



## SEANAD ÉIREANN

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*Dé Máirt, 2 Márta 2004.*  
*Tuesday, 2 March 2004.*  
 —

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

—  
*Paidir.*  
*Prayer.*  
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### Order of Business.

**Ms O'Rourke:** The Order of Business is No. 1, a procedural motion agreed by the Committee on Procedure and Privileges on the attendance of John Hume, MEP, in the House tomorrow, the arrangements for which are outlined in the motion, which is to be taken without debate; No. 2, Garda Síochána Bill 2004 — Order for Second Stage and Second Stage, to be taken at the conclusion of the Order of Business until 7 p.m., with the contributions of spokespersons not to exceed 20 minutes, those of other Senators not to exceed ten minutes and Members may share time; and No. 3, Industrial Relations (Miscellaneous Provisions) Bill 2003 — Committee Stage, to be taken at 7 p.m. and conclude no later than 8.30 p.m.

**Mr. B. Hayes:** I welcome the debate on the Garda Síochána Bill and the Leader's initiative to give more time to party spokespersons. I am sure the Leader will join me in encouraging all Members to contribute to the debate on this extensive piece of legislation which will have profound implications for the force in the years to come.

Does the Leader agree that the comments made by the Minister for Finance at Leopardstown, in which he suggested that if decentralisation is not delivered on time it would spell electoral disaster for Fianna Fáil, is one of the worst examples of political cynicism the country has seen in a generation? We were told that decentralisation was about the spatial strategy and bringing real power to the regions. However, the Minister for Finance has now stated that decentralisation is just about the next election. I ask the Leader to bring the Minister to the House to make a statement on the issue. We are talking about real people in real jobs in Dublin who have been told they and their families can go to hell or to Connacht. We need an early statement from the Government on this issue.

**Mr. Mooney:** I object to those disparaging remarks about Connacht.

**Mr. B. Hayes:** Decentralisation was allegedly about the spatial strategy but we now find it is more to do with the next general election.

Will the Leader arrange for a debate on the Abbey Theatre, which I have requested in recent months? The Abbey Theatre is celebrating its 100th anniversary this year and there have been discussions about a possible new location for it. If the Abbey Theatre is to move, it should be no more than a half mile radius from where it is now, possibly to the new Carlton site, as a way of giving real impetus to the theatre region and uplifting O'Connell Street and the north inner city. Will the Leader ask the Minister for Arts, Sport and Tourism to make a statement at the earliest opportunity in the House outlining the Government's view on this issue? The Abbey Theatre is a very important national institution which has made a huge contribution to our cultural life. We want to keep it on the north side of the Liffey and as close as possible to its original location on Abbey Street.

**Mr. O'Toole:** On a number of recent occasions, the House has debated the importance of a press council. Over the weekend and last week we saw extraordinary levels of coverage of the terrible killing of a young man outside Club Anabel. We saw how many lives were ruined by it and people will be paying the price for a long time. Views were expressed that there would have been less press coverage if those involved came from an underprivileged area.

I would like the Leader to offer a view on one aspect of the matter. A young woman happened to have a date with some of the guys on both sides and her life has been torn to pieces. She has been made to look like a tramp, she has been diminished and her reputation has been impugned. I do not know anything about the woman, I have never met her and I know nothing about her family, but the way in which she has been treated by the media is absolutely unacceptable.

**Senators:** Hear, hear.

**Mr. O'Toole:** She will never recover from that and her reputation will be sullied. It will be thrown at her and she will be made responsible in many ways. We can understand the other levels of media coverage, but to use and abuse someone who inadvertently happened to be a witness and had no hand, act or part in the act, in this manner is completely and utterly wrong. We should have a view on the matter and ask the appropriate committee which deals with the media to raise this issue. I believe in the freedom of the media.

Irish hospitality and our céad míle fáilte will be severely tried and tested in late June this year when the so-called leader of the so-called "free world" comes to visit Ireland. We are being

[Mr. O'Toole.]

abused as part of the American presidential election. The Government will be embarrassed by it and many of us will not be able to sit silent when President Bush visits this country. We will show him respect as the leader of an important country. However, we also have a political responsibility to make our views known in the strongest possible way. Nonetheless, control in these situations can always be difficult. The Government should ask President Bush to reconsider coming here. If he wins the election next year, he should visit after the election when it cannot be used as part of his involvement in a campaign in the United States. This is not a good time. Such poor timing would be an embarrassment to our Presidency and we should not support it.

**Ms Tuffy:** I would like to raise with the Leader the call yesterday in Killarney by the Irish Hotels Federation for a certificate system to allow children in hotel bars after 9 p.m. This relates to the legislation passed in this House which bans children from being in bars after 9 p.m. The federation raised a valid concern about the difficulties and problems this will pose for the business. It will have a knock-on effect on tourism in general. A large part of hotel business comes from parents who have their young children with them in the hotels. They would often bring the children to the residents' bar in the hotel at night and this has always fitted in with the atmosphere and ethos in hotels. There is no question of children drinking alcohol, but parents do not want to leave their children alone in the room. This is part of the holiday. It has been happening for many years during the holiday season and has not caused problems. I ask the Minister to come to this House to review the legislation in light of what has been said. Perhaps he would consider the proposal that there should be a certificate system similar to that in the UK. It would allow the Garda to grant suitable hotels permission for children to be in bars in hotels with their parents after 9 p.m. if food is being served or family entertainment is being provided.

**Mr. Scanlon:** We read and hear from time to time of cemeteries being vandalised and graves desecrated. Last week, the people of Ireland were horrified and shocked to read that two tombs in a cemetery in County Kerry were interfered with. The lids of the coffins within the tombs were prised open and the corpses searched for valuables. This is a despicable crime. There is no law to deal with such an act. We must refer back to an 1880 English law to deal with the problem. Legislation should be introduced to ensure this type of crime is dealt with severely.

**Mr. Browne:** Will the Leader invite the Minister for Enterprise, Trade and Employment to the House to outline the position of the

Progressive Democrats on motorways? I asked about this issue more than a year ago. There have been reports in the newspapers recently that the Cabinet is split on the issue and the Tánaiste has now written to the Minister for Transport. Why is she doing this seven years later? She has been returned to Government for almost two years. Recently there was an oral hearing in Carlow on the motorway and CPOs for the motorway were issued. Senator Dardis attended the oral hearing recently and, following cross-examination, admitted the figures being used were not accurate.

**An Cathaoirleach:** The Senator need not elaborate to that extent.

**Mr. Browne:** I want to finish my point.

**An Cathaoirleach:** The Senator has called for a debate on motorways.

**Mr. Browne:** The up-to-date figures clearly indicate that the volume of traffic will be greater than a single lane carriageway could cope with. What is the Government's position on the issue? A dual carriageway is proposed. There is nothing in between a single carriageway and dual carriageway; it must be either one or the other.

**Mr. Hanafin:** I call on the Leader to allow for an extended debate on the Middle East, particularly in light of recent events. I was one of the people who believed there were weapons of mass destruction in Iraq and that there was an immediate threat to world peace.

I would also like to raise another issue which occurred during the week. A 13 year old suicide bomber was sent out from the Palestinian area. Telling an uneducated 13 year old to attach a bomb to his body and blow up other people is a most heinous act in an area where we have already seen heinous acts. I am sure that young child would have believed that if he had a stone that was big enough, he could have knocked the moon off its perch, if he was told that was possible.

I welcome the planned visit of the American President. We should remember that America is a second home for many Irish people. American Presidencies differ. Much of what President Clinton did for Ireland was admirable, yet I had huge difficulty with the introduction of partial birth abortions in the US under his Presidency. We should welcome the American President for many reasons.

**Mr. Finucane:** I support Senator O'Toole's call for a press council. There has been wall to wall coverage of the sad event which took place outside Club Anabel. Recently, Fine Gael commissioned a poll undertaken by independent consultants and it found that 25% of people, one in four, were not reporting specific crimes. It also found that up to 40% of those under 25 were not doing so. I am aware of a case in my town

recently where people turned on a young person and his girlfriend, attacking the young man in particular. They kicked and punched him. He did not report the assault or follow it through because of fear, which often permeates small communities in such situations. There is fear of revenge by the people who perpetrated the assault. These people are often known to the Garda, but it is helpless unless people are prepared to testify. It is a sad indictment of Ireland today that while many of us when growing up often saw fist fights, we never saw people being kicked or pulverised on the ground. It is a shocking commentary on Ireland at this time.

**Mr. Kitt:** I wish to raise again an issue I raised last year, namely the use of discos for the excellent No Name Club, which arranges discos where alcohol is not served. Problems remain in this area and I hope a discussion on it, as well as on other issues related to the licensing laws, can be arranged as soon as possible. We should seek a situation in which such discos could be organised without any question of people under 18 not being allowed attend.

I also support the calls for a debate on the Middle East, particularly Iraq, where, as we know, there have been horrific killings in recent times.

**Dr. Henry:** I support what Senator O'Toole and Senator Finucane said about the treatment by the press of a witness to the very sad event outside Club Anabel. It is dreadful to see a young woman who has nothing to do with the case, apart from being a witness, treated in such a manner. It will certainly deter people from coming forward in future in regard to other cases if they think they will be treated like that woman.

I am sure the Seanad noted that 19 February was the first anniversary of the Second Stage debate on the Criminal Law (Insanity) Bill. I am not asking the Leader to make any further effort to bring Committee Stage before this House, but I ask her to request the Minister for Justice, Equality and Law Reform to attend the House to discuss the current serious problems regarding health in the Prison Service. General prison doctors are about to go on strike because they are so appalled by the circumstances under which prisoners are held and under which doctors must work. Moreover, 31 beds in the Central Mental Hospital are closed because of a capping policy on recruitment. At the same time, there are prisoners in padded cells who are seriously psychiatrically ill and should not be there, as all Members of the House would agree. What sort of a regime are we running in this country regarding seriously ill people in our prisons with the beds in which they could be adequately treated closed down and the people are held in conditions which we are repeatedly told by the Council of Europe committee on inhuman treatment and torture are totally unsuitable?

**Mr. Coghlan:** In the light of the continuing and damaging media speculation on the sale of the Great Southern hotels, will the hotels end up under the control of the proposed new Dublin airport authority, or has the Minister other plans for them?

This arises from the Government's decision to restructure Aer Rianta. There is a difficult trading environment and given this ongoing uncertainty, it behoves the Minister to make a statement. Perhaps the Leader would be good enough to arrange a debate on the matter.

I strongly support what Senator Tuffy said. Given the difficult trading environment and in terms of the future of our tourism industry, the question of children in hotels after 9 p.m. needs to be addressed for the hotel sector and for the sake of the industry.

**Mr. Bohan:** I support Senator Tuffy's call for a change in the legislation in regard to under 18s having to leave hotels and public houses after 9 p.m. Some 80% of public houses serve food and for many it is the biggest part of their business. It is ludicrous that a 17 year old, who is out with his or her parents, is asked to leave a premises at 9 p.m. We are coming into the summer when many tourists and foreigners will visit and they will not understand this law. I would like the Minister to consider changing the legislation and the sooner, the better.

**Mr. Norris:** I thank Senator Brian Hayes for taking up the torch regarding the Abbey Theatre, a matter that is consistently overlooked. His support is welcome and I think there is also support on the other side of the House. I want the theatre to stay on its historic site but if it is not possible, I agree with Senator Brian Hayes that it should stay on the northside and be built on the Carlton cinema site. I imagine the Taoiseach wishes something similar.

I welcome the visit of President Bush. It presents a glorious opportunity to those of us who disagree with his policies to make that clear in a dignified, peaceful way. There is plenty about which to protest, not only Iraq because they are now going into Haiti. In Iraq, they said they got it wrong but that at least they deposed a tyrant. In Haiti, they have put out somebody who was democratically elected but who was undermined by the church because he was a priest and by the Americans because he was seen as left wing. Let us discuss that issue. We are not guiltless ourselves. Only last week, in a fit of enthusiasm, we decided to appoint an ambassador to Burma. Let us discuss that as well and take the beam out of our own eye.

I am not proposing a formal vote of sympathy — perhaps that will done tomorrow — but as a Member of the House, I was shocked to hear of the death of Cormac McAnallen. I rarely go to Croke Park but I attended a match in which he played extremely well. I remembered his name

[Mr. Norris.]

because it was an unusual one. It is sad that a young man like that has died at that age.

**An Cathaoirleach:** While I have similar views to the Senator, it is not in order on the Order of Business. I know it is a sad occasion.

**Mr. Norris:** Fine. It may come up tomorrow. I will finish by saying that the classical world always said that those whom the gods love die young. To die at the pinnacle of one's career is desperately sad for the family.

**Ms Terry:** I call on the Minister for Justice, Equality and Law Reform to come to the House to discuss young people and their drinking habits which have been highlighted again in the past week. I have called for such a debate on a number of occasions. We still see signs on the doors of hotels and bars saying "Happy Hour" and drink promotions being advertised in our pubs. It is high time the Minister took his job seriously and addressed this serious issue. We know the drinking habits of our young people are unacceptable and are leading to dangers for them and others. We have a responsibility to ensure legislation is enforced. Even at the end of Kildare Street, there is a sign in a bar saying "Happy Hour". It is something to which we cannot close our eyes any longer. The Minister needs to come to the House at the earliest opportunity to discuss this issue.

**Ms Feeney:** I wish to support an issue raised earlier on the Order of Business by Senator O'Toole. I call on the Leader to communicate with the committee that has responsibility for and deals with the media. Over the past six weeks, we have seen incredible journalism, but at the wrong end of the spectrum. What we saw at the weekend was reckless and opportunistic journalism. There were no winners in the case with which we are all now very familiar. However, at the weekend, the media created another victim — a girl who has no redress for what has been done to her.

I also support the call by Senator Terry for the Minister for Justice, Equality and Law Reform to attend the House to debate the issue of under age drinking, including the role played by nightclub owners in running promotions and reducing cover charges to enable under age drinkers to get into nightclubs. We talk about the abuse of minors but this is a blatant abuse of our young people.

**Mr. U. Burke:** I ask the Leader to request the Minister for Education and Science to attend the House for a debate. The Minister, Deputy Dempsey, has passed up an opportunity, traditionally taken by his predecessors, to attend the annual teachers' conferences to outline Government policy on education. At the same time, he has taken a roadshow to certain locations in order to listen to the partners in education

offering their vision for the future. His immediate reaction to those talk-ins, however, was to reject them, as he says he has heard it all before. The Minister does not appear to have any great policies, so we should provide him with a platform here to display his vision for education, if he has such a vision. We have not seen such a vision during his two years in office; we have seen only his arrogance. The Minister has destroyed teachers' morale and has ostracised himself from the thinking of parents, who are the primary educators. I do not know what else the Minister can do, other than reintroduce the concept of third level fees. The Minister gave an undertaking to this House to show clearly how he intends to increase the numbers of disadvantaged people accessing education, but he has failed in that respect. I ask the Leader to request the Minister to attend the House, as a matter of urgency, in order to outline Government policy, as he has passed up the chance of expressing his thoughts at the teachers' conferences. He should let us all know what his thoughts are on education, as well as his vision for the future.

**Mr. Dardis:** I support what Senator O'Toole and others have had to say with regard to the coverage of the unfortunate case concerning the death of a young man at the Club Anabel nightclub. I also endorse what Senator O'Toole said about establishing a press council. The establishment of such a council has been recommended many times but when, in particular, it is suggested that it should be a statutory body, there is a squawk of complaint from the press. It also appears that people are set up and misrepresented when they are asked questions regarding such cases. I suspect the young lady who was the unfortunate victim of coverage last Sunday, was one of those people. I know for a fact that a secretary of a past pupils' union was approached on the basis that the article would be about past pupils' unions, whereas the real purpose was to work it into the story of these unfortunate events.

If we are concerned about these matters, as we should be, it is obvious that drink is at the root of them. In those circumstances one must ask if

3 o'clock it is correct that young people should be excluded from public bars. This matter was discussed at length when

the legislation went through the House. I was one of those who suggested to the Minister that there would be difficulties with people going on hotel holidays. The Minister made it quite clear that all public areas in a hotel would be available to children, even where their parents were drinking, but not the bar. That is a reasonable approach to take.

Free offers were made illegal under that legislation. Discounted or free drink was available in Club Anabel and that should not happen.

**Mr. Bradford:** One of the architects of the peace process, John Hume, MEP, will address the House tomorrow. It might be opportune to have a substantive debate on Northern Ireland over the next two to three weeks. A number of mini-interventions have occurred over the past number of weeks across the political spectrum on the current status of the peace process. However, a substantive debate is required. The Northern Ireland problem will not be solved through soundbites or SCUD missiles from any side of the political equation. Substantive debate is required and, given that one of the architects of the Good Friday Agreement, the base point from which progress must stem, will visit the House tomorrow, Members should have an opportunity to make contributions on this issue.

I agree with Senator Hanafin and disagree with Senator O'Toole regarding President Bush's visit. I welcome the visit but I acknowledge people will protest. The beauty of living in a democracy is one can protest about the elected head of another democracy. A number of those who will protest will be the same people who protested against Ronald Reagan's visit.

**Mr. O'Toole:** Quite right.

**Mr. Norris:** Were they not right? They would do so again.

**Mr. Bradford:** Many of them have not been able to get over the fall of the Berlin Wall.

**Mr. Norris:** It is a pity the wall did not fall on the Senator.

**Mr. Fitzgerald:** The decision of the Minister for Education and Science to take part in your education system, YES style debates at the teachers' conferences this easter is a reasonable and genuine attempt to fully engage with 1,700 teacher representatives on the future of our education system. His suggestion that the other principal partners in education should be present is good because it will enhance the quality of debate and the outcomes. The days of set piece ministerial speeches with the usual cheers and boos from the floor are gone. They have done nothing to promote educational debate and are a waste of time for both sides.

**Mr. U. Burke:** The Senator should ask the Leader about that.

**Mr. Fitzgerald:** While such conferences provide a forum for teachers' unions to get involved in industrial relations issues, they also provide a wonderful opportunity for teachers to exchange educational problems and share solutions.

**An Cathaoirleach:** We cannot have an extensive debate.

**Mr. Fitzgerald:** Parents' representatives and boards of management agree with the Minister. I

call on the unions to enthusiastically embrace the challenge thrown down by the Minister in the interest of all our schoolchildren.

**Mr. U. Burke:** Is the Senator objecting?

**Mr. Feighan:** I join colleagues in deploring the media's excessive reportage of the Club Anabel case and I agree with Senator Dardis that excessive consumption of alcohol is a serious problem. However, one issue is being missed, which is the consumption of soft drugs. This must be addressed.

**Mr. Norris:** They never led to a fight.

**An Cathaoirleach:** Senator Feighan, without interruption.

**Mr. Feighan:** I refer to the crisis in the provision of orthodontic treatment to pre-teens and teenagers. Currently, 11,508 children are on the waiting list for such treatment and some must wait up to four years. A total of 15,398 children have not even made it onto the waiting list. I am worried because a consultant orthodontist has accused the Department of Health and Children of massaging the figures and ensuring the guidelines for such treatment have been tightened. He said the Department is giving the health boards a licence to lie. The Leader should call on the Minister for Health and Children to attend the House to defend this serious charge and explain why this situation pertains.

**Ms O'Rourke:** Senator Brian Hayes referred to the Garda Síochána Bill and the comments of the Minister for Finance on decentralisation. As a Connacht person, I do not like the expression, "To hell or to Connacht". Connacht is a very fine place. I also note that a representative of a large Civil Service union has said his members welcome decentralisation. He spoke vehemently and openly on the matter. I am quite sure there will be a coming together on this issue. The Minister for Finance, as is his wont, says what he wants to say whether we like it or not.

There was a short debate on the Abbey Theatre during the Order of Business last Thursday and there was general agreement that the theatre should remain near to its present location north of the Liffey. I will request that the Minister for Arts, Sport and Tourism come to the Seanad to discuss the matter.

Senator O'Toole raised the question of a press council. I agree that the young woman in question was diminished in every sense of the word by the way she was used by newspapers. I was reminded of the accusation that the Prime Minister, Mr. Tony Blair, had sexed up a dossier. In this case the news story was sexed up and it was wrong.

The visit of President Bush to Ireland was referred to. I agree with Senator Norris who said we can all make our protest if we wish.

Senator Tuffy raised the of certification for children in bars. I wonder about the other

[Ms O'Rourke.]

customers, who may not be keen to have children running around bars. One often visits a bar to have a quiet drink and to talk. No one has made the point that it may not be suitable to have young children in bars. They can sit in a hotel lounge with their parents. We cannot on one hand speak about young people being infected with the demon drink while on the other having younger people exposed to the smells and sounds of bars.

Senator Scanlon spoke about vandalism in graveyards and tombs being broken open to see if they contained valuables. I will inquire about the nature and age of the legislation which applies in this area. The desecration of tombs is a heinous crime.

Senator Browne wants to know the view of the Progressive Democrats on motorways. He and Senator Dardis can have that out between the two of them.

**Mr. Browne:** The Minister for Transport has not responded to my letter of a year ago.

**Ms O'Rourke:** Senator Hanafin requested a debate on the Middle East. Senator Hanafin would welcome the visit of President Bush. Senator O'Toole had a different opinion.

Senator Finucane spoke about the non-reporting of crime. In small communities, people are afraid to report crime because they fear the revenge of the perpetrator. These matters can be raised during the debate on the Garda Síochána Bill in a few moments when the Minister is in the House.

Senator Kitt spoke about No Name Clubs for young people where alcohol is not available. He also requested a debate on Iraq. I believe all Senators would support that request.

Senator Henry said she would not ask about Committee Stage of Criminal Law (Insanity) Bill. She was quite right not to do so because we are tired asking about it. She also spoke about the role of doctors in prisons and the bad conditions for prisoners.

Senator Coghlan inquired about the Great Southern Hotels. We will try to get a clear statement on this issue so that those who work in the hotels and who patronise them will know what is in store for the hotels during the coming summer.

Senator Bohan agreed with Senator Tuffy on the question of children being with their parents in public houses or hotel bars.

Senator Norris spoke about the Abbey Theatre. The Cathaoirleach, rightly, said we could not pass a vote of sympathy on the death of Cormac McAnallen, although his own instincts were to sympathise with the young man's family.

I would be glad if, on the Garda Síochána Bill, Senator Terry would raise the issue of the disgraceful continuance of the "Happy Hour", which has been outlawed. There is no doubt that its purpose is to get young people so tanked up

that they continue to drink. Senator Feeney supported the establishment of a press council and agreed that the "Happy Hour" should not continue as it is a crime.

Senator Ulick Burke raised the Minister for Education and Science's non-attendance at the teachers' conferences. I am looking at Senator O'Toole who, I am sure, will remember that, as the then Minister for Education, I attended the teachers' annual conferences on five occasions. Each year I used to call it the Via Dolorosa, but I learned to love the conferences because I stayed at night and had a great time with the teachers.

**Mr. Dardis:** In the bar.

**Ms O'Rourke:** In the bar.

**Mr. Finucane:** The Minister, Deputy Noel Dempsey, is a killjoy.

**Mr. O'Toole:** Pure chemistry.

**Ms O'Rourke:** Pure chemistry. I found them very engaging. I was determined to turn them to some use, although I do not mean for myself—

**Mr. B. Hayes:** Perish the thought.

**Ms O'Rourke:** I was determined to use the occasion for making contacts with teachers, which stood me in great stead. Senator O'Toole and I remember a particular early morning in Salthill—

**Mr. B. Hayes:** Tell us more.

**Ms O'Rourke:** I mean morning, not late night.

**Mr. Dardis:** The Leader remembers, but Senator O'Toole does not.

**Ms O'Rourke:** Senator O'Toole remembers it quite well. Each Minister is different and if the Minister for Education and Science, Deputy Noel Dempsey, believes the annual conference is an outdated format, he is fully entitled to his opinion. He will do the business in some other fashion. It will seem odd not to have reports. The Minister is usually the butt of all that goes on, with everything, metaphorically speaking, being thrown, and all he or she can do is grin and bear it. One feels like kicking them all.

**Mr. O'Toole:** Now the Leader tells us.

**Ms O'Rourke:** Afterwards it is great fun. Senator Dardis has brought to my attention that No. 14, statements on the high level of alcohol consumption by young people, is listed to be resumed.

Senator Bradford raised the issue of a debate on Northern Ireland, which we are endeavouring to arrange. Senator Fitzgerald also raised the question of the teachers' conferences — imagine, I attended five conferences in one week,

including the three teachers' unions, the parents and the religious in education conferences.

Senator Feighan raised the issue of excessive drinking and also the issue of the lack of orthodontic treatment for young people. I will ask the Minister for Health and Children to come to the House to discuss that matter.

Order of Business agreed to.

### **Address by MEP: Motion.**

**Ms O'Rourke:** I move:

That Seanad Éireann agrees with the recommendation of the Committee on Procedure and Privileges that, in accordance with the provisions for the address to Seanad Éireann by Distinguished Persons, Mr. John Hume, MEP, be invited to address Seanad Éireann on 3 March 2004 and the proceedings, which shall commence at 11.15 a.m. and conclude no later than 12.30 p.m., shall consist of a speech by the Cathaoirleach welcoming Mr. Hume, the address by Mr. Hume, at the conclusion of which he will reply to questions from members, and a speech of thanks by the Leas-Chathaoirleach for the address.

Question put and agreed to.

### **Garda Síochána Bill 2004: Order for Second Stage.**

Bill entitled an Act to make further and better provision in relation to the Garda Síochána and, in particular, to consolidate with amendments certain enactments relating to the Garda Síochána, to provide for the establishment of the Garda Síochána Ombudsman Commission for the purposes of ensuring openness, transparency and accountability in the process by which complaints against the Garda Síochána are investigated, and to provide for related matters.

**Ms O'Rourke:** I move: "That Second Stage be taken today."

Question put and agreed to.

### **Garda Síochána Bill 2004: Second Stage.**

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

**Minister for Justice, Equality and Law Reform (Mr. M. McDowell):** I am very pleased to have this opportunity to open the debate in this House on the Garda Síochána Bill 2004. The Bill contains the most comprehensive, and I believe the most important, legislative proposals on policing ever to come before the House. It will replace, with only one or two exceptions, all of

the Garda Síochána Acts going back to 1924 and will be a new constitution for the force at the beginning of this century.

The Bill has two main objectives. The first is to reform the legislative structure under which the Garda Síochána is managed. In particular, this will involve clarification of the role and objectives of the force and a redefinition of its relationship with the Minister and Government of the day. The second is to put in place a new mechanism to deal with complaints against members of the Garda which commands the confidence of the public and force alike. In achieving both objectives, this Bill meets a key commitment of the programme for Government.

The Bill's proposals reflect the outcome of a review of the Garda Síochána which was carried out under the Government's strategic management initiative. The review set out certain key principles. There should be clarity as to the roles and functions of the Minister and the Garda Síochána. Operational responsibility, including financial responsibility, should be assigned to the management of the force. The level of democratic accountability should be enhanced. The implementation of these principles should be achieved in a open and transparent fashion. While I have time to provide only a brief account of the Bill's contents, I look forward to hearing the views of Members today and on Thursday. As a matter of course, there will be an opportunity for more in-depth discussion on Committee Stage.

Before turning to the Bill's provisions, I wish to acknowledge the particular contribution of a Member of this House to police reform on this island. I refer to Senator Maurice Hayes who was not only a member of the Patten Commission on Policing in Northern Ireland, but earlier carried out a seminal review of the police complaints system in the North. This widely praised review formed the basis for the establishment of the Office of Police Ombudsman of Northern Ireland. While we cannot copy blindly what is done in the North or elsewhere, we must be ready to learn from others and adapt their experiences to our particular needs and circumstances. In preparing this Bill, I have therefore taken full account of police complaints system models in other jurisdictions.

We must bear in mind that our circumstances are quite unlike those of the United Kingdom and many other jurisdictions. Where we have one national police force, many countries have a number which gives rise to a need for very different structures. The UK, for example, has over 40 regional police constabularies and a number of national law enforcement agencies, including its intelligence services. As well as being our single police force, the Garda Síochána also functions as our intelligence service. The Bill and the structures it proposes must reflect this fact.

The very importance of the Bill heightens the need to get it right. That I have been conscious

[Mr. M. McDowell.]

of this from the start was a major factor in my decision to publish the Bill's general scheme last July with detailed explanatory notes. I was also moved to invite submissions from interested groups and the public in general. Around 15 individuals and bodies took up my offer and submitted their views in writing to me. I also consulted with Garda management and held meetings with a number of Garda associations. Senators may also recall that I participated in a meeting of the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights last September to discuss the draft proposals and to hear committee members' views on them.

I am grateful to all who expressed views on the general scheme whether they were supportive or critical and whether they endorsed the proposals or recommended changes. The submission of the Human Rights Commission deserves particular mention. I am pleased to see the commission has broadly welcomed the Bill and raised additional points which I will weigh carefully. The Bill reflects the detailed consideration I have given to every view expressed to me.

I turn now to the provisions of the Bill on the management of the Garda Síochána. Perhaps surprisingly, the Bill sets out for the first time in law the functions and objectives of the Garda. It clarifies the function of the force in prosecutions by placing on a statutory footing the practice of gardaí initiating prosecutions in the name of the Director of Public Prosecutions. The roles of and the relationship between the Minister and the Commissioner are defined openly and transparently. Existing legislation is silent on the relationship which has, inevitably, changed considerably over time. The Minister of the day will be entitled to set policing priorities. New and comprehensive reporting requirements will be put in place on matters which will include the plans of the Commissioner for each year ahead and the assessment he or she makes of each year gone by.

One issue that has attracted some comment is the provision which enables the Minister of the day to issue a directive to the commissioner on a policing matter. Such a measure is absolutely necessary because it formalises the relationship between the national police and the Government. I have previously given the example of a new foot and mouth crisis where the Garda Síochána might be required to close down the Border immediately. It is no answer to say the Garda Síochána would, in any event, do what is necessary. Of course, it would. It has shown time and again, for example during the last foot and mouth crisis, a readiness and an ability to meet any challenge. We are discussing here what the law should be and it would be extremely odd if the Bill regulated every detail but was silent on the big question of the State's capacity to respond to important events quickly and decisively.

It is important to emphasise that the Bill provides that this will be done in an open and

transparent way. On every occasion a directive is issued — I do not imagine they will be issued that often — such a directive would have to be approved by Government and also laid before both Houses of the Oireachtas unless this would prejudice national security, and even in this case the issuance of the directive would have to be disclosed to both Houses. It is also made clear that no directive could ever interfere with the independence of the Garda Síochána in prosecutions.

The Commissioner is being assigned new powers and responsibilities for the distribution of the force, for financial matters and for the civilian support staff. In particular, the Commissioner is to be the Accounting Officer for the Garda Síochána, and will appear before the Committee of Public Accounts in that capacity. Members may have noticed the Bill does not mention other committees of the Houses of the Oireachtas. The Commissioner is already liable to appear on foot of other legislation before those bodies. These new powers are balanced by more comprehensive accountability measures, including the establishment of a statutory audit committee with independent members.

The Bill also provides for joint policing committees, with Garda and local authority representation. This is a year in which there will be a focus on local authority membership, functions and local democracy. For the first time, these committees will provide a forum where the Garda and local authorities can co-operate and work together to address local policing and other issues, which are in the management of the local authority, where the Garda will have a strong case to make for its particular interest to be taken into account. This is a significant innovation, which will strengthen policing at a local level.

Another important development in the Bill is the emphasis placed on upholding and protecting human rights. The Bill specifically provides that the Garda Síochána must have regard to this in performing its functions. There will also be a specific reference to upholding human rights in the revised oath new members of the Garda Síochána will take. Respect for human rights will be further enhanced by a provision in the Bill for the drawing up of a new code of ethics for the Garda Síochána.

The Bill also provides for a statutory basis for appointing volunteer members to the Garda Síochána in the future, if it is decided that such an approach would be beneficial. The idea is that committed members of the public could volunteer to provide a reserve of part-time personnel to support the work of the Garda Síochána. The United Kingdom has had legislation since the 19th century providing for the appointment of special constables who to this day provide a valuable and unpaid role, involving members of the community in policing. Almost every common law country with a system similar to ours has some form of police reserve of that kind. No decision has been taken by the

Government to establish a reserve of volunteer members, but it is valuable to lay the statutory foundation for such a reserve so that it can be utilised if future circumstances warrant it.

A key objective of the Bill is the establishment of an independent Garda Síochána Ombudsman Commission to replace the existing Garda Síochána Complaints Board. It is undeniable that the present system of dealing with complaints against members of the force does not command full public confidence. The complaints board itself has pointed to problems with the present arrangements. I strongly believe there is a need for a new mechanism to ensure openness, transparency and public confidence in the investigation of complaints against members of the Garda Síochána.

The Bill also contains provisions to enable the new ombudsman commission to investigate Garda conduct even where no complaint has been made, but where an investigation is clearly called for in the particular circumstances. The ombudsman commission can act on its own initiative in these cases, or it can act on a referral from the Garda Commissioner or the Minister.

The ombudsman commission will consist of three persons, one of whom must be a woman and one of whom must be a man, and the Bill allows for the appointment of a superior court judge to one of the positions. The appointments will be to full-time positions for a term of between three and six years and the members will be appointed by the President on the nomination of the Government and on the recommendation of both Houses of the Oireachtas.

Perhaps the main question asked in respect of the ombudsman commission is whether it will be independent in its composition and investigations and the answer is "Yes". As regards its composition, none of its members can be a current or former member of the Garda Síochána. As regards the investigation of complaints, the key point is that every complaint will be either made to or referred to the ombudsman commission. The most serious complaints, involving death or serious injury, will have to be investigated by the ombudsman commission itself and it will be a matter for the commission, exercising its independent judgment, to decide in the case of any other complaint whether it should itself investigate it or whether it should refer it to the Garda Commissioner for investigation. If the ombudsman commission decides to refer a case to the Garda Commissioner for investigation, it can do so with or without supervision and can take over a case if it is not satisfied with the progress or even the outcome of an investigation. The ombudsman commission, therefore, will retain ultimate control over every investigation. In that respect, the statutory powers of the ombudsman commission are the same as those in Northern Ireland.

As regards more minor complaints — I mean that in relative terms as every complaint is

important to the person making it — I hope that many of these will be capable of being resolved informally or by mediation. The existing system has provision for informal resolution, but it simply has not worked. The provisions of this Bill seek to promote informal resolution in cases where the ombudsman commission considers it appropriate and where all parties concerned agree.

As regards complaints, as I said, the ombudsman commission will be able to act even in the absence of complaints, but six months will remain the time limit for making a complaint. However, there will now be an exception whereby the ombudsman commission can extend this time limit if there are good reasons for doing so.

The Bill will also enable the ombudsman commission, at the Minister's request or following the Minister's approval of a recommendation of the ombudsman commission itself, to examine a practice, policy or procedure of the Garda Síochána with a view to preventing or reducing the future incidence of complaints arising from that practice, policy or procedure. It is not purely individual case specific complaints we are dealing with here; we are also dealing with systemic problems which give rise to complaints.

As the ombudsman commission will be an independent body, it follows that it must be allowed to recruit its own staff. Its staff, both administrative and investigative, will have civil servant status. In addition, the Bill enables the ombudsman commission to enter into arrangements with the Garda Síochána or other police forces, or any other bodies, to engage on a temporary basis police officers or other persons, presumably with skills of investigation, to assist in carrying out its investigations. There is a similar provision in Northern Ireland. It clearly makes sense for the ombudsman commission to be empowered, at its own discretion, to make use of such expertise especially in the early days of its operation while its staff gain experience and get up to speed in the carrying out of both civil and criminal investigations.

As I explained last July, I consciously omitted from the general scheme of the Bill the detail of the investigative powers of the ombudsman commission. I recognised at the time that this was a crucial area and I wanted time to consider what was needed to ensure that we got it right. Having considered the matter at length, I concluded that, where criminal offences are involved, the ombudsman commission must be capable of conducting an investigation to the same standard as the Garda Síochána. It follows that its investigating officers must have essentially the same powers as members of the Garda Síochána. The Bill, therefore, confers on designated officers of the ombudsman commission all the powers and immunities and all the duties imposed on any member of the Garda Síochána by or under any enactment or the common law. There are only two exceptions to this. It does not confer any

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powers under the Offences Against the State Acts, or the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993, other than the power to gain access to call-related information.

Special provision is also made for the search of Garda stations, in recognition of the position of the Garda Síochána as a security service and the fact that information relating to national security could be held in some stations. The Bill provides, therefore, that while designated officers will have the power to enter and search a Garda station, such a search must be authorised by a member of the ombudsman commission who must also notify the Minister and the Garda Commissioner of the intended search. No time limit, such as was originally contemplated, has been provided and no notice period has been provided.

Provision is made for the Garda Commissioner to object to a search in such circumstances, but only on grounds relating to national security. It will then be open to the Minister to issue directions excluding from the search any part of the premises in question, or any storage facility containing information or documentation, or to impose any other necessary conditions relating to the security of the State. The Bill also provides for regulations designating a Garda station where information or documentation relating to the security of the State is held, which shall not be subject to search except to the extent that the Minister so directs. Regulations may also be made designating information or documentation relating to the security of the State which must not be disclosed, again except to the extent that the Minister so directs.

These exceptional limitations are reasonable and necessary having regard to the fact that the Garda Síochána is not just a regional constabulary but a national security service. However, in order to provide reassurance against any concerns that they might be too readily invoked, I have included a counterbalancing safeguard in the Bill. A judge of the High Court will have oversight of the operation of the provisions of the Bill authorising the withholding of, or denial of access to, information on grounds of State security. The Bill also makes provision for judicial oversight of the conduct of designated officers of the ombudsman commission, in recognition of the fact that they are being granted such extensive powers. In essence, a High Court or superior court judge nominated by the Chief Justice will be able to conduct an inquiry in regard to any allegations that the ombudsman's officers have abused their powers.

In drawing up this Bill, I have taken account of the comments made by the Director of Public Prosecutions regarding the impact of the normal six month time limit for summary prosecutions on cases dealt with under the present system. Investigation files on complaints can be date-expired before they even reach the office of the DPP, making prosecutions impossible no matter

how strong the evidence may be. Of course, one part of the answer will be to have speedier investigations, but I also think it right to provide in the Bill that the normal time limit of six months, set down originally in the Petty Sessions (Ireland) Act 1851, should be 12 months for summary proceedings relating to an offence reported to the Director of Public Prosecutions under the Bill.

In conclusion, I underline again the importance I attach to the reforms set out in this Bill. They are designed to improve the management of the Garda Síochána, promote a good and effective relationship between the force and the Government of the day, and more than anything, put in place a system of investigating complaints and allegations that is effective but fair, respects the rights of all, and commands and maintains the confidence of the public and the gardaí who serve them.

I advocate these reforms in a spirit of support for the Garda Síochána. I do it not to undermine but rather to underpin the work it does to protect our freedoms as individuals and as a society. Sight must never be lost of the sacrifices individual members of the force have made for our protection. Theirs is a difficult task and a challenging vocation. The force has its critics and must take fair criticism. From time to time, it has its failures. However, when we have to form judgments on the force and its members, we would do well to remember the simple, spontaneous acts of bravery and good character which form part of daily policing, qualities which are much more constantly prevalent than any or all of the infrequent failures.

There is an enormous reservoir of goodwill and respect towards the Garda Síochána. It is an unarmed force, a form of policing not practical in many other countries but one which is valued in this country and which is possible only because of the huge public support for and trust in the Garda Síochána. I mean the Bill to build upon that support and trust and, as such, I commend it to the House.

**Ms Terry:** I welcome the Minister and thank him for coming to the House to contribute on the Bill. It seems the more legislation on justice issues comes before the House, the less we see of the Minister. It is good, therefore, that he is in the House. I also thank the Minister for publishing the heads of the Bill, which afforded Members the opportunity for consideration before the Bill was published. This is a good practice and one I hope will continue in regard to other legislation.

On the foundation of the State, all of its administrative, industrial and security structures had to be built from scratch. The first step was invariably taken by passing a Bill to put in place a statutory framework upon which the various branches of the State could be built. One of the first tasks of the fledgling State was to establish a police force. In 1923, the Garda Síochána (Temporary Provisions) Act was passed and was

followed by a more comprehensive Act in 1924, the Garda Síochána Act. The latter Act has served the State well for the past 80 years, although one could be forgiven for thinking that an 80 year old Act is reflective of the neglectful attitude of this Government in regard to policing matters.

**Mr. M. McDowell:** We have not been 80 years in office.

**Ms Terry:** It is hardly good legislative practice to leave a statute of this importance on the Statute Book for 80 years without a fundamental review. I am glad the Minister has fulfilled his commitment to review the structure of the Garda Síochána and that this has resulted in the Bill, which I look forward to debating.

I wish to refer to a number of sections with which I have concerns. Section 14 deals with the Garda volunteer force. The section enables the Minister to appoint volunteer members to the force. This amounts to a tacit acknowledgement of the Minister's failure to secure Cabinet approval for the recruitment of 2,000 extra gardaí. Is this provision his attempt to address this failure? Volunteer members will have to be trained. I would rather that the Minister would train an additional 2,000 gardaí instead of dealing with the problem in this way.

I am concerned that section 14 states volunteer members will have exactly the same powers as permanent members of the force. This has not been properly thought through. I am strongly of the view that volunteer members can only have the same powers as permanent members if they receive the same training and only then would I be satisfied with section 14(3) of the Bill. The term "volunteer" seems to suggest that these people will give their services free of charge. Is that the Minister's thinking or will volunteers be paid?

Sections 19 to 22, inclusive, deal with additional powers of the Minister. I am concerned with a number of sections of the Bill which, effectively, turn the Minister into the chief of police. As present, the Minister and the Garda Commissioner liaise and consult with each other on an informal basis. The Minister has no statutory role or influence over the operation or focus of day-to-day Garda activities. The Bill seems to radically change that by giving the Minister a substantive role in directing the Garda. All substantive aspects of policing matters must first be approved by the Minister. For example, section 19 states that the Minister may set Garda priorities, section 20 states that the Garda strategy statement must be submitted to the Minister for his approval and section 21 states that the annual policing plan must be submitted to the Minister for approval. Most significantly, under section 22 the Minister can issue directives to the Garda. I am concerned that this provision has the potential to politicise the Garda's activities. Are they to become pawns to be

relocated, re-focused and redirected at the whim of a political master? The Minister should detail the types of measures he envisages introducing under section 22 and the issues that will be covered by directives.

The Minister's response to concerns about political interference is that the process is transparent but I am not satisfied that transparency alleviates all concerns. The Bill politicises the Garda when now, more than ever, we need an independent police force at arm's length from any potential political interference. Will the Minister's desire to control the Garda be matched by a willingness to answer parliamentary questions about the force if this Bill is enacted?

**Mr. M. McDowell:** I certainly will answer such questions.

**Ms Terry:** The Minister cannot assume control on the one hand and defer accountability on the other. He cannot have it both ways.

**Mr. M. McDowell:** If there were a police board, I would not be able to answer questions.

**Ms Terry:** Sections 30 to 34 lend a statutory basis to the involvement of local authorities in police matters for the first time and *vice versa*. Interaction between local authorities and the Garda is long overdue and very welcome. Fine Gael has called for this measure for some time. If communities are to experience long-term reduction in crime levels then local authorities must take on a dedicated oversight role in policing matters. Providing a forum for the Garda and local authorities to exchange views and co-ordinate activities will bring real benefits to local communities. It will provide an opportunity for real interaction and give a sense of ownership back to a public which is fast becoming disenfranchised from our criminal justice system.

A rift is developing in the relationship between the public and the Garda. Even though the force still enjoys the support of a majority of citizens, increasingly people are disappointed with their dealings with the Garda. As Fine Gael highlighted last Friday, many people simply do not bother to report crime.

The causes of crime are deeply rooted. Housing density is an area in which the Garda and local authorities could learn from each other. However, I am concerned that section 31 as drafted provides that joint policing committees will be modelled on county development boards. Those board meetings are largely held in private and members of the public can only attend when formally invited. The committees must meet in public if they are to be relevant.

Section 55 deals with disclosure to journalists and regrettably this offence remains in the Bill. I acknowledge the Minister has changed the section substantially since it first appeared as head 26 of the scheme of the Bill. It seems that the offence of disclosure now only arises where

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the information disclosed has “harmful effect”. The Minister’s definition of “harmful effect” is quite broad and seems to preclude communication of the most useful kind of information. I welcome the Minister’s concessions on this issue but I am not sure that the formula of words in section 55 lends any degree of certainty to this matter. I am uncomfortable with the provision as drafted and I would like a clearer explanation of what type of information would have “harmful effect”.

I am also concerned by the impact this section may have on the undeniable assistance which journalists can and have provided to the Garda, particularly on gangland activity. A strict interpretation of the section would make journalists fearful of discussing matters with the Garda. Has the Minister given full consideration to the potential consequences of the section?

Going back to the definition of “harmful effect”, I note paragraph (k), in particular, which states that information has harmful effect if it adversely affects the relations of the Government with any party in Northern Ireland. This is totally unprecedented and I am advised there is no similar provision on our Statute Book. It is ironic that a provision of this kind emanates from the Minister, as only a few weeks ago he was giving interviews at every available moment informing us that Sinn Féin was receiving funds from IRA criminal activities. It seems that the communication or exchange of that very information would be excluded by section 55. The motivation behind this paragraph is less than clear, although perhaps the Minister will enlighten us.

Sections 57 and 94 deal with the ombudsman commission. The Garda Complaints Board has been the focus of consistent criticism for some time and it does not have the confidence of the public. That in no way reflects negatively on the members and staff of the board but rather on the regime under which it has operated. Its hands were tied to a great extent and the body failed to function as an effective independent arbiter. The case for an ombudsman has been well made and I do not propose to revisit those arguments. However, I have examined the Garda Complaints Board annual report for 2002. During 2002 the board received 1,405 complaints and at the end of that year it had 841 cases on hand. In 2002, only 13 cases were finalised by the tribunal. These figures do not reflect well on the operation of the board.

I welcome the Minister’s decision to dissolve the Garda Complaints Board and to opt for the ombudsman model, which we in Fine Gael have advocated for some time. The ombudsman commission will consist of three persons to be appointed by the Dáil. I particularly welcome the power of the ombudsman in section 94(4) to initiate an investigation on its own initiative. That is a welcome provision but the scope of such investigations should be widened considerably so

that the ombudsman could examine more general policing practices.

It is clear from section 64 that the staff of the Garda Complaints Board will have an opportunity to transfer to the ombudsman commission. I understand that this is the usual practice in Bills of this kind, which implement reform or amalgamations, but I am not entirely convinced that it is appropriate to transfer the staff of the Garda Complaints Board wholesale in these circumstances. There has been and remains a great deal of dissatisfaction with the board, which is not to suggest that the staff or members of the board were in any way at fault, as I said. The system and structures under which they operated were and are grossly ineffective, to such an extent that they attract very little public confidence, if any. For that reason I have grave reservations about the proposal to transfer staff from the Garda Complaints Board to the commission. The commission needs and deserves a fresh start. It is not in the interests of the Minister or the public to establish a body which will have a cloud hanging over it from day one.

I was surprised by section 66, which seems to envisage a need for the Garda to provide special assistance. The lack of independence and failure of the Garda Complaints Board to adhere to the fundamental principle of *nemo iudex* has ultimately led to its downfall. As with previous sections, the Minister seems intent on making the same mistakes again and again. It is not acceptable that gardaí be brought into the ombudsman commission to investigate other gardaí. This is intolerable and to provide for such a situation in the Bill makes me question the Minister’s intent. It seems at every twist and turn that the hand of the force is never far away and I am concerned that the requirement for absolute independence is being diluted the further one reads into the Bill. Whatever fanciful justification the Minister has for the involvement of the Garda, I find this proposal unacceptable. If persons of particular expertise are required, let them be from the UK, Canada, France or elsewhere.

In regard to sections 84 and 86 — gardaí investigating gardaí — I am concerned that there may be situations where the commission can decide not to investigate a matter itself and may refer the complaint back to the Garda for investigation. This would effectively retain the *status quo*, whereby the Garda investigates the Garda. I am not at all happy with this aspect of the Bill. The Minister will no doubt retort that only minor matters will be investigated by the Garda itself. However, these are the very matters with which people have the greatest difficulty and have so damaged the credibility and trust which the force previously enjoyed.

It is in no one’s interest to again provide a statutory basis for the Garda investigating the Garda. It is a most unsatisfactory proposal. Has the Minister not learned anything since he came into office? We need to get away from this kind

of situation. The only guarantee we have with regard to independent investigations is that incidents of death or serious harm to a person will be investigated by the commission. Everything else seems to have the potential to be investigated by the Garda.

I am somewhat bemused at how the Minister has approached the whole issue of searching Garda stations in section 9, particularly in regard to the requirement to give notice and security files. In the heads of the Bill, section 48(6) provided that the inspectorate could search a Garda station on giving 48 hours notice to the commissioner. In section 91 of the Bill, as initiated, this has been changed to state that the ombudsman commission must notify the commissioner and the Minister of its intent to search. The Minister obviously has seen the folly of providing 48 hours notice, but seems intent on retaining a requirement to provide notice of some kind.

Since the publication of the Bill, the Minister explained that even a telephone call to the commissioner five minutes before going in would be sufficient notice. This will not happen and the commissioner will not tolerate such a situation. How, with five minutes to go before the search, is the commissioner to know whether the station in Dingle or Dalkey contains security files? A reasonable and prudential commissioner will say, "Hold on, there might be security files in there and I object to the search". Any provision for notice, however short, will defeat the intention of this section and I urge the Minister to recognise that the current requirement for notice is nothing more than tokenism.

On one hand the ombudsman commission is entirely fit and capable of investigating criminal matters — it is trusted to initiate its own investigation into any aspect of Garda activity — but, on the other, it is not, in the Minister's view, to be trusted with all Garda files. This is absurd. Is the Minister not satisfied with the strength of his confidentiality provisions in section 73? The Minister has made the point *ad nauseum* that the Garda serves two roles — it polices the State and also acts as our intelligence service. In that context, the Minister makes the comparison to MI5 and M16. This is just not credible. If the Garda's role in intelligence matters is of such a high level and gravity, why has the Minister not established an intelligence service, divorced from the Garda?

**An Leas-Chathaoirleach:** The Senator's time has concluded.

**Mr. M. McDowell:** I would love to know what else the Senator has to say.

**Ms Terry:** I have more to say but I have been given adequate time.

**Mr. J. Walsh:** I welcome the Minister to the House, to which he is a frequent visitor. I am sure

Members will concur with me when I compliment him on initiating much of his legislation in this House.

This Bill is one of the most significant we are likely to have during the Government's term. It is very comprehensive and goes to the core of how we regulate society. Senator Terry's comments about gardaí investigating themselves indicates a total distrust of the Garda which is unjustified. The Garda Síochána has served this country tremendously well in the regulation of society and through difficult periods in the past 80 years. As an unarmed force, it displays tremendous courage in ensuring the protection of society and investigating paramilitaries and professional criminal organisations, often at serious risk to themselves. We should recognise that and be grateful for it.

**Ms Terry:** On a point of order, I object to what the Senator said. I am not critical of gardaí investigating the gardaí. Why are we setting up this ombudsman?

**Mr. J. Walsh:** Is the Senator objecting to me complimenting the Garda?

**Ms Terry:** I am objecting to the Senator saying that I am critical of the Garda and do not trust it to investigate itself.

**An Leas-Chathaoirleach:** That is not a point of order.

**Ms Terry:** It is, a Leas-Chathaoirligh. I have to defend myself. That is why we are dealing with this Bill in the first place.

**An Leas-Chathaoirleach:** Senator Terry, that is not a point of order.

**Mr. J. Walsh:** I am still confused. Senator Terry will have an opportunity later to say whether she was objecting to me complimenting the Garda on its tremendous service to the State over many years.

While there have been examples in politics and many strata of society of people infringing proper codes and ethics, the same will arise in any force the size of the Garda. However, it must be recognised that the overwhelming majority of gardaí have served with great distinction.

In regard to Senator Terry's criticism of the structure of this legislation, I refer the Senator to the arrangements which apply to the ombudsman for Northern Ireland. Under those arrangements, complaints are categorised under three headings, namely, serious complaints, possibly involving criminal actions such as death in custody, serious injury etc, which the complaints body has a statutory duty to investigate; less serious but still substantial complaints which might, at the discretion of the complaints body, be remitted to the police for investigation and report, either supervised or unsupervised; and quality of service type complaints which would be remitted to the

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police for informal resolution. The structure which underpins the arrangements for the ombudsman in Northern Ireland, about which Senator Terry has been extremely complimentary, are the same as that which underpins this legislation.

The Bill also brings management structures and complaints systems into a 21st century setting. One objective of the Bill is to reform the law relating to the administration and management of the Garda Síochána and provide for the establishment of an independent body to be known as the Garda Síochána commission, both of which will bring a new dimension to policing which will have far-reaching beneficial effects for the future. Within the subtext of the Bill, there are many other welcome initiatives which are good and far-sighted. I welcome that the Garda Síochána ombudsman commission will oversee any investigation. As has been pointed out by the Minister, the membership of the commission to undertake and oversee any such investigations will be people of calibre and independence. Various other commissions established by the State have fully reflected and illustrated their independence and have operated effectively. To allow the commission to take the initiative on what it would investigate, in addition to any complaints made, is a good thing.

I agree with the absolute need for any police force, including the Garda Síochána, to aspire and adhere to the highest possible standards in observing human rights in the performance of their functions. We need also to be mindful of the human rights of those who are offended against and to ensure that anything we do is done in a balanced way, so that these particular rights do not become subsidiary to the rights of offenders. Many human rights organisations, obviously for very good reasons, will strongly advocate the need to protect offenders. It, therefore, behoves us, when initiating legislation and in its operation, to have regard to this requirement. The right of an effective investigation is important, about which we have heard a lot in committee.

Senator Terry criticised the fact that under the legislation the Minister may be allowed to give certain directions. This is absolutely essential. The Minister may understand why I mentioned effective investigations. Given that we live in a world where atrocities occur on a magnitude that might not have been contemplated previously, there is an onus on Ministers and Governments, including law enforcers and the Garda, to ensure all such events are fully investigated with a thoroughness which is beyond scrutiny. I welcome anything that will enable the Minister and Government to do this. However, as Senator Terry has rightly pointed out, there is a significant differentiation to be drawn between the Executive and the law enforcement agencies. Their independence in that regard must be fully respected and must not be infringed, but it is not

absolute. Where issues of public importance arise, the Minister must be in a position to ensure the agency, which is ultimately responsible to the State, operates effectively.

The Government will appoint the Garda Commissioner, deputy commissioner and assistant commissioners, and it will have the power to remove the Garda Commissioner and the deputy commissioner. I wonder why the assistant commissioners are not included. I think it would be appropriate if they were. If the Government appoints such senior law officers, it should reserve the right of removal in certain circumstances.

While I have the utmost regard for the operations of so many gardaí throughout the country, it is my experience that the quality of management within the Garda is not always of the standard one would like. While an assessment system is in place before Ministers appoint superintendents and chief superintendents, the screening of candidates for these positions is absolutely fundamental to the quality of policing. It is an area which needs to be examined in light of current international practices, and best practice in particular.

I have a little reservation about the fact that gardaí up to a certain rank are not in a position to join either political parties, support political parties or join secret societies. I understand why they cannot join secret societies but our political system should be robust enough to allow these people to join. We allow public officials up to a certain level to participate so I think this is extending independence a bit too far. This is my personal view, with which others may disagree. If people are civic minded, as obviously gardaí are, they take an interest in what happens within the political structures of the State. Therefore, I am not sure they should be prevented from some sort of involvement. I appreciate that once one goes beyond a certain rank this should not be the case.

I join with Senator Terry in welcoming the involvement of local authorities, which is a very good initiative. We had discussions in this House previously on the issue. Apart from a certain element of accountability, it provides a forum whereby greater public support can be secured through initiatives taken by the Garda and local authority members. Having said that, it appears to have gone slightly off the rails.

There is a suggestion in section 31(2)(a) about the establishment of the committee within the framework of a city development board or a county development board, as the case may be, or otherwise. To do this within the structure of the city or county development boards would be lunacy. They have a specific remit and a very important job to do economically. In my county they are made up of 30 members, including members from outside the county and from different parts of the south-east. These include representatives of CERT, the VEC, Teagasc, the Department of Social and Family Affairs, the health board, the county enterprise board, the

4 o'clock

Wexford organisation for rural development, partnerships, the Garda, the IDA, county managers, child care groups, farming organisations, community fora, trade unions and employers. If we are talking about democracy and some form of accountability at local level, the most valuable people are councillors. What I had in mind during earlier discussions on the matter was the involvement of a certain number of county councillors, town councillors and gardaí, serviced by an official of the county council. If we can reach that stage, it will play a significant part in the improvement of the Garda Síochána. It should not go off the rails as an adjunct to the county development board, which should be doing other things.

It appears that the consent of the Minister for the Environment, Heritage and Local Government is required in regard to the guidelines. Perhaps this is necessary, but simplicity should be the order of the day. If the Minister for Justice, Equality and Law Reform brings the issue to Government, approval at that level should be sufficient. If both Departments get entangled in the issue, the end result will probably be unsatisfactory from both points of view.

This is a tremendous initiative on which I compliment the Minister. It is a courageous step which will work well at local level. It will be valuable for the Garda and local democracy and it will instil public confidence in the Garda. The board should be made up of elected members only and I hope at some stage an amendment to this effect will be accepted. I am conscious that a garda operating effectively in a locality may, because he is calling people to order by perhaps moving along people who are loitering, be the subject of more complaints as a result of his diligence. There could perhaps be a role for this committee in consultation with the commission regarding such a complaint. A committee working like this will obviously be familiar with the Garda and with what is happening on the ground. I have seen instances where gardaí who are diligent tend, if the superintendent is a little bit nervous, to be sidelined rather than allowed to carry out their duties.

I know the Minister has made the distinction in his speech between the commission accessing Garda information and accessing security information. We understand that. Other police forces can become involved in this area, as has happened as a result of the agreement concluded recently with the PSNI. As the latter does not play a role in security, its duties relating primarily to policing in Northern Ireland, there might be a need to be an-chúramach in that regard, considering some of what I have been listening to over the past few months.

Regarding the disclosure of information, as mentioned in the offences under section 55, I applaud the Minister. He has come in for a good deal of unjustifiable media criticism in this area over a period of time. Where any public figure,

but in particular a garda or someone like that, gets information in the course of his or her duties, it should not be disclosed. Our entire justice process is open and transparent through the courts, and they should be the source from which information would flow. People should not be put in a position where they might be tempted to give information for favours or any other reason. That is wrong.

When the debate on this matter was going on, a friend of mine from a neighbouring county told me about a person who at the time of his death had been the subject of an investigation. The man had not been charged, so he obviously had not been brought before the courts. Apart from bereavement, this man's family had to contend with the most ferocious front page tabloid publicity. This should not be allowed. There was some discussion this morning on the need for a responsible press. It is one thing to publicise a case of someone who has gone through the courts, but the case I mentioned involved taking advantage of a person's death to publish information which could only have come from people investigating the alleged offences. That is not good enough. The Minister is right to introduce the proposed arrangements and penalties.

Regarding the search of Garda stations and so on, I did not notice a reference to this in the Bill although it may be there. I am happy with this proposal if perhaps a superintendent would certify that in the case of an area not accessible to the commission, there would be no evidence within that area. There should also be a requirement on the superintendent that the garda against whom the complaint is made should not be notified of any contact with the Minister or with the gardaí prior to the commission arriving.

I welcome the Bill. In general, the Garda has performed well and to a high standard. I know that the force was highly aggrieved by some recent television documentaries. Such transparency provides checks and balances in its own way and thus contributes to the attainment of high standards. Equally, if hands are completely tied and we put an over-emphasis on the disciplinary code, that may inhibit effective investigation of crime. I return to the balance I noted at the start. Regard must also be had of the nature and character of individuals with whom the Garda deals on a daily basis. I know there are provisions in the Bill regarding spurious claims. I would like to think that someone who is charged with an offence and who tries to stall, delay or obstruct a case by making an unjustified complaint, should face an additional sentence which would be consecutive rather than concurrent. It is important the Garda has confidence, and that we do not stifle the initiative or commitment of the numerous good gardaí.

When we go through the Bill section by section, we will have an opportunity to deal with other parts of it. The Minister deserves to be complimented on a very comprehensive Bill

[Mr. J. Walsh.]

which will be a valuable contribution to the nature and quality of policing in this country for many decades to come.

**Mr. Quinn:** I would like to share my time with Senator Norris.

**An Leas-Chathaoirleach:** Is that agreed? Agreed.

**Mr. Quinn:** I welcome the Minister. We have not had a Bill of this nature since 1924 and, on that basis, it is timely. When I entered this House ten years ago, I found myself looking at each Bill to see if I could view it from a different perspective. With Bills such as this, I found myself comparing their provisions to best business practice in normal industry.

It is more than 20 years since I became chairman of An Post. I recall joining the organisation, which had been a State body, part of the Civil Service, and which then became a semi-State body under an independent board. Once the shackle and the tight controls of the Civil Service were removed, the same people in An Post, when given the opportunity to show initiative, did so and proved their ingenuity. I would love to think that by means of any Bill such as this, we could do something similar. I will consider the Bill from that point of view.

I welcome this Bill not least because it is long overdue. I see it as a necessary attempt to restore public trust in the Garda Síochána, a task hanging over us for some time, and one which we have largely ignored in recent years. According to recent surveys, a very large proportion of the people of this country no longer trusts the Garda. That is an appalling situation and a contrast to what prevailed in the past. This should not take us by surprise, because for many years it has been clear that the existing mechanism for handling complaints against the Garda was fatally flawed. It was not able to do the job expected of it. Instead of addressing the problem, as a nation we let it fester. The evidence for that, if it were needed, was clearly shown in the massive sums in claims against the Garda that the Government had to settle in recent years.

I am on the side of the Garda Síochána. I am a Garda fan, if there is such a thing. I am particularly proud of the kind of policing tradition that we built up in this country since independence. The Minister referred to that today, the tradition of a small, almost totally unarmed force accepted by the population as being on its side, with very deep roots in the community it serves. In this age, to police a modern nation of 4 million people with only 12,000 gardaí is quite an achievement. However, that success is built entirely on public trust. One can have that kind of tradition only if there is a very large reservoir of public confidence in the police force. Part of that confidence comes from knowing that whenever wrongdoing occurs, as it

inevitably will in any organisation, it will be dealt with firmly and fairly. That some wrongdoing is inevitable springs from the very nature of the job. Much police work is such that most of us are glad we do not have to do it, but somebody must do it and they must have special powers. We rely on their good character as well as on those rules and regulations to ensure they do not abuse those powers. Human nature being what it is, it would be unreasonable to expect that abuse will never occur. What happens when it occurs is all important. If it is detected immediately and dealt with firmly and fairly, the damage is limited. If it is not nipped in the bud, it will go on creating damage in the force for a long time and will have quite an impact over a wider area. If one or two bad apples find they can get away with unacceptable behaviour, it has a negative effect on the rest of the force and it grows in seriousness as time goes on.

Not least of the serious implications is that unpunished bad behaviour swiftly destroys public confidence and trust not only in individual gardaí, but in the force as a whole. Before long, the Garda Síochána and the country suffer as a result of the wrongdoing of a small number of people. That is why it is in the interests of gardaí as well as the public to have a strong and totally independent system to deal with complaints against gardaí. We have lacked such a system and recent figures suggest we are paying the price. I welcome this Bill as a means of filling that gap.

Many people will argue that the system now proposed is neither strong nor independent enough. Perhaps some of the reservations will be met as the Bill goes through the legislative process. It has already been improved since the heads of the Bill were published last year, and all credit to the Minister for publishing them and for listening to some of the criticisms made subsequently, as mentioned by Senator Terry. I have no doubt the Bill can be further improved in this and the other House and I hope the Minister is open to further change.

I am embarrassed when people point out the difference between what is proposed here and the new arrangements in Northern Ireland. I would have thought that following the Good Friday Agreement, we would have fallen over ourselves to keep in exact step with any changes that took place in the North but, as we found out with the Human Rights Commission, the Government seems to attach little importance to creating parity between the two jurisdictions in such matters. I regret that and think it is a lost opportunity and one that weakens our hand in dealing with people from the North. I could understand, if we had a police tribunal, the need to take the security service out of it. There would have to be a solution in that regard. It is a pity that area has been overlooked.

This is a wide-ranging Bill that deals with much more than just a new system for complaints against gardaí. In effect, it sets out a new charter for how the Garda Síochána is to be run and,

particularly, the relationship between the Garda Commissioner and the Minister and his Department. As somebody in business looking at the Garda Síochána as if it was a company with shareholders, a board of directors, a chairman and a chief executive, I admit that I am not too pleased by some of the provisions in the Bill — Senator Jim Walsh referred to some of them. They seem to reduce rather than increase the commissioner's freedom to do his job, which is not what we should be doing in this day and age. As I went through the Bill, I asked myself how the powers of the commissioner stacked up against the powers of a chief executive officer in another occupation. Again, the answer is that they compare badly. I am not talking about a chief executive officer in a private company; I think the comparison is equally bad to chief executives in the public sector, such as the chief executive of a commercial semi-State body.

For example, if the commissioner wants to spend €1 million on motor cars — I am sure he probably spends more than that when he buys them — it is right that he should have to fight for his budget with the Department of Justice, Equality and Law Reform and the Department of Finance which lurks behinds the other Department's shoulders. Having got his €1 million or whatever, it should be up to the commissioner to decide whether to buy Ford or Toyota motor cars. That should have nothing whatsoever to do with the Department of Justice, Equality and Law Reform or the Minister who should stay a mile away from the day to day administration of the Garda Síochána. I gather — I would like to hear the answer — what would happen is that the commissioner would have to go back to the Minister——

**Mr. M. McDowell:** No.

**Mr. Quinn:** It would be lovely if he did not have to but, from my reading of the Bill, it appears that those types of matters are handled not by the Minister, but some section of his Department. I would be delighted if my mind could be put at rest in that regard.

One can also get an idea of the extent of Government involvement when one looks at how appointments are made, an issue to which Senator Jim Walsh referred. In a semi-State body, the Government appoints a board which, in turn, appoints the chief executive who appoints any further staff needed. Sometimes the Government has a say in the appointment of the chief executive of the semi-State board. In cases of particular sensitivity, the Government may look for a say in the appointment of that chief executive, but that is quite rare and it usually leaves it to the board and accepts its recommendation. The Government would never get involved in appointments below that level.

Compare that to the situation in the Garda Síochána. Again, I would be delighted if the Minister said I was making a mistake. In this case,

as far as I can see, the Government appoints the chief executive — the Garda Commissioner — directly, with which I agree. It is vitally important the Government has special confidence in the person who occupies that job. However, I question the need for the Government to appoint the deputy commissioner and the various assistant commissioners. That gives the Government direct hiring and firing powers over the top management of the organisation. Is there a possibility that is a little too much? However, before I even asked that question, I looked at the provisions in the Bill and discovered that the power of direct Government appointment is being extended even further, right down to the level of superintendent. I see no good reason to give the Government a say in appointments at that level. It is one thing for the Government to appoint the commissioner, with which I agree, but holding political power over appointments right down to the level of superintendent seriously undermines the perceived independence of the police force. It sends out all the wrong messages. I urge the Minister to at least rethink that provision.

**Mr. M. McDowell:** This is not about independence.

**Mr. Quinn:** That is good. Good management practice is what it should be about, to which I will come in a moment.

My real concern is the balance between accountability and performance. We could have good accountability and we are moving in that direction because there is a need for it and for trust. However, it would be a shame if it damaged performance. I fear that will possibly happen. In business, one wants to attract the best recruits to one's company. One, therefore, wants to attract the best recruits to the Garda Síochána. I am not sure a young person leaving school or university and who wants to make a future for himself or herself in the Garda Síochána would have the confidence to say that is where his or her career lies when he or she sees the Government making decisions which will inhibit the freedom to make decisions in many cases.

I understand the reason for the provision because there have been some anomalies in recent years. If that young recruit, who has joined the Garda Síochána, gone through training and is on the beat, sees trouble brewing, he or she will have to decide whether to get involved or stand back and let it sort itself out because he or she will not want to take steps which might get him or her into trouble. We are putting into operation something which is needed, namely, accountability, but if it restricts performance and the ability of someone to take action, it will not attract the right recruits. Even if we get the right recruits, they might hold back because of the constraints, restrictions and controls.

Policing is difficult and most of us would be unhappy to fulfil that role. The Minister said this

[Mr. Quinn.]

Bill is not about independence, but it needs to be. In 1996, the Government introduced the strategic management initiative, which we all welcomed as a good idea. The strategic management initiative, or SMI, was passing responsibility down from the top, closer to where the action was. I do not get the impression that the SMI has worked as well as we had hoped at the beginning, although things do not always work out as planned. When we introduce the Garda Síochána Bill, which is so heavily biased towards bringing control to the top, we are, even more so, working against the possibility of making the SMI work as a State policy. I query the extent to which it is working when one considers that we now have even more civil servants making and controlling decisions at those levels. I have some concerns about best practice working on that basis.

It seems almost as if someone in the Department of Justice, Equality and Law Reform saw the opportunity provided by this legislation to increase the Department's hold over the small details of how the Garda Síochána is run. However, that is precisely the opposite direction to the one in which we should be moving. It will cause untold trouble in the years ahead if we end up with accountability and tight control but also end up with a Garda force that does not perform as well as we would wish. I realise that is not what the Minister wants but that is why I am questioning whether there is a need for such control in that area.

As regards the new approach to Garda complaints, it is vital that we do not just pass the Bill into law and then forget about it. There is a natural tendency among legislators to think that once the President has put her name to a Bill their work is done and that whatever problems the particular Bill addresses will automatically be solved, but life is not like that. Very often, as soon as a new system is put into place, unforeseen weaknesses are revealed. Such shortcomings could easily be put right by tweaking the original legislation but we rarely revisit legislation to see whether it has worked out exactly as we intended. I hope that will not happen in this case. We need to keep a close eye on how the Bill, once enacted, will work in practice. The simple acid test will be whether it succeeds in restoring public confidence to a point where people in general can say they trust the Garda Síochána. Until that has been achieved we still have a job to do. My main concern is whether the Bill will interfere with the performance of the Garda Síochána. The Minister said it better than I could have, when he spoke about the pride we have in the Garda Síochána. We are very proud of the Garda Síochána, which was established in 1922. It is an unarmed force of 12,000 catering for a population of 4 million and its record is very good. Let us ensure that the job gardaí have to do is not hindered or restricted in any way. We have had a problem with accountability and have, quite rightly, introduced this Bill. I hope, however, that

when we examine the Bill in detail we will find a means to ensure that while accountability is achieved, performance will not be hindered in any way.

**Mr. Morrissey:** I wish to share time with Senator Ormonde.

**An Leas-Chathaoirleach:** Is that agreed? Agreed.

**Mr. Morrissey:** I welcome the Minister and, in particular, I welcome the fact that he has chosen to introduce this Bill in the Seanad. Many of the Bill's provisions will engender greater public confidence in the work of the Garda Síochána which, I presume, is one of the Bill's main purposes. Many members of the public, and especially our young people, have for some reason lost confidence in the Garda Síochána. In reviewing the role and functions of the Garda Síochána, we should place on record the esteem and high regard in which its members have been held by the vast majority of the public over the past 80 years. We must also place on record the diligent work that has been conducted by the Garda Síochána on our behalf, particularly the security work since 1969. We must also record our sympathy to those who have lost family members who were carrying out their duties with the Garda Síochána. Over the years, many people have forgotten the service they rendered to the State.

The time has come, however, for a review of the role of the Garda Síochána. Senator Terry seemed to criticise the Minister for taking 80 years to do so, but the Government has been in office for less than two years.

**Mr. M. McDowell:** I have been around a long time.

**Ms Terry:** I was not criticising the Minister personally.

**Mr. Morrissey:** The Minister has taken the brave step of trying to reform the Garda Síochána. Such change in a force of 12,000 members was never going to be easy. The Garda Síochána is part of our everyday lives so anything we may seek to change regarding it will provoke public debate to which we must be sensitive. The approach now being taken is quite radical. Many Members of this House have served as members of local authorities and the Bill seeks to give a new role to local authorities. As members of local authorities, many of us have telephoned the local Garda station concerning anti-social activity, including gangs loitering and drinking on open spaces in many new housing estates across the Dublin suburbs. We cannot demand that gardaí take certain action, however. It is up to the Garda Síochána as to how they might apprehend people acting in an antisocial manner in such estates. For the first time, this Bill will afford members of local authorities, council officials and gardaí a

forum where all will be equal. If they consider that the design of an estate may lead to antisocial activity, gardaí will be able to advise local authorities on redesigning such estates for optimum security. Up to now councils may not have had such advice due to a lack of expertise. Likewise, members of county councils will be able to ask the Garda Síochána what its members are doing in local estates. This is a brave new step and I hope it will be welcomed by local authorities, especially in the run up to the local elections. I also hope the Bill will be debated widely over the next three months and will receive the support it deserves. For many years we have seen the role of local authorities being diminished, for example with regard to waste management, but this is a new role that is being given to local authorities and I welcome it wholeheartedly.

I welcome the abandonment of the existing Garda Complaints Board. Many Senators, including myself, have met young people who made complaints against the Garda Síochána but were less than satisfied with the way in which those complaints were handled by the board. I admire the Garda Síochána and have always stood up for them but there have been occasions on which I have questioned the manner in which such complaints were dealt with. The appointment of three members to the new commission, including a High Court judge, will make that body independent. The investigation of complaints will thus be taken out of the hands of the Garda Síochána. The enactment of the Bill will engender public confidence in the new body.

Any State body needs to be reviewed after a period of 80 years in existence. In recent decades, society has become more urbanised, yet we have had the same system of policing for the past 80 years. Our police force should reflect the type of society we have become. It should be capable of diverting its resources to more urbanised areas.

This might have implications for the wider community but our society has become more urbanised and we must have a police force that reflects this development. The Bill should be welcomed and commended by the House for these reasons alone.

**Ms Ormonde:** I welcome the Minister and acknowledge the work he is doing to improve society. I will not go into the nitty gritty of the legislation because that will be teased out on Committee Stage but the Bill, which is long overdue, is welcome. It will attempt to improve the management structures, functions and objectives of the Garda. The ombudsman's commission will be set up and that will provide a mechanism for dealing with complaints, which the public will welcome.

The Garda is doing a good job because it has a major task in modern Ireland. The public has trust and confidence in the Garda, but it only takes one bad apple to destroy everything. This can happen to politicians as well as gardaí. We

have a committed Garda force and it does its best in terrible circumstances, which are reported on daily in the newspapers.

I refer to Part 1, chapter 4, which relates to links with local authorities. I welcome the enhanced co-operation and consultation between the Garda and local authorities through joint policing committees. Participation by councillors means they will have a say on policing matters such as criminal activity, anti-social behaviour and under age drinking that takes place locally. I am concerned that the legislation provides that guidelines may be issued on the establishment of the joint policing committees. That provision should be strengthened. Recommendations and strategies devised by these committees will be examined. How will they be implemented? I have been a local authority member for 19 years and I have been down this road many times, attending many public meetings to address anti-social behaviour at which a community garda was present.

There are not enough gardaí in the force. The Minister is considering the establishment of a reserve Garda force at a future date and he has introduced statutory measures under the legislation to do so. Why will he not proceed with the establishment of such a force given that the Garda needs support? There are not enough gardaí on the ground and they need backup in local communities. Local authority members need to know that the recommendations agreed by the joint policing committees will be implemented and they should have the power to do so in local communities.

Local authorities will have a role in facilitating the workings of these committees but if they are aware of anti-social behaviour in public parks, under age drinking, sales of liquor in local off licences and other activities, they should be able to implement recommendations to address them. Parents approach councillors regarding such issues and the committees may assist in curbing the associated problems. These issues must be examined at local level. I wonder why the Minister will not establish the reserve Garda force now rather than only making statutory provision for it. The Garda needs support in the form of local people who will report to local authority members. Everybody will be involved and the politicians will be in a position to inform people that issues such as anti-social behaviour are being addressed. I ask the Minister to respond to this issue.

**Ms Tuffy:** I broadly welcome the Bill. Much of what the Labour Party sought in its 2000 policy document is contained in the legislation, including many necessary reforms. I agree with previous speakers that the legislation is important both for the public and the Garda. My experience of dealing with the Garda has been positive but there have been problems, as evidenced by reports in the media and internal investigations over recent years. However, there is a perception

[Ms Tuffy.]

among the public that there is a lack of accountability where the Garda is concerned and people are uneasy about making complaints to the Garda. It is important that such a perception should be addressed and the Bill goes part of the way to doing so.

However, many issues remain to be addressed. I welcome the Minister's approach to the legislation to date. It was published some time ago, submissions were accepted and consultation took place. I welcome that the Minister has taken on board a number of the proposals made during that process and that he will weigh up further the recommendations of the Human Rights Commission. The Labour Party shares many of the commission's concerns. My party believes the legislation misses the opportunity to provide for a new Garda authority.

The Labour Party proposed an authority comprising 15 people selected from different areas of society, including public administration, business, trade unions, voluntary organisations, community groups, the legal profession and seconded representatives of the Garda organisations. The aim of the proposal was to appoint a group of individuals representative of the community as a whole who would be equipped with the expertise both to set policing priorities and to probe and scrutinise different areas of police performance from the management of resources to the safeguarding of human rights. It was further proposed that the Garda Commissioner and a deputy commissioner would be appointed by the Government from a short list drawn up by the authority following a transparent selection process and the functions of the authority would include the drafting of a strategy statement on a four year basis that would set objectives and priorities for the Garda and provide indicators for assessing the effectiveness of the service provided by the force. There would also be budgetary requirements and so on.

The Minister has addressed a number of these proposals through the relationship defined under the legislation between the Minister of the day and the Garda Commissioner. However, it would be much better if a Garda authority were established that could outline a framework, which would be in public ownership, with the Minister having the overall say and so on. I ask the Minister to re-examine this proposal.

The Human Rights Commission has also raised this issue. A number of Members referred to the appointment of senior gardaí. If a Garda authority were in place, it would make such appointments and that would be much more satisfactory. The commission has expressed concern that the Bill increases the level of Executive control exercised by the Minister and gives him or her broad powers relating to the operation of the Garda.

In addition, it mentions the system of political appointments of senior officers within the police service. With the Labour Party, the Human

Rights Commission states that "the vesting of oversight and appointment functions in an independent and representative agency, such as the police authority as recommended by the Patten report, could make a valuable contribution to the promotion of human rights within Irish policing". The Minister has said he will look at the recommendations of the Human Rights Commission and that he wants to get the Bill right. He should take this opportunity to do so and make a difference to the accountability of the police service and public confidence therein.

The Labour Party welcomes the establishment of the Garda Síochána ombudsman commission. We welcome its powers and that it will be an independent body. However, we are concerned that the commission will have the power to appoint its own staff, will inherit the staff of the Garda Complaints Board and will have the power to engage the temporary services of serving members of the Garda Síochána. The Labour Party has concerns about how this will affect the independence of the Garda ombudsman and asks the Minister to consider removing this provision from the Bill. We are particularly concerned about the power to appoint gardaí to the commission on a temporary basis.

The Human Rights Commission has raised concerns about the Garda ombudsman. The Human Rights Commission recommends the strengthening of the presumption that all investigations, except the most minor, be conducted by the ombudsman and that there should be an explicit presumption that the ombudsman commission may refer complaints to the Garda Commissioner only in cases where the ombudsman is of the view that the complaint does not appear to relate to the commission of an offence or serious misconduct. I ask the Minister to look at this provision on Committee Stage.

The Bill contains provisions regarding national security. While it is necessary to address national security, the Human Rights Commission believes these provisions are disproportionate to their objective. The commission points out anomalies and proposes an alternative. For example, the Official Secrets Act 1963 binds the investigating staff. The commission also notes that human rights bodies, such as the Council of Europe's Committee for the Prevention of Torture, have unrestricted freedom to enter police stations without prior notification. The Human Rights Commission suggests that measures be put in place to protect national security, such as sealing any material which a senior member of the Garda Síochána—

**Mr. M. McDowell:** The Council of Europe staff would not have unrestricted access to security files.

**Ms Tuffy:** I am merely raising the concerns and suggestions of the Human Rights Commission, which the Minister should consider.

I welcome the proposals for joint policing committees. As a former local authority member, I welcome this move. Much work of this kind is already being done on an informal basis. Community gardaí often liaise with local residents' associations and public representatives. Gardaí liaise with local authorities on traffic matters and on issues relating to anti-social behaviour and estate management. These activities need to be put on a more structured and accountable basis so that the public can see the operation of community policing and have a sense of ownership which would bring about greater public confidence in our policing system.

The Association of Municipal Authorities of Ireland has pointed out that the definition of local authorities in the Bill excludes town councils from membership of the joint policing committees. The AMAI points out that town councils are included in the definition in the Local Government Bill.

**Mr. M. McDowell:** I am looking at that question.

**Ms Tuffy:** That is welcome. The AMAI makes the point that most crime occurs in urban areas and cites the examples of Drogheda and Dundalk as large urban areas which should not be excluded from this process.

Due to the informal involvement of residents' associations, they should have some involvement in the joint policing committees. The Labour Party proposed that special local authority strategic policy committees consisting of local authority members, gardaí and members of the public be established. Alternatively, residents' associations could receive reports of Garda activities or be involved in some other way and, at the very least, speak at meetings of the joint policing committees.

The Labour Party has raised concerns about the legal status of a member of the Garda Síochána. It is my understanding that nothing in the Bill affects the common law powers, immunity privileges and duties of members of the Garda Síochána. What is the status of an individual member of the force in common law? For example, when powers of arrest are conferred on a member of the force are they exercisable at his or her personal discretion as an individual garda or as a member subject to the direction and control of superior officers? If a superior directs a member of the Garda to arrest someone and the member does not personally have grounds for suspecting that the individual is guilty of an offence, is the arrest lawful? This issue has arisen in a case before the Supreme Court. The Minister should take the opportunity this legislation presents to deal with this issue.

Provision should be made for trade union representation for gardaí. I am not prescribing how this should be done; it would have to be in consultation with the Garda associations. Nevertheless, the matter must be addressed.

The Human Rights Commission welcomes the Bill, which puts human rights on a central footing in the legislation covering the Garda Síochána. I agree with this view. The Minister has said it is important to get this legislation right. Important issues remain to be addressed and I hope the Minister will give serious consideration to them on Committee and Report Stages.

**Mr. Kett:** I welcome the Minister to the House and thank him for bringing forward this comprehensive legislation. Unlike Senator Terry, who chastised the Minister for not being here often enough, I think the Minister is here far too often.

**Mr. M. McDowell:** Should I take that as a compliment?

**Mr. Kett:** It is meant as a compliment. As the Minister is working so hard, he is making Senators work equally hard.

The purpose of this Bill is to reform the law relating to the administration and management of the Garda Síochána. The Garda Síochána ombudsman commission will replace the Garda Complaints Board. The Garda Síochána in its 1999 annual report admitted that the force was not in a position to carry out its functions as it would have liked, which I think stems from the fact the Garda felt neither independent nor effective. The overall objective of the Bill is to reform and modernise the law underpinning the Garda Síochána and to protect and enhance the reputation of the force, by having a complaints procedure which will enjoy public confidence. Senator Terry chastised me for not being around 80 years ago to amend it on an ongoing basis. Nonetheless, I am of the opinion that the 1924 and 1925 Acts have been amended almost beyond recognition. The legislation has provided a solid basis for the development of the Garda Síochána during that period. In spite of the recent adverse publicity, the Garda Síochána is well respected by society. As in all things, change is necessary and the Garda Síochána has to change in line with a modern society. The Bill will enhance the professionalism of the force and make it better able to respond to the many challenges it will meet.

The Minister said the Bill is the first major reforming legislation of the Garda Síochána since the foundation of the State. The Bill will create a better relationship between the Garda Síochána, the Minister for Justice, Equality and Law Reform and the public because there is a strengthening of police accountability. From talking to people, it would appear there is an element of mistrust of the even-handedness of the force. A programme on RTE highlighted, perhaps unfairly, the treatment of individuals while in custody, and raised questions as to the validity of the arrests. In a force of 11,000 or more, it is always possible that somebody steps

[Mr. Kett.]

out of line, painting an unfortunate picture of the overall group. It is fair to say that in the local pub one may hear a comment that the Garda will pull the individual without a light on his bike before pulling a criminal, or when a pub has been raided, one may hear someone who feels hard done by saying the Garda would not be there half as fast if there were a row. That perception may not be widespread, but it is still out there and is borne out by recent statistics. It reminds me of a joke I was told by a man who was trying to emphasise his antipathy towards the Garda Síochána. An old lady down the country rang the gardaí to say someone was trying to break into her house and was told the gardaí would be there as soon as possible, she rang back a half an hour later asking where they were and saying the man was through the first door and was making his way through the second door. Again she was told the gardaí would be there as fast as they could. Eventually she rang them again an hour later and said she had shot the fellow who was breaking into her house, and there were five squad cars there in five minutes. I am not suggesting for a moment that people who are caught with no light on their bikes, or whatever the case may be, should not face the rigours of the law because they are a danger to themselves if not to others.

Everybody has been stopped by a Garda at different times, but in some cases one might think that the garda was a "right B" or in another instance was a nice guy, even though he may have issued a summons. Obviously gardaí receive training in dealing with the public, but some seem to develop greater skill in this area than others. Those who do not develop this skill draw criticism on the Garda Síochána. Apart from the fact that the Garda carry out a very important function effectively, uniformed gardaí on duty on the streets are also performing a public relations exercise. We know how easy it is to be branded with a negative image and how difficult it is to remove it. It is particularly difficult for the Garda Síochána because the force relies on public assistance to carry out its work. I have no doubt this will make everybody operate more effectively.

Great care must be taken to ensure there are no unintended negative consequences as a result of what the Minister is attempting to do. The Minister stated previously that there needs to be a trade off between the operation and independence of the force and public accountability and between public accountability and effectiveness. The Minister is right on the button in that. If the Garda Síochána is to perform with one hand tied behind its back or looking over its shoulder in case a person is offended, everything the Minister is trying to do will be lost as a consequence. Balance must be brought to bear on the matter as a whole.

If the Garda has to work under the scrutiny of the microscope, it may be off-putting for those wishing to join the force. People have different

reasons for joining the Garda, some join because it is a job and others may have a commitment to serve, but it is important that joining the Garda Síochána should not be made a less attractive proposal. While the Bill seeks to improve public confidence in policing, it must also allow the Garda to do an effective job. The Minister has done a good job. Previous experience has shown that where there is mutual respect, there is an effective outcome as borne out by the relationship of the Minister with the Garda Commissioner.

Section 14 establishes a basis in law for the resources of the Garda Síochána to be supplemented by volunteers. I know this provision is being inserted in case it may be needed at a later stage. I understand the volunteer members will have the same rights and privileges as the Garda, but they probably will have less training. Is it workable that a Garda and a volunteer have the same powers? I wonder how the two will marry although I am sure the Minister is satisfied on this point.

Section 31 provides for the establishment and maintenance by a local authority and the Garda Síochána of a joint policing committee. Will that interfere with the present situation? In recent years, we have seen great developments in co-operation among residents' associations, Garda liaison officers and public representatives to direct communities in an improved manner to fight crime. Does the Bill provide another tier above that or will the Garda liaison officer disappear? As someone who has served in Dublin North Central where there are quite a few drug related incidents, I have found that contact among local residents' associations, Garda liaison officers and public representatives has been of tremendous benefit. If it is lost, I will be disappointed.

I wish the Minister the very best with this Bill. It represents a significant effort on his part to move forward.

**Mr. Cummins:** I welcome the Minister. I reject the comments from the other side on Senator Terry's measured contribution. The Minister is far from chastised and, in any case, is well able to look after himself.

It is correct to begin by paying tribute to the Garda Síochána. We have owed its members a great debt of gratitude since the foundation of the State. They are more than just guardians of the peace. They have put their lives on the line in tough times during which the security of the State was threatened and they continue to do so. Brave and courageous gardaí have lost their lives in exchanges with armed thugs and terrorists and the threat is still there. As a police force which is in the main unarmed, the Garda Síochána is among the most respected forces in Europe if not the world. It is only right and fitting that we record our gratitude to the gardaí who perform their duties in an exemplary manner in what are often difficult circumstances.

Of course, there are exceptions to the rule as there are in most professions but it is important that we do not go overboard in response to complaints against the Garda. I do not suggest that the Bill before us does that. I welcome the proposal to provide for the establishment of the Garda Síochána ombudsman commission, as do gardaí. It will instil greater public confidence in the Garda which is of paramount importance especially at this time. It is only fair to state that over 50% of complaints levelled against gardaí through the Garda Complaints Board were found to be vexatious and malicious.

There was a time when a garda could give a clip on the ear to a petty criminal and warn him or her about his or her future conduct. While that worked in many instances, the day when it was possible, unfortunately, is long gone. This is a more accountable age in which it is imperative that everything is done transparently and in an above-board manner. Section 86 of the Bill provides that the ombudsman may ask that a senior officer is assigned to investigate a complaint against the Garda and that the complainant can appeal any decision of the ombudsman. Surely, there should be no unsupervised investigations. The ombudsman's office should be involved in any investigation from the very beginning rather than creating a scenario of potential double jeopardy as appears to be the case with the Bill as I read it. Is it envisaged that a High Court judge will be appointed at the outset to deal with instances in which a garda has a complaint against an officer or officers of the ombudsman's office?

I welcome the proposal to appoint local authority members to policing committees. Like Senator Walsh, I am unsure about the involvement of development boards and other bodies but this is an area in which elected local representatives should be involved. It is a positive idea. For the last few years, the superintendent in Waterford has met a couple of times annually with a member of each of the political parties represented on the city council to discuss problems in the city. The practice has worked very well. While the provisions in the Bill are positive, I ask the Minister to ensure it is local authority members who are included on policing committees as elected representatives. The meetings should be held publicly while reserving the right to enter private committee if necessary. Obviously, matters of a confidential nature will be discussed at some committees and family names may, on occasion, be mentioned in respect of certain problems and trouble caused. I welcome the establishment of local policing committees. It will be of help to the community and to gardaí. I am sure the superintendent in Waterford would commend such committees also having found his meetings with local authority members to be of assistance.

Section 26 relates to charges. While I have no problem with charging banks and financial institutions for police escorts, I am worried about

proposals on sporting events and festivals. When I read the provision whereby a festival may be required to pay for its policing, I thought immediately of Waterford's Spraoi festival. This street festival is probably one of Ireland's largest and attracts over 50,000 people to the city. The organisers perform a tremendous job operating on a shoe-string budget. If they were asked to do without the consent and willingness of the Garda to police the event, this major tourist attraction would certainly not go ahead. I ask the Minister to tell the House whether the Bill will provide the Garda with the flexibility not to charge for the policing of such events. While I have no problem with charging for events which make hundreds of thousands of euro such as concerts, there should be flexibility for the Garda when it comes to an event like Spraoi. It would be regressive to charge and it would put the festival out of business.

I welcome section 38 which requires the Garda to publish an annual report four months after year end. This is a positive step given our receipt only in the last week or so of the Garda report for 2002. Senator Walsh spoke about Garda representative associations and political affiliations. The Bill goes a little too far in this respect and returns to the 1924 position when the 1977 amendments would have sufficed. The provisions in this regard are not progressive.

Senator Ormonde hit the nail on the head when she pointed out that there are not enough gardaí to police the State at present. Where are the 2,000 extra gardaí the Minister promised? I hope that commitment will be delivered on without delay.

Since taking office, the Minister has made available the provisional statistics. This practice is welcome. However, I take issue with the decision to bury the negative message of increasing crime rates in 2002 by releasing provisional statistics for 2003.

**Mr. M. McDowell:** That is not so. I released those figures 12 months earlier but nobody bothered to read them.

**Mr. Cummins:** It was a cynical PR exercise on the Minister's behalf.

**Mr. M. McDowell:** They were released at least ten months ago.

**Mr. Cummins:** The Bill represents a good step forward in revising and in some instances reforming the structures of the Garda Síochána. Given that it is over 80 years since the force was put on a statutory footing, the Bill is long overdue. I have a few concerns about the Bill which I hope the Minister will address as well as those raised by my colleagues.

**Dr. M. Hayes:** I too welcome the Minister and thank him for his kind remarks about my involvement with policing matters in the past. I join with Senator Cummins, and I am sure other

[Dr. M. Hayes.]

Senators who have spoken, in paying tribute to the Garda Síochána and in underlining the debt that society owes to those who are willing to provide this service and put their lives on the line. Since its establishment, the record of the Garda Síochána has been one of which this country can be entirely proud. It is fitting that we pay tribute to that record. It is proper that is the spirit in which we and they discuss the provisions of a Bill such as this. We are all trying to make policing better and to help structures which were devised for different times and different social conditions to be revised and fine tuned for a new circumstance and a new century. I pay tribute to the Minister for bringing this Bill forward and for the assiduity with which he tackled this task and all other aspects of policing since coming to office.

I welcome and support the Bill. Any remarks I make are intended to be constructive rather than critical or otherwise. As the Minister said there are many issues that can be dealt with on Committee Stage. In all of this it is important to speak about policing rather than police. There is an unfortunate tendency in these debates to focus on police men and women and crime in the same way as debates on the health service tend to be about hospitals and bricks and mortar and not about health. I see parallels between the two issues. Crime and anti-social behaviour are societal problems and fall to be dealt with by society as a whole. We do ourselves, and certainly the police, a grave disservice by lumbering the whole responsibility for that on them. The police are the professionals in this field. They are the people who help the rest of society to muster the physical and financial resources, but also those of courage and stamina, to deal with these issues. That is why I am so glad to see a couple of the Minister's proposals, particularly the relationships with local authorities and the local policing bodies. Those are vitally important. It is important to make these bodies realise that they too have an important role to play.

The Minister would do more to reassure the elderly that they are safe in their homes at night by keeping the street lights on all night than by having policemen or police cars driving up and down the road. He might do more to keep children out of trouble by putting more money into youth clubs. He might do more to cut down on drinking by staggering pub hours. Although that is not the purpose of the Bill, the crucial role of a policing service is the prevention of crime and the mobilisation of the resources of the community to deal with it.

I was disappointed but not surprised not to see a reference to a police authority. I have no reason whatsoever to be concerned about political control of the Garda. That does not exist so I am totally relaxed about that. In terms of general legitimacy and acceptability in terms of making the public aware the police are there, there is much to be said for a police authority. Certainly,

in terms of co-operation with the police, North and South, the Minister will remember that under the Sunningdale Agreement there was a presumption that there would be two policing boards rather than one. On first reading the Bill, I was worried that the Minister retained powers of direction on any policy matter. I am fully reassured by the terms in which he has described the possible use of that power and the degree to which it is hedged around by the need to lay the direction before the Houses of the Oireachtas.

I welcome also the provision of the power to have a police reserve. People worry about this and that. There are good people who want to make a public contribution, perhaps not on a full-time basis, by providing a role, particularly in the field of crime prevention, reassurance to the elderly and others and in preventing children from getting out of hand. They need some basic powers and that issue needs to be thought through a little more.

We want to see more police on the streets. The question is at what stage do we reach saturation point. One can continue to demand more and more. There is much to be done and the Minister is doing it by way of civilianisation of jobs and privatisation. That is important. Most police forces see a necessity for professional police people doing jobs which could be done equally well by others, thus releasing manpower and womanpower.

I welcome the proposals for an ombudsman, which is important. In these days there is no profession which goes unquestioned. The same is true of policing. I see the role of ombudsman, not as a scalp-hunter but as a person who will do the fair thing by both sides. It is just as important for the police officer against whom an unfounded allegation is made that there is a speedy way of dealing with that allegation which the public will recognise as being independent and fair.

I find it difficult to grapple with the concept of a sort of troika because there is a lot to be said for the ombudsman being a recognisable person. It will be necessary, particularly in the scheme's early days, to establish the office's identity through a personality. While compiling my report, I was very struck by the police ombudsman in New Zealand, Judge John Jeffries, whom everybody told us was there whenever anything happened; he was known and he was seen. Perhaps the Minister should consider that. There is no reason a single ombudsman should not be supported well enough and I am still not fully convinced of the proposal's utility.

As a corollary to the ombudsman, I would like the Minister, Deputy McDowell, to examine the disciplinary codes in the police service, which are unnecessarily draconian. The ordinary serving police officer is exposed to levels of discipline to which people in other parts of the Civil Service would not be exposed. It might be time to introduce modern personnel arrangements and practices into what is almost a military-style organisation. Much of the military style remains

and the workforce might be happier if that were dealt with. If somebody from outside a police force makes a complaint, the force, wherever it is, tends to close ranks, but if a complaint emerges internally, the police throw the book at people, and it is a very heavy book. Perhaps the Minister should consider that.

**Acting Chairman (Mr. Mooney):** The Senator's time is up.

**Dr. M. Hayes:** We will deal with the detailed points on Committee Stage, but I welcome the Bill and congratulate the Minister, Deputy McDowell, on its introduction.

**Mr. Norris:** I agreed to ask the House whether it would allow me to share time with my colleague, Senator Joe O'Toole, who promised to watch the monitor.

**Mr. M. McDowell:** It is like a game of tag wrestling.

**Mr. Norris:** I am glad to see the Minister is a fan of that noble sport, as I am.

I apologise to the House because I had agreed to share time with Senator Quinn but I had to do a radio interview and could not get away from it.

**Acting Chairman:** Did Senator Norris indicate he wished to share time?

**Mr. Norris:** Yes, with Senator O'Toole.

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

**Mr. Norris:** I give the traditional welcome to the Minister and the Bill. The Minister mentioned that he took time over certain elements and did not disclose all of these because he wanted to reflect on them. The Bill shows that reflection, although I have some reservations, about which I will speak. Although the Garda has had some bad publicity in recent years I, and I think most Irish people, have a high regard for the police force. I have had little other than good treatment from gardaí whom I have found courteous and efficient and who, by and large, respond relatively quickly to calls for assistance.

I like the idea of community policing, although that is outside the scope of the Bill. Gardaí flying around in squad cars does not solve the problems in the inner city. However, that is a topic for another day.

As an aside, I also welcome the fact that the Garda has become much more sophisticated at dealing with groups within society. I very much welcome the appointment of various officers to liaise with members of the gay community. That imaginative move has relieved a lot of stress and strain.

In particular, I welcome the machinery in the Bill for dealing with complaints. This is extremely important because if members of the public feel they have a machinery that will deal adequately

and independently with complaints, they will be greatly reassured. I understand that, in the early stages, there was some resistance to the idea of independent regulation, but it is essential for all such bodies. I laugh like a drain every time I read an editorial in the newspapers demanding independent regulation for everything except themselves and I hope that, one day, there will be independent regulation through a statutory press council with teeth in Ireland.

The Bill will obviously have an impact. I know this because I receive the *Garda Review*, which is an excellent magazine. The February issue contained no less than four articles that bear on the Bill. The editorial, "A Cheap Shot", begins, "Nothing continues to surprise us", but the next sentence states it is amazing that the Director of Public Prosecutions advised an edition of "Prime Time" that sometimes complaints were not followed through because files took so long to travel in the right direction that they were out of date. Perhaps there is a little intellectual confusion at the start of the article. The editorial berates the DPP, but I think this is a reasonable and perfectly justified cause for complaint. I am sure that, whether any such delays are deliberate, which they could be, or not deliberate, which is also possible, the police ombudsman will investigate such matters.

The next article is over the page from the editorial and is entitled "The Full Story?" I am sure the *Garda Review* has some legitimate cause for complaint about balance in the RTE programme, but to have four articles in one edition is a little bit unbalanced. "The Full Story?" states:

The programme appeared to demonstrate that the Garda Complaints procedure was flawed [Well, was it not?] — and fuelled calls for a new system — canvassing support for the Minister of Justice's forthcoming Garda Bill and the provisions that it makes for the new "Ombudsman" — or whatever it will finally be called.

The inverted commas around ombudsman and the final phrase — "or whatever it will finally be called" — tells us the Bill does not immediately recommend itself to the author of the article.

There is another article on page 13 of the magazine, which states:

The RTE *Prime Time* special of the 8th January purported to show that discipline in the Garda Síochána had broken down. This appears to be part of a concerted campaign to bring about an Ombudsman type investigative system in relation to Garda activity — similar to that which presently exists in Northern Ireland.

It looks to me as though the Minister has given us that. That is important and, in my opinion, welcome.

The final article in the series on page 15 of the *Garda Review*, reprints the entire letter of

[Mr. Norris.]

complaint to RTE. The Minister has obviously ruffled a few feathers, and that may well be an indicator of the necessity for the Bill and its clear provisions for independent regulation.

I am somewhat concerned about one element of the Bill, namely the section that enables the Minister to issue a directive to the police. One must always be careful about the politicising of the police, and I look forward to examining during the Committee Stage debate whether politicisation is a possibility. I do not suggest for a second that the Minister would politicise the Garda, but the Bill could be in force for a long time. It is a long time since such matters have been addressed in legislation in Ireland, and it would be a pity if there was any sense in which it was even perceived that the police force was politicised, particularly as the Minister, in the paragraph of his speech in which he announced the provision, weakened his own case considerably. He raised the outbreak of foot and mouth disease, which was marvellously dealt with in Ireland and in regard to which our larger neighbours across the sea could learn a thing or two from us, and said "It is no answer to say the Garda Síochána would, in any event, do what is necessary. Of course, it would."

That is fine; it would. Ministers should therefore leave the gardaí alone and not start pushing them around or giving political directions. As the Minister said, "It [the Garda] has shown time and again, for example during the last foot and mouth crisis, a readiness and an ability to meet any challenge." It does not need to be told what to do.

The Minister disagrees. He is a wise old bird. I am glad he is not in a position to cross-examine me as I have been cross-examined by him before and know what a devastating experience it can be. Nonetheless, the Minister will have his moment to respond on this. I only ask in order to provoke the Minister into an answer which, I hope, will be satisfactory.

The Minister then used the phrase "unless this would prejudice security". Security is always used as a reason to cover things up. It is said that matters cannot be confirmed or denied because of security concerns, unless there is a desire to drop somebody in it, such as Mr. Kelly, the British weapons expert who Mr. Blair dropped directly in it. There is no question of confirming or denying; a string of names is simply handed out and we are asked to choose one of 25 names. Even if it is the 25th name, we will say "yes" when we get to it. I worry about this.

The Minister stated "The Ombudsman Commission will consist of three persons, one of whom must be a woman and one of whom must be a man". Does that mean I am to be the third one of the triumvirate? He also stated "The Bill allows for the appointment of a superior court judge". That is satisfactory and I am glad none of the commission members can be a present or former member of the Garda Síochána. I do not

distrust the Garda and my opening remarks indicated my high regard for its members. However, from the point of view of the Garda and others, it is preferable its members are not part of the commission.

With regard to informal resolutions, I am sure insignificant matters will be rapidly and effectively cleared up. Six months is a short time limit. However, for that reason, I welcome that the Minister has provided scope for the ombudsman commission to extend that period if circumstances demand.

I welcome the Bill. It will improve the position of police and public, which can only be healthy. I have indicated my principal worry, which is the possibility of political direction of the Garda Síochána. I look forward to the Minister's response.

**Ms Feeney:** I am glad the Minister is the same gender as Senator Norris or he might have a reason to lash back following the Senator's reference to him as a wise old bird. I welcome the Minister to the House. The time he spends here is a positive indicator not only of how he views this Chamber but of how committed and hard-working he is.

My nomination to contest a Seanad seat came from the Irish Conference of Professional and Service Associations, the umbrella group for such groups as the Garda Representative Association, the Association of Garda Sergeants and Inspectors and the Association of Garda Superintendents, together with the Defence Forces representative organisations and some other bodies. Therefore, the Bill is of particular interest to me. In preparing for this debate, I conversed widely with different groups belonging to that umbrella group. I am delighted that all were singing from the same hymn sheet and were very positive in regard to the Bill. There is a broad welcome for it, not alone from the Garda representative bodies but also from the Human Rights Commission, as reported in today's edition of *The Irish Times*.

The Minister will be glad that, having spoken with them this morning, I can tell him the Garda representative bodies and the Human Rights Commission were very satisfied with the amount of time and consultation accorded to them by the Minister. The groups acknowledged that although the Bill was in draft form when they made recommendations, the Minister took such recommendations on board and adhered to them as far as possible. The Minister did not run off on his own but ensured that all relevant groups were brought in as part of the process. That is a wonderful endorsement of the Bill.

I welcome the Bill. Through the years, we have heard lip service paid in regard to this area but nobody has tackled it as the Minister has. I commend him for bringing such comprehensive and wide ranging legislation to the House. The new format will allow for the establishment of the ombudsman commission which will comprise a

chairperson — possibly a judge from a superior court — and two other experienced personnel. I am glad one of the two will be female. Females are now certainly around the House, and it might be said they are taking over.

I echo the remarks of other Members when I say we have been blessed with a magnificent police force since the foundation of the State. Nonetheless, while the Garda Complaints Board was adequate for its time, society and culture are very different in today's changing times. The Minister acknowledged that the board does not command the full confidence of the public. Confidence has broken down and a new dynamic is needed to give us something to work with in current circumstances.

We are lucky to have such a Garda force. It integrates well with all communities, rural or urban. I have no doubt from speaking to members of the force that good, solid members, who comprise 99% of the force, have no fear of the Bill and look forward to working under its provisions. The changes laid before us in this legislation put the Garda in the focus of openness, transparency and independent scrutiny, which can only enhance its reputation and esteem, not only as a force but as individuals. The Minister has given the force an opportunity to excel and take its place with police forces of other States which are held up as adhering to best practice. He has put the force on a modern footing, crucial in the modern world where security must be very high-tech.

Although I had some concerns with the Bill, the Minister addressed most of them in his opening remarks, such as the code of ethics. Perhaps we could also revisit the issue of the right of appeal and costs on Committee Stage. With regard to the setting up of the ombudsman commission, I had concerns regarding the transparency of the system of appointments. Although the Minister addressed this issue, will appointments be publicly advertised? When the Human Rights Commission was set up, an independent advisory group reported to Government. Will there be a similarly transparent mechanism in this instance?

With regard to Garda volunteer members provided for in section 14, will such members be vetted? There is great need for vetting of people involved in many aspects of life, sporting and otherwise, and that is for the right reasons. Volunteer members will have the same powers as gardaí although gardaí come through rigorous training over two years which we all stand over and of which we are very proud. If I were a volunteer member from Sligo, would I be asked to serve my community of Sligo or would I be sent to another county or town? There will be circumstances where a person has a set on someone else, as they say down the country, and a person may find himself being punished unnecessarily.

I welcome this progressive Bill and thank the Minister for being both provocative and

progressive by bringing it to us. Since I became a Senator 18 months ago, no other Bill has been embraced as warmly as this one today. Well done to the Minister's officials on this wonderful legislation and I look forward to the Committee Stage debate.

**Mr. Feighan:** I welcome the Minister. I thank him for publishing the heads of the Bill and giving everyone time to consider its provisions. That is good practice.

I have a high regard for the Garda Síochána. On the foundation of the State, all administrative, business and security structures had to be built from scratch and my family and I take great pleasure in the fact that my late grandfather was one of the first sergeants in the new force. I come from a law abiding family which genuinely believes in the role of the Garda.

The standard of the new recruits going to Templemore in the past ten years is exceptionally high. Many police forces are missing "cop on" but thankfully those now being recruited by the Garda have it, and know how to deal with different situations. As a businessman I have worked closely with gardaí in Business Watch and Neighbourhood Watch, while I have also worked with them in football and boxing clubs. Their involvement in the community should never be undermined and they should not feel they cannot get involved in such organisations. They have excelled in that local role, which is unique to this country. Long may that continue.

The security of the State is paramount. I remember coming to a Garda checkpoint in the early 1980s at which gardaí had Uzi sub-machine guns. Some people were offended by that but I felt very safe and secure in the knowledge that those people were there to protect the State. We do not like to see guns but I always feel secure when I see gardaí policing our streets.

My grandfather was one of the traditional gardaí, serving in Cahir, Rush and Ballina. Nowadays gardaí do not have to uproot themselves or to travel as much, which is better for them as they can have a family life.

While the Bill is good I must raise the issue of the 2,000 extra gardaí who were promised. I hope this volunteer force is not intended to replace those gardaí. I am concerned by this because of the drug culture in our towns and cities. Crime lords are targeting rural areas like my area, Roscommon, and there is no point in recruiting gardaí if this drug culture takes hold. If that happens five times as many gardaí will be needed. I do not want to make a political point but we need the resources to tackle the ever-increasing level of crime. The Minister will have my support in whatever he does.

How will the volunteers be trained? I am concerned because this does not seem to have been well thought out. Will volunteer members have the same powers as the gardaí? The interaction of local authorities with the Garda is long overdue and very welcome. Communities

[Mr. Feighan.]

can work together very effectively, as we have seen in Neighbourhood Watch and Business Watch; different views can be expressed and different strands of the community can be brought together.

The Bill has the potential to greatly strengthen the Garda but appears to give the Minister more executive control. The Human Rights Commission gave the Bill a qualified welcome so the Minister is pressing the right buttons in that context.

Broad discretion is given to the Minister on the operation of the force, which seems to extend to the system of political appointments of senior officers to the rank of superintendent. I have no cause for complaint here as the best people are in charge, but I would hate to see political favours being given, although I am sure that will not happen.

**Mr. M. McDowell:** All appointments over the rank of chief superintendent are made on merit on the basis of a competition which is run according to regulations. I want to stress that.

**Mr. Feighan:** I welcome that.

It is good to see the local policing committees will act as fora for discussion of policing matters. I was disturbed by a recent poll which revealed that only 58% of the population had confidence in the Garda. This is unfair to the force. How were those questions asked? Sometimes questions can be put to people in order to get different results. I find it hard to believe that figure fell to 40% among young people and to 46% of all ages in the Dublin area. That is a cause for concern but I would also like to ask the pollsters how they put questions to people.

The Bill lays down in legislation for the first time what the force is meant to do, as sometimes it is caught in the middle of various groups. The Reclaim the Streets demonstration in 2001 was bad for Garda public relations. Some gardaí were pressurised into making incorrect decisions that day. However, we must all exercise restraint. For example, there were sizeable marches outside this House protesting about the use of Shannon as a stopover for US military aircraft, during which one gentleman did his best to incite gardaí to react. I pay tribute to the gardaí for the restraint they observed and the person in question should have been arrested, although that is an issue for another day. I welcome the Bill. We are proud of the Garda, which is the best police force internationally. It has my support and should have the support of all Members of the House. Long may it reign.

**Mr. Kenneally:** No one in the Oireachtas will not welcome the introduction of this Bill, which is long overdue, and I congratulate the Minister on taking the initiative and for being so positive

in his approach to what will be seen for decades as a very important piece of legislation.

Society in Ireland has changed immeasurably over the past decade or two and many of the cornerstones on which our society has rested and people in many of those institutions in which we placed so much trust have proved unworthy of such unquestioning loyalty. We have seen members of the clergy go dreadfully wrong. Members of the legal profession have betrayed the trust placed in them and the Oireachtas has had more than its share of Members who proved to be unsuitable for and unworthy of the high office with which they were entrusted. The Garda has not been immune to this malaise either, with some high profile and well-documented errors on the part of some of its members.

I do not want this debate, either in this House, the media or on the street, to turn into a Gardabashing exercise. We all know where that small number of gardaí went wrong. We all deplore their lack of discipline and their absence of acceptable standards. We are here today to see if we can eliminate such behaviour and deal with it in the best way possible. We are here also to help restore the faith of the people in the Garda element of our justice system, an area at least as important as any other section.

Gardaí are at the front line, meeting the victims of crime at first hand, maintaining law and order on the streets and taking abuse and criticism, often for events and situations outside their control. Theirs is often an unenviable task, but nevertheless a most important, onerous and responsible one in which I wholeheartedly support them. However, we must tackle those areas which have merited criticism in the recent past.

One of the most common complaints about the Garda is that it does not always respond to complaints. I know there are often genuine reasons that gardaí may not be particularly enthusiastic about chasing a known young gurrrier for what eventually will be his or her 30th or 40th charge at a forthcoming court appearance, only to be back on the street almost before the gardaí themselves. That may be the case, but the public has a right to feel that the Garda cares. I had the unfortunate experience of having my Dublin apartment broken into and I phoned the Garda. I was told that someone would respond after the change of shift in 20 minutes, but that was more than a week ago and I have yet to hear from that station.

I know from speaking to various people over the years that the detection of a crime and the recovery of property is something of a lottery. There have been some fine successes almost immediately but also a high percentage of inconclusive investigations. Public confidence has been eroded and we must play our part in restoring it. As a result of my own experience, I now know how people who have not been responded to feel and it is up to us, perhaps through this Bill, to ensure that we have a better

police force with adequate numbers and financial resources.

The most important element of this Bill is the setting up of the Garda Síochána ombudsman commission, made even more of a priority by some high-profile cases involving gardaí in recent years. Almost everyone is agreed that this is long overdue and a vital necessity. It is not opposed by the Garda, which knows it depends on public confidence and that there is a certain catching up to do in this regard. Now that the subject is being dealt with, we must do what is necessary, right and sensible. In that regard, the Minister has struck a reasonable balance. It is absolutely necessary, both from a practical point of view and for the benefit of public confidence in the system, that there is an independent investigative staff for the commission and this has been provided.

One area about which I have great reservations is the requirement to give notice of searches of Garda stations. That would negate any benefit that would be involved because the element of surprise would be lost. Gardaí themselves would see the uselessness of this in their own experience and, as it will be seen to be central to the whole system, it must be changed. The average garda, dedicated to his or her duties and acting within the given guidelines will not see any threat in it. If it helps to root out the wrongdoers and help present the force, which has a very proud and laudable record, in its best light, then it is a good thing.

Section 14 of the Bill gives the Garda Commissioner power to recruit voluntary members who would have the same power and duties of regular gardaí. The Bill does not spell out precisely how these volunteers will be trained, but it will be the subject of regulations and guidelines later. However, the Minister might give some indication at this stage just how, where and for how long these people will be trained. If they are to do the same job as gardaí, if only for shorter and intermittent periods, they will need a full and comprehensive course of training. Will this be in Templemore, regional centres or in more local areas? Will these volunteers be part-time contributors to the force? Will they be allowed to have other employment? Will there be a prohibition on the type of work they can do? All these matters need to be spelt out and the Minister might take some time at this stage to clarify them for us.

Powers of arrest and detention, public order duties and stopping and searching in the street are all serious matters and must be treated as such regardless of who is exercising the power. The policing of streets late at night is one of the biggest drains on resources, not least because it comes at a most unsociable hour for those people who are not out on the town drinking liberally in late night licensed premises.

I assume these volunteer officers will be accompanied by regular members of the Garda and used as an "aid to the civil power", although with the same powers and duties as the Garda,

they should be capable of standing alone. Perhaps the Minister might also indicate if the new recruits will wear the same Garda uniforms or if they will have their own. Will the use of a different uniform, perhaps of a different colour, be perceived as a lesser badge of office and so diminish the new force in the eyes of the public?

Either way, I am delighted that there will be more gardaí on the streets as the profile of the force has to be raised and the people must have a perception that a uniform is never far away, either as a deterrent to crime or as something which will boost their confidence in being able to walk the streets in safety. The new officers should have a very important role in community policing, the area which is traditionally raided first when members are needed for some other duty. It would be a pity if we did not avail of this extension of the Garda to boost the confidence of the public and make closer contact with them on the streets. I regret spending so much of my time on this subject but this is one of the most significant changes to the force since its foundation and one which will have a major impact on the population at large.

Section 18 deals with the appointment of civilian staff who will be employed in the role of civil servants. I assume these people will be in Garda stations employed on necessary administrative work, which will not require full Garda training. For decades we have said it is a major waste of resources to have highly trained gardaí doing duties which are appropriate to other staff. Gardaí will deliver better results for the investment which has been made in them when they are among the people or doing specific police work. It is better for them to be pounding the beat than pounding the keyboard of a computer and I suspect the average garda would agree.

Chapter 4 of the Bill refers to local policing committees. I admit to having reservations about this concept at first glance but the more I thought about it, the more I felt that it has a great deal of merit. These local committees will have among their membership local politicians who know precisely what is happening on the ground and who see life in all its forms through their regular clinics. They will have an understanding of the problems for the population and the gardaí. Given their experience, they will have a good idea how to solve these problems. Most people will have little difficulty approaching an elected representative and discussing their problems with them, but they may be more reluctant to confide in the gardaí. This is a natural reaction to any police force, and no reflection on the gardaí, the vast majority of whom are quite approachable and enjoy the confidence of the public.

Most politicians will not look forward to a role in an area which will probably be contentious on occasions. If we are serious about our role as elected representatives, there is no more important area for people to be represented than

[Mr. Kenneally.]

at all stages of policing. I commend the Bill to the House.

**Mr. Finucane:** I welcome the Minister. I also welcome the Bill, which has many positive aspects. On this morning's Order of Business, much attention focused on the necessity for a press council following the reportage which took place in recent weeks. Undue attention was focused on the sad incident which took place outside Club Anabel.

Fine Gael recently commissioned an MRBI poll which indicated that one in five people are not reporting crime. It found that one in three in the under 25 age group and up to 40% of students do not report crime, which does not surprise me. I am aware of a recent case in my community where people were ejected from a disco. An innocent guy, who was walking along with his girlfriend, was picked on and got badly bruised and battered. His face turned into a mushy pulp as a result of the incident. Significantly, he did not pursue the case because he was fearful that the people involved would victimise him subsequently. This is a great fear, particularly in smaller communities. As I said this morning, this is something very distasteful which has recently evolved in society. Unlike in the past, people will now resort to kicking people when they are down. The results of the recent survey do not surprise me.

I favour one aspect in the Bill, namely, the fact that there will be accountability to the Committee of Public Accounts, of which I was Chairman in the past. When the Garda authorities and the Department of Justice, Equality and Law Reform came before it, concern was expressed about the awarding of contracts for the purchase of video recorders and tyres. While there was a diluted responsibility for purchasing these items, it surprised me that there was no one with an accountancy background within the Garda itself who could oversee the awarding of these contracts. The Department said at the time that the matter would be rectified, which possibly has happened. It is important that the Garda should be accountable to the Committee of Public Accounts. An independent audit commission will also be put in place. The difficulties expressed to the committee at the time will probably end as a result of the Garda becoming more professional in its financial dealings, which is important.

The recent "Prime Time" programme did a certain amount of damage from a public relations point of view. It is important to bear in mind, however, that just a small number of gardaí were involved. In the case of politics, the political excesses of a small number of representatives brought a lot of odium to the body politic. The few incidents presented on the "Prime Time" programme probably portrayed a bad public relations image to the general public. I relate this to my community in west Limerick where I know many gardaí on a personal level. Many of them

are involved not just in policing matters but in local activities, whether the GAA, soccer and so on. Gardaí moving into communities should be encouraged to become involved in local activities, which will allow them to get to know the people living in the community. If possible, gardaí should live within the community, but this may be impossible to implement. If all the gardaí attached to a large station live outside the area, there is not the same ownership as if they became involved in the community in different clubs and organisations, which I encourage.

Recently the gardaí were upset when the DPP commented on the "Prime Time" programme. He commented publicly that, under the Statute of Limitations Act, he was unable to take action in relation to certain cases because the files arrived late in his office. The Garda authorities were surprised at this comment because usually the DPP is renowned for his silence on such issues. It is his privilege to remain silent, but in the case of rape and murder, the general public would often like to know why a case was not proceeded with. I am not sure whether his comments following "Prime Time" helped the debate or the public relations aspect, which is important for the gardaí.

Many people focused on the role of the local authorities, which I welcome. In most communities, whether Roscommon, Limerick etc., a strong liaison between local authority members and gardaí at local level will be an advantage because public representatives have an intimate knowledge of their own area. This also happens in other countries. What is evolving for some time, which is not healthy, is a distance between the public and the gardaí. Involving local authority representatives may help to cement a stronger relationship and help gardaí within the local communities.

I do not like when county boundaries are breached by Garda divisions. I gave an example recently of Galbally Garda station where essentially there will be replacement gardaí. If there is to be coherence between the local authority and the Garda, it is important that county boundaries are not breached, as for example in Galbally The gardaí in that area would have a much more meaningful involvement if, for example, there was a patrol car in Ballylanders, which is two and a half miles away, which could cover a wider area, including Galbally, rather than a response coming from Tipperary town which is in another county. I do not know whether addressing this is a role for the Minister at senior level or if it will be contemplated in the context of the developments concerning local authorities.

I agree with the concept of voluntary police and the village constable in England. I often wonder if these people could be deployed in crowd control because they would probably be more than happy to work in that area. They could be employed to contend with the breakdown of order at sports functions, but how often would it

happen on a percentage basis? Resources could be deployed much more effectively.

In every community, such as a town like Newcastle West, where there are nightclubs and fast food premises, there are crucial times for a Garda presence, usually between 1 a.m. and 3 a.m. The criticism often expressed in these communities is that there is no physical presence of a Garda squad car at these crucial times. It is impossible to cover every area, but people usually congregate in squares and near fast food premises in towns. Often, the people who live there complain of the noise, the late night activity, the dumping of beer barrels into the river, the smashing of windows and all sorts of petty crime causing concern to the local community. If a squad car was present in the square, with one or two gardaí, one would be amazed at how quickly people would disappear and go home, getting out of the area, whether it be Newcastle West or wherever. Those times and flashpoint locations are known.

I compliment the Minister on many positive aspects to the Bill. I may sometimes be critical of the Minister in the House. I am prepared to give constructive criticism where necessary, but also to pass compliments when something positive is happening. I hope that some of the elements in the Bill will help the police force to make its job more meaningful in the community. If there has been a breakdown in communication between people and the Garda, developments like this will help to bring them closer together.

**Mr. Leyden:** I join in welcoming the Minister and I thank him on behalf of the House for bringing the Bill through the Seanad and giving us an opportunity to discuss it in detail for the first time. I also welcome the Minister's senior staff from the Department of Justice, Equality and Law Reform.

Generally speaking, the Bill has been widely welcomed. For a change, the Minister is getting positive publicity, even from the red tops, the tabloids, which have been treating him very unfairly. He is a patient man and incidentally has a great constitution, having been in the House since 3.15 p.m. He is doing very well.

I have an important declaration of interest. I am in effect nominated by organisations like the GRA, the Garda Representative Association, the AGS, the Association of Garda Superintendents, and the Association of Garda Sergeants and Inspectors. Those bodies come together with associations like the IBOA and others to make up the nominating body on the Labour panel and it nominated three of us in this House — me, Senator Feeney and Senator Cummins. In this way we have close contact with those organisations. It is our responsibility to keep them informed and briefed on developments in this House. That is a healthy approach which is worth continuing. I do not represent those organisations, but going by discussions with their

members generally, they have given a broad welcome to the contents of the Bill.

I compliment the Minister on bringing forward a Bill which ties up all the Acts since 1924. It is amazing, and no doubt the Minister was surprised when he entered the Department of Justice, Equality and Law Reform, that there was no strong legislative backing for the Garda, which one would consider fundamental. It was said to me that the Minister has, with his staff, put together a comprehensive and thoughtful Bill. He is also open to suggestions and considerations. I was surprised that only 15 submissions were made. I found that amazing. It is in a sense a reflection of the broad satisfaction with the Garda Síochána. If that broad satisfaction and respect for the Garda was not there, the Minister would have been inundated with submissions. There were hundreds of submissions when the boundary commission was set up. The Garda organisations alone in this case involved three submissions, leaving only another 12. That is interesting. The Minister was anxious to have such consultation.

I stress again the contribution made by the Garda. I am not in a position to mention all those who have sacrificed their lives since 1924. I recall in my own district, before I became a Member of this House, when Dick Fallon was slain in Dublin. That was a great tragedy for him and his family. He showed great bravery. I was a Deputy when Garda Morley and Garda Byrne were shot at Shannonscross near Loughglynn in 1980. Again, the effect on the families, and the sacrifices those gardaí made in support of the State, should be recognised in this House.

The courage of the men and women of the Garda Síochána continues. Just the other day, two gardaí jumped into the River Liffey to rescue someone and, recently, gardaí from Carrick-on-Shannon were given Scott medals for their bravery. We depend on the Garda for our security. As a public representative coming from an area which contains the Garda headquarters for Roscommon-east Galway, and which has a large contingent of the Garda, I am very fortunate. This strong Garda presence has contributed to the development of Roscommon town and surrounding areas. In my district of Castlecoote there are at least two families with Garda members. This has been very helpful to the community. There is very little crime in that area and that is a tribute to them.

The Minister has allowed for a great deal of consultation on this Bill and is prepared for further consultation on Committee Stage. In my term of office as a Member of the Dáil and as a Minister of State, I think we had perhaps one or two removals of commissioners. There was a famous case in the 1930s when a commissioner was removed, but it has not been the norm. In this regard, the Minister is bringing forward a Bill which lays out exactly the relationship between the Minister for Justice, Equality and Law Reform, the Garda Commissioner and the Garda

[Mr. Leyden.]

Síochána. This has not been the case heretofore. The relationships has been very vague. The Minister is right to insert the provision whereby the Government can issue a policy directive to the Garda on particular issues and crises that may emerge. That was not the case in the past, where the Minister might have had informal relationships with the commissioner and discussed particular issues. That led to difficulties in the past. The Minister has now made it clear that the relationship will be transparent and that a directive issued by the Minister on behalf of the Government will be sent to the Garda.

In the area of delegation of responsibilities of Accounting Officer to the commissioner, this is possibly a major forward step, but the Minister should retain certain political responsibilities regarding the location and development of the physical buildings, the actual Garda stations, and whether they are to be opened or closed. The Minister, and Ministers in the future, should have some way of assessing or processing any area where the commissioner might decide on closure or cutbacks, such as in small Garda stations which are very important to their areas. It is vital these are maintained in rural districts where they help maintain the rural fabric of life and afford security to people.

**Mr. M. McDowell:** That is provided for in the Bill. Such decisions cannot be made without my agreement.

**Mr. Leyden:** I am delighted. It is a very detailed Bill, which is why we need to tease out areas. The headquarters of the Garda for Roscommon-east Galway is in my area and I recall that when the late Brian Lenihan was Minister of State, he had to intervene to ensure that those headquarters did not move to the constituency of Senator Ulick Burke, to Ballinasloe or to Tuam.

**Mr. U. Burke:** We are used to that.

**Mr. Leyden:** In my term as Minister of State I had to give regular reassurances that the Roscommon Garda station would not be downgraded and would be retained as a regional Garda headquarters. I am delighted that the former Minister, Pdraig Flynn, provided enormous resources during his term of office for the development to a very high standard of the Garda station in Roscommon.

**An Cathaoirleach:** Is the location of headquarters relevant to the Bill?

**Mr. Leyden:** It is relevant because if the Minister gave too many powers away to the Commissioner, we might find more rationalisation, including in east Limerick, which might affect us all directly.

I refer to external associations mentioned in the Bill. With the accession of the new member states, there should be a more comprehensive police force in the European Union not taking responsibility from the Garda Síochána, but in addition to it and having responsibility for international crime, drugs, people trafficking, money laundering, pornography and the Internet. It could be a comprehensive, united European police force similar to Interpol but more effective and better interlinked with all the police services in Europe. If laws were more streamlined to ensure an opportunity to travel across borders in pursuit of criminals, we would be going in the right direction.

I welcome the involvement of local policing committees. Many submissions have been made in this regard. There is some concern about section 17 and maybe the Minister can clarify the position. It reads: "An association established under *subsection (1)* must be independent of and not associated with any body or person outside the Garda Síochána". Those organisations have nominating rights. Members of the Oireachtas should not be excluded from having consultations with those nominating bodies.

I thank the Minister for this progressive step. This is the most important legislation brought forward by a Minister for Justice, Equality and Law Reform and I am delighted the Minister is doing so in this House. I congratulate him.

**Mr. U. Burke:** I welcome the Minister and admire him for staying to listen to the opinions of all Members. The most important part of the Minister's contribution was his concluding paragraph in which he acknowledged, in a positive way, the work of the gardaí, his support for their work and his hope that what he proposes will enhance their work in the future.

Over the past six months or so, the Garda Síochána has had to withstand severe criticism, some of which was most unjustified. If we, as politicians and legislators, contribute in any way to a suspicion of, or the lack of confidence in, our police force, it is a serious indictment of our behaviour. If we, in any way, query or undermine the work of the Garda Síochána, we seriously threaten its work. I hope the Minister, in everything he says and does in the future, is positive and shows his and the Government's support for the Garda Síochána. Such support has not always been forthcoming from the Minister. There are many people who believe, rightly or wrongly, that to get this Bill through the Houses of the Oireachtas without any controversy and past the scrutiny of interested bodies, it was necessary to create a climate for its introduction. There was an element of spin prior to its introduction.

I have difficulties with aspects of the Minister's proposals. We are going to legislate for a

voluntary police force parallel to the Garda Síochána. If it comes into force, we will create great difficulties. If we have a police force, let us have trust in it and support it by increasing its numbers, if necessary. If there is to be a parallel police force with powers equal to those of the Garda Síochána, why is it necessary to keep it outside the membership of the Garda Síochána? Why is it necessary to have this community force? We have a rural community policing policy at present which, as I have said in this House and when I was a Member of the other House, has proved a failure. The reason given by the community is that the gardaí do not belong to it. It is a proven fact that when the local community identifies with the gardaí, there is far greater recognition of, and support for, them.

A recent opinion poll showed that 37% of the population do not have confidence in the Garda Síochána.

**Mr. Leyden:** I would not believe that.

**Mr. U. Burke:** Fair enough. The Senator will believe what he wants in any case.

**Mr. Leyden:** We all know about opinion polls.

**Mr. U. Burke:** The opinion poll was conducted by a reputable body. A fact, which Senator Leyden may not take on board, is that in the lead up to it, a judge made a comment that a member of the Garda Síochána prejudiced and perjured himself in court and a Minister of State made a statement that what happened to a constituent was tantamount to torture. Subsequent to those inflammatory comments, this opinion poll was taken. The majority of the people support the Garda Síochána and the poll was unrepresentative for whatever reason. Whoever put a spin on it, or provoked such a spin, let it be on his or her head.

The Garda Síochána has made sacrifices down through the years. Each day a garda puts on his jacket, walks on to the street and polices any part of the country, he is putting his life on the line so I do not think we should give much credence to those who criticise the work of the gardaí so easily. There was the callous murder of Garda McCabe and that of Garda Morley in my province. Many others have been callously slain. At the time we expressed our sorrow to the force and to the families, yet we can turn that on its head and say we cannot support the Garda Síochána in certain areas.

It is important the Minister strikes a balance in the Bill when talking about reform and justice and fairness for everybody. I find it peculiar that the Minister included a section outlining the duties of the gardaí. I thought we all knew the duties of the gardaí and that they were listed. Incorporating that in the Bill seems amazing and

I would like to hear the Minister's comments on that rather than those Senator Leyden proffers.

**Mr. Leyden:** I am trying to provide some clarity.

**Mr. U. Burke:** I hope the Minister will reconsider the provisions for voluntary policing in the Bill. Inevitably, there will be far more difficulties than we have at present if local, voluntary community policing is introduced in parallel with the work of the Garda Síochána. Senator Terry mentioned earlier that this was one of her chief concerns and I concur. The Minister should explain to the House why he thinks it necessary to have more power over the Garda Síochána. Why should it be necessary for the Minister to have an input into the selection and appointment of many senior Garda officers? Are we going back to the interference of the Doherty days, with which Senator Leyden might be very familiar? Why does the Minister think it important to direct members of the Garda Síochána? When those who are currently embracing the Bill see the significance of what the Minister is proposing and its follow through, they will have second thoughts. If we politicise the Garda Síochána in line with the Minister's proposal to retain this degree of interference, it will create further difficulties.

The Minister is seeking to introduce reform through this Bill, including the establishment of an independent commission. I hope it will turn out to be as independent as he has indicated — on paper at least — he intends it to be. Whatever reform is necessary should be brought about through support for the Minister's proposals, rather than by domination. If, however, the Minister's reforms mean greater control of and political input into the Garda Síochána, we will, as has happened with previous legislation, have to alter it again in the near future because of these unacceptable aspects.

**Mr. Leyden:** The Senator will not be doing it, anyway.

**Mr. U. Burke:** Senator Leyden cannot be very proud of the things he has done.

**Mr. MacSharry:** I join with others in welcoming the Minister and thank him for attending today's marathon session. It is much appreciated when one considers his busy schedule.

The Garda Síochána Bill is a long-awaited and timely piece of legislation, which allows, for the first time, full investigations into alleged Garda misbehaviour to be carried out by people other than members of the Garda Síochána. The legislation is vitally important when we consider a recent poll undertaken by *The Irish Times*, which showed that only 58% of the population have confidence in the force. As legislators, we cannot

[Mr. MacSharry.]

stand idly by and so I hope the Bill will restore public confidence in our policing system. Given such a low level of public confidence in the Garda Síochána, it is our duty to remedy this unacceptable situation. By introducing this Bill we are starting down the long road towards comprehensively and radically modernising policing. However, we must keep in mind that the low level of confidence in the Garda Síochána and the perceived lack of transparency in the force will not be solved overnight. We must strive to ensure that the aims of the legislation will be met.

The Minister has ensured that the Bill will provide a much greater degree of accountability for the Garda Síochána through the establishment of a new complaints procedure by the ombudsman commission. The powers which are to be bestowed on the commission are considerably more than those which were contained in the heads of the Garda Síochána Bill published last July. This reflects the Government's ongoing commitment to target the unravelling of public confidence in the Garda Síochána.

Transparency in any business is of the utmost importance and we have seen across many different sectors how damaging self-investigation can be. For this reason, I am pleased to see that various measures of accountability are included in the Bill, as was promised by the Minister. These include the establishment of local policing committees as fora for the discussion of policing matters. Although the Garda Síochána will not be formally accountable to such committees, I welcome wholeheartedly this endeavour to bring law enforcement down to the grassroots in an attempt to increase transparency. These local committees will have a role in reviewing patterns of crime, as well as factors underlying and contributing to levels of misconduct. Local representatives will play the greatest part in turning around the public's perception of the Garda Síochána.

Local figures are more approachable than an unidentifiable complaints board and their perspective can be assumed to be more in touch with issues on the ground. For this reason, I call on the Minister to ensure that the provision to include local public representatives on policing committees is maintained in order to make the Garda Síochána fully accountable to all members of society. This will also ensure that the Garda Síochána takes full cognisance of the views of local authority members.

The Bill must provide for increased statutory liaison between county councils and the Garda Síochána. In recent days, I have discussed this legislation with several county councillors who gave me examples as to how more co-operation between these two bodies would make a real

difference to their community. A councillor told me of one particular instance in which two 11 year old children tried to set fire to petrol pumps in a local garage in south County Dublin. The children were caught on camera and the councillor in question got their names from the garage owner. The councillor was told by gardaí, however, that there was nothing they could do because the children were juveniles. A council official then went to talk to the children's parents who had not heard a thing about the incident. Increased contacts between councils and the Garda Síochána could make great strides in dealing with such issues. Improved liaison between councils and gardaí could make a tangible difference to crime statistics in local communities across the country. Policing could be brought down to the local level where we could all have a part to play. This system would work well as all involved would have an interest in justice being served for the sake of the neighbourhood.

The Garda Síochána Bill allows for the establishment of a reserve police force, which would be set up using volunteers who have the same powers, duties and privileges as gardaí. In a utopian society, this excellent idea would mean those volunteers would fulfil their civic duty. In practice, however, I am dubious about the expediency of such a measure. Therefore, I respectfully suggest to the Minister that remuneration should be considered for time worked, if this measure is to reach its maximum potential. This would encourage more people to volunteer and would therefore ease the many pressures currently placed on gardaí. As these volunteers would be fully trained in all aspects of law enforcement, it is reasonable to expect that they would receive some monetary reward for their endeavours to apply justice. It is a fact of life that one is less likely to don riot gear and stand outside Lansdowne Road in a difficult situation, if no payment is forthcoming. Such payments would provide an incentive for people to become involved voluntarily in community policing.

The Bill allows for the ombudsman commission to act on its own initiative without any formal complaint being made. This is an important section of the Bill, as possible offences often come to light through sources other than complainants, such as the media. Realistically, we cannot expect that cases will be handed to the investigative body on a plate and for that reason we must be proactive in our approach to rooting out any rot in the force. We must be pragmatic and assume that the commission may have to seek out discrepancies, rather than having them reported to them. The commission will have the facility to refer files directly to the Director of Public Prosecutions, if it feels an offence has been committed.

While some people have claimed that the Garda Síochána Bill leaves the force open to political interference as it is not completely independent of Government, I note that the Garda Síochána is both the national policing and security service of the State. Therefore, contrary to what Senator Ulick Burke has said, it is right that the Minister and the Government should have responsibility for the force, and not an independent police authority.

We all want to improve upon the system that operated under the old Garda Complaints Board, whereby complaints against gardaí were investigated by the Garda Síochána itself. This frequently led to a Garda version of events and another version being put forward, and the perception was that the Garda version was preferred. The ombudsman commission should be responsible for all complaints made against gardaí, including less serious ones, which are currently under the jurisdiction of the Garda Commissioner. If we are serious about increasing transparency we must ensure that all investigations into complaints against the Garda Síochána are not carried out by members of the force, as precedent has taught us that this is not the best route to follow. I ask the Minister to consider transferring all power to investigate complaints against the Garda to the newly established ombudsman.

The legislation will protect the Garda from criticism that it is unable to investigate complaints against itself without prompting accusations of bias and this is a welcome benefit. It is important to bear in mind the Bill is being brought in because our law enforcers need to be protected from allegations that are detrimental to the public's perception of the force. The legislation will enhance the working environment of the Garda, as it will expose the minority of gardaí who hamper internal investigations. Throughout this debate it must be borne in mind that the vast majority of gardaí do an excellent job and they must be commended on the outstanding service they provide to the community.

I have another proposal, which would enhance the legislation and contribute to a more fluid operation of the Garda. Amendments should be made to the existing geographical Garda boundaries, which do not take cognisance of county parameters. By encouraging the redefining of Garda borders, a new level of cohesiveness and interaction could be implemented, which is lacking in the existing arrangement. This would mean a complete overhaul of the geographical structure by which the Garda operates, but this initiative is necessary in the light of the extensive reformation to the force entailed by this legislation.

I fully endorse the Bill and I respectfully ask the Minister to take cognisance of the amendments I have

suggested. The Bill gives us an ideal opportunity to reform the elements of the Garda that have come in for recent criticism from numerous quarters. I reaffirm my support for the many members of the Garda who provide us with an excellent service and believe the Bill will improve their working environment.

I congratulate the Minister on his proactive approach on many different issues, not least this legislation, and I look forward to its speedy implementation.

**Mr. P. Burke:** I welcome the Bill but I have reservations about a number of its provisions. Arthur Beesley, political correspondent of *The Irish Times*, said the Bill would provide a facility to get over the issue of credibility within the force. Will the Minister outline in greater detail how the force will get over its credibility issue under the legislation? The force has a credibility problem and it is encountering problems in local communities. Gardaí do not interact with ordinary people like they did years ago and there is a number of reasons for this development.

Common sense has gone out the door and it will be difficult for the force to build relationships with people in local communities until it adopts such a common sense approach. People give out on a daily basis about the behaviour of members of the Garda. I have the greatest respect for the force, which does tremendous work under great pressure. The Government has a role to play in this issue. It has put so much pressure on the Garda that the force is collecting money for the State full-time and the day of using common sense has gone out the door.

The performance of gardaí is monitored and they must issue a specific number of summonses on a monthly and annual basis. If they do meet their targets, they must take up traffic duty or stop people near pubs to do so. As a result, they lose credibility among the public. Gardaí are frustrating ordinary people while they are also frustrated themselves.

While the Minister will say the number of serious and other crimes has reduced on the basis of statistics available to him, a significant number of crimes go unreported. Interaction between gardaí and citizens has diminished and this issue must be addressed so that gardaí can collect intelligence from people on the street and are aware of what is happening in various local communities. People are turning their backs on the force. Gardaí enter pubs in rural areas shortly after closing time and run the customers out of them. They then set up checkpoints on either side of the pubs to catch people who are suspected of drink driving. This does not help.

I refer to Garda appointments. I am disappointed the Bill provides that the Minister of the day will make certain appointments to the Garda.

**Mr. M. McDowell:** That is the way it is at present. It is all done above board and I never interfere in the slightest way. It is covered by regulation.

**Mr. P. Burke:** The commissioner is appointed by the Government of the day.

**Mr. M. McDowell:** That is a political choice.

**Mr. P. Burke:** The Minister has gone further to provide that the Minister of the day can make appointments to the lower ranks.

**Mr. M. McDowell:** No.

**Mr. P. Burke:** I hope the Minister will explain that provision because my reading of it suggests members in the lower ranks of the force will also be appointed by the Minister. The Government has gone to great lengths to put a new system in place for all Civil Service appointments, yet under this legislation, the Garda Commissioner, who is a Government appointee, will be given powers to make appointments to the Garda's civilian staff. The commissioner, therefore, could appoint all the civilian staff. The Minister is turning his back completely on the new recruitment commission. Garda civilian staff should be appointed by the new commission rather than by the commissioner.

I am delighted the legislation provides that members of the Garda can take up posts in the Police Service of Northern Ireland. This is a good initiative and gardaí will take it up.  
*7 o'clock* However, I wonder how it will work out for gardaí who are active members of the GAA. Perhaps the Minister will elaborate on this question when he concludes Second Stage or on Committee Stage.

Debate adjourned.

### **Business of Seanad.**

**Ms O'Rourke:** It is agreed to take all remaining Stages of the Industrial Relations (Miscellaneous Provisions) Bill this evening. No amendments have been tabled. Apparently, everyone is really happy about the Bill.

**Acting Chairman (Mr. Dardis):** Is that agreed? Agreed.

### **Industrial Relations (Miscellaneous Provisions) Bill 2003: Committee and Remaining Stages.**

**An Leas-Chathaoirleach:** I welcome the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Fahey, to the House.

Sections 1 to 17, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

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

**Mr. Leyden:** I thank the Minister of State for coming to the House. I say, for the benefit of our guests in the Public Gallery, that not all legislation is passed as easily as this. This is an excellent Bill. I thank the Minister of State and his staff for introducing this well crafted legislation to the House. It has been well received by all sides and will be enacted as quickly as possible.

I congratulate the Minister of State on the Bill and wish him continued success in his ministerial career.

**Mr. McDowell:** I join Senator Leyden in his comments. I apologise for being three minutes late for this debate.

**Mr. Coghlan:** It is just as well Senator McDowell was not any later.

**Mr. McDowell:** I congratulate all concerned on their expeditious treatment of Committee Stage.

**Mr. Leyden:** Efficient.

**Mr. McDowell:** I congratulate them on their efficient treatment of Committee Stage.

I accept that this is a partnership Bill and an issue of the partnership process, into which we are all bound to a greater or lesser extent. However, a greater issue is the right of people to be represented by a trade union which, in turn, is recognised by employers as a negotiating body. Sooner or later we will have to deal with that issue. Many in Government are favourably disposed to that but we have not yet succeeded in negotiating a solution at partnership level. In the next stage of partnership, in the not too distant future, I hope we will succeed in grasping that nettle.

**Mr. Coghlan:** I compliment the Minister of State and his officials on the Bill. It arose out of Sustaining Progress and honours everything that was agreed between the employers' representatives and the ICTU. It brings to fruition the experience gained from the Industrial Relations (Amendment) Act 2001. The Bill before us this evening may not be perfect but it is an important work which can be built on in the future. I welcome the Bill and I thank the Minister of State.

**Mr. O'Toole:** I welcome this legislation. I pay tribute to the Minister of State's contribution to

the Bill and the flexibility and openness with which he dealt with it. We have had many rows over the years on many issues but this Bill has been improved substantially since it was first drafted and aspects of it which were of concern to the trade union side have been resolved.

I agree with Senator McDowell when he says that the Bill is a compromise. I supported it on every Stage and did not table amendments to it. It is what we agreed and we sweated blood to produce it. It is extraordinary that the employers and business people of Ireland do not have sufficient confidence in themselves to recognise trade unions. The situations to which this legislation will apply are currently dealt with by a protocol. The employers' side decided to play ducks and drakes with the protocol and to drag it out, make it impossible to work, reduce its credibility and ensure that people did not have confidence in it. Discussions and negotiations on the partnership agreement were blocked on this issue because the ordinary members of trade unions did not accept that they could be equal partners if their unions were not recognised by the other side. This is a crucial point for the future.

The law is so designed at present that trade unions must be amenable to the law of the land and play by the rules. It is in everyone's interests that each side recognise the rights of the other.

This legislation will stop the playboys in the business world who try to make negotiation difficult. There will now always be a way of dealing with a dispute. The resolution of a dispute should leave no one completely happy.

I welcome this legislation and I welcome the openness of the Minister of State, Deputy Fahey, in dealing with it. He did not meet all the demands of the Irish Congress of Trade Unions but he was open and flexible. His officials put extraordinary work into this Bill in the past two years. Last week, when I spoke to the president of SIPTU, Mr. Jack O'Connor, he said the sooner we get this legislation into operation, the better as it will give people trust and confidence in the system.

**Minister of State at the Department of Enterprise, Trade and Employment (Mr. Fahey):**

I thank the Senators for their contributions to the debate on the Bill and I welcome the unanimous support of the Seanad, which has enabled us to progress the Bill more quickly than any legislation. I thank Senators for their compliments to me and my staff.

This is good legislation. The debate in both Houses has improved the Bill, as initiated. As Senator O'Toole stated, the Bill emanated from an agreed approach by the trade union and employer organisations under Sustaining Progress and it certainly enhances the effectiveness of the existing procedures for dealing with dis-

putes where negotiating arrangements are not in place. I thank the trade union and employer organisations' representatives involved in the negotiation of the agreement and, in particular, I acknowledge their achievement in reaching an agreed approach to enhancing existing provisions in the context of disputes where collective bargaining arrangements are not in place. I take the point made by Senator O'Toole that not everything is agreed, but I have no doubt the responsible approach being taken by the trade union and employer leaders has been the single most significant contributor to our economic success in the past number of years.

In response to accession countries that ask about the Irish economic miracle, I tell them that after education, the partnership approach, where the trade union leadership has had to embrace change not exactly to its liking, has made a very significant contribution to our economic success. Given that the President of the Irish Congress of Trade Unions is present, I wish to acknowledge that fact.

The Bill will strengthen industrial relations procedures and will introduce a prohibition on victimisation of employees in the context of a dispute where the code of practice or the voluntary dispute resolution has been invoked. It will be supported by the revised code of practice on voluntary dispute resolution and a code of practice on victimisation. The Industrial Relations (Miscellaneous Provisions) Bill will be an important part of the industrial relations legislative framework and, as Senators said, the legislation will contribute to greater stability in Irish industrial relations.

On the question of trade union recognition, which Senator O'Toole mentioned, our system is one of volunteerism, which is strongly supported by workers and employers. While the legislation may not be as revolutionary as Senator O'Toole and others would wish, it reflects the consensus between ICTU and IBEC, which I saw as the key in framing this Bill. I have deliberately refrained from bringing forward legislation which would be opposed by the unions or the employers in order to develop the sense of partnership that exists. While difference still exist, the respect that exists between employers and unions is a solid foundation of our industrial relations regime. Long may that continue. We accept there are some difficulties around trade union recognition but while I am in this job, I am open to improving on that situation.

I thank the staff of the Department of Enterprise, Trade and Employment, who, as Senators stated, put in an enormous amount of work to the Bill during a very busy time leading up to the Irish Presidency. I thank all who contributed to the legislation, during what must be the fastest passage of a Bill during my 22 years in the Oireachtas.

Question put and agreed to.

**Ms O'Rourke:** Tomorrow at 10.30 a.m.

**An Leas-Chathaoirleach:** When is it proposed to sit again?

The Seanad adjourned at 7.15 p.m. until 10.30 a.m. on Wednesday, 3 March 2004.