin to address the concerns of Israelis about security and action against terrorism, while relieving the suffering which Palestinians face in almost every aspect of their daily lives. They might also revive the contacts at political and security level which are necessary if progress is to be made. This idea was well received by the Palestinian side and found some interest with the Israeli leaders whom I met. It also attracted support during my discussions with the President and Foreign Minister of Egypt as well as the Secretary-General of the Arab League.

I hope to develop these ideas in discussions with Prime Minister Qurei during his visit to Dublin next Monday. We shall also discuss other developments in the region, including the prospects for a resumption of high level contact between the Israeli and Palestinian sides. Following our contacts with the parties, the Taoiseach has this morning issued a statement calling, on behalf of the European Union, for the Palestinian and Israeli Prime Ministers to meet as soon as possible as a first step in the resumption of meaningful dialogue between the two parties. I hope that such contact might be possible within the coming days.

Prior to my most recent visit to the region, I had contacts with US Secretary of State Powell and representatives of the other members of the quartet. I outlined the purpose of my visit and our thinking on ways of bringing forward the peace process. To Secretary Powell, I emphasised the need for US engagement and the necessity for this engagement to be visible to the parties. The Secretary General of my Department also had talks with senior US officials in Washington last week. Two high level US envoys visited Israel last week and met with Israeli and Palestinian representatives to review possibilities for action.

[Mr. Cowen.]

I also had bilateral discussions on the Middle East in recent days with a number of EU colleagues, including the Foreign Ministers of France, Germany, Spain, UK and Netherlands. They, like most of my European colleagues, strongly support Presidency efforts to assert Europe's role in efforts to bring peace to the eastern Mediterranean.

A major obstacle to progress in the peace process is the construction by Israel of a separation barrier which extends deep into the Palestinian territories. This has been the subject of statements by the European Union and others who have urged Israel to consider the long-term consequences of this construction. The barrier figured prominently in my discussions in Israel two weeks ago. My officials examined sections of the barrier earlier this week and were deeply disturbed by what they saw. The barrier is in places a wall, at least in those sections which cut through urban areas. The wall is extremely high and passes within feet of houses occupied by Palestinian families. It also encloses considerable tracts of agricultural and barren land.

The Israeli authorities have assured me that the barrier is being constructed for security purposes only and is reversible. One can only hope that this is so. However, the Palestinians see it as an attempt to unilaterally redraw the 1967 borders. Nobody could ultimately object to the building of a separation barrier on Israeli territory or even one which followed the Green Line. What is objectionable about the current wall is that Israel is largely building it on land falling within the occupied Palestinian territories.

On 21 October last year, Ireland and our European Union partners co-sponsored a resolution in the General Assembly of the United Nations which called on Israel to stop and reverse construction of the wall and asked the Secretary General of the United Nations to report on Israeli compliance. When, at the end of November, the Secretary General reported that there was no evidence of Israeli compliance, the General Assembly adopted a resolution asking the International Court of Justice to render an advisory opinion on the legal consequences of the construction of a wall in occupied Palestinian territory.

This resolution was adopted on 8 December last. The European Union abstained on the vote. The decision to abstain was taken after intense consultations and was based on the conviction of many member states that transferring the matter of the wall to a legal forum would do nothing to advance the political process necessary for peace. Abstention did not in any way suggest a change in the European Union's position that the wall was in contravention of international law.

On receiving the resolution of the General Assembly, the court invited member states of the United Nations to submit statements or information to the court which might be of assistance in its deliberations. Some member

states of the European Union felt that it would be desirable for a common position to be submitted to the court. Other states had a strong preference for individual national submissions to the court. After considerable discussion, including at the General Affairs and External Relations Council on 26 January, it was agreed that there would be a common EU submission and that individual member states might make national submissions based on established European Union positions. The common submission reflected the texts of Presidency statements to the UN General Assembly on 20 October and 8 December. The texts of these statements were annexed to the covering letter.

Essentially, the Union's position is that the building of the wall within the occupied Palestinian territories is in contradiction to international law but that the General Assembly's request that the ICJ issue an advisory opinion will not help the efforts of the two parties to relaunch a political dialogue and is therefore inappropriate. However, contrary to some press reports, the EU has not asked the ICJ to refrain from issuing an advisory opinion. There would have been no consensus to adopt such a position.

In addition, the Government authorised me to submit a national statement. This statement, which is fully consistent with the EU common position, sets out the legal basis for Ireland's opinion that the construction of the wall in the occupied territories is in violation of international law. In all, ten of the 15 current member states of the Union submitted national statements to the court.

Both statements were transmitted to the registrar of the International Court of Justice in The Hague last Friday. The written submissions of all interested parties, including the Israelis and Palestinians, have now been received by the court. It is expected that oral submissions will commence on 23 February and that the court will deliver its advisory opinion to the General Assembly late this summer. The rules of procedure of the International Court of Justice do not permit me to make the text Irish submission publicly available at this time but it is firmly grounded in well known Irish positions on the applicability of the Fourth Geneva Convention to the occupied Palestinian territories and the applicability of international humanitarian and human rights law in this case.

As the motion before the House urges, it is my intention to remain closely engaged in the search for peace in the Middle East. I have already outlined the extensive contacts which we have recently undertaken. I hope to pay a further visit to the region myself a little later in the Presidency. The possibility of high level Presidency representation at the Arab League summit meeting in Tunis in late March is also under consideration should it appear that the summit will take concrete action on the peace process.

In the meantime, the humanitarian situation in the occupied territories continues to be a matter of grave concern. Development Cooperation Ireland will continue its work in the Palestinian territories. This will involve a visit in the coming days by a programming mission to develop a country programme for implementation over the next three years. Development Cooperation Ireland's existing interim programme for 2003-04 allocates €3 million to assistance to the Palestinian people. The Minister of State at my Department with responsibility for Development Cooperation Ireland, Deputy Tom Kitt, intends to visit the Palestinian territories later this year to inspect the implementation of Irish programmes.

The European Union will also continue its extensive funding in the region. The plight of the Palestinian Authority is a cause for grave concern. It relies far too heavily for its continued existence on funding from the Union. I appeal to other donors to play a greater role and for Israel to release funds belonging to the Palestinian Authority.

Humanitarian and human rights issues are always prominent in our thinking on this conflict. The Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War is fully applicable to the occupied Palestinian territories and should be observed by the Israeli occupation forces. The Palestinian people live under military occupation, subject to restrictions on movement, curfews, arbitrary detention and daily petty humiliations. Significant numbers of Palestinians continue to be killed in the course of Israeli military actions. Ireland has consistently urged the Government of Israel to address humanitarian issues as a means of countering the atmosphere which generates support for terrorism.

It is important to remember that Israelis are also suffering. Innocent men, women and children have been the victims of random terrorist violence, including suicide bombings. Israelis have a right to live in a society free from the threat of terror. Again, we have urged the Palestinian Authority to do all that remains in its power to act against those who plan and execute suicide bombings and other acts of terror. Not only are such actions wrong in themselves, they are the most potent weapon available to those who seek to justify the building of the separation barrier.

The outlines of an eventual settlement to Israeli-Palestinian conflict have been clear for some time; two states, living side by side in peace and security, within internationally recognised borders. As long ago as 1980, my distinguished predecessor, the late Brian Lenihan, called for the establishment of a Palestinian state in his Bahrain Declaration. This subsequently became the policy of the European Union and is now universally accepted as one of the requirements for a comprehensive settlement. The two-state solution is at the heart of Resolution 1397 which

was adopted by the UN Security Council with strong support from Ireland when we sat on the Council in 2002. The two-state solution is the basic premise of the road map presented to the parties by the international Quartet in April of last year.

Amid the gloom currently prevalent in the region, there are some small signs of hope. The Geneva initiative promoted by Yossi Beilin and Yasser Abed Rabo is a welcome indication that rational discussion between senior representatives on both sides is possible. This plan points to some ways in which the difficult final status issues such as Jerusalem and the right of return of refugees might be addressed. I was pleased to see that the authors were in Brussels to brief the European Union's High Representative, Dr. Solana, earlier this week. Discussions about dates for a visit to Dublin are in progress and I look forward to welcoming them in the near future. Other initiatives among civil society representatives are also in train involving academics, political figures and former military and intelligence officers. This all serves to show that dialogue is possible, even on very difficult and emotional issues.

I am also encouraged by suggestions that the Arab League may move to reiterate its initiative adopted at the Beirut Summit almost two years ago. This idea, advanced by the Crown Prince of Saudi Arabia, was that in return for Israel's withdrawal to the 1967 boundaries, relations with all its Arab neighbours would be normalised. Normalisation would involve *de jure* recognition of Israel by the entire membership of the Arab League, the establishment of diplomatic relations, the establishment of trade links and the opening of possibilities for technical and investment exchanges in all sectors. At the time this proposal received insufficient attention in Israel, but with the road map on the table this initiative could prove to be complementary. It might also serve to reassure Israel as to the wisdom of proceeding towards a peace agreement with its neighbours, Syria and Lebanon. I urge the leaders of the Arab League to use the opportunity of their forthcoming summit to advance the prospect of normalisation to Israel once again. They should emphasise their desire for a comprehensive peace which can only be of benefit to all the countries of the region. I also urge the Israeli leadership to consider carefully the benefits and advantages they could reap from a normal relationship with their wider neighbourhood and assuming their proper role in their natural economic and political region.

The recent proposal by the Syrian President that talks on a peace agreement should resume is also encouraging. Israeli President Katsav's suggestion of talks in Jerusalem was welcome in many respects. Prime Minister Sharon's suggestion that talks should resume without pre-

[Mr. Cowen.]

conditions is positive. However, an insistence that talks cannot resume where they last left off should in my view not itself become a precondition for negotiations. At the time of the last peace negotiations in 2000 under the auspices of the US, the outstanding issues between Israel and Syria were not very great. The talks should be resumed without preconditions on either side and with the support of the international community.

Inaction in the peace process is not an acceptable option while Israelis and Palestinians are being killed and the situation on the ground moves further away from a negotiated settlement. The Government is convinced that with political will on both sides and an end to violent activity, it will be possible to make early progress towards the realisation of the vision of two states, Israel and Palestine, living side by side, within borders based on those of 1967, in peace, security and prosperity.

Israelis need not live in a fortress, surrounded by hostile neighbours, where they are in danger of walking the streets or driving the roads, where young soldiers — boys and girls — are placed at constant risk and where a great part of their national resources are consumed by the burden of defence.

Palestinians need not live in hopelessness and indignity, where young people are encouraged to blow themselves up, where homes are bulldozed and destroyed, where employment is scarce to non-existent, where people are not free to travel around their country and where emigration seems to offer the only escape route.

We must help the people of Israel and Palestine to find the courage and wisdom to build a new peace — courage to face down those who would reject compromise and wisdom to understand that putting an end to the insecurity and suffering of their neighbours is in their own long-term interest. If we can achieve this, the Holy Land may yet become a land of peace and prosperity.

Mr. Ryan: I want to be entirely constructive for a number of reasons, first, because this motion is of such importance nobody should play politics with it in any way, and I would not dream of doing that, and, second, I have considerable regard for the Minister's efforts in this area and am aware of the considerable influence he has, at least for the next six months in particular.

I hope an attempt will be made to persuade some of those in Israel, who may be aware of what is happening in countries like ours, that some of their responses to what is being said are poorly thought out and serve no purpose. If I was an Israeli and was aware of Irish politics, I would have grave cause for concern when a motion is put to us in the name of my good friend, Senator Norris, because Senator Norris was the best

friend Israel had in this House, and he remains its best friend. Those who represent Israel here ought to be aware that what is happening there, however horrified they may be by what is done to them by terrorism, is losing them the unqualified sympathy of their friends.

Some 35 years ago I was at a debate in UCD in which somebody who is now quite close to this Government moved a motion of support for the struggles of the Palestinian people. I opposed it, as I believe most Irish people would have done then because we all started out — those of us who were born shortly after the war and as we learnt about the war — with an instinctive support for Israel because of what Senator Hayes spoke about earlier. I was forced to reverse my position because the more I learned, the more unhappy I became.

I visited the occupied territories in the 1980s and listened to people there at a time when there was no serious terrorism campaign controlled by any institution because there were no governing institutions in the occupied territories then. Even then, the Israeli response was disproportionate and finally counterproductive.

It is worth repeating that military force can silence a problem but it never solves it. Even if Israel managed by military means to stop all terrorist activity, the scale of the hurt it would impose on a whole generation of young people in Palestine would mean that in some way or other the issue would arise again. The Minister is right. It is only by dialogue and agreement that a solution can be reached.

It is important to remember that the Palestinian Authority is no longer a governing authority. The level of military destruction and fracturing of its territory means the authority is barely able to keep itself in existence. To suggest it has the capacity to suppress the activities of other armed elements in the territories is to grossly over simplify it. The only way we will succeed and contribute to bringing about a peaceful resolution is by using the weapons of persuasion. Suicide bombing, apart from being morally reprehensible, is the most politically damaging thing that could be done to the cause of the Palestinian people. It needs to be stated also that a disproportionate military response which, to be generous, shows an indifference to the safety of civilians and, in particular, an indifference to the safety of children, is doing Israel and its number one ally no good in the eyes of the peoples of western Europe. The opinion poll last year, which showed that most Europeans thought the single biggest threat to world security was Israel, produced a classically superficial response, namely, that it showed anti-Semitism is alive and well in Europe again. This has got nothing to do with anti-Semitism. The response of the people I know, ordinary decent people in this country, would be the same whatever the

religious or ethnic origins of the Government of Israel. If anything, the history of anti-Semitism has diluted and delayed the response that is now becoming visible. People were aware of this accusation and were slow to react because of what had happened, as described by Senator Hayes. However, people will not stand back any longer. Good people in the United States saw what happened to Rachel Corrie and it changed their thinking. Instead of an honest admission that it was in some way a wrongful act — I am not saying we wanted somebody to admit it was deliberate — what we got was a deliberate obfuscation and pretence that nobody did anything wrong in the killing of Rachel Corrie. That is reverberating through the United States and Europe. Rachel Corrie will become a symbol of the moment when public opinion shifted. It is in Israel's interest to listen carefully to moderate, balanced voices, such as our Minister for Foreign Affairs.

This is not to suggest for a second that the Palestinians do not have obligations. In any situation like this the most powerful in terms of military force, those with the strongest allies are those from whom we are entitled to expect the most sophisticated response. We are entitled to expect something more sophisticated from Israel than the wall the Minister has so well described and so eloquently denounced. What we are entitled to expect from them is balance and a realisation that there is no future for Israel as a peaceful state if it believes the solution to the current crisis is entirely or overwhelmingly based on military force.

Mr. Minihan: I welcome the Minister and thank him for his contribution and the commitment and insight he has shown and the statements he has made about continuing efforts on behalf of the Government to bring peace to this area.

I am glad to support the motion and welcome the opportunity to speak on the continuing depressing situation in Israel and Palestine. The ongoing difficulties in the Middle East are complex and burdened by a history that goes back to Biblical times. Some interventions over the years have not helped and have led to an escalation. Unfortunately, there is little sign of a resolution to the problem in the short term. It appears one is either pro-Jew or pro-Arab and there is little room in between. The clashes of culture, hampered by history, have resulted in a constant collision course.

We all empathise with the Jewish people and the history of the Holocaust and so on, as outlined by Senator Hayes, and the world hangs its head in shame that such atrocities were allowed to happen. In 1948 the international community set about correcting what it perceived as an injustice by establishing and recognising the State of Israel. In doing so, it abolished the

legitimate right and claim of the Palestinian people to have their own state, following the break-up of the Ottoman empire. The Palestinian people are looking for no more than what the Jewish people looked for in 1947. The international community has, yet again, a responsibility to ensure that injustice is corrected. The 1948 agreement was flawed, not in principle but in application. Its vision was too narrow and that decision ultimately led to the difficulties we see today. It should have been a more regional divide, allowing for sustainable Arab nations, including a State of Palestine, and a State of Israel. The River Jordan, a strategic natural asset in the region, had to be available to both sides. Jerusalem, with its religious significance, so important to both cultures, should have resided as an international city, under joint authority.

Speaking of the international community, recent world events clearly show the time has come to examine the workings and the authority of the United Nations and, in particular, the Security Council. The power of veto as exercised by permanent members has and is being abused time after time. Is this in the interest of the United Nations, with legitimate world authority, presiding over world order? My opinions may differ from others. I firmly believe what we have now created in Israel and Palestine is unsustainable and non-viable and will continue to lead to violence and bloodshed. There can be no peace without justice. The Palestinian people have not been given justice, which is denied to them daily.

I emphasise I do not in any way support the terrorist actions of the Palestinian people. I do not even attempt to understand the mindset of suicide bombers. Suicide bombing is terrorism at its worst. I welcome the statement this evening by Senator Norris, that Mr. Arafat has also clearly denounced such atrocities. Ireland has a close affiliation with the Middle East and it should not be forgotten the role we have played in promoting peace there.

Mr. B. Hayes: Hear, hear.

Mr. Minihan: Since 1957, we had a permanent presence in the Middle East. We have lost many lives in the Middle East endeavouring to bring about a peaceful settlement. There have been advances in areas such as Lebanon where this country contributed so much. The Lebanese people have shown their gratitude and are eternally grateful for our contribution. It appears that when one problem is solved in the Middle East, another surfaces. That is why I firmly believe no one area can be dealt with in isolation. It has to be a regional settlement. I welcome the Minister's remarks about the comments by the Arab League, which is endeavouring to have a more regional settlement.

[Mr. Minihan.]

I spent a number of years in the region while serving in the Defence Forces. Through the course of my work I have spoken to both sides of the divide. I have listened to impassioned ideology but at all times I heard an undercurrent of hatred and a failure to accept the other point of view. I have seen injustices on both sides and for every one I could name on one side, I could name one on the other. I could express outrage at events I witnessed and at the behaviour of the Israelis or the disregard for human life by the Palestinians. All of this would be to no avail as there is wrong on both sides.

I make one observation, that a democratic state has to uphold certain principles even if those opposed to that state do not share those principles, such as justice and the right to a fair trial. Collective punishments by the Israeli Government are wrong. I can never accept the Israeli viewpoint on this. I cannot accept that the Israeli Government and the IDF stood by over the massacres in Sabra and Shatila. Equally, I cannot accept the attack on Israeli athletes in Munich and the number of suicide bombings. It is hard to see a renewal of the ceasefire and the road map because of the instability of the Palestinian Authority. As the Minister said, there will have to be a slow, smaller step approach to the endeavour of bringing about a peace settlement.

On the issue of the wall, it is a wall and not a security fence. Members will remember the tearing down of the Berlin wall and the symbolism associated with that. A bigger wall is now being created, which is a reversal of those issues and that symbolism. The Berlin wall was 3.6 metres high with a length of 155 kilometres whereas the Israeli wall is eight metres high with a length of 730 kilometres. This is wrong and I welcome that the Government has chosen to make a submission to the International Court of Justice on this issue.

I hope that Israel will countenance what is being said by the international community. Just because the international community may differ with Israel does not mean it does not support its right to have a state. Israel should listen to its friends.

Mr. Quinn: I welcome the Minister to the House and commend Senator Norris for his even-handed motion. Even-handedness is the theme I wish to discuss in this debate. If the EU is to have a role in the Middle East, it should not be a partisan one favouring one side over the other but one of an honest broker. It is, in theory at least, open to the EU to fill a gap that has been created by the long-established pro-Israel policy of the United States. Most people in the Middle East are suspicious of the United States because, despite its protests to the contrary, it has for a

long time pursued a policy that has leaned entirely to the Israeli side. Some in Europe say that because the Americans are on the side of Israel, Europeans should be on the side of the Palestinians to balance this. I am certain Members will disagree with the thinking behind that view. What is needed is not a balance between those lining up on each side but an approach that will make progress towards an eventual solution to this conflict, which has been ongoing throughout my lifetime.

In some respects the situation under discussion is similar to one much closer to home, that of Northern Ireland. The similarity is that in both cases it is clear to any unbiased observer that the only possible end is for both sides to find a way of living together in some kind of peace. Victory for either side on its own terms is out of the question. However, it is difficult to see that point clearly when one is in the thick of these disputes and that is where the role of an outsider can be very valuable, and where the Minister for Foreign Affairs, Deputy Cowen, and the EU could come in.

If an outsider can avoid getting embroiled in the day-to-day disputes and concentrate his efforts on trying to get the parties to take a long view, that outsider will have performed a very useful function. If, during the period of the Irish EU Presidency, the Minister could succeed in getting the EU's bona fides as an honest broker established on both sides, it would be a major achievement and a solid foundation for making further progress that could continue into the future.

Achieving this is more difficult than it sounds, as we know from our experience of the many efforts made in regard to Northern Ireland. The truth is that for many Israelis the EU is not perceived as impartial in this matter. Some view the EU as being firmly in the Palestinian camp and it will not be easy to change that perception. However, it is necessary to do so if we are ever to adopt an honest broker role.

I have only visited Israel on one occasion and it was a joy to do so and to participate at a time when tensions were not quite so high. However, I found that what is said outside Israel, particularly at the United Nations, arouses concern, worry and terror among people on both sides of that wall. One of the difficulties in dealing with entrenched positions is that those involved are always likely to adopt a black and white attitude to others outside the conflict. They tend to use the phrase made notorious by President Bush — "Either you are with us or against us."

Impartiality is too often seen by the contenders in any conflict as invariably coming down against their side of the argument. We hear this all the time. When anything is said, people believe the worst. They tend not to listen and not to be open

to listening to someone who says there is wrong on both sides. We can try to avoid this dead end by lifting our eyes to the long term and trying to encourage both sides to the conflict to do the same. Instead of reacting to the latest atrocity — it seems that atrocities occur almost every day — we should focus on the long-term goals and visions in which both sides accept they must live peacefully together and must find a way to do that.

As in any conflict, there will always be those who refuse to accept such a goal, those who cannot see beyond the world of conflict and whose only vision of the future is that one side will be victorious and the other vanquished. In Israel and Palestine, however, the majority of people still wish for a reasonable end to this conflict. If, with the Minister for Foreign Affairs in a strong position in the coming months, the EU could play some role in making that happen for those people, we will have done lasting good for the world as a whole, not just for those in that part of the world. I encourage the Minister to take the steps outlined during the debate on Senator Norris's motion, which he has shown himself willing to take.

Mr. Lydon: I welcome the Minister of State, Deputy Tom Kitt, to the House. We were fortunate to have both the Minister, Deputy Cowen, and the Minister of State in the House during the debate and both are mentioned in motion, which is to their credit and seldom seen.

This issue concerns two peoples rather than two countries, most of whom want peace with justice but some of whom do not want peace at all. We must deal with extremists who do not want peace just as we dealt with such extremists in this country, and there is a lesson in that regard for this conflict also. However, we must also deal with the middle ground and ask such people to exercise moral pressure on the extremists on both sides.

There is a seemingly intractable problem. Israel is a state founded on religion, a Jewish state. I have spoken to Jewish Israeli people and found that they believe they are under siege, surrounded by enemies, out-voted on most issues by a large number of Muslim states at a UN they do not trust, attacked by terrorists and suicide bombers who indiscriminately blow up Jewish men, women and children and besieged by terrorist groups whose only ambition is the complete destruction of the state of Israel, all of which points are true. Many also believe that one of the most appropriate forms of reparation would be the removal of terrorist organisations from the land of Israel and the acceptance of Israel's ancient sovereignty over Gaza, Judea and Samaria. It is a stark viewpoint if one considers what is being done, and perhaps helps us to

understand why Israel responds so vehemently against what it sees as attacks.

On the other side is a dispossessed people, whose lands have been taken and who are harassed on a daily basis. I have visited what I will call the Holy Land rather than Israel or Palestine, although God knows it is far from holy. I have spoken to Jews, Muslims and Christians there and have seen something of what has happened. For example, I have spoken to Palestinians near Jericho who one day received a knock on the door. Outside were tanks, bulldozers and armed men who told them that the land was given to them by God, a land flowing with milk and honey, and that they were taking it back. They gave the people perhaps 20 minutes to leave, taking only a few souvenirs and documents, and then razed the house to the ground and took the land. This happened not to interlopers but to people whose ancestors had been living there for 300 years. Their land was taken and given to settlers. This is the same as if one was sitting at home in Dublin, a fellow knocked at the door, with tanks outside, and said, "I am from the Tuatha de Danann. We were here 3,000 years ago. This is ours — get out."

These people have been living in abject poverty for the past 50 years. There is no doubt that the Palestinians, both Muslims and Christians, are oppressed. It is not permitted to build a Christian church anywhere in Israel. These people are not exactly tolerant. Israel has a huge army, the third largest air force and nuclear weapons. The saddest aspect is that the last symbol of Jewish resistance to the Roman occupation was at Massada outside Jerusalem. Nowadays when they bring in their elite regiments, they have a torch light ceremony, which is the nearest thing to a Nazi ceremony one could see. I do not think they realise what they are doing.

We could talk all night about the atrocities on either side, which will not get us anywhere. What we must do is help the Palestinians in a humanitarian way. We must try to isolate the terrorists and persuade the Israelis to ease the plight of the oppressed and stop the disproportionate response. The Minister referred to the wall. This is a horrific wall which is not a great omen of peace. It is a tinderbox waiting to be lit. The Palestinians appear to be abandoned by the Arabs. They get no help. Many of the Arab states were created by the stroke of a pen and supported by the US, the Saudis, Kuwait and so on. Even though these countries are governed by royal families, they are dictatorships. Thousands of people live off the land and there is no democracy. However, there is always hope. There have been intractable problems. Someone referred to the Berlin Wall and there is the example of Northern Ireland.

As the Minister, Deputy Cowen, said, Israelis need not live in a fortress and Palestinians need

[Mr. Lydon.]

not live in hopelessness and indignity. However, they need to take a risk. As members of the European Union, and having gone through a similar situation ourselves, we might be in a position to offer help and ask these people to take a risk. Mr. Sharon is coming over here and there are visits to Mr. Arafat and so on. These people should sit down and talk because there is always a middle ground. There is always a way to achieve peace, although one may not see it at the time. It takes a lot of effort, endeavour, hope and trust. Trust is only built a little at a time, but by taking a risk the prize is great. I do not think we should ever back away from it. I encourage the Minister to take a risk and I commend the motion to the House.

Ms Tuffy: I thank Senator Norris for tabling the motion which I support. I thank him for his account of his visit to the occupied territories. I welcome the two Ministers and thank the Minister, Deputy Cowen, for his informative account of the initiatives he has taken in the last few months, which I welcome. I welcome in particular the fact that he met with Prime Minister Sharon and President Arafat. I also welcome the fact that the Irish Government tried to sponsor a motion on anti-Semitism at the UN, with which there were difficulties. It was well intentioned and the right thing to do. There is an issue regarding anti-Semitism — I am not referring to anyone here — when associating Israelis or Jewish people in general with the acts of a particular Israeli Government, which should be guarded against. A small minority of people take this attitude, which was behind acts such as the recent bombing of the synagogue in Turkey.

I am a supporter of Israel and Palestine. I would like to see as soon as possible two states, Palestinian and Israeli, which are both secure and economically and socially viable. As someone who has always supported Israel, when I listen to Senator Norris and read in the media what is happening in the occupied territories, I feel ashamed of the actions of the current Israeli Government. The Irish Government should do what it can in the next few months, in conjunction with the international community, to put pressure on the Israeli Government to reverse its policy, halt construction of the wall and remove it.

Senator Ryan referred to the Israelis hearing what people in Ireland think. My understanding from polls carried out in Israel is that the majority of Israelis want peace. Approximately 31% of people supported the Geneva Accord, 20% were undecided and 38% were against it. I understand that the majority of Israelis polled supported the road map and support Prime Minister Sharon's latest proposals. I think at this stage more blame attaches to the Israeli Government than to the Palestinians. There is no doubt the Palestinians

are the weaker side who effectively have been brought to heel by the Israeli Government. However, there is blame on both sides. I agree with Senator Hayes and Senator Quinn that people must move beyond the blame stage. While there is no peace, more people will die and both sides will have blood on their hands.

I welcome the fact that the Palestinian Delegate General to Ireland, Dr. Ali Halimeh, is here today. President Arafat has been involved in many historic attempts at achieving peace over the years, but he must now allow others to come forward and play an uninhibited role in any peace process that evolves. I do not have all the information but, as an outside observer, I do not feel he played that role in regard to Mr. Abbas, which he and the Palestinian Authority should consider.

I am sceptical about Prime Minister Sharon's latest proposals, as are many Israelis, because of his past behaviour. It indicates that perhaps there is a shift in thought which, as Senator Hayes said, is welcome. It would be wrong for him to do something like this unilaterally. Any kind of movement must be on the basis of a negotiated peaceful settlement between the two sides. Both sides must show good faith and make concessions. There is that willingness on the part of the Palestinian Authority and among many Israeli representatives. The Geneva Accord shows how things can be done. I am not saying it is how matters will work out eventually. We must be critical of actions on both sides which cause damage. We should try to play a positive role in working with both sides. This is the approach the Government has been taking, which I welcome.

Ms Feeney: I wish to share my time with Senator O'Rourke. Like other speakers, I commend Senator Norris for the manner in which he keeps this issue at the top of the agenda and thank him for his excellent contribution.

It has been outlined to the House just exactly how high up on the agenda of the Government, in its Presidency of the European Union, and the European Union is the issue of the trouble in the Middle East. The Minister conveyed this in a very eloquent way.

Last May, I had the opportunity and wonderful privilege of chairing a debate in the Merrion Hotel in Dublin. On the platform with me that night were His Excellency, Daniel Megiddo, the Israeli ambassador, Dr. Ali Halimeh, the Palestinian Delegate General to Ireland, who I am delighted to see is present this evening, and the Minister of State at the Department of Foreign Affairs, Deputy Tom Kitt, who was representing the Government. The Minister of State gave a very lengthy contribution, similar to a position paper, on where the Irish Government stood on the conflict in the Middle East. I was heartened by the frankness of the debate that

took place that night. The debate lasted for almost four hours and it was incredible to obtain insight from people on both sides in the conflict who were personally affected by it. What came across so clearly to me was the huge desire for peace, almost at any cost. Those affected need peace so badly.

Also in the audience that night were people representing——

An Cathaoirleach: It is not appropriate to make reference to members of the audience at that function.

Ms Feeney: In that case, I will just say that there were people from Northern Ireland. This is very appropriate to what I want to say.

An Cathaoirleach: It is not fair to name people in the audience.

Ms Feeney: They spoke about their experience in the Northern Ireland conflict and stated how people would go nowhere without trust and dialogue. They stressed how important it is to keep the dialogue going at a time when one thinks it is going nowhere and one has nothing else to lose.

Previous speakers mentioned the wall and the violation of the rights of those who live in the West Bank. It is clear that the wall is no substitute for the process of dialogue. Only dialogue will lead to peace and perhaps a final settlement, for which we all hope. Equally, it is wrong that those in the West Bank should be subjected to the encirclement of their homes, villages and places of work. It is important that, at a time when we are aware of the Israeli-controlled area of the West Bank and Gaza, we bear in mind that in ten or 12 years time, a minority will be ruling a majority. This, by its very nature, will be utterly disastrous if no proper plan is in place.

I am glad the Government will continue to keep an eye on this issue and that the Minister of State is planning a visit to the area in the very near future. The only way forward has to be through dialogue. The only plan on the table and the only show in town is the road map.

Everybody should recognise the historic rights on both sides. The Minister of State should ask the European Union to foster and encourage people going forward in order that they will realise their best interest lies in making peace. Only through a process of dialogue may we hope that people can, in the words of Colin Powell, “replace old hatreds with new hopes” and build a future with a real peace dividend for all succeeding generations of Israelis and Palestinians.

Ms O'Rourke: Like others, I commend Senator Norris and his Independent companions. Senator Norris, fresh from his visit with Christian Aid, put

down this motion, which was so explicit and inclusive that we were all very pleased to debate it. I thank the Minister and Minister of State for gracing us with their presence. The Minister of State, Deputy Tom Kitt, is a regular attendee. It was very good to see the Minister here also. I wrote to him and the Taoiseach before Christmas asking them to come to the House early in the new term. Both have now responded, about which I am pleased.

This debate is very important and one in which this House is particularly well versed. The House provides a good environment for such debate because we are able to speak naturally, easily and intimately in a small but very decorative and historic Chamber. Speaking of what is happening in other countries and of what is happening between the Israelis and the Palestinians in comfortable Dublin, as one might say, brings one up very sharply.

I thank the Minister for Foreign Affairs, Deputy Cowen, for including the reference to my late brother, Brian Lenihan, and to my mother who had on the wall of her sitting-room a framed copy of the original Bahrain declaration. My brother gave it to my mother and she was proud to have it in her house and always very pleased with it. I was teaching in an all-girls' secondary school in Athlone at the time — it was 1980, at which time I was not a Member of either House — and there was in that school a teacher whose husband was stationed in the Army somewhere in that region. She berated me in the staffroom for the danger her husband was being put in by my brother, Mr. Charles Haughey and everybody else she could think of. This stuck very clearly in my mind.

I was invited to the Jewish Holocaust ceremony in City Hall and was glad to attend on a Sunday night. It was most moving. When coming home that night, I could not get out of my head how people who suffered so horrifically and needlessly because of their race, the colour of their eyes, hair and whatever else cannot see the considerable suffering that now exists. It really pierced me that people who had lived through such a traumatic, dangerous and humiliating time now seemed to be blind to the very humiliation and dependency they were bringing about in the lives of so many in Palestine. When I wrote to thank the convenor of the meeting for my being invited, I hinted there was so much suffering and yet no appreciation of the great suffering of others today.

As Senator Tuffy said, of the two countries Palestine is the dependant. It is worked upon and I wonder how its economy functions and how people live and eat. Ireland, given its Presidency, is now very suited to bringing its past passions and struggles to bear on what is now an ongoing, terrible, ignominious struggle between two fine sets of people. I hope and pray that the wisdom

[Ms O'Rourke.]

the Government can bring to this matter will be absorbed and put to good use.

An Cathaoirleach: Three or four Senators are offering with only 12 minutes remaining.

Mr. O'Toole: I would like to share two minutes of my time with Senator Henry.

An Cathaoirleach: Is that agreed? Agreed.

Mr. Norris: We started about five or six minutes late.

An Cathaoirleach: I am allowing for that and including it in the 12 minutes.

Mr. O'Toole: To reiterate what previous speakers have said, it is crucially important that we recognise the effort, diplomatic and otherwise, Senator Norris has put into this motion. The motion, which is to become a resolution, praises the Government for its balanced policy. I have no difficulty in supporting it. I have always felt proud of the foreign policy position of successive Governments on the Middle East. The Minister of State has been part of this for a long time wearing various hats, and this is crucially important.

It is important to begin by reminding ourselves of the Holocaust and all that went with it. We have discussed it many times. Like the Leader of the House, I have also attended very moving memorial services to remember what was done to Jews, gays, gypsies and others in the Holocaust.

I speak as an unashamed long-time constant supporter of the Palestinian effort for recognition for a homeland. What is happening is obvious to the rest of the world. It will never be resolved by guns. Nevertheless, we cannot find a way of stopping it. It is a failure of politics and I am not sure how we can move on. It is not surprising that people forget. That is why it is important to remember the Holocaust. One of the great lessons of history, generation after generation, century after century, is that today's oppressed become tomorrow's oppressors. That has been the case with every single group in history. As soon as they find their way out, the circle of oppression comes into being.

There have been important moments in the Middle East. One of those was when Israel reluctantly accepted that there would be a Palestinian state. There was a great moment when President Arafat recognised that there would always be an Israeli state and said so publicly. Another important moment was recorded tonight by Senator Norris when he read the communication from President Arafat to the effect that he was not a supporter of suicide bombings and that they worsened the situation.

With the beginning of the first intifada conditions have gone steadily downhill. I remember feeling at that stage, despite all that was happening, that matters would only get worse. Time has rolled on and matters have got worse. The building of the wall is the final gesture of frustration, the final symbol of the failure of politics to solve this, as it is also the failure of force to solve it. It means that the sides must stand back from what is happening at present, which is absolutely unbearable to the Palestinian people. The Palestinian people as well should come firmly behind the points made by President Arafat. That could be a starting point and I hope that during our Presidency we can move things forward.

We should also unashamedly condemn Cement Roadstone Holdings for its involvement in the building of this wall. It is absolutely appalling. We should all be a part of that condemnation. I wish to share my remaining time with Senator Henry.

Dr. Henry: I thank Senator O'Toole for sharing his time. I too share his horror at Cement Roadstone Holdings.

The past is very important. However, the present is also important because it will be the past of the future. We have Senator Norris to thank for constantly bringing this issue before our eyes. All of us praise the Department of Foreign Affairs, the Minister of State, Deputy Kitt, and the Minister, Deputy Cowen, for what they do and for what those before them have done in this area.

Whenever I see a situation where there are two different populations one of the first things I try to do as a doctor is look at the health figures for the area. Earlier this evening Senator Norris spoke about the disgusting conditions in which many Palestinians have to live. Their poverty and lack of access to anything is borne out by the United Nations State of World Population figures. In Israel the infant mortality rate is six per 1,000, much the same as in the developed world; in Palestine it is four times as great. Life expectancy in Israel is 71 for a man and 81 for a woman. Eighty-one years would be considered very good in this part of the world — it is less here. For Palestinians it is 70 for a man and 74 for a woman. All the statistics indicate that the Palestinians are very much deprived. There is one statistic which must be examined very carefully. That is the births per 1,000 women. For Israel the rate is 17 and for the occupied Palestinian territories it is five times as much. That means that on one side of that wall there are people who are being deprived, who number five times as many as on the other side where people have so much more.

The EU effort within the Palestinian occupied territories was mentioned and it was stated that the effort should be renewed. It should, but every

effort is frequently destroyed. It seems that as soon as something is built, it is knocked down and must be rebuilt. I deplore the suicide bombers and the gruesome videos that are sent out, particularly those of women. It is a whole new development where women with children say they are going to kill themselves, knowing they will be killing other children. When that happens many houses around where these people lived are knocked down too. Nobody knows better than people here that one must try to bring people in out of the cold. I hope that in the deliberations which are taking place, in which Senator Norris and many other Senators, and particularly the former Senator Lanigan, have played an important part, the experience we have had in this country will be put to good use.

Mr. Leyden: I welcome Dr. Ali Halimeh, the Delegate General of the Palestinian people.

An Cathaoirleach: The Senator should speak to the motion.

Mr. Leyden: He is welcome. I commend Senator Norris on tabling this motion which is agreed by all parties in the House. I welcome the Minister of State, Deputy Kitt, and the Minister, Deputy Cowen, both of whom have played a very important role in relation to the future of Palestine and the difficulties of that region. I commend the Government for its excellent contribution this evening which outlines exactly how matters stand at present. I am particularly pleased that we as a Government have sent our own national statement to the International Court of Justice to ensure that we are represented. As President of the European Union it is vitally important that we play a role at this stage. It is very much in line with Fianna Fáil policy as enunciated by the former Tánaiste, the late Brian Lenihan, who, as Minister in 1980, stated the position regarding the future of Palestine and the need for a state. It was a very courageous statement at the time and represented a very futuristic approach to this area. Palestine has great friends here in the Oireachtas. Our mission is to ensure the self-determination of the Palestinian state and also the existence of Israel as a state, but not on the basis of current conduct or, particularly, the new Berlin wall.

The statement by the Prime Minister of Israel is rather remarkable in that it proposes the removal of the settlements in the Gaza Strip. I hope we can believe these statements and that the President of the European Union will work in that regard. I find the statement remarkable. It is a conversion on the road to Damascus. Some of the settlers will now call him Judas. It is very difficult to believe that the same Prime Minister who is erecting new barriers and walls to divide the people of Israel and Palestine and remove

Palestinians from their rightful occupation of thousands of hectares of land is making this statement. President Arafat will have some reservations in this regard, but the statement has been made that all Jewish settlements in the Gaza Strip will be dismantled. The order has been given to plan for the evacuation of 17 settlements and the assumption is that in future there will be no Jews in Gaza. If this is true it is certainly a move towards negotiations on the roadmap which was put forward by the Americans and supported by the European Union. In that regard it is unusual for an independent parliament to have a support group called Friends of Palestine and I thank those who participated. A high percentage of Deputies and Senators have participated in support of an independent Palestinian state. That is quite remarkable for an independent Parliament. I wish that group every success as convenor. We will continue to work with the ambassador here in Ireland in support of Palestine and a just and long-term settlement of this particular issue, which has so much potential to cause further world conflict. The situation in Palestine calls for justice. It demands the people of the world should note that Palestine is entitled to its existence, its own government and to be a free democratic state. We support that fully.

Mr. Norris: I would like to thank the Minister and the Minister of State and all my colleagues who took part in what was a very important debate. I have not changed my position. I continue to state where I stand, fully in support of the human rights of ordinary people on both sides. When the state of Israel violates those human rights I will speak out and hope I will be heard. With regard to the business of settlements and Mr. Sharon, we must be very careful. I travelled down there with a very reputable Jewish scholar who has written extensively on this subject and he predicted Sharon's actions two weeks ago saying: "This is exactly what Sharon will do. It is a bargaining ploy. Be careful."

Every settlement is illegal under the United Nations. Why should one, two, three or four be allowed? The position is unsustainable and half the time in these so-called settlements there is nobody, just empty buildings. The other matter is the point raised by Senator Henry — the demographics. Sharon knows perfectly well there are elements within the Palestinian side, for example, who will now say: "Let us give up. Surrender is the best form of attack. Let us say we cannot have a state; it does not work. We will all go in with Israel." Then Israel is overwhelmed because it is faced with the problem of whether it becomes totally dictatorial or whether Israelis recognise the Palestinians and become a minority in their own Jewish state. That is the problem Sharon faces, so we must be careful with him because of the cosmetic arrangements he makes.

7 o'clock

[Mr. Norris.]

We have a powerful weapon in the European Union, the association agreement with Israel, which is a trade consensus. That is where it bites and that is where it will hurt. There are human rights protocols attached and I believe there is a strong case for activating them. With regard to the suicide bombings I am not going to go over that. I have said what I had to say apart from this: I know when that woman, a beautiful young lawyer, killed herself, awful as that deed was it is not enough just to condemn it. One has to ask why these abnormal events happen. How is it that a young woman with a law degree and her life in front of her commits such an act? We must ask why, not to excuse it, but to delve into the reasons. When one asks this question, one discovers that her brother and her cousin were shot in front of her and her father, when dying of cancer, was refused palliative treatment. He was stopped all the time at the gate. She watched him die in agony. I am not excusing her act, but putting it into context.

As a former academic, I believe there should be a comparative review of sentencing policy in the jurisdiction of Israel as between Jewish and Arab citizens. There is a discrepancy and it is a reproach to the Israeli bar council that it has done nothing about. I would like to return to the business of the wall. Some 220,000 people are affected directly, representing a third of the population of Palestine. On visiting this region, both sides have a tendency to ask what lessons we can show them from our experience in Northern Ireland. The parallel is salutary — four hundred years after the plantation of Ulster, we are still dealing with its malignant consequences. At least now we have learned and there is progress. One reason for this is the doctrine of parity of esteem, which has not been accepted by the contending parties, especially the Israelis, whose government appears to have declared war, not on a state, but on its people and whose proud boast of having made the desert bloom has now been replaced in the territories by the horrible reality of turning orchards and olive groves back into desert.

If one takes the parallel with the North seriously and tries to imagine the Israeli-Palestinian situation and its conditions being re-enacted north of the Border, this would involve the bombing of the Divis Flats by F-16 aircraft every time a machine gun poked out of a window, the surrounding of Dundalk by a concrete noose and its isolation from the rest of the Republic, with all the attendant restrictions on its population and the demolition of half of west Belfast because of supposed IRA contact. It would be much better if, instead of attempting to degrade the Palestinian population further, the Israeli Government made every attempt to bring them up to the level of infrastructure, income and

employment that used to be enjoyed before the *intifada* in the state of Israel.

Mr. Sharon frequently says the problem with the process is there is no partner. This tends to refer to Mr. Arafat. However, the absence of partnership could equally be laid at his door. On any occasion when there was a possibility of peace breaking out, Mr. Sharon was careful to sabotage it by a target assassination which frequently went wrong and caused multiple civilian casualties. After the recent suicide bombing, which was widely and rightly condemned, an Israeli Government spokesman, Mr. Gissin said: "The rest of the world should now sit back and let us do as we need to do to defend ourselves."

I sincerely hope this advice is not heeded and is smartly rejected. There could be no better recipe for disaster. Let us recall what happened when Mr. Sharon infamously stood back and let the Christian militia in to butcher the unfortunate Palestinians in Sabra and Chatila. It is wise, also, to be careful of repeated and quite dishonest calls made by Mr. Sharon on the Palestinian Authority to disarm Hamas. Let us recall that Hamas was established with the assistance of covert Israeli funding as an early means of destabilising the Palestinian Liberation Organisation. In so doing, they sowed dragons teeth. Is it reasonable to expect a police force whose police stations have been repeatedly bombed and whose personnel are forbidden by the Israeli occupiers to carry weapons or even wear uniforms in directing traffic to confront armed radical elements? As I said on RTE recently, it is like expecting them to go out in their underpants and peg snowballs at heavily armed fanatics.

If there is to be a resolution of this terrible conflict in the medium term, positive steps, however small, as the Minister of State said, need to be initiated now. During the week, I attended a talk by the Cypriot Foreign Minister in the Institute of European Affairs. Speaking on the Cyprus problem, he said that in order to make progress both sides must cut their losses, turn the page and develop a new vocabulary. This is the best advice I could give to both sides in the continuing tragic dispute in Palestine-Israel.

Finally, I thank Christian Aid for making this trip possible and to say that if I learned anything it is the necessity for people of conscience, be they Israeli, Palestinian, Arab or Irish to travel through these hot spots and bear witness to what is happening so that the worst excesses may be stopped. I also ask in particular that the Minister for Foreign Affairs, Deputy Cowen, and the Minister of State at the Department of Foreign Affairs, Deputy Kitt, keep this matter close to the top of the agenda during the Irish Presidency and make a point of visiting not just Jerusalem but also Ramallah, the terrible trajectory of the wall

and the squalid militarised conditions that now exist in the West Bank and Gaza.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Ms O'Rourke: At 10.30 a.m. tomorrow.

Adjournment Matters.

Public Transport.

Mr. Morrissey: I thank the Minister of State at the Department of Transport, Deputy McDaid, for coming before the House to address the subject I raise again tonight. On previous occasions I have raised the issue of the licensing of new bus routes and extensions of existing routes by both Dublin Bus and private operators, citywide and countrywide. There appears to be an inordinate delay within the Department of Transport in processing applications. At a time when this Government has a laudable policy under which it is proposed to franchise some 25% of the Dublin Bus market — comprising a great number of routes — a system needs to be put in place to deal with applications in a manner akin to the way planning applications are dealt with by county councils. For example, if one makes an application for an extension or retention, one should be confident that it will be dealt with within four to eight weeks. It is a considerable outlay if one is investing €300,000 in a double-decker bus and €150,000 per annum in maintaining and driving the vehicle. One needs to be certain how long it will take to set this up. Also, under the current system, licences are being granted for only 12 months. We need to move to the UK model. People are investing large amounts of money in this area. It costs €300,000 to operate one bus on a particular route. If a private investor or the Government, through the NDP, was investing in Dublin Bus to that extent it would want licences to be valid for more than 12 months. We must provide incentives to private operators to develop and invest in good management of those routes.

Perhaps a way to end the backlog in the Department would be to introduce a three or five year licensing system to include a level of examination to ensure that if the operator was not meeting certain standards, the licence could be revoked. We should examine that possibility. We cannot continue in a situation where 25% of the licences of the entire Dublin Bus market is franchised under the existing regime because private operators will not be encouraged to come into the market.

I understand that private operators wishing to obtain a rebate on fuel must provide Revenue with their renewal notice. In certain circumstances, it is taking up to six months to renew licences thereby resulting in fuel rebates being withheld. If the Government is serious about dealing with this issue, it will have to examine the internal difficulties of the Department. I suggest the Government consider the introduction of a long-term licensing system given the investment being made in this area. I welcome the Minister of State's comments on this matter.

Minister of State at the Department of Transport (Dr. McDaid): I thank Senator Morrissey for tabling this motion. Private operators are required under the Road Transport Act 1932 to apply to the Department of Transport for a licence to operate a passenger road service or to amend an existing licence. All applications for new licensed services or amendments to existing licensed services are considered on an individual basis.

The mechanisms and procedures for the processing of applications are governed by the provisions of the Road Transport Act 1932. In response to a motion on the Adjournment of the House on 17 December 2003, I explained that the Minister is required, under section 11(3)(a) of the 1932 Act, to apply a public interest test to applications for licences. The Minister must consider whether the service proposed is in the public interest having regard to passenger road services and other forms of passenger transport available to the public on or in the neighbourhood of the route of the proposed service.

Generally, the public interest is interpreted as being best served by enhancing and facilitating an expansion of the range of public transport services available to the public as opposed to allowing unrestricted competition for market share. The adequacy or inadequacy of existing services and the net benefit to the public interest of a proposed service is assessed by the Department on the basis of the best evidence available to it, including evidence submitted by the applicant in support of the licence application, as mentioned by Senator Morrissey, and information made available by other parties.

Dublin Bus or Bus Éireann are not required under the Road Transport Act 1932 to apply to the Department for a licence to operate a proposed service or to alter an existing one. The next point is an important one which illustrates the interest in this area since the Minister introduced the 25% franchise. However, since 10 January 2001, both companies are required to notify the Department of proposed new services or proposed changes to existing services at least four weeks prior to their introduction. The

[Dr. McDaid.]

purpose of this procedure is to ensure a level playing field between Dublin Bus, Bus Éireann and private operators in the authorisation of services.

The length of time taken to process an application, the kernel of the Senator's motion, can vary depending on the nature and complexity of the application. Applications are dealt with on a first come, first served basis. Detailed analysis is required to ascertain, for example, the extent of any overlap between the proposed service and existing licensed or other public transport services. This can include similar licence applications already received or prior notifications received from either Dublin Bus or Bus Éireann. However, pressing or exceptional circumstances, and this does not appear to be in accordance with what the Senator said, are taken into account in determining the order with which such an application is dealt. In some circumstances, while the preliminary work may have been completed on a particular application, a final decision cannot be made until other relevant applications or notifications received prior to it have been finalised. In some cases, the application process can be delayed where relevant information is not provided by an applicant, such as an updated road passenger transport operators licence, current public service vehicle licences and approvals from the Garda for pick-up and-or set-down points.

The Senator inquired about the number of applications under consideration. The following point is a further indication of the interest in the 25% franchise. In reply to the motion on the Adjournment in the House on 22 May 2003, I advised the Senator that, at that time, the Department had on hand 133 applications for new routes or for amendments to existing route licences countrywide. Since then, an additional 155 applications have been received, giving a total of 288 applications to date. During 2003, the staff of my Department made a sustained effort to speed up decisions on applications through a heavy overtime commitment and streamlined processing. That effort has been successful in virtually eliminating a significant backlog of applications prior to 2003.

The overall result of this effort and commitment of staff is that currently the number of applications on hand has been reduced to 85. Of these applications, 60 are currently being processed and 25 are awaiting processing. I am also happy to advise the Senator that the Department — this is another important point — has made arrangements with private operators to deal with the renewal of all annual licences during the months of September and October next, instead of the piecemeal renewal of licences undertaken up to now. This will greatly facilitate the renewal process for the Department and will

also assist private operators by co-ordinating the renewal dates for all annual licences held by them.

The Government programme contains a commitment to replace the Road Transport Act 1932 with modern legislation. In keeping with that commitment, the Minister has already set out his proposals for regulatory reform of the bus market based on genuine market opening to new entrants. Following a meeting which he had with the trade unions on 26 January and subsequent correspondence, intensive discussions between the Department and the unions are expected to resume shortly under the auspices of an independent chairman.

It remains the Minister's intention to proceed with legislation on public transport reform in 2004, thereby fulfilling the commitment in the Government programme. In the meantime, my Department will continue to improve the administration of the 1932 Act in so far as resources permit. However, it is important to note that there is widespread agreement that the Act no longer provides a satisfactory basis for market regulation and needs to be replaced with modern legislation.

I hope the foregoing clarifies the matter for Senator Morrissey. As I told him before, I do not pretend to have the wisdom on this issue as exists among the officials in the Department of Transport. His contribution was genuine in terms of his concerns for private operators. Perhaps we can move this matter forward in a meeting between him and the officials concerned who know the current position.

Judicial Appointments.

Mr. Quinn: I welcome the Minister for Justice, Equality and Law Reform, Deputy McDowell, to the House to discuss the urgent need to appoint more judges to the High Court to avoid the unnecessarily high costs currently being imposed on parties to actions by having their cases postponed from sitting to sitting without any hearing taking place. I have raised this matter because of the experience of my company a short time ago. This experience gave me a new insight into the problems of legal costs, which are a major concern to most businesses. However, this experience highlights significant inroads could be made into these costs at a relatively small expense to the State by appointing more High Court judges. What happened is typical of what happens every day at the Four Courts. The report I received from my own executive states:

It is a regular contention that the willingness of insurance companies to settle claims on an economic basis rather than fight has had the effect of pushing premiums higher for the country's businesses.

We have recently spent five days in the High Court in the Four Courts. It would appear that the bottleneck that is the High Court is the cause of this headlong rush to settle.

Eager to fight, we arrived with our solicitor, S.C., engineer, medical experts and witnesses. The Case List for the day contained 30 cases, of which we were #26. This resulted in the case not being heard that day, and being carried forward to the following day. The following day our case was superceded by the 30 cases listed for that particular day. As our case was not heard that day, it was re-listed for 2 months later.

Two months later the identical sequence of events occurred, resulting in a further loss of 3 days, and a cost of 3 days legal fees, of approximately €4,000 per day. This scale of costs will also have been incurred on the plaintiff's side.

We are therefore in the position that, without one word being heard by a judge, approx. €40,000 has been incurred in legal fees/costs directly attributable to appearances in the High Court.

In isolation, this is extremely frustrating, but if one is to examine the cost implication for Irish business as a whole it is quite alarming.

On that particular day, with 50 cases on the list, legal/other costs incurred could have amounted to 400,000. Only 4 cases were heard that day.

Due to the restricted number of judges sitting on any given day, the choice is straightforward: settle in order to avoid returning or elect to return and incur further costs.

Currently, I understand there are 22 High Court judges in the country. 5 are assigned to Tribunals/investigations. The situation where 2 or 3 judges are sitting is no longer acceptable, given the backlog and the huge cost involved.

Apart from the cost implications, the only way to curb fraudulent and exaggerated claims is to expose them to the full rigour of the judicial process. The current position is that it is almost impossible to achieve this, due to the shortage of High Court judges sitting at any given time.

The Minister for Justice needs to follow up on his recent advertisement for Judges, and appoint a number to the High Court as a matter of urgency.

He may also wish to review the Legal calendar, as there may be an opportunity to extend the days/hours in with the Courts are in operation, in a manner not dissimilar to the recent Dáil restructuring!

Why does the Government regard the appointment of more judges as something to be done with great reluctance? Using a simple cost benefit analysis, it offers good value to the nation. I am delighted the Minister is present but I

suspect he will say the passage of the PIAB legislation will resolve this problem. It will not because the PIAB will not deal with cases where liability is at issue or cases which are suspected of being fraudulent. In addition, cases that fall within the board's jurisdiction are not prevented from being taken to court subsequently and cases that go beyond the board's process are likely to be taken to a full hearing.

The President of the High Court has been reported as saying PIAB will not have a material effect on the workings of the High Court, the number of cases coming before the High Court and, accordingly, the number of cases with which the Judiciary and the High Court must deal. I welcome the PIAB legislation, which is worthy and is a step in the right direction but this other problem remains. I could not believe the number of cases that are listed and the number of witnesses on both sides who must hang around. The appointment of one or two judges would result in a significant saving.

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I thank Senator Quinn for giving me the opportunity to address this issue. I agree that high costs and lengthy delays restrict access to justice and drive up the cost of doing business in the State. Clearly, in our legal system, these problems cannot entirely be laid at the door of the courts. The pre-trial behaviour of the parties to the dispute also has a direct bearing. The Senator has acknowledged that appointing more judges is not in itself the full solution.

Before Christmas I had lengthy talks with the president of the High Court, Mr. Justice Finnegan, a man who is remarkably dedicated to his job and demonstrates great pragmatism. He is trying to ensure the High Court functions as well as it can. We discussed the question of the number of judges available to him in the context of the tribunals and other demands made of these judges. He will make a case to me for the appointment of more judges. I am part of a collective Government and I cannot make affirmatory noises but I am aware of the problems because I lived with the problems Senator Quinn has mentioned as a practitioner for many years and I understand fully the deep frustration felt by companies in the same circumstances as his.

That is why the Government has acted on a number of fronts to provide speedier and more cost effective solutions to personal litigants. Some element of delay is inevitable in the courts system. If we had a system under which everybody could get instant justice, Parkinson's law would apply and people would bring their litigation to that venue. The situation differs from court to court. For instance, there are few, if any, delays in the hearing of cases in the Supreme

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Court and, in the case of the High Court, the theory regarding personal injury actions is that one is supposed to get a trial within ten days of one's case being set down. Senator Quinn's case relates to a personal injuries action against his company and, on occasion, such cases are pushed back repeatedly because they are not reached on a particular day and the list for the next day supersedes it. The average waiting time for the hearing of a judicial review is between three and six months.

The Government is acting on a number of fronts and I do not in any sense put aside the gravamen of the Senator's call for the consideration of the appointment of more judges. I do not cast that aside but I cannot make a commitment because the collective responsibility of Cabinet requires me to make a case in order to come to a collective decision on the cost implications of such a move.

Last year, I published the heads of the civil liability and courts Bill. The gestation period is almost at an end and I hope to bring the text of the Bill to Cabinet on Tuesday next and, if I get a favourable decision, I hope to publish it next Wednesday or Thursday. The Bill is designed to address the compensation culture and to provide that false and exaggerated claims will be dismissed when detected and that people who present false testimony will be prosecuted to ensure these cases are not used as a ramp for false or exaggerated claims for damages. The court will be able to impose a maximum penalty of ten years imprisonment and-or a fine. The limitation period for bringing an action will be cut from three years to one year. I hope to publish this Bill shortly.

These proposals demonstrate the determination of the Government to address the issue of insurance costs so as to ease the burden on both business and private individuals while, at the same time, ensuring genuine claimants receive proper compensation for the wrongful acts that caused them injury. I do not know whether Senator Quinn's business is self-insured but larger companies frequently take out self-insurance now.

The Tánaiste and Minister for Enterprise, Trade and Employment, the Minister for Transport and myself are members of a Cabinet subgroup dealing with insurance problems. We are introducing a broad range of measures. Most people will appreciate insurance premia are on the way down for the first time this year, even in the area of employers' liability, which was considered an impossibility in the past. The Bill I hope to publish next week will accelerate that process dramatically.

Another initiative is the establishment of the Personal Injuries Assessment Board. Establishment of the board should have an effect

on weeding out claims which come before the courts purely for the purpose of assessing compensation where liability is not an issue. As the Tánaiste pointed out, litigation costs in personal injury cases have contributed to the high cost of insurance and genuine claimants and defendants have had to wait far too long for their cases to be settled.

I will now turn to the issue of commercial litigation, which may or may not be of interest to the Senator. Last month I was pleased to sign the statutory instrument providing for the new commercial division in the High Court. This list will deal with high value commercial cases where the value of the claim is €1 million or more. It will also deal with intellectual property cases, such as those involving patents, trademarks, copyright and designs, and commercial "passing off" claims. In addition, judicial review type cases which relate to major commercial matters are also included.

The President of the High Court has appointed a High Court judge to manage the commercial list. New fast track pre-trial procedures will apply and case management will be provided. A person will not be in a position to list their case for hearing until all the ducks are in a row. The court will have power to require parties to set out their cases in writing, thus avoiding lengthy opening speeches by counsel. Pre-trial conferences will be used to speed up hearing by identifying the core issues and the type of evidence which will be required. Witness statements will be exchanged in advance and will be capable of being used as evidence once verified on affidavit. The court will have power to make orders for electronic filing and exchange of documents and for the use in court of standardised IT formats. Progress has been made in that area but it is not much use to a defendant who, as in the Senator's case, is anxious to have a personal injuries case heard. However, it will produce a new culture in the courts system in respect of those types of cases.

With regard to planning decisions, I understand that the President of the High Court last year assigned two judges with particular expertise in the area to deal with judicial review applications relating to planning and environmental matters, with particular regard to infrastructural projects. This was done with a view to according such cases the facility of an early hearing. As soon as the parties are ready to proceed, the matter is given a date for hearing within weeks rather than months. Accordingly, the delay is largely a matter for the parties themselves in having the matter in order for hearing. The solution to this is to apply rigorous case management to such cases, which would be a matter for the presiding judge.

Given the increasing demand on the courts, I accept that there may be a need for some extra judges. I am having the matter examined at present and I am awaiting a detailed submission

as to how additional judges can be deployed and how they will make a difference. As with so many other areas of Government activity, there is no point merely throwing further resources into a system that is not working. That is not to state that in order to work a system may not need more resources. I am just making the point that there are a number of things which must be done. It is not just a case of appointing more judges. I hope I will be able to return to this matter in the context of the Courts and Civil Liability Bill which I hope, with the permission of the Government, to introduce in this House.

Garda Stations.

Mr. Finucane: I wish to raise the issue of the Garda station in Galbally. The Minister of State at the Department of Finance, Deputy Parlon, recently announced that certain older Garda stations will be sold off and replaced with more modern buildings. One of the stations selected was that at Galbally, which was built in the 1930s. Galbally station differs from some of those which are ex-RIC barracks and was extensively refurbished in the past. It is still used as a Garda station, but the accommodation quarters are no longer in use.

Galbally community council has been proactive and one of the areas that concerns it relates to certain instances in 2001 when there was a spate of robberies in the area. These probably brought a great deal of attention and focus on Galbally Garda station and in recent times there was a violent robbery at the local post office. The council wishes to know when the existing building will be sold, when the new Garda station is likely to be in place and if accommodation will be provided at the new station. The council considers the latter as essential to enable a garda to be based in the area.

Galbally station is near the Tipperary border and is in the administration of the Garda in that county. The Brough gardaí only patrol to a place called Ballylanders, which is approximately two and a half miles away. If the Galbally station was under the jurisdiction of the Brough gardaí, there would be a possibility of a patrol car operating in the area thereabouts. Although this is not part of the original matter I put down, I wish to voice my concerns.

The Galbally community council took an initiative in recent times to put in place a security system outside the community centre which was later extended to the areas around the church and post office. The system cost €7,000 and appears to be providing effective security coverage. Following the recent robbery, gardaí were able to refer to video tapes from the closed circuit TV system. The community council wants to co-exist in perfect harmony with gardaí in the locality. It is concerned, however, about what will happen in

the future and wants to ensure that accommodation will be provided at the new Garda station so that a garda will be based there. I thank the Minister for his attendance.

Mr. M. McDowell: I thank Senator Finucane for raising this matter and I welcome the opportunity to address it.

I understand that the prospect of a new Garda station for Galbally, County Limerick, arises in the context of an equity exchange programme being advanced by the Office of Public Works. The latter acts as the estate management agency for the Garda estate and deals with matters of property maintenance, ownership, etc. The equity exchange programme, which is an initiative of the OPW, is part of the effort of that office to maximise the State assets tied up in its extensive property portfolio. As far as Garda stations are concerned, the Minister of State, Deputy Parlon, and the Office of Public Works recognise that certain rural stations operate from old unsuitable buildings often situated on large under-utilised sites. The exchange programme proposes that, where feasible, such stations will be replaced by more appropriate Garda accommodation on suitable sites locally.

Following a survey of Garda properties carried out by the OPW, in excess of 100 stations have been deemed to be of poor quality and in need of major refurbishment. Many of those stations are dispersed throughout the country and consist mostly of basic one person units. The Office of Public Works considers that the cost of refurbishment of these stations would be substantial. To alleviate this problem, the Office of Public Works considers that the best way forward is to engage in an equity exchange programme with the private sector.

I understand that the programme, which is being driven by the OPW, will involve the disposal to private developers of certain Garda stations which are in need of significant refurbishment to bring them to an acceptable standard in exchange for alternative, good quality premises which meet modern Garda requirements. I am assured that these new premises will satisfy OPW specifications and Garda needs. Furthermore, I wish it to be understood that one of the conditions of this scheme will be that no existing Garda station will be closed or disposed of until a suitable replacement is ready for occupation. In other words, if a Garda station is situated on a site of two acres which are of substantial value, if it does not make sense to refurbish it in its current state and if a deal is put together with a developer for the site on the understanding that the latter must construct a modern shop-style station on the main street of the local town or wherever, it will only be at that stage that the developer will gain access to the vacated site. As a first step, the Office of

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Public Works intends to run a pilot scheme covering eight Garda stations clustered in the Tipperary-Limerick area. Galbally is one of these stations.

The programme does not involve the closure of any of the Garda stations involved. Indeed, it is an essential element of the programme that none of the stations involved is closed until the replacement is ready for occupation. Any new building will be built to the exact specifications of both the Garda Síochána and the Office of Public Works. If living quarters are required at any

location involved in the scheme, and that is the situation in Galbally, they will be provided. Moreover, there will be no reduction in the level of existing Garda services in Galbally as a result of the programme.

I listened to the Senator's remarks about Bruff, the divisional area issue and the squad car but I am not in a position to make an intelligent response because I did not have notice about them. However, if the Senator wishes to write to me about those issues, I will be glad to respond.

The Seanad adjourned at 7.40 p.m. until 10.30 a.m. on Thursday, 5 February 2004.