

DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TU AIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Wednesday, 31 March 2004.

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SEANAD ÉIREANN

DÍOSPÓIREACHTAÍ PARLAIMINTE PARLIAMENTARY DEBATES

TUAIRISC OIFIGIÚIL OFFICIAL REPORT

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Wednesday, 31 March 2004.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Business of Seanad.

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

The need for the Minister for Health and Children to provide funding to the Western Health Board and to give approval for an ambulance base in Tuam, County Galway.

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

The need for the Minister for Communications, Marine and Natural Resources to indicate the funding option he is willing to pursue towards dredging costs at Buncrana, County Donegal, namely, to facilitate the ferry only at an estimated cost of €110,000 or to facilitate the ferry and the lifeboat at an estimated cost of €275,000.

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

The need for the Minister for Communications, Marine and Natural Resources to provide discretionary funding for the cleaning of the Owenmore River, County

Sligo, in order that tourism and fishing can be developed in that area.

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

The need for the Tánaiste and Minister for Enterprise, Trade and Employment to explain the reason St. Mel's training centre, Longford, has experienced drastic funding cuts in the past 12 months and to indicate the steps that can be taken to restore numbers and to keep this valuable scheme going.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Kitt, McHugh and Scanlon and they will be taken at the conclusion of business.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, Private Security Services Bill 2001 — Committee Stage to be taken at the conclusion of the Order of Business until 1 p.m.; No. 2, Maritime Security Bill 2004 — Order for Second Stage and Second Stage to be taken at 1.30 p.m. and to conclude no later than 3.30 p.m. with contributions of spokespersons not to exceed 15 minutes, those of

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other Senators not to exceed ten minutes and Members may share time, and the Minister will be called upon to reply no later than five minutes before the conclusion of Second Stage; No. 3, Aer Lingus Bill 2003 — Report and Final Stages to be taken at 3.30 p.m. and to conclude no later than 4 p.m.; No. 4, Transfer of Execution of Sentences Bill 2003 — Order for Second Stage and Second Stage to be taken at 4 p.m. until 5 p.m., with contributions of spokespersons not to exceed 15 minutes, those of other Senators not to exceed ten minutes and Members may share time. Second Stage of that Bill will not conclude and will continue, I hope, next week; and No. 18, motion No. 20, to be taken from 5 p.m. until 7 p.m. There will be a sos from 1 p.m. to 1.30 p.m.

Mr. B. Hayes: We currently hold the Presidency of the European Union. Our country is in a pivotal position in terms of EU development, but it seems we cannot organise a free concert to take place on our streets on 1 May. This day has been set aside for some years as the day ten new accession countries will join the European Union. The Government has already designated it as a day of welcomes for the ten new member states, yet we cannot organise a simple free concert on the streets for our citizens. I ask the Government to intervene with Dublin City Council and all of the other authorities, including RTE, to ensure this concert takes place somewhere in Dublin on this day.

It seems we have a pathetic attitude in this State when it comes to public space for our citizens. Public space should not be given over to gangs of people who are up to their necks in drink, but neither should it be taken away because of a ruling by a petty bureaucrat. It is time that members of the public reclaimed their streets. This capital has had many concerts in the past and should hold one again on 1 May. I ask the Leader to intervene with the Government on this matter to ensure the concert takes place because we have much to celebrate on 1 May.

I wish to raise two procedural matters. One relates to the Maritime Security Bill 2004. This was introduced in the post-September 11 security environment in the context of a commitment entered into in 2001 by the Government to transpose into domestic law a resolution from the Security Council, yet three years later the legislation has not been enacted. Is there any other anti-terrorism legislation, globally and nationally, which has yet to be enacted following commitments given at EU and United Nations level? It is not good enough that having entered into an agreement with the United Nations, we are only transposing the law into domestic statute three years later.

Yesterday, I raised privately with the Leader a matter regarding statements on the high level of alcohol consumption by young people. Following a request by the Fine Gael spokesperson, Senator Terry, on the matter last week the Leader kindly

arranged to bring the debate back onto the Order Paper. We are now in a tangle because Senator Terry and others spoke on the matter some months ago. Will the Leader clarify if Senator Terry and others who have made a contribution can speak again? If not, could the debate be given a different title to facilitate repeat speakers? A similar situation arose with regard to a rolling debate on Iraq. We should have a rolling debate on this issue, as the Seanad has led on it in recent years. It is important that spokespersons should be able to speak tomorrow. Perhaps the Whips could have a meeting to ensure this occurs.

Mr. Norris: It is a pity the concert is not going ahead because it would be an opportunity to show the city of Dublin. On the other hand, the works in O'Connell Street, which will make it a very fine street when it is finished, are not completed and there may be security problems. I did, however, have to laugh at the bregrudgery on RTE radio when somebody said it should be cancelled because it was elitist. This concert could not possibly be described as elitist because it is open to the general public.

I have some concern, as someone who lives just behind O'Connell Street, about the possible behaviour of some people after the concert. In particular, I am concerned about the licensing laws and drinking. I have got into trouble about this and the matter is *sub judice*, so I will not say anything about it at this stage, but I will when the matter is resolved. However, I should like to put on the record of the House that on returning down O'Connell Street from a dinner, I went into one of the supermarkets——

Mr. Dardis: It is very elitist to go to dinner.

Mr. Norris: Excuse me, this is a serious point. I raised this previously. I warned that people would be killed because of this kind of thing, and people were subsequently killed. I am serious about it. I went into a supermarket where there were four-packs available after 11 p.m. and bottles of wine. I asked if I could buy a bottle of whiskey and was told "yes". The person behind the counter was not familiar with the English language. I question that in the light of the kind of concert we might have.

I also ask whether we could have a debate on the role of Parliament in a democracy because, as a member of two unions affiliated to SIPTU, I was horrified that union pulled out of discussions with Government on a forthcoming pay agreement on the basis of what the leader of a democratic party in this State, the Tánaiste and Minister for Enterprise, Trade and Employment, Deputy Harney, did or did not say at her party's annual convention. That is extraordinary. It undermines democracy. We need to look at this because of the evidence that is emerging from tribunals, for instance, that the proprietor of a newspaper, Mr. Tony O'Reilly, objected to certain acts of the Government and subsequently,

in the course of an election, the front page of one of his newspapers——

An Cathaoirleach: That is not relevant to the Order of Business

Mr. Norris: ——referred to payback time. RTE has made programmes coming up to an election, for example about the hepatitis C case which targeted Deputy Noonan. There was also a very interesting analytical programme about the splits within Fine Gael and so on. I was taken off the air a year before the Seanad election was even declared. Recently, although no election has been declared, there was a programme about Uachtarán na hÉireann. Who runs the country? Is it RTE, the unions, or the newspapers? Will the Leader arrange a debate on the role of Parliament in Irish democracy?

Mr. Ryan: I can answer one of Senator Norris's questions. It is not a question of who is running the country. Fianna Fáil is running RTE and when Fianna Fáil says jump, RTE jumps. The character assassination of the former leader of Fine Gael was the lowest point in RTE's history.

An Cathaoirleach: Senators' contributions should not answer questions raised by other Senators.

Mr. Ryan: It would not have been done and never was done to leaders of Fianna Fáil who have been called dreadful names by tribunals that I am not permitted to repeat here. RTE never had the guts to confront that man but it was able to demolish a good man who made a mistake. RTE is in the pockets of Fianna Fáil as we all know.

An Cathaoirleach: That is not relevant to today's Order of Business. The Senator should adhere to today's Order of Business.

Mr. Ryan: This is a free democracy. Trade unions are free to take whatever positions they like about negotiations with Government or for partnership. I agree with SIPTU that the Tánaiste went far beyond what was supposed to be still a matter of negotiation.

An Cathaoirleach: That matter is not on the Order of Business.

Mr. Ryan: May we have a debate on transport policy because we do not know what is the Government's policy? The trade unions, which represent people affected by this policy, do not know either. We would all like to know if the Government's policy is the reassuring tones of the Taoiseach or the aggressive line taken by the Tánaiste. A debate is the only way to resolve that.

I do not want to spend time discussing the concert in Dublin but if people want to move it to Cork we would be delighted to host it. We can manage such events quite well. If the only

problem is that the BBC is trying to tell us what we should do, the BBC can return to its own role and we will do it ourselves. I do not need to remind Senators what the acronym BBC represents. Not to host it because the BBC would not agree to it is the most ludicrous excuse of all.

Could we have a debate some time on accountability in the public service? Normally when a Minister comes in here to take Committee Stage of a Bill, he or she is lucky to have two or three officials, however complex the legislation. I recall in the previous Seanad dealing with a topic as complex as copyright legislation and the Minister of State, Deputy Kitt, had two officials to help him. When we held Committee Stage on the Finance Bill here last week there were 20 officials from the Department of Finance present. According to my back-of-the-envelope calculation, that cost the taxpayer at least €4,000 or €5,000.

Mr. Finucane: The Department spent more on Punchestown.

Mr. Ryan: Who is responsible for ensuring the Department of Finance is efficiently operated? Neither my, nor Senator Mansergh's, egos demand 20 officials to listen to our views. I am quite happy to have one official. No other Department would be allowed to bring 20 officials into the House, no matter how complex the legislation.

An Cathaoirleach: Each Department makes the decision.

Dr. Mansergh: I like to have civil servants listening to our debates.

Mr. Ryan: If we have to take legislation to bring the constitutional treaty on Europe into——

An Cathaoirleach: We have no control over how many advisers attend the House.

Mr. Ryan: My city spent two years waiting for a school of music because the Department of Finance interfered——

Mr. Norris: Could the Senator inform us which is his city? We know his church because he told us about it, and his party.

An Cathaoirleach: Order please. Senator Ryan, on the Order of Business.

Mr. Ryan: The Department seems to be very good at running other people's business but inadequate at managing its own. This is a valid concern for the Oireachtas and we should have a debate on who will ensure the Department of Finance manages its affairs efficiently instead of perpetually trying to manage everybody else's.

Mr. Morrissey: I seldom agree with Senator Ryan's calls for debate but I agree with his call for a debate on transport issues. I and Government Members of this House know where the Minister of Transport and the Progressive Democrats stand on the transport issue. We want to introduce competition in both bus and air transport. The postal strike has not spread to SDS, the parcel delivery service of An Post, simply because of competition in the area with couriers across Dublin. The strike is restricted to the one area in which An Post has a monopoly. I would like a debate on transport policy. Also, because of the petulance of SIPTU, I agree there should be a debate on the partnership process in order to establish who is running this country.

Mr. Finucane: We should be concerned by what happened in the United Kingdom over the past few days where eight people who were probably guilty of potential terrorist offences were arrested by the British police. In this context, the approaching visit of President Bush to this country will demand increased security. We should be alarmed by what is happening in a neighbouring country. This must also be considered in the context of Sellafield. The EU Commission has directed Sellafield to destroy half a tonne of radioactive waste and several hundred kilograms of plutonium waste matter contained in a pond. Radioactive matter from the area has polluted the Irish Sea over many years. Ireland should regard Sellafield as a future potential threat. Increased security and vigilance are required for the visit of President Bush to this country, particularly as a result of what has happened in Britain over the past few days. We will discuss the matter later with regard to maritime security measures, however overall security should be a priority for us at this stage.

Ms Ormonde: I too was saddened to hear that some of the 1 May accession celebrations may be cancelled. This is a pity. Will the Leader give us an update on the position when she has further information?

Where matters stand on the Lisbon strategy is an issue which arose at the spring Council meeting. We are at the half way point of the strategy which covers the period 2000 to 2010. I understand that progress has been made on the issues and I would like debate on this. Could we also have debate on the ratification process with regard to the constitutional treaty to establish how matters stand on it? It would be delightful if we could have the Taoiseach in the House to discuss the matter. However, knowing his busy schedule he may not be able to attend and perhaps Deputy Roche could be invited to give us a progress report. It would be useful for us and the public to know where we are on the issue.

Mr. Quinn: Last weekend seven young men died on our roads. I read yesterday that the chairman of the National Safety Authority

questioned the Minister responsible on the unavailability of a central budget for road safety. This is a most serious matter. The young men who died were aged between 18 and 30 years. This matter should be on the agenda every week until something happens. According to the National Safety Council, action has been taken in other countries which has dramatically reduced the incidence of the kind of deaths to which I refer. There is criticism of the Government to the effect that it has not placed the issue high enough on its agenda. The Minister should come to the House and explain what is happening. We know we are not doing enough; we must do more. We cannot allow this situation to continue.

I also wish to refer to the death of a young sportsman last weekend, John McCall. Like other young people he gave wonderful commitment to his village, club and community. Last week Cormac McAnallen's mother called for a full investigation by medical authorities into sudden deaths of young fit males. Brian O'Gorman from Limerick died last year in a similar situation. We cannot sit back and merely say this is a shame.

Last year the manager of one of the Limerick Gaelic teams said he did not wish to have dual players. I did not understand that point but I now realise that perhaps there is a reason for it. A great deal of pressure is put on fit energetic young people who are committed to their clubs, teams and villages. There is an onus of responsibility on us to do something about this.

Mr. Hanafin: I ask the Leader for a debate on housing. The ESRI has confirmed the current boom is expected to continue. It has projected single figure growth in the price of housing. This is on top of the exceptionally high cost of housing in cities, especially in Dublin. Auctioneers have referred to the possibility of double digit growth. In light of the situation where a large proportion of land is already designated, the debate should include an examination of the use-it-or-lose-it policy whereby builders with development land who have not used it within a set time would lose their planning permission.

The debate should also include discussion on the possibility of giving tax relief to commuters, as is done in some Scandinavian countries, on the basis of kilometres travelled. Provision was made in the national development plan and the national spatial strategy for better transport services for commuters in outlying areas. It would be a good idea to allow 30 cent per kilometre as a tax relief to incentivise people to move out from cities. This matter is once again becoming an urgent crisis.

Mr. Ross: First, I wish to ask a question which I have routinely asked the Leader of the House for some time. I gather a commission on auctioneers is being set up but we have not had any official news about it. Will the Leader pursue this matter? As a courtesy to the House, this would be the appropriate place for the

commission to be announced and for a response to be made.

I gather Senator Norris raised the issue of the Tánaiste and SIPTU. Perhaps she should be invited to the House to be congratulated for taking a stand on this issue, which is Government policy. It is also time for the House to take a stand against those outside the House who seem to think they can dictate Government policy at the drop of a hat. What the Tánaiste said at the weekend was already Government policy. It is time for those of us who are democrats and who believe the Houses of the Oireachtas stand for something not to accept this sort of tantrum from union leaders with big egos. Every time something they do not like occurs——

Mr. Ryan: That is rich.

Mr. Ross: We all know ——

An Cathaoirleach: Order, please.

Mr. Ross: ——that SIPTU funds the Labour Party, so I would not expect Senator Ryan to take a different attitude to it.

Mr. Ryan: I wish.

(Interruptions).

An Cathaoirleach: Senators should stick to the Order of Business. Time is precious.

Mr. Ross: A man as modest as Senator Ryan is entitled to make an interruption of that sort. It is time we refuse to take any more of this nonsense from the trade union leaders. It is not acceptable that they should storm out of talks in a tantrum each time Government policy on some issue in which they claim to have an interest is not to their liking.

Mr. Norris: What about judges who refuse to impose mandatory sentences?

An Cathaoirleach: Order, please.

Mr. B. Hayes: What about Dr. O'Reilly?

Mr. Norris: Hear, hear.

Mr. Ross: Is the Senator now a SIPTU man?

Mr. Norris: Sir Anthony to the Senator.

Mr. Finucane: Deputy Ross should declare his interests.

(Interruptions).

An Cathaoirleach: Order, please. Senators are being unruly. We have a limited time for the

Order of Business. Many Senators are offering, some of whom will be disappointed.

Dr. Mansergh: Greater competition is good but greater public service is good also. I do not want to see competition going so far as to gut public service where it is needed. We should wish the social partners well when they begin their talks. Let us remember that social partnership has been one of the fundamental reasons for the outstanding performance of this economy over the past 17 years.

Mr. Ross: What a lot of rubbish.

An Cathaoirleach: Order, please. Has the Senator a question for the Leader? We cannot have a debate on the merits of social partnership.

Dr. Mansergh: I would be happy to have a debate on social partnership and transport policy. Policies should not be made by ultimatums or stand offs. Social partnership is an aid to governing and conducting well the affairs of the country.

Ms Terry: I have called for a debate on alcohol consumption on more than one occasion and I hope the Leader will allow Senators to speak on the matter tomorrow.

On the open air concert, the Minister for Arts, Sport and Tourism should come to this House and outline his real reasons for cancelling it. I do not believe we have been told the truth on the matter. I am not sure whether it is a question of security, because during the days concerned, Heads of State will visit the city. I do not believe we have sufficient Garda resources to provide security for these visitors and for all the citizens of the State who may wish to attend the concert. There are other reasons for not holding the concert other than that O'Connell Street cannot be closed for nine days. I would like the Minister to come to this House to outline the reasons for cancelling it.

Dr. M. Hayes: A Chathaoirligh, I hope I will not annoy you by saying something entirely unprovocative. I support Senator Quinn's remarks on the two fine sportsmen who died and also the underlying problem. It would be a good idea to have a debate on the matter. It would be a better idea if a debate were held on the basis of some known facts or research. I do not know whether this form of death among young sportsmen is any higher than it is in the general population. I have come across it three or four times in my lifetime. Will the Leader encourage the Minister for Arts, Sport and Tourism, either directly or through the Sports Council, to institute an inquiry into the matter? He could get a small group of experts to look into the issue

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and draw up a report, and on that basis we could probably have a sensible debate at a later stage.

Mr. Coghlan: I support Senator Hanafin's call for a debate on housing. Will the Leader provide time to debate the Housing (Stage Payments) Bill?

Ms O'Rourke: Is that the Senator's Bill?

Mr. Coghlan: Yes. We would all subscribe to a measure designed to reduce costs for consumers and I ask the Leader to provide time for such a debate.

Mr. Bannon: I checked with my colleague, Senator Coghlan, and he told me there was some climate change in the vicinity of Killarney last weekend. The hurricane has subsided but we should still have a debate on transport. The Tánaiste admitted in Killarney that the Government's transport policy is a shambles and it is important the House knows exactly what is happening.

The Minister for Transport should also take time in any debate on transport to discuss the waiting lists for driving tests. In the midlands, people have to wait for up to 14 months for a test, while the average wait across the country is 11 months. Last year the Minister said he would clamp down on unaccompanied driving by those on provisional licences. What is the policy and where is the Government going on the issue? We have heard little about it in recent times while the number of road deaths is increasing. The issue must be tackled by the Government if it intends to reduce the number of fatalities on the roads.

Mr. Dardis: The Senator should not accuse Senator Coghlan of stirring up a storm in Killarney.

Mr. Feighan: I join my colleagues in calling for a debate on the cancellation of the May Day concert. It comes in the wake of our condemnation of the serious disturbances at the St. Patrick's Day parade. There is a worrying trend where drug and alcohol fuelled louts are taking over the streets and the Minister for Arts, Sport and Tourism should come before the House to explain what is happening.

County enterprise boards were created ten years ago and have created more than 10,000 jobs but I am shocked to see that their budget was cut by 23% last year and will now be cut by a further 30%. The Tánaiste should come into the House to explain this. The latest cut will ensure that a cost effective board with four employees will have an administration budget that exceeds its grant aid budget. This is crazy. Is the Government trying to axe the boards that were at the forefront of economic success in rural counties? The Tánaiste must explain this because it is ridiculous

that the administrative budget exceeds the budget for grants.

Mr. J. Phelan: I support Senator Finucane's call for a debate on defence and anti-terrorism issues in light of President Bush's upcoming visit. I listened with some dismay to the Minister for Defence on "Today with Pat Kenny" trying to reassure the public that he has a plan for this visit when he clearly does not and neither does the Government. Instead of a situation where the Army guards bank trucks and little else, we should ensure it is in a position to defend the interests of the country.

Ms O'Rourke: Senator Brian Hayes raised the issue of the abandonment of the concert that was to take place on 1 May. We did not get a reason for it this morning other than that main streets in Dublin would be closed for up to nine days, an extraordinarily long time. We should have a debate on this to find out why such a decision was taken. The Senator then asked how many of the anti-terrorism measures announced after 11 September remain to be implemented.

He also raised an issue on which people have spoken previously, namely statements on alcohol abuse. This matter needs to be discussed at a short meeting under the aegis of the Cathaoirleach. The last statements on alcohol abuse were——

An Cathaoirleach: I suggest the matter should be introduced under a different heading.

Ms O'Rourke: Should that be done by way of a different form of words?

An Cathaoirleach: Yes.

Ms O'Rourke: The last statements on this matter in the House were made in December 2002, which is a long time ago.

An Cathaoirleach: That matter could be introduced as a new item of business on the same subject.

Ms O'Rourke: I thank the Cathaoirleach.

Mr. B. Hayes: I also thank the Cathaoirleach.

Ms O'Rourke: Senator Cummins was in possession and in light of that suggestion, I do not know if that arrangement will fall.

An Cathaoirleach: The word "resumed" can be dropped.

Ms O'Rourke: I thank the Cathaoirleach for his guidance. It is great we have settled it on the floor of the House.

Mr. B. Hayes: I am grateful to the Cathaoirleach.

Ms O'Rourke: I did not realise that it was well over a year since we had a debate on this matter.

Senator Norris expressed regret that the concert will not take place, but I hope it can be salvaged and this decision was only an immediate reaction to it. The Senator talked about the licensing laws and how he was able to purchase alcohol in a small local supermarket—

Mr. Norris: In a supermarket, yes.

Ms O'Rourke: —late at night.

The Senator called for a debate on democracy. He spoke about unions and said they were undermining democracy. He asked who was running the country. We are having a lively debate this morning.

Senator Ryan made the dotty suggestion that RTE is in the pockets of Fianna Fáil.

Mr. Norris: Senator Mansergh should empty his pockets at once.

An Cathaoirleach: Allow the Leader to reply without interruption.

Ms O'Rourke: I can tell Senator Ryan that whoever else's pocket RTE is in it is certainly not in the pocket of Fianna Fáil.

Mr. B. Hayes: It was other media to which Senator Ryan was referring.

Ms O'Rourke: To be truthful, I do not think RTE is in anyone's pocket, but it is certainly not in ours.

Mr. Ryan: The Leader is terrifying me.

Mr. B. Hayes: It is payback time.

Ms O'Rourke: Senator Ryan said that unions have a right to state their point of view. I agree with that.

Mr. Norris: I object to that.

Ms O'Rourke: I would like us to have a debate on transport.

Mr. B. Hayes: Hear, hear.

Mr. Norris: Hear, hear.

Ms O'Rourke: I will endeavour to arrange for the Minister to come into the House for such a debate.

Mr. Finucane: I hope he will not have selective amnesia at that time.

An Cathaoirleach: Order, please. We can have no interruptions when the Leader is replying to the Order of Business.

Ms O'Rourke: I can only use the powers available to me which are not very strong. However, it would help to clear up matters if we had such a debate.

Senator Ryan talked about the Department of Finance and who had financial responsibility for it. I have found over the years that the people there are extremely stringent and they run Departments and themselves very well. Revenue issues were discussed last week. When I asked one of the gentlemen present if he was from the Department of Finance, he said quite tartly that he was from Revenue. Those people were there for a purpose, but there appeared to be a large number of them.

Senator Morrissey also called for a debate on transport. It is interesting that in the dynamics of politics there are varying views on this matter. One Senator talked about the petulance of unions, but they have a right to state their positions. We are in a partnership arrangement.

Mr. Norris: They do not have a right to close down freedom of speech, which is an essential democratic principle.

An Cathaoirleach: Allow the Leader to reply without interruption.

Ms O'Rourke: That is not taking from the Tánaiste, who is an excellent person, her excellent party and the excellent friends we all are.

(Interruptions).

An Cathaoirleach: The Leader to reply without interruption.

Ms O'Rourke: Senator Finucane raised the threat of terrorism in London and the concern about Sellafield, echoing what Senator Brian Hayes said. I will endeavour to get a list of those measures which have yet to be implemented by law or by ministerial order.

Senator Ormonde raised the matter of the concert being cancelled. Following a request last week in the House, we spent most of a day trying to contact the Taoiseach. We fully understand how busy the Taoiseach, the Minister of State, Deputy Roche, and the Minister, Deputy Cowen, are. It is great we have got to where we are without major disruption and that we have been able to get a raft of Ministers to come here during the difficult times they have had going hither and thither. I thought we would have nearly had to fold up when matters at work got very hot. We are still endeavouring to have a major debate on the European constitution, the Lisbon strategy and other issues next week and I will revert to the House in this regard.

Senator Quinn referred to the seven people who died on the roads last weekend and called

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for a line budget for road safety and asked if we could do more. We could work such issues into the transport debate if we were to have it. The Senator also referred to the sudden deaths of John McCall, the young rugby player, and Cormac McAnallen. Clearly, there must be a medical connection between such deaths and extreme exercise and pushing the body at a particular age, which is having such a sad result. Mrs. McAnallen asked for a debate on the issue and we will ask the Minister for Arts, Sport and Tourism to come to the House for such a debate.

Senator Hanafin referred to housing. Most Senators will have received an invitation this morning to the launch next week of the report on property rights. We will seek to have a debate on the issue at that stage. The Senator also referred to tax relief for commuters.

Senator Ross asked about the committee on auctioneering, about which he wrote an interesting article two weeks ago. I have been told and hope the committee will be announced this week. The Senator also referred to the Tánaiste, SIPTU and a debate on democracy. He put forward his point of view. We are all here to do the same. The Senator has strident views on this matter.

Senator Mansergh said greater competition is good but good public service is also needed, and I agree. When I am asked how Ireland got to be where it is with decent growth rates when the rest of Europe is faltering, I say it is because of social partnership. It is easy to cast it to one side if a tremor occurs, but it is the bedrock of how the economy has prospered.

Mr. Lydon: Hear, hear.

Ms O'Rourke: It is because of the very good partnership arrangement between the parties. Of course it is not a cut and dried, Cinderella or happy ever after scenario. How could it be with the varying aspirations and ambitions of the different parties involved? Nonetheless, social partnership is strong, steady and must be maintained as such. I cannot speak strongly enough in its defence and I fully adhere to its principles and we are lucky that, under various Governments, its tenets have been preserved.

I am glad the issue of speaking to which Senator Terry referred has been settled. She also spoke about the concert which was to take place on 1 May and asked if it was cancelled because so many gardaí would be occupied guarding visiting heads of state. She asked if there was a need for extra Garda resources for this purpose.

Senator Maurice Hayes referred to the three young sports people who died at the pinnacle of their prowess and asked if the Sports Council would institute an inquiry and if the Minister for Arts, Sport and Tourism would come before the

House to speak on the matter. It would be an appropriate tribute to the young people to have such a debate.

Senator Coghlan has a very interesting Private Members' Bill — the Housing (Stage Payments) Bill — before the House. I am prepared to allow Government time for that debate and I will revert to the Senator on the matter.

Mr. Coghlan: I thank the Leader.

Ms O'Rourke: Senator Bannon requested a debate on transport. On a passing note, the Department has advertised on two or three occasions for driving instructors but there have been no responses. Candidates for the posts are not coming forward.

Mr. Ryan: That is because public service salaries are too low.

Ms O'Rourke: Senator Feighan referred to the cut in funding to county enterprise boards. I know the enterprise boards have been hugely successful on a county level. Senator John Paul Phelan requested a debate on anti-terrorism issues.

Order of Business agreed to.

Private Security Services Bill 2001: Committee Stage.

Section 1 agreed to.

Amendment No. 1 not moved.

Sections 2 to 6, inclusive, agreed to.

Amendment No. 2 not moved.

Sections 7 to 12, inclusive, agreed to.

Amendment No. 3 not moved.

Sections 13 to 15, inclusive, agreed to.

SECTION 16.

Ms Terry: I move amendment No. 4:

In page 16, subsection (5), lines 44 and 45, after "other information" to insert " , including any information necessary to enable him or her to furnish a parliamentary reply,".

I am upset I missed the opportunity to move my first amendment as I had to leave to get a copy of the amendments.

An Cathaoirleach: I can do nothing about that, Senator.

Ms Terry: Amendment No. 4 will allow the Minister to receive as much information as

possible. Too often we see State agencies dealing with information which the Minister should have. The amendment promotes accountability. When Members of the Oireachtas ask the Minister questions, the information necessary to answer them should be provided by the authority.

Minister of State at the Department of Finance (Mr. Parlon): While I am sympathetic to the concerns regarding accountability outlined by the Senator, I am reluctant to provide for the provision of information to the Minister for the specific purpose of answering parliamentary questions. Section 16 already provides that the authority shall give the Minister such information regarding its performance as the Minister may require and I am satisfied that is sufficient. Moreover, it would not be appropriate for the Minister to be answerable before the House for independent decisions of the authority. I refer, for example, to decisions taken by the authority to grant or renew a licence.

The Bill establishes an independent appeals board, to which the authority's decisions may be appealed. An appeal to the High Court on a point of law is also foreseen in section 40.

Ms Terry: The amendment is concerned with accountability and with facilitating Deputies and Senators in asking the Minister questions on behalf of the public. That information should be provided to him by the authority. I am disappointed the Minister is not accepting the amendment.

Amendment, by leave, withdrawn.

Section 16 agreed to.

Section 17 agreed to.

Amendment No. 5 not moved.

Sections 18 to 20, inclusive, agreed to.

Amendments Nos. 6 and 7 not moved.

Section 21 agreed to.

SECTION 22.

An Cathaoirleach: Amendments Nos. 8 and 13 are related and may be taken together by agreement.

Government amendment No. 8:

In page 20, line 8, to delete "*section 24*" and substitute "*sections 24 and 25*".

Mr. T. O'Malley: These are technical amendments inserting appropriate cross-references.

Amendment agreed to.

Amendment No. 9 not moved.

Government amendment No. 10:

In page 20, line 33, to delete "Subject to *section 26(3), a*" and substitute "A".

Mr. T. O'Malley: This is another technical amendment removing a superfluous phrase.

Amendment agreed to.

Ms Terry: I move amendment No. 11:

In page 20, subsection (5), between lines 37 and 38, to insert the following paragraphs:

"(a) shall not be granted to a person who is a serving member of An Garda Síochána,

(b) shall not be granted to a person who is a serving member of the Permanent Defence Forces,".

I ask that members of the Garda Síochána and of the Defence Forces would not be allowed to take up employment as door supervisors. On Second Stage, the Minister agreed that it would not be appropriate that members of the gardaí be involved in such an occupation, yet there is anecdotal evidence to suggest they are. There is certainly a conflict of interest if an off-duty garda is working at a night-club and has to deal with someone he has already encountered when working with the Garda Síochána. There is also a conflict of interest when members of the Defence Forces, who are highly trained to use physical force, work as door supervisors. It is inappropriate that these people be considered for this type of employment.

I ask the Minister to accept this amendment to ensure there is no conflict of interest in situations like those I have just described.

Mr. Kett: I have a certain amount of sympathy with Senator Terry's amendment. It is the case that gardaí moonlight in this sphere of activity, as do members of the Defence Forces and even prison officers to a lesser extent. It is also true that gardaí may go to a premises and seek the licence from the individual operating the security service, with whom the gardaí may also have worked. The same does not occur with the Defence Forces. The gardaí deal with the public and may be dealing with that same public at a night-club. The Minister agreed with us as he felt that the gardaí should not be involved in these jobs. Some consideration should be given to this issue.

Mr. T. O'Malley: While I have some sympathy for the amendment, I am reluctant to accept it in the context of this Bill. The position regarding the

[Mr. T. O'Malley.]

involvement of members of the gardaí and the Defence Forces in providing security services while off-duty is as follows. As regards the gardaí, any such off duty activity is already prohibited. The Garda Síochána disciplinary regulations define prohibitive, spare time activity as including, *inter alia*, any activity which is prohibited by the Commissioner as inappropriate for members to engage in. Acting as directors or secretaries of security firms or being engaged in any way in security work or spare time activity is so prohibited. Section 16 of the Garda Síochána Bill, which is before the House, makes provisions for statutory codes of conduct. On balance, it would be more appropriate to deal with the off duty conduct of gardaí in the context of such codes rather than in this Bill.

As regards the Defence Forces, the Defence Forces regulations provide that involvement in off duty employment may be terminated or limited where such employment is likely to prove detrimental or prejudicial to the best interests of the service. I cannot accept the amendment.

Ms Terry: I accept the Minister of State's argument that members of the Garda are prohibited from involvement in such work. Perhaps that should be enforced. It is like many other rules and laws which are not enforced. While I accept the Minister of State's reply, the law should be enforced.

Amendment, by leave, withdrawn.

Section 22, as amended, agreed to.

NEW SECTION.

Ms Terry: I move amendment No. 12:

In page 21, before section 23, to insert the following new section:

23.—(1) Where a person, being the applicant for or the holder of a licence, is convicted of any of the following offences, namely—

- (a) murder,
- (b) manslaughter,
- (c) an offence—

- (i) under the Non-Fatal Offences against the Person Act 1997 (other than section 2 or 3), or

- (ii) on—

- (I) conviction on indictment, under section 2 or 3 of that Act, or

- (II) summary conviction, under section 2 or 3 of that Act where the applicant or holder committed the

offence while acting as a door supervisor,

- (d) a sexual offence (within the meaning of section 3 of the Sex Offenders Act 2001),

- (e) a drug trafficking offence (within the meaning of section 3 of the Criminal Justice Act 1994),

- (f) an offence relating to money laundering under Part IV of the Criminal Justice Act 1994,

- (g) an offence under the Criminal Justice (Theft and Fraud Offences) Act 2001,

- (h) an offence under section 2 of the Illegal Immigrants (Trafficking) Act 2000, or

- (i) an offence under the Firearms and Offensive Weapons Acts 1925 to 1990,

the person—

- (i) in the case of being convicted summarily where a fine only is imposed by the Court, is disqualified for the period of 12 months,

- (ii) in any other case, subject to *subsection (2)*, is disqualified, for holding a licence and, accordingly, where the person is the holder of a licence, the licence stands revoked.

(2) Subject to *subsection (3)*, after the period of—

- (a) 2 years in the case of being convicted summarily, where a term of imprisonment is imposed by the Court, with or without a fine,

- (b) 5 years in the case of being convicted on indictment, where a fine or a term of imprisonment of less than 10 years or both is imposed by the Court, or

- (c) 10 years in the case of being convicted on indictment, where a term of imprisonment of 10 or more years is imposed by the Court with or without a fine,

of an offence referred to in *subsection (1)*, the person may apply—

- (i) where the offence has been tried summarily, to the judge of the District Court in whose District Court District, or

- (ii) where the offence has been tried on indictment, to the judge of the Circuit Court in whose Circuit,

the person resides, to be allowed to apply for a licence under such terms or conditions as the Court may direct.

(3) Notwithstanding *section 1(2)*, where a person has been convicted of an offence referred to in *subsection (1)* before the commencement of that subsection, and the relevant period referred to in *subsection (2)* for making an application under *subsection (2)* has elapsed before the commencement of *subsections (1) and (2)*, he or she may make an application under *subsection (2)* before the commencement of that subsection.

(4) A person shall not make an application under *subsection (2)* where he or she is serving a term of imprisonment.

(5) A person who is disqualified under this section for holding a licence and who—

(a) acts or attempts to act as a door supervisor or seeks employment as a door supervisor, or

(b) operates or controls any business or activity relating to the provision of a security service,

is guilty of an offence.

On Second Stage, I spoke about the necessity to ensure that criminals are not involved in door supervision or security work. I advised the Minister that it would be worthwhile to consider how the Minister for Transport dealt with that issue when he dealt with the legislation relating to taxi regulation. We must ensure that people who have been convicted of serious crimes, such as murder, manslaughter, drug offences or rape, are not involved in security work, where they could put members of the public at risk. The Minister for Transport dealt with that issue well in the context of the taxi legislation. I am disappointed the Minister did not table such an amendment. Perhaps the Minister of State will accept my amendment. It is essential that we protect the public and this is one way to do that. We are copying what another Minister did in another Department.

Mr. T. O'Malley: This amendment raises the interesting issue of the eligibility of persons convicted of serious crimes to get licences to provide security services. The 1997 consultative group report recommended that an application to hold a licence should be refused outright by the authority if the applicant had been convicted of a range of listed serious offences. These include murder, rape or sexual assault, armed robbery,

drug trafficking or other offences carrying a sentence of more than ten years in jail. The group recommended a ten year gap before granting a licence to persons convicted of a range of other offences.

The Bill we are discussing does not incorporate the detailed and prescriptive approach recommended by the consultative group and now contained in the amendment. Instead it requires the authority to consider each application on its merits. Section 35 provides that an applicant for a licence and any licensee seeking a renewal who has been convicted of an offence or against whom proceedings for an offence are pending shall notify the authority of the conviction or proceedings in a prescribed manner. For its part, the authority may, having considered the applicant's character and competence, grant a licence or refuse to grant a licence if it considers that the applicant is not a fit and proper person to provide a security service. That is included in section 22. In arriving at its decision, the authority may require verification of information provided by the applicant by affidavit or may require the applicant to supply a certificate from a member of the Garda not below the rank of superintendent. Furthermore, the authority may request the Garda Commissioner to provide any information required for the due performance of its functions with regard to any applicant for a licence or any licensee.

The authority will seek to strike an appropriate balance by operating the licensing system in the public interest and in the best interests of the private security industry while at the same time recognising an individual's right to earn a living and support himself or herself and to provide for dependants. It is also relevant in this context that the membership of the authority will include a practising barrister or solicitor of not less than five years' standing and a representative of the Garda not below the rank of assistant commissioner. In the circumstances, I am not disposed to accept the amendment.

Ms Terry: I am disappointed the Minister will not accept the amendment. It would provide a cast iron guarantee that every effort will be made to ensure that criminals who have committed serious offences will be prevented from holding a licence. I support ex-prisoners integrating themselves into the community and securing employment. However, in the case of criminals who have committed serious offences, the amendment will provide the security that is necessary to the general public. I will press the amendment.

Amendment put.

The Committee divided: Tá, 14; Níl, 29.

Tá

Bannon, James.
Browne, Fergal.
Coghlan, Paul.
Feighan, Frank.
Finucane, Michael.
Hayes, Brian.
McHugh, Joe.

Norris, David.
O'Meara, Kathleen.
Phelan, John.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.
Tuffy, Joanna.

Níl

Bohan, Eddie.
Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.

Lydon, Donal J.
MacSharry, Marc.
Mansergh, Martin.
Minihan, John.
Morrissey, Tom.
Moylan, Pat.
O'Brien, Francis.
Ó Murchú, Labhrás.
O'Rourke, Mary.
Ormonde, Ann.
Scanlon, Eamon.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Terry and Tuffy; Níl, Senators Minihan and Moylan.

Amendment declared lost.

SECTION 23.

Government amendment No. 13:

In page 21, line 2, to delete "*sections 24 and 26*" and substitute "*sections 24, 25 and 26*".

Amendment agreed to.

Section 23, as amended, agreed to.

Sections 24 to 28, inclusive, agreed to.

SECTION 29.

Acting Chairman (Mr. Dardis): Amendments Nos. 14, 22 and 23 are related and may be taken together by agreement. Is that agreed? Agreed.

Government amendment No. 14:

In page 24, subsection (7), line 28, to delete "An individual shall not—" and substitute the following:

"In this subsection 'identity card' includes an identity card or other form of identification issued by a corresponding authority.

(b) An individual shall not—".

Mr. T. O'Malley: Section 29(7) makes it an offence for an individual to produce for inspection an identity card issued to another person by the authority or to forge or use a document purporting to be such an identity card.

It does not deal specifically with a situation in which a person produces an identification document issued by a corresponding authority to another person or a forgery of such a document.

This amendment broadens the definition of "identity card" for the purposes of subsection (7) to include a form of identification issued by a corresponding authority. This will mean that it will also be an offence for an individual to produce an identity card or form of identification issued by a corresponding authority or to forge or use such a document. The amendments to Schedule 3 are consequential, technical amendments involving the deletion of a superfluous subparagraph in paragraph 5(d).

Amendment agreed to.

Section 29, as amended, agreed to.

Sections 30 to 45, inclusive, agreed to.

SECTION 46.

Government amendment No. 15:

In page 31, subsection (1)(a), line 17, to delete "26(2)" and substitute "26".

Mr. T. O'Malley: This is a minor drafting amendment.

Amendment agreed to.

Section 46, as amended, agreed to.

Sections 47 to 49, inclusive, agreed to.

SECTION 50.

Government amendment No. 16:

In page 33, subsection (1), line 22, to delete paragraph (c) and substitute the following:

“(c) issuing a reprimand, warning or caution or an advice.”.

Mr. T. O'Malley: This is essentially a drafting amendment designed to clarify the content and improve the presentation of section 50(1).

Amendment agreed to.

Section 50, as amended, agreed to.

Sections 51 and 52 agreed to.

Schedule 1 agreed to.

SCHEDULE 2.

Government amendment No. 17:

In page 43, paragraph 14(1), to delete lines 17 and 19 and substitute the following:

“(c) issuing a reprimand, warning or caution or an advice,

(d) refusing a variation in the kind or kinds of security services to which a licence relates, or

(e) not to uphold a complaint under section 39.”.

Mr. T. O'Malley: This is essentially a drafting amendment designed to clarify the content and improve the presentation of paragraph 14(1) of Schedule 2.

Amendment agreed to.

Ms Tuffy: I move amendment No. 18:

In page 46, between lines 15 and 16, to insert the following paragraph:

“21.—Where documents, information, observations or submissions are received under *paragraphs 16 to 20*, other than from the applicant for or holder of a licence, which are not by virtue of those provisions required to be transmitted for observations or submissions to such applicant or holder, a copy thereof shall be transmitted to the applicant or holder concerned who may, within 14 days, submit to the Authority his or her observations or submissions thereon.”.

The purpose of this amendment is to ensure that the applicant or holder of a licence has the last

word in the appeals process. This is to ensure fair procedures are upheld. An applicant or holder has something akin to a property right or right to earn a livelihood and fair procedures must apply. Accordingly, he or she must have the right to comment on submissions made by others.

Mr. T. O'Malley: Schedule 2 sets out the procedure for dealing with appeals. The provisions regarding the service of a notice of appeal by an appellant and the making of submissions by other persons allow each person to make only one submission in regard to the appeal unless the appeal board requests further submissions or observations from that person. The proposed amendment is inconsistent with that approach. Furthermore, it would be inappropriate to require all submissions received by the appeal board to be supplied to the licensee without also supplying them to the other parties to the appeal.

In addition, there may be circumstances where it would be inappropriate for submissions to be provided to persons other than the appeal board. To give an example, a situation could arise where a licence is revoked by the private security authority on foot of information from the Garda Síochána that the licensee is involved in paramilitary activity. If the licensee appealed the revocation of the licence and the appeal board requested a submission from the Garda, it might not be appropriate that the submission from the Garda regarding the licensee's activities be given to the licensee.

The amendment proposes that the licensee would submit submissions or observations to the private security authority. The authority is not the appropriate party to consider submissions made in the context of an appeal. That is the role of the appeal board. In the circumstances I am not disposed to accept the amendment.

Ms Tuffy: What does the Minister of State say about the issue of fairness? The licence holder or applicant could lose out because of something submitted about them, but will not have a final opportunity to respond to it. That would not be fair, given that the consequences are significant.

Mr. T. O'Malley: The advice from the Attorney General is to proceed in the way we have. I cannot, there, accept the amendment.

Amendment, by leave, withdrawn.

Government Amendment No. 19:

In page 46, lines 39 and 40, to delete paragraph 21(6)(c) and substitute the following:

“(c) (i) where the request is by the Authority, shall be made within the period of one month referred to in *paragraph 17(l)*, or

(ii) where the request is by the person referred to in *paragraph 18(1)* as the 'other person', shall be made within one month of the notice of appeal being received by that person."

Mr. T. O'Malley: This is a technical amendment. It amends the paragraph dealing with oral hearings of appeals by inserting a new subparagraph in order to make it clear that the time limit within which a party to the appeal, other than the authority, can request an oral hearing shall be one month from the date of receipt of the notice of appeal.

Amendment agreed to.

Schedule 2, as amended, agreed to.

SCHEDULE 3.

Government amendment No. 20:

In page 48, lines 3 to 7, to delete paragraph 1 and substitute the following:

"1.—Except as provided otherwise in this Schedule, *sections 21 to 25, 26 (except subsections (2) and (3)), 28, 31 to 33 and 52 and paragraphs 14(1) (except subparagraphs (b), (c) and (e)) and 16(2) (a) of Schedule 2* shall not have effect in relation to relevant persons."

Mr. T. O'Malley: This is a technical amendment. It updates the list of provisions in paragraph 1 of Schedule 3 that do not apply to relevant persons in order to take account of previous amendments.

Amendment agreed to.

Acting Chairman: Amendment No. 21 is a Government amendment, amendment No. 25 is related, therefore, amendments Nos. 21 and 25 may be discussed together by agreement.

Government amendment No. 21:

In page 48, paragraph 2, line 8, after "*paragraphs*" to insert "*(e)*".

Mr. T. O'Malley: These two amendments provide that any standards laid down by the authority in relation to the provision of security services in the State shall apply also to the relevant persons. An example might be technical standards for the protection of cash in transit. These standards will have to be respected irrespective of whether the person concerned is a licensee who holds a licence from the authority or a relevant person who holds a licence from a corresponding authority.

Amendment agreed to.

Government amendment No. 22:

In page 48, paragraph 5(c), line 40, to delete "person;" and substitute "person."

Amendment agreed to.

Government amendment No. 23:

In page 48, lines 41 to 44, to delete paragraph 5(d).

Amendment agreed to.

Government amendment No. 24:

In page 49, lines 24 to 28, to delete paragraph 13.

Mr. T. O'Malley: This is a technical amendment involving the deletion of a superfluous paragraph in Schedule 3.

Amendment agreed to.

Government amendment No. 25:

In page 50, lines 3 and 4, to delete paragraph 16 and substitute the following:

"16.—The references in *subsections (2) (d) and (2) (f) of section 51* to licensees are references to relevant persons."

Amendment agreed to

Schedule 3, as amended, agreed to.

Title agreed to.

Bill reported with amendments.

Ms Tuffy: I apologise for being late this morning. Unfortunately I missed my amendments. I hope I might be allowed to re-submit them on Report Stage. I understand that in order to do that I must mention them at this Stage. It is important that I get the opportunity to re-submit them. They relate to the compilation of the authority. There is also an amendment on contempt of court and on the Freedom of Information Act, which provides that the applicant should have to provide information. As the Bill is currently drafted, that is required on a discretionary basis. There is also an amendment dealing with identifying the beneficial owners of corporations. I would like the opportunity to re-submit them.

Acting Chairman: If they have been negated they cannot be reintroduced. I suggest that the Senator consult with the Clerk's office, which will be able to guide her on this matter.

Ms Terry: I welcome the Bill and look forward to Report Stage when I will be resubmitting amendments in my name. I wish to resubmit, in particular, the amendment dealing with remuneration to ensure that door supervisors in clubs cannot get drink as part of their remuneration. I thank the Minister of State and his staff for their attendance.

Acting Chairman: When is it proposed to take Report Stage?

Mr. J. Walsh: Tomorrow.

Report Stage ordered for Thursday, 1 April 2004.

Sitting suspended at 12 noon and resumed at 1.30 p.m.

Maritime Security Bill 2004: Order for Second Stage.

Bill entitled an Act to give effect to the United Nations Convention for the suppression of unlawful acts against the safety of maritime navigation, done at Rome on 10 March 1988, and to the protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf, done at Rome on that date.

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

Question put and agreed to.

Maritime Security Bill 2004: Second Stage.

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

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. J. Browne): Molaim an Bille don Teach. I commend this Bill to Seanad Éireann. It is a necessary technical measure to give effect to the 1988 United Nations Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and also to the 1988 Protocol to that Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf. The texts of the convention and protocol are contained in Schedules 1 and 2 to the Bill.

Both the convention and protocol are in force since 1 March 1992. The contracting states thereto now number 78 and 71 respectively, including almost all of the EU member states and seven of the states which will join the EU on 1 May 2004. Ireland could become a contracting state to the convention and protocol only following enactment of this Bill and formal approval of the terms of the convention and

protocol by Dáil Éireann pursuant to Article 29.5.2° of Bunreacht na hÉireann because expenditure is likely to arise in that context.

Section 13 of the Bill also refers. Ireland's accession to the convention and protocol could not have effect until 90 days after the instrument of accession is deposited with the secretary general of the International Maritime Organisation, headquartered in London, as specifically provided for in Article 18.2 of the convention and Article 6.2 of the protocol. The need to proceed with the Bill to early enactment has been reinforced by recent terrorist atrocities in Madrid and elsewhere. We extend our sympathy to the bereaved and injured and commit ourselves to greater vigilance and further international co-operation against terrorism. All member states of the United Nations must have the necessary laws in place to deal with very mobile, serious offenders to ensure they will not escape jurisdiction. More important, the law must be dissuasive, with sufficiently strong penalties, search and enforcement provisions. This Bill, therefore, addresses a particular gap in Irish law which should be filled as quickly as possible. The Government is committed to ensuring that other legislative measures which may be agreed at EU level or at the wider UN level to enhance maritime security will be made part of Irish law without delay.

In that connection, I will continue to work closely with my colleague, the Minister for Justice, Equality and Law Reform who is sponsoring the Criminal Justice (Terrorist Offences) Bill 2002 which is now before Dáil Éireann. That Bill gives effect to several international instruments directed against terrorism and is generally intended to enhance the capacity of the State to address international terrorism. The 1988 convention and protocol are among 12 international conventions and protocols drawn up specifically to help prevent and suppress terrorism. Following the terrible terrorist attacks on 11 September 2001 in New York, the United Nations Security Council on 28 September adopted Resolution 1373 calling on all UN member states which had not yet done so to become parties to all 12 conventions and protocols as soon as possible. Ireland is already party to six of the international instruments referred to. The Criminal Justice (Terrorist Offences) Bill 2002, sponsored by the Minister for Justice, Equality and Law Reform, gives effect to an additional four, while the Maritime Security Bill 2004 now before this House gives effect to the remaining two, namely, the 1988 maritime convention and protocol referred to.

In the light of the recent terrible Madrid bombings and, more particularly in the context of the EU Presidency, the Government wishes that both Houses of the Oireachtas would deal with both Bills and enact them soon. That would

[Mr. J. Browne.]

clearly signal our resolve to press for greater co-operation between states in working against international terrorism in all of its many manifestations. While much of the Maritime Security Bill is, of necessity, modelled on provisions of the Criminal Justice (Terrorist Offences) Bill 2002, a separate Bill was decided upon to deal with maritime security matters, which are of a somewhat specialised nature, by analogy with the separate legislative provisions made in the Air Navigation and Transport Acts to safeguard air navigation and transport against certain unlawful acts.

Section 2 of the Maritime Security Bill 2004 creates certain offences against the safety of Irish ships and other ships which are in Irish territorial waters, as specifically required by the convention and protocol, and against any fixed platforms on Ireland's continental shelf, while section 3 is a standard type extension of Ireland's jurisdiction to allow prosecution in the State for breaches of the convention or protocol committed outside the State. In either case, the penalty is life imprisonment on conviction on indictment. The specific offences listed in section 2 of the Bill mirror those set out in Article 3 of the convention and Article 2 of the protocol.

Sections 4 to 8 of the Bill supplement those principal provisions by providing powers for search on a ship or fixed platform on which an offence was believed to have been committed or an alleged offender is on board, and for the apprehension, detention and prosecution of alleged offenders or handing them over for prosecution to the appropriate authorities of another State party to the convention and protocol. Sections 9 to 12, while ensuring the avoidance of double jeopardy in any case arising under the Bill, also ensure that, due to the gravity of the offences to which it refers, the most stringent requirements of the Bail Act 1997 and other relevant Acts will apply thereto. Thus, an application for bail in the case of a person charged with murder or attempted murder could only be made to the High Court, and bail may be refused in any event to a person charged with a serious offence under the Bill, when enacted, if the court considers it necessary to refuse bail in order to prevent the commission of a further serious offence. Moreover, offences under the Bill cannot be regarded as political offences so as to prevent the extradition of the alleged offender from the State to the requested state.

I have already dealt with section 13 of the Bill, which is a standard provision to cover expenditure in the administration of the Bill when enacted. The remainder of the Bill, section 1, the interpretation section, and section 14, Short Title, is also on standard lines. A detailed explanatory and financial memorandum was published with the Bill. I will of course be glad

to provide any further information required by Senators to facilitate their consideration of the Bill, the early enactment of which is a pressing matter for the State. I therefore look forward to the assistance of Senators in its passage.

Mr. Finucane: The Maritime Security Bill is timely but it is amazing that it was not enacted long before now in view of the declaration made by the United Nations in the aftermath of the terrorist attack on the World Trade Centre on 11 September 2001. The EU Presidency and recent tragic events in Madrid have helped us to focus on safety, maritime and other. Among the recent measures at EU level is the appointment of a top official to spearhead the communications and intelligence area to strengthen the fight against international terrorism. In the global context of safety and security the actions of al-Qaeda in New York, the events in Madrid and the spectre of international terrorism have helped us all to focus on this issue. The Minister for Communications, Marine and Natural Resources, who comes from County Louth, is probably aware of the extreme concern throughout the country about Sellafield and the potential hazard it poses. This is not confined to past activities. The Commission has investigated the matter and issued a directive to BNFL to clean up its act. This must be welcome as Sellafield is so close to Ireland and generates half a tonne of radioactive waste.

It has been recognised that this poses a safety hazard to this country. We hold the EU Presidency and most of us welcome the forthcoming visit of President Bush to Ireland. However, in view of what has happened internationally it behoves us to be extra vigilant. It appears that no country is safe from terrorists. Our security authorities must be forceful over the next few months in preparation for this visit.

It is a shocking indictment that our independent agency, the Radiological Protection Institute of Ireland, cannot gain access to Sellafield to carry out an independent verification of what is happening there. I urge the Minister to ensure this is permitted as soon as possible. We were recently informed that the distribution of iodine tablets to households throughout the country was a wasted exercise. They offer no help to people's health in the event of any radioactive fallout. They should be destroyed because they are of no use.

The purpose of the Bill is to give effect to the United Nations Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf 1988. The convention and protocol are among a suite of international instruments against terrorism which member states of the United Nations are

enjoined by Security Council Resolution 1373 of 28 September 2001 to implement as soon as possible. The terms of the convention and protocol require approval through the Dáil pursuant to Article 29.5.2o of the Constitution and the Bill must be enacted before Ireland can be a party to them.

The Bill creates specific offences against the safety of Irish ships and other ships in Irish territorial waters and against fixed platforms on the continental shelf, subject to imprisonment for life on conviction on indictment. It consequentially provides, on standard lines, for extraterritorial jurisdiction to cover offences committed outside the State in breach of the convention or protocol, for the apprehension and detention of alleged offenders and the handing over of them to the appropriate authorities, and for extradition, bail, avoidance of double jeopardy and other necessary matters, on the model of provisions contained in the Criminal Justice (Terrorist Offences) Bill 2002, which is before the Dáil. It also makes necessary provision with regard to four other international conventions against terrorism.

Fine Gael fully supports this Bill and believes these measures are long overdue. It is likely that its passage through the Oireachtas has been accelerated in the aftermath of the 11 March atrocities in Madrid and the renewed international focus on the need to crack down on terrorism. It is important that the passage of the Bill is expedited as Ireland currently holds the Presidency of the European Union. We cannot be seen to be lagging behind our neighbours when we are supposed to be leading them.

The Bill offers Fine Gael the opportunity to spell out its vision of new Irish defence arrangements. In our document, *Beyond Neutrality*, we stated that Fine Gael advocates an EU defence entity, where Ireland plays a full and active role in its development based upon the following five key principals: adherence to the fundamental principles of the United Nations; a commitment to the vigorous pursuit of the goal of universal nuclear and biological disarmament and to a solemn undertaking by the European Union defence entity not to use either type of weapon; a commitment to mutual defence and support, but with specific opt-in provisions for individual states; a commitment to the provision of peacekeeping and peace-making operations and to the Petersberg Tasks, humanitarian aid, search and rescue etc., and respect for the right of other member states to be involved in other military alliances.

If Ireland does not contribute to the debate on a common EU security and defence policy then it cannot complain when a policy is unveiled which addresses the concerns and aspirations of other states, but not our own. The Government talked out of both sides of its mouth on the war on

terror, while Fine Gael unequivocally opposed the attack on Iraq due to its lack of international legitimacy. Our proposals are realistic, workable and, above all, honest. This is in stark contrast to the Government's vague policy.

Fine Gael welcomes the Bill and hopes it will be implemented before the end of the Irish EU Presidency. This and the other legislation going through the Dáil, together with the changes which have taken place at European Union level prove that, at last, action is being taken to ensure that Europe and the world remain a safe place and that we rid ourselves of the terrorist threat.

Mr. Kenneally: I welcome the Minister of State to the House. I also welcome this legislation which gives effect to the United Nations convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf 1988 signed in Rome on 10 March of that year. One could wonder why it has taken 16 years for legislation to be prepared to give effect to these conventions. The Minister of State alluded to that and explained that it has been given urgency as a result of the recent atrocities in Madrid.

One of the biggest issues today for every country is security. We seem to debate it in one form or another almost daily. Recently in this House we debated Second Stage of the Private Security Services Bill, while Committee Stage was passed today. It has no direct relevance to the measure before us, but it is one more element of the huge subject of national and international security which reflects the changed nature of our society.

Section 2 encapsulates what the Bill is about, the giving of safe passage to commercial ships and the protection of fixed platform personnel with the normal laws by which society lives today. It prohibits anything which prevents or interrupts the safe passage of a ship, whether the taking of a vessel by force, damage to navigational aids, or damage to or destruction of a ship or a fixed platform in some way.

These acts must be deplored and any measure we can take, or any international assistance we can give, within the terms of our laws and Constitution, should be readily and generously forthcoming. If we have been taught anything by our recent history, it is that we must combat the threat regardless from what quarter it emanates.

Two words not far from people's lips might best be described as the "S" and "T" words. The "S" word in this instance stands for security while the "T" word is one which may sometimes only be whispered and, like the word "bomb", if uttered in the wrong company or place, could land a person in deep trouble and ultimately in prison. It stands for terrorism, a word and an act

[Mr. Kenneally.]

with which we in Ireland have been all too familiar over the past 35 years and which has a particular resonance in this country. Terrorism can, as it is designed to, strike terror into the heart of an ever-increasing number of people worldwide.

In America, it has been found necessary, in the wake of the events of 11 September 2001, to set up a Department of Homeland Security. This has happened in the mightiest and wealthiest country in the world, a country with seemingly limitless resources which was so distant from the land of its enemies that it thought itself secure from attack on its soil. This security disappeared on that fateful September morning two and a half years ago, when the world finally woke up to a global threat of a kind which had previously been the preserve of large countries with extensive resources. Instead, the threat, and ultimately the deed, came from a relatively small group of single-minded fanatics who were uncaring of the consequences of their actions.

America's confidence and the world's innocence disappeared in the cloud of dust from the collapse of the World Trade Centre. This new style of terror is not dependent on smuggling a large bomb aboard an aircraft in order to achieve thousands of casualties or to inflict enormous damage on buildings. In the case of the events of 11 September 2001, the bombs were already on board. All that was required was a trigger from a person who had no regard for his or her safety.

Just 911 days later, we were again reminded of how easy it is to inflict horrendous death and destruction on an unsuspecting public. We all saw the television pictures of the Madrid outrage. That is the kind of threat with which we are faced today and the type of fanaticism with which we have to contend. Measures such as those contained in the legislation before us, while modest enough in the overall scheme, should be embraced enthusiastically.

At any given time we do not know from where a threat will come. In today's climate it is not difficult to see why seemingly innocuous conventions take on a greater significance. It is essential that we ally ourselves with those who want freedom of movement in national and international waters and endorse these conventions by ratifying the Bill before the House. The art of terror has reached new heights, or perhaps I should say depths, in recent years.

Ireland is a maritime country, a fact which impacts on the cost of imported everyday goods. Anyone who has ever aspired to a foreign holiday is aware there is extensive water to cross before reaching his or her destination. Previous generations have told us of the social hardships endured during the last war through being isolated on the western fringe of Europe where we were dependent on a small but brave and

dedicated merchant fleet. There will always be water between us and Britain and even more so between us and America. That may be stating the obvious, but it is a fact with which we have to deal daily and with which we will have to deal in the future.

We are totally dependent for survival on the safe passage of our ships and aircraft. The conventions we are considering can help to ensure the safety and security of air and sea traffic. It is also intended to extend those benefits to other signatory countries.

While the terrorist threat is uppermost in our minds at present, we should not lose sight of another threat to our health and safety, namely the presence of the environmental time bomb that is Sellafield which is a short distance across the Irish Sea. Anyone who watched the news bulletins last evening must have been struck by two of the main stories of the day. One related to the presence of vast and unquantified tanks full of plutonium stored at Sellafield. The second related to the seizure by police of half a tonne of material capable of being converted with relative ease into a massive bomb. If these two scenarios were put together one would have a situation which does not bear thinking about.

I briefly digress to commend the efforts of the Minister for the Environment, Heritage and Local Government to focus British minds on the problem of Sellafield and to put pressure on British Nuclear Fuels Limited to clean up its act. A two-month deadline has now been set for compliance. We must vigorously pursue this matter until it has been brought to a successful conclusion.

Those who think about the possibilities shudder at the prospect of a seaborne threat to the facility either from a hijacked or purpose-built ship. Such an attack appears all too easy to achieve. We must also consider the potential threat to ships which carry hazardous waste to Sellafield through the only channel available, the Irish Sea.

The act of crashing an airliner with a few tonnes of fuel to make a massive bomb may have seemed the ultimate terrorist act in the recent past. The same could be said of placing bombs on crowded commuter trains to cause a couple of hundred deaths. However, such acts pale into insignificance when compared to a successful attack on Sellafield. The most bitter irony is that we have no idea what chance of success such an attack would have. As we have seen in the past, there is every likelihood that grave short-cuts have been taken in the construction and maintenance of this greatly discredited nuclear facility. Sellafield is an inviting and potentially rewarding terrorist target with an unknown defence capability.

I have dwelled at length on the terrorist aspect of the legislation because it is real, proven and

likely to be repeated. The British experience yesterday proves that. There is a real threat to shipping, one we are not convinced is being taken seriously enough. Neither are we convinced that enough is being done to counter it. Although they are limited in scope, the conventions can have a positive effect, but they need our approval.

Our dependence on the sea is vital to our national interest. We cannot allow any opportunity to pass to endorse our support for the free and safe passage of shipping. We deplore the reckless transport of nuclear waste and decommissioned warships with a hazard potential, which pass so close to our shores and which would occupy our waters if we allowed them. They are an ever-present temptation to hijackers and terrorists and should not be towed unprotected three thousand miles across the Atlantic.

Will the Minister inform the House of the new maritime security measures due to come into effect on 1 July? Where will they be put in place and will they meet this deadline? The sea is an essential part of our lifeblood. The Bill presents us with a tangible opportunity to assist in its protection and we should grasp this with both hands. I commend the Bill to the House.

Ms O'Meara: The legislation stems from our support for UN protocols arising from the events of 11 September 2001. Why has it taken two and a half years for the legislation to come before the House? The Minister of State, Deputy Browne, stated that it is urgent that this be dealt with in the context of the EU Presidency and of what happened recently in Madrid. The world was alerted to a whole new threat of global terrorism as a result of the events of 11 September 2001. Nobody will forget where they were or what they were doing when they first saw that extraordinary and incredible footage of the aeroplanes crashing into the World Trade Centre in New York. Those events heralded an era in which the world was effectively at war in the context of terrorism.

That was not the first act of terrorism by the al-Qaeda group. Other terrorist acts were previously perpetrated against US forces in the Middle East. The book recently published by Dick Clarke revealed that warnings were issued to US authorities that this group was planning a major terrorist attack in the US. However, that is in the past. We are now faced with the present and the prospect of a very different future.

Terrorism is now a reality. The events in Madrid showed us that it is also a reality in Europe. Nobody knows in what part of the world terrorists will next strike. We have had our own experience of terrorism so, unfortunately, we are familiar with the concept. In effect, that terrorism was limited to one part of the country and to Britain. In recent years the authorities in Britain have developed security technology to maintain

protection against terrorism. This has allowed them to be pre-emptive, as we witnessed yesterday in the arrest of suspected terrorists. We do not know the full facts of the matter but that is how it appears. We are fortunate to live next door to a nation that is so well equipped to deal with this problem and that we have so much experience and a network of legislation to deal with terrorism here.

The global situation in regard to terrorism is entirely different from what it was in the past. This legislation is necessary and is part of our international obligation and duty to support the UN protocol. My party has no objection to Second Stage.

2 o'clock

However, we will tease out elements of the legislation and table amendments. It is broad-ranging and sweeping legislation which is sometimes necessary.

Senator Kenneally spoke about security and terrorism issues but we must remember there is a context for this. Terrorism is always intolerable and unacceptable. It must be eradicated, dealt with and always fought against by way of the most stringent measures possible. We must also remember that there is a political context in this regard. What we are currently looking at in terms of the international political scene is a context for global terrorism. As a member of the European Union primarily, and as a member of the global community, this country has a role to play and a responsibility in how we deal with the issue. We cannot sit on the fence or stand idly by and watch while events take place as if they have nothing to do with us. The Iraqi war had something to do with us. We are a member of the United Nations and that war took place without UN approval. As American writers have said, the Iraqi war was in itself an act of terrorism as were the events of 11 September 2001. We cannot get into which is worse as an act of terrorism is an act of terrorism. In standing for international law, which I hope this State will do, we must stand for the rule of law against terrorism because all we have is the rule of law. In this context we are talking about the rule of international law, by which I hope this nation will always stand.

We need to consider our relationship with the United States. We cannot accept everything it is doing because, as American commentators and writers say, there is a case to be made that the current US Administration is set on a course of action which is generating greater international terrorism and will continue to do so in terms of what is happening in the Middle East, particularly in Israel and Palestine. We are creating at least 100 years, if not more, of horrendous difficulty not just in that entire area but across the world. What happens in Palestine, Israel, Iraq and Afghanistan reverberates in Madrid and New York and I have no doubt in other places also.

This cannot be separated from what we are doing in this House today. We must be cognisant of the context in which we now operate. Given our membership of the European Union and our

[Ms O'Meara.]

relationship with the United States, we must always take a stand for international law. We need to assess the ever changing complexities of international politics, particularly in the Middle East, Afghanistan and so on. We cannot ignore it because the world is now effectively at war. It is a war of terrorism which we never expected to happen. However, it is now with us and we need to deal with it. We cannot stand by and pretend it is just an issue of security and getting our legislation right. We must be active on the political stage also.

I look forward to Committee Stage and teasing out particular issues in the legislation.

Mr. MacSharry: I welcome the Minister of State and I am pleased to have an opportunity to make a few points on the Maritime Security Bill.

Everyone here knows that terrorism is not just a threat but a reality in Ireland, Europe and across the world. The fact that terrorism is no longer confined to national borders indicates that we can no longer anticipate the methods or groups which may attack civilian or political targets and, in the interest of safety and prevention, we must be equipped for any eventuality. People have suffered at the hands of terrorists mediating through air and air transport. It is, therefore, reasonable to prepare for the potential threat posed from terrorism at sea.

The Maritime Security Bill puts in place legal parameters that intensify the fight against terror and increase international co-operation between countries which will not tolerate offensive and cowardly terrorist attacks on their citizens. By endorsing the legislation, we are saying that in the same way terrorists operate on a cross-border basis, so will we through increased collaboration and unity of approach. We will build on the progress already achieved in this regard and continue to do so in line with the Irish Presidency declaration and the European Council strategic objectives for the EU plan of action to combat terrorism.

In December 2002, the diplomatic conference of the International Maritime Organisation adopted a series of measures to strengthen maritime security, including the preclusion and clamp down on acts of terrorism against shipping. These include a new international shipping port facilities security code. I understand the maritime safety directorate in the Minister's Department is currently involved in the process of co-ordinating the implementation of the new security requirements to ensure all relevant ship owners, ports and port facilities will be compliant by 1 July. The Maritime Security Bill enhances these provisions and creates specific offences against the safety of Irish ships and other ships in Irish territorial waters.

Maritime security has always been an important issue for Fianna Fáil Governments. It is vital that we implement the legislation to give effect to the UN convention for the suppression

of unlawful acts against the safety of maritime navigation as a protocol of that convention. The legislation comes in the wake of many other important international conventions which have been adopted by Ireland to combat terrorism and have assisted in legislation such as the Criminal Justice Bill 2002 now before the Dáil. Fianna Fáil is continuing its commitment to develop and enhance our maritime security regime through other endeavours, including the establishment of a new independent maritime safety agency, increased staffing to deliver on port State control commitments and progressing the proposal on particularly sensitive sea areas in consultation with our European colleagues.

These initiatives are all features of a progressive dedicated Government, steadfast in its aims of increasing security on Irish waters and pro-active in its approach to dealing with terrorism. I am pleased that as part of Ireland's Presidency programme a pan-European maritime safety forum was opened to discuss the heightened security threats posed to global shipping by acts of terrorism. In line with the provision of the Maritime Security Bill to increase liaison between states at an international level, the forum will be attended by representatives from EU member states, accession states and other European countries, together with representatives of the European Commission, the European Maritime Safety Agency and key interested parties in the maritime sector. This is the constructive and pro-active approach needed to tackle the tangible problems posed by terrorism. Shipping is one of Ireland's largest tertiary activities and we enjoy some of the best fishing in the world. It is natural, therefore, that the measures to protect this resource are implemented.

By endorsing the Maritime Security Bill, we are offering reassurance to those who trawl our waters that we will not tolerate terrorism of any kind and that we intend to use international networks to prevent such actions. This is extremely important in terms of international shipping and shows that Ireland, while holding the EU Presidency, is keen to contribute to the promotion of safer and more secure shipping in European waters. Following implementation of the Bill, we must continue to be vigilant in the operation of shipping and our ports and continue to be aware of the potential dangers to shipping from acts of terrorism which may arise in port, at offshore terminals or at sea. We must continue to put in place the necessary legislative, administrative and operational provisions to ensure Ireland is not seen as an easy target.

The European Council declaration on terrorism was published last Thursday. It is a commitment by all EU member states to improve the implementation of commitments already undertaken following the terrorist attacks in New York and Madrid. Significant progress on the completion of the ratification of all 12 UN conventions on terrorism, including the 1988

maritime convention and protocol to which the Maritime Security Bill gives effect, is now expected because of this declaration.

I congratulate the Minister on this timely and necessary legislation. Given our Presidency of the European Union, it demonstrates Ireland's willingness to develop a long-term counter-terrorist strategy in line with the wider international community. I support the Bill and commend it to the House.

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. J. Browne): I thank Senators for their contributions and support for the Bill and their agreement to have all Stages passed as quickly as possible.

The delay in the legislation was mentioned by a number of speakers and it is true it did not appear necessary to Governments since 1988 to give effect to the UN maritime convention and protocol which would have priority over other legislation. While there were terrorist incidents involving cruise liners and other ships since 1988, there was little, if any, international pressure for UN member states to give effect to the 1988 convention. The 11 September attacks and the Madrid bombings, however, have changed that and the UN Security Council passed a resolution on 28 September 2001 to urge all member states that had not done so to become party to the 1988 convention and protocol and to ten other instruments. Legislative priorities, however, delayed until now the drafting and initiation in Seanad Éireann of the Maritime Security Bill 2004 to give effect to the 1988 convention and protocol. The Minister for Justice, Equality and Law Reform is also dealing with four of the other international instruments.

Maritime security measures for ports and ships will be in force from 1 July throughout and beyond the EU. The necessary preparations in Ireland are already well advanced and are being co-ordinated by the maritime safety directorate in my Department to ensure the deadline is met. I expect all Irish ports and ships to meet the new security arrangements so they will be able to continue to trade normally after 1 July.

The maritime safety directorate in the Department is currently involved in the process of co-ordinating the implementation of these new security measures. It is engaging with the relevant ship owners, ports and port facilities affected by the EU regulation and the ISPS code so that they will all be compliant by the 1 July deadline and able to trade normally. Two working groups have been established to achieve this, a multidisciplinary project team with representation from the Naval Service, the Garda Síochána and the maritime safety directorate, and an interdepartmental implementation committee, chaired by the Director General, Mr. Maurice Mullen, with representatives from my Department, the Department of Justice, Equality and Law Reform, the Department of Transport,

the Department of Defence, the Revenue Commissioners, the Naval Service and the Garda Síochána.

All the ports have submitted port facility security assessments setting out the current position of facilities regarding assets and vulnerabilities and project teams are verifying them. Assessments have been approved in Drogheda port, which has six individual port facilities, and in individual port facilities in Youghal, Sligo, Kenmare, New Ross, Arklow, Wicklow, Greenore and Killybegs. Further port facilities will be approved in the coming days, including Galway and Dundalk, and all of the remaining ports will be approved within the next two weeks. The large ports, Waterford, Cork and Dublin, will be fully compliant by 1 July.

A deadline of 30 April has been set for submission of port facility security plans for the Department and these plans will set out procedures to be taken by port facilities during normal working conditions and in the event of a terrorist threat. Under the new requirements, each ship must have on board a ship security plan approved by the administration and 90% of Irish vessels have submitted ship security assessments and plan verifications will start in mid-April.

Any non-compliant port facility will find it difficult to continue trading as most ships will refuse to deal with it. Similarly, non-compliant ships will be refused access to ports and port facilities after 1 July.

Other measures are being considered by the EU Commission, such as a proposal for a directive prescribing additional security measures for ports and surrounding areas and it is also proposed to amend the 1988 maritime convention and protocol, to which the Maritime Security Bill gives effect, to create additional offences relating to illegal carriage, use of weapons and explosives and, controversially, to provide extensive powers for states to stop, board and search ships on the high seas suspected of carrying such materials. Many areas of ship and port security are being considered.

The Minister for the Environment, Heritage and Local Government, Deputy Cullen, is dealing with issues arising from Sellafield, an area which is primarily his responsibility, and I will pass Senator Finucane's concerns and fears on to him.

I assure the House that officials of my Department will continue to work on a pro-active basis with their counterparts in the Department of Justice, Equality and Law Reform, the Department of Defence, the Garda Síochána, the industries concerned, their counterparts in the International Maritime Organisation of the UN and in other international fora to address maritime security issues and the concerns raised by Senators today, and to secure the timely updating of laws that may be required as we meet national, EU and other international needs.

Question put and agreed to.

Committee Stage ordered for Tuesday, 6 April 2004.

Sitting suspended at 2.15 p.m. and resumed at 3.30 p.m.

Aer Lingus Bill 2003: Report and Final Stages.

Acting Chairman (Mr. U. Burke): I remind Senators that a Senator may speak only once on Report Stage except in the case of a proposer of an amendment who may reply to the discussion on it. Each amendment must be seconded on Report Stage.

Mr. Browne: I move amendment No. 1:

In page 4, line 25, after “Exchequer” to insert “Capital Budget”.

I will withdraw this amendment having reflected on it. I will not pursue it on this occasion.

Minister of State at the Department of Transport (Dr. McDaid): I appreciate the Senator’s amendment. As I said on Committee Stage, I would like it if all the capital budget for an area of transport could be ring-fenced for capital benefits, but unfortunately the Department of Finance has informed me that the Senator’s amendment would not cover that in the first place, much as I would prefer to accept this type of amendment if it was to set a precedent. However, it is not acceptable in the long term. Such funds will be recorded as a capital asset, but I do not know where they will go after that.

Amendment, by leave, withdrawn.

Mr. Browne: I move amendment No. 2:

In page 4, to delete line 36 and substitute the following:

“(a) issue shares in accordance with the Companies Acts as part of one or more than one employee shareholding scheme, and shall be deemed always to have had the power to issue such shares, and”.

The subject of this amendment deals with the main substance of the debate on Committee Stage, in which members of all parties participated. I wish to pick up on a few points the Minister of State made then. He indicated he would raise the matter with the Minister of Transport to enable him to discuss it with his Government colleagues. Have there been developments in that regard?

Provided that everything goes according to plan and the Bill is finalised today, I am sure it will be enacted quickly. The Minister said that the trustee is anxious that the Bill be enacted as soon as possible so that the ESOP can subscribe for the additional shares with a view to making allocations immediately thereafter, thereby ending the accumulation of levers without share allocations. Notwithstanding the above, the

trustee has not formed any definitive view on whether a change of the rules is appropriate. Can the Minister of State specify a timeframe as to when the ESOP will subscribe for the additional shares once the Bill is passed?

Acting Chairman: Is the amendment seconded? If it not, it will fall.

Dr. McDaid: I can answer the Senator’s point by saying that once the Bill is passed the trustee can proceed without delay to the next step, if necessary. As regards my colleagues in the Department, we do not foresee any major objection in this regard. A problem that may arise is one of human nature in terms of whether people will want to go ahead with the share issue. That will be a matter for them and it will come under the previous legislation.

With regard to the Senator’s amendment, I had intended to repeat what I said on a previous occasion. I understand from what position the Senator and Fine Gael are coming. While it would not be a problem to proceed in this regard under the Companies Act, the Senator rightly pointed out that there is a provision under the Air Companies Act 1966 which we did not foresee could be a problem but which the Senator did. The purpose of this legislation is to clear the decks to ensure that we can proceed in this regard and to ensure that the 1966 Act will not impinge on that.

Acting Chairman: I call Senator Dooley. The Senator must formally second the amendment if he wishes to speak on it.

Mr. Dooley: I am not in a position to second it other than to say—

Acting Chairman: Therefore, the amendment falls and there can be no further debate on it.

Amendment, by leave, withdrawn.

Bill received for final consideration.

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

Minister of State at the Department of Transport (Dr. McDaid): I thank the Senators who spoke on this Bill. I welcome the amendments to it, whether tabled by Members in the other House or by Members in this House, as they gave rise to different debates. If an amendment is tabled in the other House, people may question why a similar amendment should be tabled here, but there is a different point of view in the Seanad. I respect the views of the Senators who spoke on the Bill and tabled amendments to it. I particularly want it to be recognised that we are trying to get this legislation through the House to ensure that a new dawn can begin in this area. I appreciate the

co-operation of the Opposition parties in that regard.

Mr. Browne: I thank the Minister of State and his officials for their courtesy and help during the last few weeks when we debated this important Bill. Fine Gael accepts that the option of privatisation should exist for Aer Lingus. We must acknowledge that it almost went bankrupt in the past ten years. We must also accept the global realities in the airline industry and take account of other state airlines that have gone bankrupt in the last while. That does not necessarily mean that Fine Gael is telling the Minister to immediately privatise the airline. That would be an important decision and the Minister would have to weigh up all the options before doing so.

The Seanad proved its worth in the past few weeks. When this Bill was going through the Dáil, we raised the rights of the workers who left Aer Lingus in the period between December 2003 and March 2004. While we might not have solved that matter, we brought it to the attention of people and perhaps that will ensure those workers will get their full entitlements.

I hope Aer Lingus has a successful future. We have praised Willie Walsh in the past for the work he has done, but I am not happy with some recent developments, particularly in regard to pilots. I am aware that my colleague, Senator Dooley, is not happy about some developments in regard to Shannon. Perhaps we need to have a more balanced debate at this stage and to revisit the issue of the future of Aer Lingus on another day, although not necessarily in this context.

I have brought the Department's attention to an issue with which I am concerned, and I am aware that it is actively working on it. I look forward to its reply in due course.

Mr. Dooley: I welcome the passing of the Bill. I recognise what Senator Browne said, particularly in regard to some of the issues raised. There were delays associated with the passage of the Bill, which have had an impact in terms of those who signed the letters of commitment and whether they would be part of the ESOP at a later stage. I refer to those who have taken voluntary redundancy or those who had retired as part of the natural progression. Those concerns were raised by Members on all sides of the House. The Minister's comments on the last occasion were welcome.

The Minister and I met a group of workers from Aer Lingus last Friday while he was in Shannon. The issues he raised and the approach the Department has taken in terms of the resolution of this matter was widely accepted by the workforce. There is still some concern that because this is open to only those members who are now part of the company or who will ultimately be part of the ESOP that the natural element of greed has the capacity, if a ballot is taken by the trustee which in all likelihood it will

be, to exclude at a later stage those who have accepted voluntary redundancy under some of the current programmes or who have retired. The Department and the Minister are anxious to see this issue resolved in a manner satisfactory to all parties and I hope the Department will continue to work with the trustee and the company to ensure a resolution.

The passage of this Bill will allow Aer Lingus to move forward with its plans. Senator Browne mentioned Aer Lingus's commitment to Government policy in respect of balanced regional development and the necessity for the company to maintain a strong base at Shannon Airport. This should be not only a base but an access point, particularly for transatlantic flights. While this is tied up in many other issues in the context of the open skies programme, there is a huge awareness across the region, in evidence at a recent public meeting in Shannon, of the necessity of a transatlantic connection to the west. It provides the cornerstone for Government policy on regional development.

Despite the fact this Bill sets out certain measures and mechanisms through which the circumstances might change, Aer Lingus must recognise it is still a State company and must deliver on Government policy. The Government has taken a strong approach to decentralisation, which I hope Aer Lingus recognises. I also hope the centralised approach which appears to be the company's policy will be halted. In that context, I welcome the Minister's approach and involvement as shareholder. I will not elaborate on this issue because we are concerned with the passage of this Bill.

I thank the Minister of State for giving his time in the House and for his openness and assistance in our understanding the provisions of the Bill through his detailed explanations. I also thank the officials who have been most helpful in identifying and explaining to us the thought process behind different elements of the Bill. I thank my colleagues, Senators Browne and Wilson, for their assistance in this regard.

Question put and agreed to.

Sitting suspended at 3.45 p.m. and resumed at 4 p.m.

Transfer of Execution of Sentences Bill 2003: Order for Second Stage.

Bill entitled an Act to give effect to Article 2 of the Additional Protocol to the Convention on the Transfer of Sentenced Persons done at Strasbourg on 18 December 1997 and Chapter 5 of Title III of the Schengen Agreement of 14 June 1985 between the governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders done at Schengen on 19 June 1990.

Ms Feeney: I move: "That Second Stage be taken today."

Question put and agreed to.

Transfer of Execution of Sentences Bill 2003: Second Stage.

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

Minister of State at the Department of Health and Children (Mr. Callely): I am pleased to present to the House the Transfer of Execution of Sentences Bill 2003. The central purpose of the Bill is to deal with the transfer of the execution of sentences where the sentenced person has fled from the sentencing state to his or her state of nationality. In this regard, the Bill gives effect to provisions in Article 2 of the Additional Protocol to the Council of Europe's Convention on the Transfer of Sentenced Persons as well as Articles 67 to 69 of the Schengen convention. Articles 67 to 69 of the Schengen convention correspond to those in Article 2 of the additional protocol. Enactment of this Bill will enable Ireland to ratify the additional protocol and to operate the relevant Schengen provisions.

The additional protocol and the Schengen provisions supplement the 1983 Council of Europe Convention on the Transfer of Sentenced Persons. The 1983 convention has been given effect in Irish law by the 1995 Act of the same name. Under that Act a national of one state party detained in another state party can apply for transfer to his or her country of nationality to serve out his or her sentence there. One essential feature of the existing system is that it is the prisoner who initiates the process by requesting the transfer.

The circumstances arising under this Bill are materially different from those covered by the 1983 convention. In cases arising under the 1983 convention, the person is in custody in the sentencing state and consents to return to the state of nationality. However, in the circumstances covered by this Bill, the person has already fled from the sentencing state before serving the sentence and is now in his or her state of nationality. The issue that therefore arises is to ensure that the person serves or completes the sentence that was lawfully imposed in the sentencing state.

The consent of the prisoner under the 1983 convention relates not to whether a sentenced person should serve the sentence but to the state in which it is to be served. In circumstances where a person has deliberately fled from the sentencing state and returned to his or her state of nationality, the person has in effect exercised his or her consent in relation to his or her return to the state of nationality. It is then a matter of ensuring that the person serves a sentence that was lawfully imposed in the sentencing state.

Before turning to the detailed provisions in the Bill, I will set out the circumstances in which it will apply. The Bill will apply in two categories of cases. First, it can apply in the case of a person sentenced by an Irish court who has fled from this State to his or her state of nationality without either commencing or completing the sentence. In that case, the Minister for Justice, Equality and Law Reform may request the authorities in the other state to enforce the Irish sentence. In the second situation, a sentencing state may make a similar request to this State in the case of Irish nationals who have fled back to this State prior to the commencement or completion of a sentence. Under this Bill a request from the sentencing state must receive the consent of the Minister for Justice, Equality and Law Reform before an application can be made to the High Court for a warrant for the person's arrest. The Minister has to be satisfied as to certain matters before an application is made to the High Court. In any event, the Minister may, having regard to all the circumstances, decide not to make an application. Following arrest, the High Court may make orders for the carrying out of the foreign sentence in Ireland.

The Bill has 13 sections. Section 1 provides for the definition of certain terms used in the Bill. Section 2 provides that the new provisions will apply in relation to sentences imposed either before or after the entry into force of the Act. This reflects Article 7 of the additional protocol and Article 21 of the main convention.

Section 3 provides a definition for correspondence of offences and is related to the dual criminality requirement. Offences will be considered to correspond where the acts or omissions constituting the offence would, if committed in one state, constitute an offence under the law of the other state.

Section 4 is an important section in the overall scheme being introduced by this Bill. It provides that the Minister for Foreign Affairs may by order designate countries that have accepted the relevant additional protocol or Schengen provisions. The order will identify the states with which Ireland will operate these arrangements. In other words being a party to the additional protocol or the Schengen convention will not, of itself, be sufficient. Ireland must also be satisfied about the systems operated by the other state before it agrees to operate these arrangements with it. Ireland will not be operating these arrangements where it is not so satisfied.

Section 5 provides that the Minister for Justice, Equality and Law Reform may request a country that has been designated under section 4 to take over the enforcement of the sentence in circumstances where the sentenced person has fled from Ireland to the other country. The Minister may make a request if he or she is satisfied that the person concerned is regarded as a national of that country; the order under which the sentence concerned was imposed is final; and at the time of issuing the request the sentenced

person must, generally, have at least six months of the sentence concerned to serve.

Section 6 provides that the Minister may consent to a request from a country designated under section 4 for the execution in this State of a sentence imposed in the sentencing country on a person who has now fled to Ireland. Thus the Minister may consent to the execution in this State of a sentence imposed in the sentencing country on an Irish national who has now fled to the State.

Before giving consent the Minister must be satisfied that certain requirements have been fulfilled; that the person concerned is regarded as an Irish citizen; the sentence concerned is final; that the sentenced person has at least six months of the sentence left to serve; that dual criminality applies, meaning the offence concerned would constitute a criminal offence if committed in the State; and that, having regard to all the circumstances, it would be in order for the Minister to give his or her consent. A certificate is prepared and presented to the High Court under section 7 where the Minister consents to the request.

The nationality issue was addressed by Ireland when it ratified the 1983 Council of Europe Convention in 1995. It made a declaration of our understanding of the term "national" for the purpose of the convention which states: "For the purposes of this convention, the term "national" means, in relation to Ireland, an Irish citizen or any person whose transfer to Ireland is considered appropriate having regard to any close ties which the person has with Ireland." As a result, the term "national" as used by Ireland means an Irish citizen or any person who has close ties with Ireland. This approach is in line with the general position adopted by EU member states in 1987.

Returning to the provisions of the Bill, section 7 sets out the procedure by which a sentence imposed in another state may be executed in this State. It provides, as indicated earlier, for a certificate by or on behalf of the Minister to the effect that he or she consents to taking over the enforcement of the sentence, and provides for an application to be made to the High Court for the issue of a warrant authorising the arrest of the person concerned. The High Court, on production of the certificate, issues a warrant for the arrest of the person if satisfied there has been compliance with section 6(2). The ministerial certificate must contain certain information, for example, the name and address, where known, of the sentenced person and the sentence imposed on him or her. Under this section or section 8, a warrant may be executed by any member of the Garda Síochána in any part of the State even if it is not in the possession of the member at the time. However, the warrant must be shown and a copy given to the person arrested at the time of arrest or within 24 hours thereafter. A person arrested under a warrant must be brought before the High Court as soon as possible.

Section 8 sets out the procedures relating to the issue by the High Court of a provisional arrest warrant. This section gives effect to Article 68(2) of the Schengen convention and Article 2(2) of the additional protocol. Those articles provide that a sentencing state may request the administering state, prior to the arrival of documents supporting the request and prior to the decision on the request, to take the sentenced person into police custody or to take other equivalent measures. A warrant for provisional arrest may be issued by the High Court on an application by a member of the Garda Síochána, not below the rank of inspector, given with the consent of the Minister, that a request for the person's provisional arrest has been made by a sentencing country.

The Bill sets out the details that are to be included in the request for the warrant. A person arrested under a provisional arrest warrant must be brought before the High Court as soon as possible and the High Court must remand the person in custody pending the production of a ministerial certificate referred to earlier under section 7. That certificate will indicate that the Minister has received and is consenting to the request from the sentencing state. If a certificate is not produced within 18 days of the person's arrest the person will be released. The release of any person will not prejudice his or her re-arrest if a request for the enforcement of the penalty or detention order is made afterwards.

Section 9 provides that the High Court may make an order committing the person to a prison or Saint Patrick's Institution for the purposes of serving the sentence or remainder thereof. Before making the order, the High Court must be satisfied that the Minister has given his consent, the person is an Irish citizen, or has close ties with Ireland; the order imposing the sentence in the sentencing state is final; dual criminality applies, and so on.

The effect of an order is to authorise the continued enforcement by the State of the sentence imposed by the sentencing state and means, in practice, that the whole or the balance of the sentence will have to be served in Ireland. In other words, it will have the same effect as if it were a sentence imposed here. It will not be subject to appeal in this jurisdiction as that remains the prerogative of the sentencing state that imposed the sentence and since the Minister and High Court are satisfied that the sentence to be served here is final under the law of the sentencing state. In all other respects the sentence will be served the same way as a sentence imposed here and will be subject to the same rules, including remission and temporary release.

Section 9(3) provides that the Minister may apply to the court to adapt the duration of the sentence to conform with our law if the sentence imposed by the sentencing state is greater than the maximum term to which the person would be liable if he or she had committed the offence in the State. Subsection (4) provides that any

[Mr. Calley.]

element of a sentence, excluding duration, imposed by the sentencing state which renders the sentence less favourable than the penalty to which the person would be liable had he or she been convicted in the State for a similar offence will not apply if the High Court so directs. For example, Ireland will not impose penal servitude even if the original sentence provided for this.

Enforcement of the sentence ceases where the State is notified by the sentencing country that the person would be entitled to be released under its law. The person will be released unless his or her continued detention in Ireland is required as a result of a sentence imposed here or the person has been remanded in custody in respect of an offence committed in Ireland.

Section 10 provides that the Criminal Procedure Act 1993 shall not apply to a person detained under this Act. The 1993 Act provides for judicial review of certain convictions and sentences, for presentation of petitions for the grant of pardon on the grounds of miscarriage of justice and for payment of compensation by the State. Such proceedings would not be appropriate in the circumstances covered by this Act, since the events, witnesses, evidence etc. are outside the jurisdiction and are not amenable to the Irish courts. However, the Act does not prevent the person pursuing such an action under the law of the sentencing state.

Section 11 provides that no proceedings under section 3 of the Criminal Law (Jurisdiction) Act 1976 will be taken against a person who is imprisoned here under this Bill. Otherwise the person could be liable not only to serve a sentence imposed in Northern Ireland but, in addition, could be proceeded against under section 3 of the 1976 Act. Section 3 of the 1976 Act provides that a person who escapes from any lawful custody in which he or she is held in Northern Ireland shall be guilty of an offence.

Section 12 is a standard provision concerning expenses and section 13 provides for the Short Title and commencement of the Act.

The Bill will ensure fugitives serve their sentences. It will also reduce the risk of Ireland being seen as a safe haven for fugitives. The provisions also have advantages for the prisoner in that they offer an alternative to extradition that may be more favourable to the sentenced person and they also facilitate the family and relatives of the sentenced person by easing visiting arrangements and other contacts.

The Bill contains effective safeguards. The consent of the Minister is required before a request can be processed and the Minister will have discretion to decline requests where he or she is not satisfied with or has concerns about the arrangements being proposed in any particular case. Ireland will operate these arrangements only with states in whose systems we have confidence. A person may be arrested and imprisoned here only with the consent of the High Court. In addition, a person can be

imprisoned only if convicted of an offence that corresponds to an offence under Irish law. I commend the Bill to the House.

Mr. Bradford: I apologise for my party colleague and spokesperson on justice, Senator Terry, who cannot be here this afternoon. She has asked me to put on the record her support for this proposal. The Fine Gael Party believes we must all work together in the fight against crime, whether at home or abroad. This Bill is a step in the right direction. The dramatic title of the Bill and the fact the Minister of State spoke with gusto about fugitives being brought home to serve their sentences or serving their sentences abroad leads one to believe that he would make a fearsome Minister for Justice, Equality and Law Reform when he moves up the ladder from Minister of State.

Mr. Calley: The Senator might put in a good word for me.

Mr. Bradford: It was stated that the effect of the legislation is likely to be a small increase in the number of prisoners in Irish jails. I am not sure if that is right or wrong. Perhaps the Minister could tell us how many persons will be returned home to serve sentences in Irish jails. That would create difficulties as there is an accommodation problem in our prison system, which has been debated on many occasions. If the Minister is not talking about closing prisons and prison spaces, he is usually in the middle of a row with prison officers. That issue must be resolved. There is little point in the Minister trying to pass such legislation to allow people to serve sentences here unless prison spaces are available. That issue is central to the legislation. Perhaps the Minister of State might outline the current position, although I appreciate he may not have the relevant figures with him this afternoon. Prison accommodation is an important political issue. We have had more questions than answers on this subject.

The Bill may have few sections and pages, but it is important and it is part of the increasing domestic and international fight against crime. Some of the crimes covered under this legislation may be minor, while others may be major and involve major criminals. We must take that seriously. It shows our maturity as a State and Parliament that we can have such a debate without being as emotional as we may have been five, ten or 15 years ago. The Minister of State will recall that when we tried to make legislative progress on extradition in the 1980s, it was a bridge too far for many people. It was almost a no-go area for different political reasons. Yet it had to be tackled and that was done successfully.

This legislation is similar in that we are talking about Irish people serving sentences outside the country or foreign nationals serving sentences here. It requires co-operation between the various member states and it is good we have that in the fight against crime, whether at home or

abroad. We must work together because a crime committed in Ireland, Britain or France is a crime against the citizens of the European Union and against humanity. The fight must be fought with vigour in all the countries which sign up to this agreement. We must fully support this legislation.

Europe is influencing what we are doing this afternoon and it has influenced most of the legislation from the Department of Justice, Equality and Law Reform over the past decade. Such European and international influence will continue and increase as a result of the 11 September atrocities. It was good that last week the European Union countries, led by the Taoiseach, came together in a strong show of support for the battle against crime, criminals and terrorism. We did not think that was necessary in the past. However, it is important that we all work together.

For this legislation to be a success, we must ensure the issue of prison accommodation is resolved and that the maximum number of countries sign up to it. While we can call on our colleagues across Europe and elsewhere to put this in place, we are probably not the best people to preach in that regard because there have been too many delays in signing up to some international agreements to which we have been committed. The Criminal Justice (Terrorist Offences) Bill 2002, for example, has not yet been enacted. I had hoped the Minister would be here to comment on that, but perhaps the Minister of State might indicate why there has been a delay in enacting that legislation and when it will be enacted. I have been told that it was due to implement six or seven conventions, some of which date back to the 1970s. It is important that such a Bill is enacted at the earliest possible date.

It is not good that conventions which date back almost 30 years are not implemented. We should try to progress that. We must ensure that when we call on other Parliaments and Governments to put this legislation in place that we are willing to implement international conventions. I have also been advised that some aspects of this Bill relate to agreements made in 1985 and 1990. While it may be slightly acceptable that we did not deal with agreements made in 1990, it is not right that we are trying to put in place something which dates back to 1985. That shows we have not always had our eye firmly on the ball and we must improve in that regard.

I referred to the prison system. I have one or two queries about the Minister of State's speech and the Bill. As regards a person sentenced by an Irish court who has fled from the State back to his or her state of nationality, we may request the authorities in that state to enforce the Irish sentence. What are our options in that regard when a person flees to a state which is not his or her state of nationality, but which has signed up to the convention? Is it to seek extradition? With regard to all the countries that have signed up to this agreement, is it only when a person returns to their native state that we can call on that state

to enforce the sentence? What if the person flees to a third state which is not the person's native state but which has signed up to the agreement? Perhaps the Minister will advise on what can be done in such cases.

Mr. Callely: I will respond to that.

Mr. Bradford: I also have a question about Irish nationals having returned to the State and being required to serve a sentence here for crimes committed in one of the states with which we have an agreement. There is a discretionary provision whereby the Minister, after checking the circumstances in full, can decide not to proceed with an application to the High Court. We have been given an indication of what those circumstances might be but I trust it is the Minister's expectation that the Minister would, in the vast majority of cases brought to his or her attention, decide to let the execution of a sentence proceed. I hope there would only be a small number of cases in which the Minister would not give consent. It is important that this legislation is seen to work and that the Minister's discretion will only be used where it is considered absolutely necessary.

Section 10 provides that the Criminal Procedure Act 1993 is disapplied and the Minister puts forward constructive reasons for that. However, as a result of this section, it is possible prisoners will serve similar sentences for the same type of crime but in a sense they will be serving them under different conditions. The vast majority of them will be imprisoned under the normal arrangements while a tiny minority will be imprisoned under this legislation and section 10 provides that the Criminal Procedure Act 1993 will not apply to them. Presumably this will not have a substantial effect but perhaps the Minister would explain why the Criminal Procedure Act is not applied.

My party supports the legislation. I look forward to hearing the Minister's response to my queries, particularly with regard to prison accommodation. An item which my colleague had hoped to highlight is one which is not covered by the Bill but which must be kept to the fore in our policy for dealing with crime. It is the issue of known drugs criminals who have relocated outside the State and who continue to flood the country with drugs from their new bases in Spain, Holland and other countries. These people are seen as virtually untouchable; they certainly act as if they are. We do not appear to have put in place the legislation to tackle these people and, as a result of their behaviour, thousands of our citizens are suffering. A message must go to these untouchables that this House intends to chase them and inflict the rigours of the law on them. Perhaps the Minister will confirm the Government's intentions in that regard.

This Bill has been long delayed. We should make it our policy to respond in a more hurried fashion in future to international conventions and

[Mr. Bradford.]

agreements by putting in place the appropriate legislative foundations for their implementation. I welcome the Bill and wish it a speedy passage through the House.

Ms Feeney: I wish to share time with Senator Kett. I welcome the Bill. The title is a mouthful — I listened to the Minister trying to get his mouth around words such as “execution”, “sentencing states” and so forth so I will simply refer to “the Bill”. I was researching the Bill this morning and reading about the Schengen agreement and other conventions. The mind boggles at the depth of the issues they cover. However, one can see how effective they are when one sees a Bill which gives effect to provisions in the Schengen agreement.

The Bill permits the transfer of the execution of a sentence when somebody has fled a country. The person can be brought back or made to serve his or her sentence in the state to which he or she fled. It is a short Bill. It will not apply to a sentence of less than six months or to the retention of a prisoner who has only six months of the sentence left to serve. It is not used to deal with petty crime, which is welcome. In many cases where Irish persons are found guilty by a foreign court, it is for drunken behaviour or some kind of football madness. It is generally a respectable individual who is well behaved in his own country but who goes abroad and, for whatever reason, gets caught up in something that lands him in trouble. I am glad the Bill does not cover such instances but applies to more serious crimes.

This is important legislation and I am glad it is before the House today. It permits the transfer of prisoners between states. The prisoner will have to initiate that process. If a young Irish male is serving a prison sentence in Spain, it is not only a sentence for that individual but also for his family. Everybody is aware of the cost of travel and if he has young children, it will be an added burden on the family not to have much access to their loved one.

Under the Bill, “national” means not only an Irish citizen but also a person who has close ties with Ireland. That could be the spouse or partner of an Irish national who is serving a sentence in another country. Again, the Irish person is also a victim because the sentence is served in a foreign state. With this Bill, the woman can have her husband returned to Ireland if that is what he wishes. This will cut down on costs for the couple.

It is important to note that we are not seeking leniency in the sentence. The person will serve the sentence in full in an Irish prison. The safeguards in the Bill are important and commendable.

There is no appeal system. The sentence will only apply when it is final. There will be no need for an appeal to be heard and Ireland will not interfere. All the final stages of the conviction will have been gone through before a sentence is reached. The sentence to be served in Ireland and

must not be less favourable than its legal nature handed out in this State for that type of offence. Again, that is good. In addition, all the entitlements in regard to remission will be taken into account. If a prisoner has served half his or her sentence in another state and where good behaviour can be taken into account, that can be transferred with the prisoner and sentence to this State.

The new arrangements are beneficial for a prisoner as they will be an alternative to extradition. I do not know about other Senators, but I remember the 1970s and 1980s when “extradition” was almost a dirty word. It left a sour taste in our mouths. We all have memories of people stringently fighting orders to have them extradited from this jurisdiction to another. Our hearts would have had to have gone out to them. People were brought back to this jurisdiction to serve sentences even though they were not from this jurisdiction. This legislation gets rid of extradition, which is good because I do not believe any of us liked the notion.

As my colleague, Senator Bradford, pointed out, a crime is a crime. After every crime, there are victims. Victims should not be forgotten and should be respected. This Bill does not forget victims. It ensures that nobody will get away but that prisoners will have dignity, will be treated as individuals and will be allowed to come home to serve their time.

Mr. Kett: I thank my colleague, Senator Feeney, for sharing time. I welcome the Minister of State, Deputy Callely. It is a while since we sat shoulder to shoulder on Dublin City Council. He is the living example of what hard work and commitment does for a person. If I ask a question which the Minister of State may have already addressed in his contribution, I apologise. I was at a meeting of the Oireachtas Joint Committee on Justice, Equality, Defence and Women's Rights and could not get here in time to hear him.

In recent weeks, this House has gone through a raft of legislation with the Minister of State and other Ministers. The common thread running through all the legislation on which we have embarked is that it deals primarily with looking after the welfare of our citizens, whether in terms of drugs, alcohol, public order or otherwise. This Bill adds to that in its own way, and I welcome it.

There has been a considerable influx of people into this country in recent years. They have probably come from countries outside the remit of the legislation with which we are dealing. Senator Bradford alluded to the fact we have been looking at this type of scenario since 1985 when the Schengen agreement was introduced. The borders were abolished in 1995 when the convention itself was adopted. I may be wrong but I believe there are 13 signatories to the Schengen agreement but that Ireland and the United Kingdom are not. I am not sure of the reason but maybe I will find out during this debate. We are part of the European Union and

must present our passports when we go to other EU countries, with the exception of the United Kingdom with which we have a common travel area.

There has been an influx of people into this country in recent years and while the attraction initially might have been the generous welfare system, people are now beginning to show themselves in court primarily because they have settled into a new environment, have found their feet and know the run of the place. Whether one likes to admit it or not, we are now seeing a type of crime which may be new to us — for example, the fraudulent use of ATM cards and so on. I am not sure whether the Bill can cater for that, but I hope it can. There are scams taking place with which, I hope, we can deal. If this legislation helps in that regard, it is good.

As others outlined, this Bill deals with a person sentenced in this country who perhaps flees to the country of his or her origin without serving a day or having served some of his or her sentence. It gives the Minister the power to request his or her return and to encourage the state to which her or she has gone to take up the sentence the Irish court has imposed. Where an Irish citizen commits a crime in another country and flees to Ireland, that country may seek the consent of the Minister for Justice, Equality and Law Reform to issue an arrest warrant and to return the person, or to seek that the person serves the sentence in this country. Senator Bradford alluded to the fact there are certain circumstances in which the Minister may not send someone back. He asked what those circumstances might be.

Is there a financial implication? Someone may commit a crime here and flee to Belgium and we may ask the Belgian authorities to incarcerate him or her there. The Belgian Government might possibly say he or she could not have committed that crime in Belgium because it has laws or a system in place whereby it could not happen but that the Irish authorities are asking it to incarcerate someone who has committed a crime in another country at a cost to it. Is there a financial implication for whatever country is involved? The legislation also states that in certain circumstances, the Minister can withhold consent. Would that be in circumstances where he or she might disagree with the severity of the sentence handed down or where he or she has a problem with human rights issues in a particular country? While I welcome the safeguards, I wonder if we could be guilty of interfering with the judicial system of another country if we tell it whether a sentence is right or wrong.

The Bill applies to countries which have ratified the Schengen Convention. It also states that the Minister for Foreign Affairs can designate countries in which he or she is satisfied the criminal justice is all right. Does that mean countries which have signed up or can he designate countries outside the European Union or those stated in the legislation? The Minister

also has discretion to reject a request from a designated state.

Where a foreign sentence exceeds the maximum available under Irish law, I believe the Minister can consider what the sentence would be in Ireland and reduce it accordingly. I wonder what would happen if the shoe was on the other foot. If a sentence is less than that which would be given in Ireland, would the Minister have the ability to increase it?

If he has the ability to change the sentence in the first instance, can he do so in either direction? If a country hands down a sentence to an individual, should we interfere with that? Should we not take the sentence at face value and ensure it is served, irrespective of whether it coincides with sentences given here?

I welcome the Bill. It is another cog in the wheel which will help us to move forward.

Ms Tuffy: I broadly welcome the Bill, but I have some reservations. It is positive in that it ties in with the Transfer of Sentenced Persons Act 1995. It is right to offer people the chance to serve the balance of their sentence closer to home. I recognise there is a difference here as the Bill deals with people who flee a jurisdiction. I remember — this was mentioned when the Minister for Justice, Equality and Law Reform was here — that when the Joint Committee on Justice, Equality and Law Reform visited Mountjoy Prison we spoke to one of the women prisoners who was from another country, and her dilemma in considering whether to apply to serve her sentence at home was that she perceived the prison system to be much better here. It gives rise to the question of whether a person imprisoned in a state should have the option of going back to the country from which they fled if the prisons are less attractive there. There are human issues we should keep in mind, while acknowledging that the individuals have fled to the country concerned.

On Committee Stage I intend tabling an amendment which would provide for the Minister to make a report to the Houses of the Oireachtas on the operation of this legislation. There is such a provision in section 16 of the Transfer of Sentenced Persons Act and perhaps we should consider including it in this Bill.

Perhaps the Minister could clarify some of the issues I raise when he responds to the debate. One of those relates to the definition for correspondence of offences. What does that mean? It is defined in the legislation, but that is as far as it is defined, and there are different nuances in the way offences are defined in different states. I have raised that issue before. For example, being a member of an organised criminal outfit was included in a schedule in a Bill the Minister recently brought into the House, and we do not have that offence here yet. What exactly is meant by a correspondence of offences, and is the definition too broad?

[Ms Tuffy.]

I am also concerned about the fact that sentencing might be different. I realise there is a subsection that deals with this. We can deal with that issue here, but we cannot protect a person who goes to another country to serve a sentence we have imposed if that country changes the sentence to correspond with its regime. The question is whether that would breach the human rights of the person given that they have been sentenced here and have been subject to our legal process.

Section 6(3) allows for ministerial discretion if there is less than six months to be served, something which is also mentioned elsewhere. Can the Minister clarify what exactly is meant by exceptional circumstances and what type of case he has in mind? In the definition of matters on which the court may make orders, the Minister does not include cases where his or her consent is required where there is less than six months to be served. It is in the Bill but it is not dealt with in terms of when the court is making an order under it. That is something the Minister might need to correct as the Bill goes through the House. On provisional arrest warrants, is there a precedent in any other legislation?

Under section 8(7) the court must be satisfied that a request has been made on behalf of the sentencing country, yet in subsection (7) it is presumed to be the case unless the contrary is proved. Should evidence not be required to be given in the first place, and should it not be required from the outset that a request must have been made by the sentencing country? There is provision for the Minister to reduce a sentence to bring it more into line with the country's sentencing policy in the context of a person serving the balance of their sentence here. However, will we be examining how remission periods compare between countries?

More generally, there are constitutional and human rights issues that we need to take on board. The Bill allows us to recognise that a sentencing regime may be less favourable in another country, but it does not allow us to examine through our courts less favourable legal procedures in another country. If there is a miscarriage of justice, it is left to the person to go back to the sentencing country or to serve the rest of their sentence here. That is not satisfactory. It is totally at the discretion of the Minister or the Government to decide whether the legal system in another country is fair. Surely the court should have a role in that regard. If there is a role, perhaps the Minister would clarify that.

Minister of State at the Department of Health and Children (Mr. Callely): I thank the Senators for their contributions. I have taken note of the comments made, and the Department officials who are here have taken detailed notes. I am sure my ministerial colleague, the Minister for Justice, Equality and Law Reform, Deputy McDowell, will give those remarks careful consideration.

I remind the House of some of the essential features of the Bill and the arrangements it introduces. Enactment of the Bill will enable Ireland to accede to the additional protocol to the 1983 Council of Europe Convention on the Transfer of Sentenced Persons. It will also enable Ireland to operate part of the Schengen convention package that we have already opted into. The arrangements covered by this Bill are intended to assist in the rehabilitation and reintegration of prisoners who have been sentenced abroad while also ensuring the sentence is served. The person's rehabilitation and reintegration will be facilitated by allowing the person to serve the sentence in his or her home state closer to family, as some of the contributors have indicated, and without language and other such difficulties.

The Bill will also ensure we have an alternative to extradition. Currently where a person flees from the sentencing state to his or her home state the sentencing state has just one option if it wishes to ensure the sentence is served, namely extradition. This is one of the issues Senator Kett raised. Once the Bill is enacted it will be possible for the sentencing state to rely on an additional option that the person should serve the sentence in the home state. That is a significant benefit to the sentenced person while also ensuring the sentence is served.

A number of comments were made. Senator Bradford referred to the number of prisoners transferred to and from the State under the 1983 convention and the 1995 Act.

5 o'clock According to the latest available figures, which include up to 29 March, 100 prisoners have been transferred into the State, 57 have been transferred out of the State, 260 applications for transfers have been received by the State, and 175 applications have been made for transfers out of the State. It is not possible to say how many extra prison places will arise or how many prisoners will present under this Bill but it is expected the number of prisoners may be small. I will ask Department officials to write to the Senator with this information rather than try and gather it all today. Extradition arrangements apply if a person goes to a state other than that of his or her nationality, including those within the European arrest warrant system. The Minister will withhold consent on public policy grounds.

The Senator might mention that to the Taoiseach if he thinks I am a suitable candidate. I would be very happy to accept the challenge. I thank the Senator for his kind comment.

I covered Senator Feeney's points in my remarks. I thank Senator Kett for his kind comment. We soldiered together on several issues in Dublin City Council for many years and I appreciate and welcome his frequent advice on various matters. In response to his question about the Schengen agreement, all EU states plus Norway and Iceland are included. We have agreed to join some parts of the agreement but

not the abolition of border controls, that is, the free travel areas between Ireland and the UK to which the Senator referred. There may be some costs due to small increases in prison numbers but we have not done the calculations. The sentence period cannot be longer than the maximum available under Irish law. Generally the sentences as imposed will be served here.

If I do not have time to answer all of Senator Tuffy's questions in detail I will ask the officials to write to her. The court will decide if offences correspond. I will check whether there are precedents for provisional arrest warrants. The Senator posed several questions that warrant a full and detailed response and I will ensure a response is forwarded to her. The same applies to the other Senators.

There are several safeguards in the Bill that are significant and substantial. I am pleased to commend the Bill to the House and thank Senators for their very positive contributions.

Mr. Ryan: Can the Minister of State ensure that the detailed responses are available to the Members before Committee Stage commences?

Mr. Callely: We will do our utmost to deliver those responses in time. The Senators will be satisfied.

Question put and agreed to.

Committee Stage ordered for Tuesday, 6 April 2004.

Smoking Ban: Motion

Mr. Glynn: I move:

"That Seanad Éireann:

- notes the role of cigarettes as one of this country's greatest killers and that heart disease, cancer and any number of other illnesses can be directly traced to cigarettes,
- accepts that smoking is the single most preventable cause of cancer and that medical statistics show smoking is responsible for up to 30% of all cancers and also that up to 90% of lung cancers are caused by smoking,
- acknowledges the damaging effects of tobacco and second-hand smoke and that the World Health Organisation has listed Environmental Tobacco Smoke as a carcinogenic substance with no safe level of ETS,
- maintains that the basic human suffering caused by passive smoking is immense, as is the pressure smoking places on the health system,
- believes that the Government is duty-bound to do everything in its power to tackle smoking related illness,

- commends the Minister for Health and Children on the introduction of the ban on the smoking of tobacco products in the workplace as the most pro-active health measure undertaken in this country in recent times,
- supports the primary purpose of the prohibition which is to afford protection to workers and the public who are exposed to harmful environmental tobacco smoke,
- recognises the health benefits of this measure and that the legislation has been introduced in the interests of health and in the interests of the Irish people,
- notes that the prohibition is based on the result of unequivocal expert advice which states that the best way to protect workers from the effects of environmental tobacco smoke is through legislative measures, and
- is confident that this measure will provide a health legacy, not just for current but also for future generations, and will ensure that workplaces are a clean, safe environment, free of tobacco smoke, and that this will make a significant contribution to the health and quality of life of our population."

I congratulate the Minister on his unrelenting, focused and admirable commitment to enforcing the ban on smoking in the workplace. It was not easy to implement. There were many nay-sayers denying that he could or would do it. One can only admire his determination to ensure that the thousands of people who are affected by passive smoking every year are protected in the workplace. The date, 29 March 2004 is significant and will go down in the history books. It was an opportune time to introduce this proactive legislation in the interest of promoting health especially when we hold the Presidency of the EU and the Minister as chairman of the Council of Health Ministers has given a lead in introducing this ban.

The ban on smoking in the workplace will not only affect the health of non-smokers but will also have a great effect on smokers. There are many who, as a result of this ban, have made a real, and hopefully lifelong, commitment to giving up smoking. Almost every smoker I know has not had a cigarette since Sunday night and has told me this is the best opportunity he or she will ever have to give up smoking for once and for all. I know it is a difficult habit to break because I was a heavy smoker. When I played cards socially I would smoke four large packets in the course of a game but I am pleased to have been off tobacco for many years. One very well known international leader who was a heavy smoker and also hooked on heroin was able to give up heroin but could never manage to give up tobacco. This

[Mr. Glynn.]

indicates the addictive nature of the substance. Most people fail in their attempt to quit on a Friday night in the pub when they have a pint in one hand and feel the need for a cigarette in the other. The fact that this temptation will no longer exist will be instrumental in assisting those who truly want to kick the habit.

It is indisputable that the ban on smoking in the workplace will save thousands of lives. Despite recent falls in the numbers of smokers, Ireland still has a high number compared to other countries. A worryingly high percentage of women smoke. I was disappointed to read recently that the Republic of Ireland, at 31%, occupied joint third position with Germany in a league table of the percentage of women who smoke in different countries. None of us would aspire to that place on the table, but we are there and it is nothing to boast about.

Smoking starts young for both sexes and tobacco addiction begins in adolescence for 80% of Irish smokers. A Midland Health Board survey indicated that a large number of young people in secondary schools smoke on a regular basis, which is disappointing. Surveys show that more than two thirds of all children here experiment with tobacco before they reach adulthood. It is worrying that approximately 30% of Irish people over the age of 15 years smoke. I believe that we will see a dramatic drop in these figures as a result of the smoking ban and I am optimistic that the next generation will have a totally different view of smoking thanks to the ban.

Some people however, are still trying to fight the ban on economic grounds. What a farce. Some of them will attempt not to adhere to it. We must make it perfectly clear that these people are putting lives at risk. They are acting from self interest rather than in the interest of the common good. We must act together to make the ban work and must not allow those who refuse to stub out to get away with it. These people pollute our air and break the law. Most people are law abiding and responsible and the vast majority of employers, employees and the public will respect the new measure.

I worked in a profession for many years where the people in my care, psychiatric patients, were particularly attached to the consumption of tobacco. The effects of smoking over the years provided a depressing view of those people. Many statements have been made in the Chamber pertaining to the health services and the need for new facilities. Many health facilities could be closed or would never be needed if tobacco was no longer consumed. Experts have said that we could close up to 50% of our facilities in that event, which clearly indicates the adverse impact of tobacco consumption on health services and the taxpayer. It is in everybody's interest that the ban is implemented effectively.

I commend all in the licensed trade who have adopted co-operative and responsible positions as far as the ban is concerned. Their positive

response to the ban will be instrumental in making it work and will save lives in the future. Persistent smoking is of itself a death wish and as sure as God made little apples, it is a kind of long-term suicide effort.

Smoking is becoming more anti-social. Many smokers have said to me that they feel embarrassed when lighting up in public. What was once seen as attractive and social is more and more being seen for what it is — dirty smelly antisocial behaviour which causes illness and can kill. The main point is that smoking can kill. It kills approximately 7,000 people every year. People exposed to second-hand smoke are up to 30% more likely to develop cancer and 25% to 30% more likely to develop heart disease. These are facts we cannot ignore.

The World Health Organisation's international agency for research on cancer recently declared, without equivocation, that environmental tobacco smoke is carcinogenic to humans and includes more than 50 known carcinogens. This is frightening when one realises that these are being inhaled for prolonged periods by many non-smokers every day of the week. The bottom line is, if one works in an atmosphere where one is forced to breathe environmental tobacco smoke, one's health is at risk.

We need to ensure this ban is enforced so that nobody in Ireland will be forced to put their health at risk in order to earn a living anymore. Our EU Commissioner, David Byrne, has been inspired by Ireland's progressive stance on this issue and is considering introducing European-wide measures to combat passive smoking among workers. Ireland has shown the way. Let us prove we will continue to show the way. I am pleased that this legislation was supported by all sides of this and the other House.

Mr. Moylan: I second the motion.

Mr. Feighan: I welcome the Minister of State at the Department of Health and Children, Deputy Lenihan, to the House. I wish to convey my congratulations to the Minister on this groundbreaking initiative which I have supported all along. On 4 March I stated my wish to join the battle against tobacco. This has been one of the most important health challenges faced by the country and the Opposition has lent whatever support it could to the campaign. As someone who although never a smoker had to give up work in a licensed premises because of passive smoking, I welcome the ban.

Senator Glynn pointed out that there have been many naysayers. How opinions have changed over the past month. Most of the naysayers were members of the Government side. Some Ministers spoke through both sides of their mouths saying one time they were for the ban but the next time that they were against it. I found it difficult to believe that on such an emotive and serious issue internal politics could be played within a Government party. It reminds me of the

time, many years ago, when a young MP who was brought into the House of Commons asked where the Opposition was. He was shown the Opposition but was told not to worry about it but to worry about his own side because it might stab him from behind. This is what happened to the Minister and I pay tribute to his resolve and determination in ensuring the Bill came to fruition.

The Minister cannot thank some Cabinet Members for their loyalty because they were out to stab him in the back at all times. The Taoiseach may take some credit for the turnaround. I remind the Minister of the saying in politics — the Taoiseach will use it I am sure — “Smart fellow wanted, but not too smart”. I congratulate the Minister on the introduction of the ban.

Since the introduction of tobacco more people have died from smoking related illnesses than died in both the First and Second World Wars. The overwhelming medical and scientific consensus is that cigarette smoking causes lung cancer and heart disease. It is also the consensus that between 20% and 30% of non-smokers risk lung cancer from passive smoking. A study carried out by *The Economist* for the Office of Tobacco Control estimated that smoking related disease and illnesses cost the economy €1 million to €5 million per day.

Apart from the health benefits, the ban makes good business sense. Every day up to 100,000 young people around the world become addicted to tobacco. If current trends continue, 250 million people will die from tobacco-related illnesses. In that context, the legislation is ground-breaking. The Fine Gael Party supports and welcomes it.

The issue of ventilation in pubs should have been addressed. A significant amount of money was spent installing ventilation in pubs to bring about cleaner air. Many publicans spent up to €100,000 on systems which are now worthless. Discussions with vintners may have allowed them to save money in that regard.

Stag parties, weddings and tourist groups may not come to Ireland as a result of the legislation. People may not wish to come south of the Border while others may go north for their weddings or other social events to facilitate smokers. The Government should examine this matter.

The smoking ban may prove to be a bonus for local authorities in the sense that publicans and restaurant owners may be interested in hiring pavements to allow customers to smoke outside. Leasing a 25 m² area of pavement would cost in the region of €4,250 per year. The extra income for local authorities would be welcome.

I find it hard to believe that one now has to go to a hotel room, nursing home, prison or psychiatric hospital to smoke. I hope the only one I find myself in is a hotel room and I will have to pay for that.

There is also a difficulty in regard to company cars and lorries. The difference between private and company vehicles is not sufficiently clear. Will we have Hiace vans parked outside pubs in

order to facilitate smokers? I fear the legislation will give rise to anomalies.

As Senator Glynn rightly said, it is up to everybody to comply. I pay tribute to those in the hospitality industry who fought a tough campaign, but who now, thankfully, have stated they will support the ban. We are a law-abiding society. The general public will enforce the ban. I do not believe there will be a need for many health officers to tell people to stub out their cigarettes.

I welcome this ground-breaking legislation, which I think many countries will follow. As an Opposition Member I will oppose legislation of which I do not approve. On this occasion, I commend the Minister.

I look forward to going out and enjoying myself in a smoke-free environment. Publicans should cut down on Jeyes Fluid. Now the smoke has gone, the smell is apparent.

Mr. Ryan: Hear, hear.

Mr. Feighan: It is not good for the Jeyes company but it would be good for everybody else.

Mr. Glynn: That could be a matter for the Competition Authority.

Mr. Brady: I welcome the Minister of State, Deputy Brian Lenihan. Although a confirmed smoker, I warmly welcome this measure. It is excellent legislation which will stand the test of time.

Since the debate began we have heard all sorts of rhetoric from smokers and non-smokers alike as to how the ban would not or could not work. People said it was nonsense. What happened on Monday proved that the Minister, through his courage and foresight, has turned the tables on those detractors who dismissed this measure as an effort to deflect from what is taking place in the health service.

The onus is on the Government to protect the health of its citizens. Section 47 of the 2002 Act is a prime example of how steps can be taken to do that. The previous speaker referred to the cost to the workplace of smoke-related absenteeism and illness. It was stated that the daily cost to the country was €1 million. It will take time to reverse this trend; things will not change overnight. Firmness will be required to enforce it. However, I am convinced that ultimately the legislation will prove effective in tackling a number of the problems we are experiencing in the health service at present.

People engaged in scaremongering in the early stages of the debate on the legislation. Commentators said jobs would be lost, businesses would close and people would cross the Border in their thousands just to have a cigarette. That was nonsense. I congratulate the Irish Hotels Federation and some vintners on their moderate approach to this issue. Some of the scare tactics

[Mr. Brady.]

used at the start of the debate quite rightly did not last long.

I sat down with interested parties for a reasonable discussion in which they accepted the thrust of the regulation. While they had problems with some aspects of it, this was not unexpected from a business point of view. The Minister had the foresight to make changes to the legislation which addressed most of the outstanding objections.

We now see pubs with canopies, outdoor furniture and heaters for those who want to continue smoking, which is their right. This change is generating further business. A company in Offaly could not keep up with the demand for canopies and other outdoor furnishings to facilitate smokers. Nobody referred to that during the debate before the regulation was introduced; it was not even considered.

I congratulate the Office of Tobacco Control on its approach to this matter, which is pragmatic and logical, and on its excellent brochures. A special brochure was produced for the licensed trade, which takes managers, employers and staff through their obligations and the potential problems they may encounter. Solutions are provided for these problems.

Some commentators did not credit people with any intelligence. People are not stupid. They do not need to be told that their health is at risk if they are constantly exposed to smoke in the workplace, especially if they work in nightclubs, pubs or any other public place where people gather.

The focus in the guidelines is on the health of employees. That point was lost in this debate. Although some people chose not to listen, the thrust of the legislation was to protect workers in their place of work. It was claimed the measure was anti-hotelier, anti-publican and anti-nightclub owners. The Minister kept repeating that the point of the legislation was to protect workers. Employees in pubs and clubs who were interviewed on Monday night said they could not believe the difference the measure made. The guidelines place the emphasis on protecting employers and employees as opposed to customers who may or may not cause trouble. Given that people tend to be intoxicated in pubs and nightclubs, they will not listen to anyone, whether in regard to smoking or fighting. There will be a debate in this House tomorrow on alcohol consumption by young people, which is related to this issue. The emphasis so far has been on pubs and clubs. Many employers throughout the city and country insist on their offices and places of employment being totally smoke free, which has been the case for a long time.

I congratulate the Minister, his Department and the Government in general on this measure. It took courage and a certain amount of stubbornness to continue with this legislation. Huge pressure was brought to bear on all of us. We were all approached by lobby groups. A

fierce campaign was mounted. A healthy and interesting debate was held, which the Minister won. I congratulate him on this because it is to everyone's benefit. I welcome the opportunity to endorse fully the measure and, even though I am a smoker, I have no problem with it.

Mr. Ryan: It would be churlish not to commend the Minister. Speaking with my political hat and sharing a constituency with him, I am happier when his halo is a bit tarnished. It is not to my political advantage to have his halo reinstated. Nevertheless, the smoking ban was and is a good day's work. The Minister showed commendable bottle by not wavering. Others may have wavered but I do not think the Minister did, which was courageous.

I like the idea that we do things first. We are a modern, grown-up nation which no longer must wait to follow someone else's lead. We imposed the levy on plastic bags, which has been a remarkable success and about which people have been talking as they are now talking about this measure. It says to the world that this is a confident country which believes it can figure out ways to do things better, not just copy other people. We had a tendency to do this for a long time but we now do things the way we want to. While he said so tongue in cheek, the economist, Moore McDowell, pointed out that it will probably be more expensive in the long term for us to survive, because if we all live to be 90 by eliminating all environmental hazards, the cost to our children will be ferocious.

The tragedy of smoking is the amount of premature death it causes. If smoking causes people to die at 85 instead of 86 years, that would be a pity, but it would hardly be a tragedy. However, smoking causes people to die in their 40s, 50s and 60s, long before their natural life expectancy. Many people have had their lives ruined from their 50s on as a result of tobacco smoke. The money is one way of looking at it but the real issue is the impact smoking has on people's chances of living a long and healthy life.

It is time we began to look at the international tobacco industry as a particularly malign industry for selling a product which does no good to anyone. I am not being critical of individual smokers. I am married to a smoker so I must live with the reality of smoking. If tobacco were not addictive but something people consumed for pleasure, very little of it would last more than a couple of years because people would give it up. It is because it is addictive that it makes so much money. If one takes a step back and wonders about the idea of a multi-national industry that makes vast amounts of money from selling an addictive substance which can only harm people, then one gets into serious issues about ethics and ethical investments. If the Bank of Ireland is to be persuaded not to invest in the pornography industry, one could advance a very convincing case that similarly it ought not to be involved with any of the big tobacco companies. Whatever their

economic record, their social contribution is malign. I have a great belief in letting consenting adults do whatever they wish as long as it does not impose burdens on the rest of us. I take exception to people fornicating in public, but what they do behind closed doors is entirely their own business. I will not give them lectures about what they should or should not do as long as it is done by free consenting adults. I am quite enthusiastic about many of these matters.

I do not believe anyone has a right to do something which poses a direct and demonstrable threat to other people, particularly when these people do not have a choice. Senator Brady put it very well. People are entitled to smoke and no one wants to stop them. I am not a prohibitionist — whenever it was tried it did not work — but I am a believer in reducing opportunities and demand and restricting supply. I accept the issue arose out of a legitimate and commendable concern for the health of people working in many areas, particularly the hospitality industry. I have no doubt the medium-term effect of this measure will be to reduce cigarette smoking because a good deal of it is associated with socialising. That one will end up sitting outside on one's own on a cold winter night if one wants to have a cigarette when visiting a pub, restaurant or night club will in the medium term reduce the degree to which people smoke and, as the habit is reduced, the possibility of people giving up smoking is increased.

How many billion euro does the EU currently spend on subsidising tobacco production? I think it is in double figures, but I am not sure. I know it costs billions. It appears irrational — I have every sympathy for the people involved in the production of tobacco — that we recognise a specific and major threat to public health posed by tobacco smoking, yet we subsidise its production. I cannot see the logic in that.

Other issues have arisen as a result of this debate. One is the fact that the hospitality industry, which at one stage appeared to be a united front, turned out to be anything but that. The restaurant association welcomed the measure from an early stage because it said the vast majority of its customers welcomed it. I am intrigued by the concept of non-enforceability which some publicans are putting forward. There is no doubt that most of the licensed trade now accepts the measure is a reality with which it must live, even though there are exceptions. In a letter to a newspaper, a writer pointed out to publicans who ask how the ban will be enforced that they can do it in the same way that they enforce the ban on people eating food on the premises that they did not buy there. No publican would tolerate a person doing that if food is served on his premises and if he can find many ways to enforce that prohibition, he can enforce another.

There will be occasional awkward moments but tobacco smoke will not result in violence being inflicted upon publicans. As in cinemas, theatres and all the other places we take for granted, in

six months we will wonder how we ever tolerated the idea of smoky bars, where those of us who did not smoke ended up going home coughing with our clothes smelling of tobacco smoke.

Minister of State at the Department of Health and Children (Mr. B. Lenihan): I am happy to address the Seanad on this subject and I thank the various Members for their complimentary remarks about the Minister for Health and Children, Deputy Martin.

Senator Glynn wished to convey to the Minister and his officials his congratulations and I will do that. Today is a good news day for him on the subject, as was echoed by Senator Brady when he referred to the Office of Tobacco Control and the high quality publications it has issued about this subject. Senators Feighan and Ryan also complimented the Minister and Senator Ryan pointed out that the Minister had restored his halo. I was not aware that it had ever slipped.

Mr. Ryan: I have some local knowledge on the matter.

Mr. B. Lenihan: In the turbulent political world of Cork South Central, the Senator should be careful about his remarks because no doubt the Minister has a powerful propaganda machine in the constituency which might echo the Senator's remarks.

Mr. Ryan: So have I.

Mr. B. Lenihan: I am glad to hear it. Senator Feighan referred to the nay sayers in the Government parties and Ministers speaking out of both sides of their mouth. I was not one of those Ministers and I am not clear to whom the Senator is referring but the responsibilities of office can be onerous. Before I was a Member of the Oireachtas, I had occasion to be here in the company of one of our most distinguished historians, now deceased, while certain political transactions were being made and I asked him what he thought of it. He said that the sheer sensation of the pressure was remarkable and that he now understood what was happening during the Treaty debates. When the pressure is on, it is difficult for politicians who must make decisions, but decisions were made and the Minister was loyally supported by his colleagues at all stages. Indeed, he had a vigorous debate with the membership of the party and it supported him on the matter. The decision was made and implemented. Any great national movement must have its internal debate. For a long time, Fianna Fáil was accused of not allowing internal debate but when we have it we are accused of talking out of the sides of our mouths. I will pass the kind wishes of Members on to the Minister.

Mr. Feighan: The Minister of State can pass them on to the Minister for Environment, Heritage and Local Government as well.

Mr. B. Lenihan: The Minister has his own private suffering and grief to endure these days and we have met many citizens in the same position in recent days.

I agree with the point made by Senator Ryan about doing things first. This is a first for Ireland that Norway is now seeking to emulate. Many other states in Europe will examine this option. I hope that Northern Ireland looks at it as a matter of urgency because that would relieve the difficulties that will arise along the Border where entertainment businesses may feel at a disadvantage. While they may see themselves as being at a disadvantage, there are a many who will see this as an advantage. On the few occasions that I have visited licensed premises since the prohibition came in, I have sensed a transformation in their appearance. The money that has been invested in them becomes all the more evident with the pall of smoke banished to show the gleaming surfaces. There is now an entirely different atmosphere in the Irish public house.

It is important that we do things first. For a long time after independence, we were content to copy the legislation that emanated from our nearest neighbour after a decent interval. It is good to see that we are taking the initiative in this matter and it is an example for us in other fields.

In discussions with the public, the unreconstructed opponents of this measure constantly argue that we are interfering with the freedom of the individual and this is the nanny state. We must go back to John Stewart Mill, the exponent of liberalism who made the point that the state is not entitled to interfere with the legitimate choice of the individual other than for the protection of others from harm. If we examine the legislation adopted in this area to defeat the legal profession and fulfil the requirements of the European Union, none of it interferes with the freedom of the individual, all it does is protect others from harm. That is why the smoker is perfectly free to leave the licensed premises and smoke on the pavement outside, as can the shop or office worker. We have not gone beyond what is legitimate in classical liberal terms.

There is an alternative school of jurisprudence that has always argued that the state is entitled to intervene to promote a particular moral point of view or foster a certain ethos. We are familiar with that school of thought in this State because the leading institutional form of religious expression has always taken that view. If we take that view, there is also a foundation for this legislation because the public house is central in Irish life. By prohibiting smoking in the public house, we are effecting a fundamental social change in Irish life. While we may not have infringed the norms of classical liberalism, we are

undertaking a radical shift in outlook that is desirable.

From the limited sampling I have done, this is a good change and long overdue. In years to come we will wonder what all the fuss was about and the hospitality industry will realise that it makes the services and entertainment they put at the disposal of the visitor more attractive. If we can market our hospitality industry in that positive way, it will be constructive.

One economist argued that we should eat, drink and be merry for tomorrow we die and save the State a great deal of money. We spent much time discussing the pensionable age for public servants and have introduced the pension reserve fund. We have done a lot of thinking on the subject and we must do more thinking about basic health provision.

I thank the Opposition for the constructive way it approached this debate. The Opposition parties played their part in helping and supporting the Government, and in making legitimate political criticism from time to time, and the Minister and the Government appreciated that. It helped to build the consensus and public support that is so evident for this measure. There are lessons for all of us in that type of approach to our public affairs. I do not want to dwell on one or other subject, but in regard to this matter it was of great assistance in consolidating the public behind what was a desirable initiative. We all had to entertain arguments from individual citizens and constituents. If we are honest, we all would admit that we spoke sometimes a little out of the sides of our mouths on this issue, but we all gave public leadership on it. That is the important point. It was not only the Minister but the Opposition parties who gave public leadership on this matter and they are all to be very much credited for doing that.

Senator Glynn waxed lyrical about the difficulties of abstinence and the need for strong moral leadership. I do not feel very qualified in that area, although one of the classical virtues was moderation and many have esteemed it. It is true that cigarette smoking is highly addictive. That was referred to by all the speakers. I never had the addiction, although I must confess I smoked a few cigars in my time. Although I was never on the PD wing of Fianna Fáil, I enjoyed the odd cigar, which I have now had to give up.

Mr. Ryan: I did not know there was any other wing.

Mr. Feighan: That is the largest wing.

Mr. B. Lenihan: A national movement has many wings.

Mr. Glynn: We are all-embracing.

Mr. Ryan: Do not push me beyond the concept of a movement.

Mr. B. Lenihan: The adverse effects of smoking have been referred to in many of the debates on this subject and I will not rehearse them now. The 7,000 deaths in Ireland each year attributed to tobacco-related illness is a striking statistic. As Senator Ryan said, the phenomenon of older people living longer is a separate issue we must address, but the tragedy of premature death is a shocking one. It is shocking for children who often suffer the loss of a beloved parent at a very young age and it is also shocking for the relatives of the person concerned. We are all aware from our experiences of the loss and the trauma premature death can cause to the individuals affected by it. Anything that lessens that is of value quite apart from the savings of this initiative to the health service.

There is an issue of financial saving to the health service. We all know from repeated discussions on the health Estimates the high cost of hospital care in these areas is noteworthy and that cost can be saved. There is a natural way of dying as well as a natural way of living. There is no doubt there are substantial economic and personal benefits from this initiative. The State assumes the cost of health care and measures such as workplace bans on smoking are vital if that burden is to be reduced.

The Minister made this initiative one of his priorities and certainly he is to be congratulated on implementing it. It is important to note the national public information campaign entitled "Smoke-Free at Work" has been rolling out across television, radio and the print media. A series of print materials has been prepared for workplaces, employees and the general public. They are available and can be downloaded from a new smoke-free at work website. As Senator Brady pointed out, that campaign is providing guidance and information to all sections to help them in complying with the smoke-free workplaces measures.

Information is available on-line from the Office of Tobacco Control and the Health and Safety Authority websites. An understanding and a formal memorandum has been agreed and signed by these two agencies to ensure compliance with the new measure. Workplace locations traditionally visited by the Health and Safety Authority will now also have to comply with the new smoke-free measure as part of their general compliance with health and safety requirements. Monitoring compliance with the smoke-free requirements in the food and hospitality area is now carried out by officers from health boards. Health boards with vacancies in their established environmental health officer complements in the tobacco control area are in the process of filling these posts. The emphasis of the campaign is on compliance building and harnessing the widespread public support and goodwill that exists for a smoke-free environment. There will be a bit of the carrot around for a few weeks before the stick appears. The response to the campaign to date has been positive. There has

been a large demand from all sectors for the materials which are designed to be practical, relevant and helpful. This important tobacco-free initiative has the support of the majority of people in Ireland, smokers and non-smokers alike. There has been a large concentration on the impact of the measure on the hospitality area and the licensed trade in particular, but the initiative is aimed at indoor workplaces generally and is not merely confined to licensed premises.

Adapting to the new measure will require adjustment especially in those workplaces which, up to now, have not benefited from the existing statutory controls on the smoking of tobacco products. I am confident there will be an adjustment as happened when cinemas, theatres, hairdressing salons, aircraft and many other settings went smoke-free.

The trade union movement has been very supportive and I am encouraged by the willingness shown by employers' organisations in the various sectors in recommending compliance with the new measure to their members. I pay particular tribute on this occasion to the trade union group that has been put together by the construction workers. Their various unions have collectively put forward a strong initiative in the area of tobacco control. A levy has been agreed to fund health initiatives of a preventative character throughout the construction industry among the employees. That is a tremendous example of the trade union movement working at its best. I was delighted to launch its initiative on Ash Wednesday.

The Minister has various measures to help smokers quit and to ensure that non-smoking becomes the norm. There is a quit line which is well established and widely used with 17,000 callers to date.

I thank the Senators for their contributions. I hope we have at last passed a milestone towards the total eradication of tobacco in this country.

Ms Feeney: Like other Senators I welcome the Minister of State. The arguments for and against the smoking ban are well and truly over. They should be forgotten and there should be no more arguments about it. We must get on with this measure now that the ban is in place. I congratulate the junior Minister, the Department and, as other speakers said, the Government on implementing this initiative because it was not easy. We are all aware of the huge lobby against the ban and that on the medical side in favour of it. The Minister was brave. It would have been easy for him to compromise or try to meet people halfway, but he did not do that. People are saying that we are leading the way when we should be saying we have led the way. We are an example to other countries.

One only had to watch television on Monday to note all the countries interested in this initiative not alone from Europe but from elsewhere across the world. Those involved in producing two Chinese television and radio

[Ms Feeney.]

programmes were over here. Everybody wanted to be in on this. Other countries are monitoring this initiative in Ireland to see how it will work. We are all behind the Minister and there is very high regard and respect for him. No matter what else he does in his term as Minister for Health and Children, in years to come he will always be remembered for what he has done in bringing in the smoking ban.

Dr. Jim Egan, a consultant respiratory physician in the Mater, described Monday as an international milestone. He was correct in saying that. All the radio programmes for the past few days have had chat lines and members of the public ringing in to talk about this measure. I was particularly taken when I heard what a young man of 51 years of age, who is a musician, a non-smoker and earns his living from playing in pubs at night, had to say. He plays in pubs five out of seven nights of the week. Two years ago he had open heart surgery and his life has been dreadfully affected by the effects of passive smoking. He was giving out on "Questions and Answers" on Monday night to those members of the audience and a person on the panel who were against the ban. He said his life has been affected by passive smoking, through no wish of his own, because he had to make his livelihood from playing and singing in pubs, and he was the victim of passive smoking. It is too late for this man but the ban will help others. At the end of his speech, the Minister of State said this ban is for future generations to benefit from, which was echoed by a man speaking on "Today with Pat Kenny" yesterday morning. When I spoke in the House last May, I stated we should use the run-in time for the legislation to educate people on the good effects of giving up smoking and I am glad to see that was done by the Government. We ran a smoke-free campaign which has been very effective.

Like many people, I was at a rugby party at the weekend at which there were five smokers, three of whom had quit the week before the ban came into place because they wanted to be ready for it. One of them told me he was taking a prescribed drug called zyban, which costs €110 for a two month supply. I am not a chemist or a pharmacist, therefore I do not know the drug's components. However, the drug lessens the craving in the body. My 21 year old son is on his second day without cigarettes and is using patches. The patches cost €30, for which I paid because I want him to give up. However, there are other people who are not as brave as to use the patches and for whom perhaps something like zyban might be good. It is safe because it is only available on prescription from one's GP.

We should examine subsidising such aids for people on low incomes or students who desperately want to quit smoking. The Minister of State may say that people with health board cards who spend up to €80 in a pharmacy will get

the remainder in rebate. However, perhaps we could subsidise this further for people who are having difficulty quitting smoking.

I have been out for the past two nights, although I do not often go out two nights on the run.

Ms O'Rourke: Indeed you do.

Ms Feeney: Indeed I do not. It was lovely to eat out on both nights in public houses which serve food and everyone, including smokers, was talking about the nice clean air. I did not wake up this morning, as Senator Feighan and I have often talked about, having come out of a smelly, smoke-filled pub with sore eyes and a sore throat, a running nose and stinking clothes. I am looking forward to the reduction in my cleaning bills.

A friend of mine was in New York at the weekend. He spoke to a publican and restaurateur who told him the smoking ban there had an initial effect on their businesses but, when it settled down, the effect was very positive because the 70% or 80% of people who are non-smokers came into the bars and were delighted with the clean air. Even the smokers are quite happy with the smoking ban and they accept they have to go outside to smoke and are therefore inclined to smoke less.

As other speakers have said, in six months' time or less there will be no more talk about this ban and we will look back and ask how we ever got away with it. For years we have got away with polluting everyone's air for the sake of the few people who wanted to smoke. This legislation will go down in history as the most effective and important in this Seanad.

Ms O'Rourke: I welcome the Minister of State. This is a fine Bill, for which the Minister for Health and Children is to be praised. In the past six months there has been animosity towards him from vintners and members of political parties who saw fit to ask the Minister what he was doing and suggest he was getting too big for his boots, and so on. Nonetheless, the Minister stuck up for himself, stiffened his back and pursued it, the result of which has been good.

Pay no attention when Senator Feeney states that she is rarely out two nights in a row.

Mr. Feighan: That is 100% true.

Ms O'Rourke: Why would she not? She has every right to be. When a male friend of mine who is a solicitor in Athlone comes to my house, he puffs non stop. He empties his own ashtray, which is fine and well he might. However, I have recently remarked when I come into the living room the following morning that I have to open all the windows. If I have a candle on the night I will light it, which helps to diminish the smoke, although not to a sufficient extent.

The Acting Chairman is the man for the candle and chanting, is he not? He is our new age Senator.

Acting Chairman (Mr. Leyden): I ask the Senator to speak to the Bill.

Ms O'Rourke: Having congratulated and thanked the Minister for his Cork tenacity and the determination he showed in the face of much opposition from many sources, one must reflect that it is great to be the first in Europe to initiate such a good measure. Sky News went to town on its reporting of the smoking ban with interviews for days before hand. It is great that we have taken a positive, pro-active health initiative such as this smoking ban. It is easy for me to talk because complying with it is not a burden for me or anyone else who never smoked.

I was out at lunch time and when I was returning through the back gate, there were several figures out puffing in the yard. As Senators know, the Superintendent is responsible for making sure we do not smoke within the precincts of the House. There were some jocose remarks in the House earlier. For example, I was asked who was in charge of keeping us good — it is the Superintendent, Mr. Paul Conway.

In a major interview in Monday's edition of the *Irish Examiner*, the Minister for Health and Children stated that excessive drinking would be the subject of his next crusade. I thought it was obesity but perhaps he is linking the issues together. He said he would particularly tackle binge drinking among young people. We will deal with the issue of excessive drinking in a debate in the House tomorrow. I hope that in his zeal the Minister does not follow the route of prohibition which, as we all know, did not work in the US and, in fact, lead to excessive drinking.

Smoking is bad — even one puff is bad — and to breathe via passive smoking someone else's dirty fumes is bad. However, a drink in moderation is not bad and all medical advice tells one that a glass of wine does one good. Therefore, I do not wish to see the undoubted zeal and tenacity of the Minister devoted to stamping out drinking altogether, although it is to be welcomed in respect of excessive drinking. The former would take the fun out of life and must be taken with a sense of proportion. I have already stated this to the Minister — I am not stating this behind his back or waiting for it to be conveyed to him. I asked him not to let his crusader, missionary-like zeal be translated into closing pubs altogether. I do not know how the vintners would react to that but I know he would not get away with it. I am sure the Minister of State, Deputy Tim O'Malley, agrees that to stamp out drinking completely would be wrong. A drink in moderation is good for one.

Mr. T. O'Malley: I agree.

Ms O'Rourke: Let not the zeal and crusading spirit of the Minister for Health and Children go to his head altogether.

Nevertheless, we are here to talk about the smoking ban. One cigarette is bad and will do injury to one's health. It will take many years for the beneficial health effects to be seen but the nation's health will be better because of this measure. We will be a healthier and stronger people and the money spent on treating asthma, chest complaints and lung cancer will be reduced.

Members are familiar with the fug in the Seanad ante-room every morning when some Members lit their cigarettes or pipes after the Order of Business. That has now ended. Because they may not smoke in restaurants, public houses or places of employment, many people will stop smoking altogether and we may become a nation of non-smokers.

People of all political opinions are pleased with this measure. I praise the Minister for Health and Children for the strong spirit he has shown in combating opposition to this legislation.

Mr. U. Burke: I congratulate the Minister for Health and Children on his determination in seeing this legislation through. It is welcomed by many people. The various interest groups which raised difficulties in recent months have come to realise that there is widespread public support for the banning of smoking in public places. There is particularly strong support for the banning of smoking in licensed premises, which was the most contentious element of the measure and which we discussed when the legislation was being debated.

It is now time to review the exemptions granted in the legislation. I particularly mention nursing homes, hospitals, hospices and psychiatric hospitals. I do not understand why some of those institutions have been exempted. I see an inconsistency here. I hope the Minister will review these exemptions. It is difficult to understand the rationale behind them.

Enacting legislation is one thing but implementing it is another. Senators have referred to the guidelines for owners and managers of premises where the ban is to be implemented. We must appreciate that it will be difficult, initially, for owners and managers to carry out these guidelines. While we do not want to see anyone breaking the law, there must be an initial period of leniency. Such an approach will be more conducive to implementing the ban than a hard ham fisted approach. People must be given a chance to adjust to the changes, which will be very difficult for many.

The Minister has taken on the challenge of the tobacco industry, whose products have been shown to carry a serious health risk. If he is to be consistent, the Minister must now address the scourge of drugs, their sale and their use. Some Members of these Houses are sympathetic to the acceptance of the use of soft drugs. I do not know if tobacco can be classed as a hard or soft drug. However, if we are agreed as to the negative

[Mr. U. Burke.]

effect of tobacco smoking on people's health we must also recognise the negative effect of the use of other drugs, whether hard or soft, on the health of individuals, on family life and on the structure of society at large.

I compliment the Garda Síochána on the tremendous work the force is doing to rid our society of drug barons. As well as drug barons, ordinary innocent people are often enticed into the drug culture and continue, through fear, to distribute drugs.

The problem of cigarette smuggling must also be addressed. The Revenue Commissioners, the Garda and the Customs and Excise service have their part to play in ensuring that the smuggling of cigarettes is eliminated. Smuggled cigarettes find their way into establishments where they are distributed, on the premises, through vending machines.

I welcome the legislation but much remains to be done to ensure it is implemented in full and in an acceptable and effective manner. The health board officials and environmental health officers have a function in enforcing the legislation. I decry the practice of sending young people into premises to purchase cigarettes in order to apprehend shopkeepers who are breaking the law. As a member of a health board I found it difficult to accept that a statutory body would use minors in this way to detect crime. I hope no similar methods will be used in enforcing this legislation.

I welcome this measure and I congratulate the Minister on his determination in introducing a major change in the social behaviour of the nation. I hope the hard hand of the law will not brought to bear and that the legislation will be implemented sensibly

Mr. Moylan: I welcome the Minister of State at the Department of Health and Children, Deputy Tim O'Malley to the House and I compliment the Minister of State at the same Department, Deputy Brian Lenihan on his statement. I also compliment the Minister for Health and Children on accepting this challenge and taking action on the problem of smoking.

There is a responsibility on the companies which manufacture cigarettes to come forward and help those who want to continue smoking but have difficulties in finding suitable locations to do so. They have made substantial money out of those people in the past and they should now offer convenient locations for smokers in public houses or in other public premises.

I compliment the contributions that have been made this evening. When this legislation was before the House, many people said the Minister would not take on special interest groups, in particular the publican lobby. This issue is not about any lobby group. It is about health and about affording an opportunity to people who do not wish to smoke or be in a premises where others smoke, where there is a danger to their

health. The vast majority of people have that point of view. I was a member of a health board and often visited hospitals, and it was an eye-opener to see the many people in hospital, often just gasping for breath. The report on the health and environmental effects of tobacco smoke in the workplace published in 2003 was clear when it stated

second-hand tobacco smoke was the cause of cancer, heart disease and respiratory problems. Employees need to be protected from exposure at work. Current ventilation technology is ineffective at removing the risk to health. Legislative measures are required to protect workers from the adverse effects of exposure.

These four points sum up the real problems.

Much was said about ventilation, particularly by cigarette manufacturers. What money did they put forward to enable publicans and others to finance the cost of proper ventilation? While ventilation systems are in place on many premises, they are not adequate enough to enable people to work or enjoy themselves.

It is time the advertisement of cigarettes and cigarette sales was stopped. Many young girls who smoke are told that to continue smoking is good for their figure. One's health is far more important. I know many people who used to enjoy a drink but who were unable to go to a pub or had to leave early when smokers came in. People who enjoyed a game of cards simply could not go to a hall to have a game because of those who smoked. Action against smoking has been taken in bingo halls and I have been told that as it was successful, it would not be a big problem to have a smoking ban in pubs and in the workplace.

There is now an onus on the Minister to act on passive smoking where people congregate, particularly at matches in enclosed stands. One can go to a game of hurling, football, soccer or rugby and within minutes of taking one's seat, the breeze is blowing cigarette smoke in one's direction. That is not good enough for the ordinary punter who pays to go to a match. He or she has no choice but to move elsewhere, but can only do so if there is a vacant seat.

We must look at the availability of cigarettes to young people. With the changes that are taking place they may view cigarette smoking differently. It is to be hoped they may not take it up.

I commend the motion. It spells out the steps the Minister has taken. However, over the coming weeks non-smokers must understand when someone lights a cigarette without thinking. It is to be hoped a disapproving look will be sufficient in such instances. I would hate to see people being prosecuted over lighting a cigarette in the wrong place. As a non-smoker, I never objected to someone having a smoke, once they stayed a considerable distance from me. The new arrangements will have other positive effects. For example, it will no longer be necessary to clean clothes affected by smoke after a night in a pub.

As a Pioneer, I support the Minister in tackling the scourge of drink in this country. Smoking and drinking are very much related.

I support the motion and compliment the speakers who made a valuable contribution to this debate. I thank all the Ministers who were involved, as well as the members of the Government, all of whom have taken a stand against much opposition. I hope common sense will prevail over the next few months to enable this to work and that we do not have to use a sledgehammer to crack a nut. With a little time, people will get into the habit of smoking only in designated areas. I again call for adequate designated areas for those who wish to smoke.

Mr. Norris: I welcome this excellent motion. It nails the Government's flag to the mast. It is particularly good that there is no amendment from the Opposition and that there is no attempt to play politics with this. Everyone in the House, including smokers and non-smokers, Fianna Fáil, Fine Gael, Labour, the Progressive Democrats, Independents and others were behind the Minister on this. It is a very important and innovative measure and I am proud it is being introduced in Ireland. It shows that we are thinking.

I was at Farmleigh the other evening where there was a wonderful dinner for the chairmen of the foreign affairs committees of the EU member states, including the incoming states. I had at my table some French, Czech and Slovak people and some of them were grumbling. The French could not believe we were doing this. They took out their cigarettes and they fingered them, but they were afraid to light them. I thought that was great. Chairmen of foreign affairs committees were terrified to light their cigarettes, which meant we had done a good day's work.

I speak as a current non-smoker; I am a reformed smoker. We should pay tribute to the Minister, Deputy Martin, because this was not the easiest thing to do in the beginning. We may forget that there was a lot of opposition to the measure. Deputies in all parties nibbled at his bum, to use that wonderful phrase which was applied to Mr. Haughey, and tried to erode the support for it. There was much lobbying, but he stood up against it, although it was not always popular. We should also remember the people involved in Action on Smoking and Health, who were seen as eccentric because of their opposition to smoking, and people such as Professor Luke Clancy and Professor Risteard Mulcahy. They sounded the warning signal about smoking and continued at it, although it might not have been popular.

However, I will not be altogether positive. As a former smoker, I know how difficult it was to give it up. I gave it up two years ago in odd circumstances. I had an aunt whom I adored and she died a few years ago at the age of 103. I give a party for her every year to keep her memory alive and we read sections from an enchantingly

eccentric diary she kept and all the cousins visit. She used to torture me about giving up cigarettes. She campaigned about it all the time. I eventually told her that I would do what she did and give them up when she was 75. She gave them up when she was 75 years old and then she made life miserable for everyone else. Why was it so difficult?

I want to be a bit critical and negative of the enormous financial interests in the tobacco companies and the way they behaved. On this splendid day of celebration now that many of our public places are smoke free, I want to state that the behaviour of the cigarette companies throughout the world, the international, American and British companies, was appalling. When I was a child, it was popular to smoke. One was a man if one smoked. We had what is now called the *film noir*, the silhouette of the man in the trilby hat and the fag in the mouth. Sometimes in a romantic way he would light the fag and pass it to the woman. There was a frisson throughout the cinema. It was a romantic and manly thing to do. People also thought it was healthy. I have heard of people who were prescribed cigarettes to relax them or to help with asthma. It is impossible to believe now that that was done. Once people started smoking cigarettes, it was difficult to give them up.

We know from a series of court cases in the United States that cigarette companies bought up other research and suppressed their own research which clearly demonstrated the link indicated in this motion between cigarette smoking and all types of cancer, particularly lung cancer. They knew it, but they suppressed it and bought up other research. Although they knew what smoking was doing to people's health, they continued to promote their cigarettes on the basis that it was not true. They denied the facts. More than that, they engaged in experiments not to try to produce a harmless cigarette, but to find what ingredients could be added to make them more addictive. The cigarette companies operated a criminal conspiracy against global health, which is still going on. We should remember that. Those same lousy companies are dumping their dangerous products on the Third World and anywhere they can get a market. They do not carry health warnings on the packets because they are not required to do so. It would be wrong not to put that black mark against the cigarette companies.

I did not realise that approximately 70% of people do not smoke, which is good. Perhaps that explains the high approval rate among the public for this initiative. I smiled to myself at the vintners and the other people who said their businesses would collapse and who engaged in the usual whinge. It would not do them the slightest bit of harm if they caught a bit of a cold. I remember when pubs were decent places where someone could have a quiet drink and a conversation. Now the drinks are pushed at people. In the same way as the tobacco

[Mr. Norris.]

companies push cigarettes, the drinks companies push their products.

I agree with the Government Whip who mentioned the related subject of alcohol consumption. I hope we have a debate on that. I repeat what I said on the Order of Business today now that the Minister of State is present. On my way back from speaking at a dinner of European bankers on O'Connell Street I went into one of the shops at 11.10 p.m. and they had on display six packs of beer, bottles of wine and full bottles of whiskey. Out of curiosity I asked the lad in charge if I could buy a full bottle of whiskey at 11.10 p.m. and he said I could. He was a non-national who had difficulty speaking English, therefore I doubt if he knew much about to whom liquor should be sold. That is terrible.

As regards the vintners' argument that their business will be ruined, I would not shed any tears if that happened. One has only to look at the prices in the region of €2 million being gained for pubs nowadays. It would not worry me if they caught a cold. If one listened to the gabby cabby from New York this morning on the radio, one would have heard him say that argument was nonsense because they are all doing fine. He said he knows that is the case because he takes their passengers and he said there has not been any drop off in business.

I hope something will be done about people smoking on buses because my experience is that they are still doing it. I hope there will be a clampdown on that. It is not fair to ask the driver of the bus, since there are no conductors, to control the situation, particularly in certain areas. We must consider that.

Someone referred to the fact that we have successfully got rid of smoking on aeroplanes. I am glad that is the case because I remember when smoking was allowed. The smoking section was up the front and the non-smoking section was behind it, which meant all the smoke drifted back and everyone was choked by passive smoking. It was nonsense. Airlines used to have to change the air frequently in the body of the aeroplane because of the smoke. However, they do not bother to do that anymore because it is a costly exercise. Perhaps that could be drawn to the attention of the proprietors of airlines. That is the reason people get colds and bugs from aeroplanes all the time. As you, a Chathaoirleach, are a sophisticated international traveller who represents this august House—

An Cathaoirleach: I thank the Senator.

Mr. Norris: —I will outline a way to avoid that, which is extraordinary. I was told by a woman who owns a travel agency that one should put a small piece of Vaseline in each nostril. I do not know whether the bugs try to fly up one's nostril and get stuck, but it stops one from getting a cold. Airlines should continue to change the air

with reasonable frequency, although it is not polluted by tobacco smoke.

Mr. Morrissey: I thank the Fianna Fáil group for tabling this worthy motion tonight. I thank the Ministers of State, Deputies Tim O'Malley and Brian Lenihan, for being here to listen to the debate.

I congratulate the Minister for Health and Children, Deputy Martin, on his tremendous success in introducing the workplace ban on smoking. We have all known for a long time about the health effects and the costs associated with smoking and, regrettably, the large number of deaths attributed to smoking. The workplace ban on smoking will be applauded by all in time. When we look back, we will wonder why it took so long to introduce it.

I have not been a smoker since the age of nine, but I am alarmed at the number of young people, particularly young girls, who are smoking today. The Government should tackle this issue. The Minister's task was not easy, but his firm stance against all quarters, lobby groups and particularly the fifth column from within his own party is an abiding memory. The savings to the economy in terms of spending on health will be enormous in years to come. Workers will now experience a clean working environment. Those who have been subjected to passive smoking are the real winners.

Too much of the debate on the smoking ban has focused on the issue of smoking in pubs. The real issue occupying Deputy Martin's attention was his determination to provide a clean air working environment. I hope social pressure rather than recourse to the law will be the enforcer of this ban. Ireland has been to the forefront in introducing the ban and I am sure Europe will follow its lead.

There are few notable political dates in Irish political history on which Ministers have taken a course which other Ministers failed to take. The few that come to mind are the introduction of free education in 1968 by Donogh O'Malley, the banning of corporal punishment by the late John Boland in 1981, the introduction of a smog free Dublin by Deputy Harney in 1990 and the introduction of the plastic bags levy by the then Minister, Deputy Noel Dempsey, in 2002. The introduction of the smoking ban on 29 March 2003 will go down in history as a great day for Ireland. I thank the Minister and the Fianna Fáil Party for putting down this motion tonight.

Mr. Browne: I congratulate the Government on managing to keep this topic in the media for so many months. It certainly distracted the Opposition, as we fell over ourselves being for or against it. It also distracted members of the public, who forgot about the other huge issues in the health area. Whoever is advising the Minister for Health and Children on public relations deserves top marks. He or she deflected the public's attention and got much mileage from a

single issue. That person should get a benchmark award for it.

There are important issues in the health area, one of which is the Hanly report. The Minister for Health and Children made it clear that he accepted the Hanly report. He was then undermined by the Minister for Defence, Deputy Michael Smith, in the Dáil. He was given some support by the Taoiseach, who proceeded to pull the rug from under the Minister a few weeks later in the Dáil. Meanwhile, the public does not know what is the position with the Hanly report. People are also not aware of what the position is regarding the diagnostic health centres which are part of the health strategy. That has implications for Carlow, which is the only county in the country without a general hospital. The county was hoping to be the location for one of the diagnostic health centres but we are not yet aware—

An Cathaoirleach: That is not relevant to the motion.

Mr. Browne: It is related to the health area.

An Cathaoirleach: The House has already had a debate on the Hanly report.

Mr. B. Lenihan: Carlow has an excellent Caredoc facility.

Mr. Browne: Yes, and it was started by people in the county. The Government should now deal with the main issues in health which affect people daily. The smoking ban has deflected people's attention, which is not necessarily a good thing.

The proof of the pudding is in the eating, as the saying goes. It is still too early to fall over ourselves congratulating the Government on doing a good job. This country has a great record for introducing laws but does not have a great record for enforcing them. I am my party's spokesperson on transport. Despite the penalty points system, this year the number of road fatalities is 20 more than in the same period last year. All Members of the House had been hoping to see a further reduction. Enforcement is a key issue and it will be particularly important in implementing the smoking ban.

I am not a smoker and have no wish to become one. In fact, I am anti-smoking. However, I have some difficulties with the smoking ban. The ban on smoking in company cars is daft and unenforceable. Unless people are obliged to put a sign on their cars indicating that they are company cars, it cannot be enforced. It is also grossly unfair, particularly for sales representatives who travel throughout the country. Members will have experienced that amount of travel during the Seanad election campaign. If one is travelling from Donegal to Cork to Dublin to Galway and if one is the sole occupant of the car, one should be allowed to smoke. It is different if one is sharing the vehicle

with somebody else. In that case, I can accept the point about the car being a company vehicle. However, if one is the sole occupant and user of the car, one should be allowed to do as one wishes. This is a valid point which should be re-examined. It is a silly and unenforceable rule which takes from the merits of the smoking ban.

Senator Morrissey referred to young people smoking. In the past few days a number of people have wondered what effect, if any, the smoking ban will have on young people. Some were of the opinion that it would glamorise smoking even further and encourage young people to smoke. It will be interesting to see what plans the Government has to tackle that, particularly with regard to young females. The smokers among my former students are predominantly female. One rarely sees young men smoking; they appear to be more keen on keeping fit. Women, for some reason, are more likely to smoke, which is regrettable.

We should not just leave this issue as it stands. It is ironic that people who are smoking will be penalised if they go into pubs but somebody who is taking illegal drugs can go into a pub. The Minister has a role not just in imposing a smoking ban but also in dealing with the major drug problem in this country. Carlow is experiencing an increasing drug problem because of the success of the Garda in putting pressure on the Westies gang, which operated in the Minister of State's constituency of Dublin West. Unfortunately, however, the gang has spread into other areas, such as Carlow. The town is experiencing a drugs epidemic.

What are the long-term consequences of the smoking ban? Senator Morrissey said the State will make major savings. However, it could be argued that because people are not smoking and, as a consequence, will live longer, it will have huge implications in terms of pensions and people dying from degenerative diseases. In future, for example, people will be less likely to die from cancer or heart attacks and more likely to die from Alzheimers or Parkinsons disease. Has the Government any plans to invest money into research in this area in an effort to make predictions? Otherwise, we might be setting ourselves up for a big fall.

Dublin Airport is a hub for Europe. Passengers on international flights might have to land in Dublin to get a connecting flight to another European destination. They will now have to check out of the airport to smoke. Take the example of a passenger travelling from Washington to Dublin to Paris. The passenger will have to check out of Dublin Airport to have a cigarette and then check in again. Until now, such passengers could smoke in a restaurant. Some smokers will find it difficult to survive without a cigarette for more than seven or eight hours. Has the Minister considered this? It is a little ridiculous to oblige passengers to check out and in again at an airport. Perhaps certain areas within airports could be designated for smoking.

[Mr. Browne.]

It might also calm people. The danger is that if a person is tense when flying, they might drink more instead of smoking and that could lead to even greater difficulties.

Mr. Glynn: I thank my colleagues for the valuable contributions they made to this debate. Wide ranging views were expressed. There was a suggestion that the Minister should tackle the alcohol problem next. As a person who enjoys a drink, I am the first to admit that something must be done about it. Much of the violence on and off our streets is drink related. Something must be done about it and I doubt that there is a better man to do the job that Deputy Martin, ably supported by the Minister for Justice, Equality and Law Reform, Deputy Michael McDowell, who has proven he is not behind the door when hard decisions must be made. That is the type of leadership we need.

There was also a reference to drugs. Certain parliamentarians have suggested the legalisation of soft drugs such as cannabis and marijuana. Under no circumstances would I support such a move. These are clearly gateway drugs, a stepping stone to hard drugs. Any young lad or lassie going to discos, nightclubs or whatever will tell one who is supplying drugs. Clear evidence is emerging that school children, teeny-boppers, are peddling drugs, including cannabis, and that people are looking the other way. That attitude is representative of bygone era when one told the authorities nothing. It is time people started to blow the whistle on those people. I do not care who they are, whether they are Joe Bloggs or Cathy Barry's son or daughter, if they are supplying soft or hard drugs, they must be nailed.

The question of enforcement arose. The public will enforce the ban, and rightly so. Comments were made about the vintners. In the main, they have acted responsibly and have done their best. There were instances where unrealistic expectations emerged from certain people among its membership. There is an exception to every rule and people tend to quote the exception but the rule among the vintners is that they have acted responsibly.

It was a pleasure to go into my local on the night of 29 March. There were no ashtrays on the table and everywhere was spick and span, as it usually is. There were no cigarette butts on the floor or cigarette smoke wafting through the atmosphere permeating the nostrils and the airways of the customers, which was welcome.

A Senator asked why it took so long to introduce the ban. My response to that is that it is never too late to do the right thing, and the right thing has been done here. Testament to that is that this measure has attracted much commendation not only nationally but internationally. That the measure came through the Houses with all-party support is a clear indication that the Minister, Deputy Martin, and his Ministers of State got it right.

I would not agree with the comments of Senator Browne that this is distracting the Opposition. I would not consider it a distraction to introduce a ban on a product which is responsible for taking approximately 7,000 lives each year, so I do not believe that is a valid point.

Senator Norris said it took his aunt 75 years to give up smoking. I do not know how long she was smoking before she gave it up but she went on to live to 103 years. I know many people who did not make it to 75 years, including, I regret to say, my brother who died aged 66 of lung cancer. I thank the Cathaoirleach, the Minister of State and my colleagues on all sides for their support for this motion.

Question put and agreed to.

An Cathaoirleach: When it is proposed to sit again?

Mr. Glynn: Tomorrow at 10.30 a.m.

Adjournment Matters.

Ambulance Service.

Mr. Kitt: I thank you, a Chathaoirligh, for the opportunity to raise the important issue of an ambulance base in Tuam, County Galway. As the Minister of State knows, for many years the Bons Secours Sisters ran a hospital in Tuam. Sadly, we no longer have that hospital because the order had to leave Tuam some years ago. I was delighted that the Western Health Board purchased the entire property in Tuam, consisting of the hospital and the surrounding lands. A proposal was submitted to the Department in 2002 for a health campus in Tuam, comprising a community hospital, sheltered housing, an ambulance base and psychiatric services. We have tried to get permission from the Department to design this campus, which will be a welcome addition. The community hospital would be very much in line with the policy in the Hanly report which favours a community hospital where there is a population of 30,000 to 35,000.

It is important to emphasise the ambulance base which is number one on the list recommended by the Western Health Board. The Western Health Board received funding from the Department to buy the property at a cost of €3.8 million. It has also spent €52,000 on legal fees, €46,000 on auctioneers fees, €33,000 on feasibility studies, €1,700 on signage, €7,500 on heating, which is ongoing, and €5,500 on fire, health and safety. Obviously, costs are ongoing and it would be of great benefit if an ambulance base were provided in Tuam to operate in north Galway, south Mayo and, indeed, west Roscommon because, as the Minister of State knows, the Western Health Board covers the three counties of Galway, Mayo and Roscommon. The sooner

we get funding for this ambulance base, the better. Developing the ambulance service is very much part of the Hanly report. I spoke to Mr. Bonner and heard him make a presentation to the health board on the importance of the ambulance service if the Hanly report is to be implemented. It is a sore point in north Galway that there is no ambulance base.

I note the increase in use of private ambulances and I find it amazing. Some vehicles from the Westdoc out-of-hours service are being used to bring people to hospital, which is wrong. A proper ambulance funded by the Department and the Western Health Board should be used. I would like funding to be provided for that service which is the number one priority of the Western Health Board for Tuam, County Galway.

Minister of State at the Department of Health and Children (Mr. B. Lenihan): I thank Senator Kitt for raising this matter which is close to his heart and about which he has expressed much concern.

The report of the strategic review of ambulance services 2001 is the basis for the development of pre-hospital emergency medical services in the future. It identifies aspects of the current emergency ambulance service which need to be addressed to bring the service into line with best international practice to ensure effective and quality-driven practices.

The report recommends that the service be developed at a number of levels. The principal proposed developments are the elimination of on-call as a means of providing emergency cover; improved fleet reliability; and the roll-out of the emergency medical technician-advanced, EMT-A, programme. There is convincing evidence of a direct relationship between speed of response and good outcomes in life threatening emergencies such as cardiac arrest and major trauma.

The elimination of on-call is designed to facilitate further improvement in response times. The Minister was pleased to be in a position to provide funding in excess of €3 million in the current year to facilitate the continuing phasing out of on-call in a number of regions. The Minister hopes to extend this programme.

In the area of the ambulance fleet and equipment, the Department provided additional capital funding of €2.5 million in recent months to assist the boards and authority in Dublin with their fleet and equipment replacement programmes, which are essential prerequisites for enhanced speedy and appropriate care.

Last year, the Minister announced policy approval to the development of the emergency medical technician-advanced, EMT-A, programme. Considerable work has been done by the Pre-Hospital Emergency Care Council in conjunction with my Department in preparing the legislation necessary to give effect to this programme. The introduction of EMT-A training

is the single most important development taking place in our emergency ambulance service.

I turn to the specific issue raised by the Senator which is the need for funding to be provided to the Western Health Board for the establishment of an ambulance base at Tuam, County Galway. The Western Health Board emergency and patient transport ambulance service provides a service to a population of more than 353,000 people. The emergency ambulance service is provided from ten stations spread throughout the catchment area of the board. The past four to five years have seen a significant expansion of the service. Ten additional crews have been put in place. The number of 24 hour bases has increased from three to five while the overall hours of operation across all bases have increased significantly.

These improvements in service delivery have been facilitated by the use of development funds provided to the board for that purpose. The board is continuing with its development programme for the service and, I understand, is developing proposals for the establishment of a number of additional stations in its functional area including the establishment of a station at Tuam. These capital proposals will be considered by my Department in conjunction with the Western Health Board and in the context of capital priorities to be progressed in line with overall funding resources available in 2004 and beyond.

I assure the House that the Government is fully committed to the development of an emergency ambulance service. Much has been achieved in the development of the service and I recognise that much remains to be done. It is essential to maintain the progress which has been made and to continue the process of service development so that effective pre-hospital emergency care is accessible to those who need it most when and where it is required.

Mr. Kitt: Will the Minister contact the Western Health Board on that issue?

Mr. B. Lenihan: I will arrange for the Minister to do that.

Harbours and Piers.

Mr. McHugh: I welcome the Minister of State, Deputy Browne, to the House. He is well aware of the safety needs of the seafaring people in Buncrana because he has received questions and representations relating to it. He has signed off on the foreshore licence, which I welcome. I wish to put on record the work of the late Fine Gael Councillor, Mr. Jim Sheridan, who worked tirelessly and relentlessly on this issue, making representations to the Department and through Deputy Coveney.

On 10 February, Deputy Coveney submitted a question to which he received a reply to the effect

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that funding will depend on available Exchequer funding and overall national priorities. There are two parts to my question. Will the ministerial portfolio allow the facilitation of a ferry at an estimated cost of €110,000? The Minister will be aware, living on the coast, that the RNLI is a very proactive group. I do not need to emphasise the necessity for a launching pad for the new RNLI boat. It is a priority for the community and it has been lobbying through Mr. Liam McGee on a continual basis for the past 12 months.

One funding option is to provide only for the ferry crossing. This will be from Buncrana to Rathmullan. This will be a tourism project and will also facilitate the large movement of people within Donegal. The Flight of the Earls commemoration will take place in 2007 and the ferry must be an integral part of that project. There are two funding options. The option I seek is the facilitation of the ferry and the RNLI boat. The two must come together. Funding for one will not be good enough and will do an injustice to the efforts made, in a cross-party political fashion, at local authority level. The local authority, through its engineers, has made a huge contribution in terms of time, resources and expertise to try to get this project off the ground. It has worked tirelessly and relentlessly. As one of the few dual mandate holders, at a council meeting on Monday, I received the news that there will be a start-up date for the ferry.

Funding is the issue. The Minister is in a corner, but I believe he will use his good judgment. I am not here to make a party-political broadcast. What we are interested in here is the good of Donegal. Representations have been made by both Fianna Fáil and Fine Gael. I ask the Minister to heed members of his party in Donegal. I speak on behalf of Fine Gael, as did the late Councillor Jim Sheridan. We need the ferry, but we also need the RNLI launching pad. I hope the Minister will have good news.

Minister of State at the Department of Communications, Marine and Natural Resources (Mr. J. Browne): I thank the Senator for raising this issue. He is correct in stating that there have been many representations. Deputy Keaveney is constantly in touch with the Department regarding Buncrana. I join Senator McHugh in acknowledging the representations of the late Councillor Jim Sheridan, who was in contact with the Department on a regular basis. He was like a dog with a bone, as is Deputy Keaveney at the moment.

The proposed dredging operations at Buncrana form an integral part of an application for a foreshore lease and licence to allow construction of a marina at Buncrana. Funding is being sought for the dredging on the basis of its benefit to the fishing industry. The national development plan provides €84.35 million for capital investment in fishery harbours infrastructure and facilities. This funding envelope represents a major increase

over all previous programmes and is supporting crucial investment in safe, modern and efficient infrastructure which is essential for the fishing and aquaculture industries.

While funding has been directed primarily towards key strategic fishery harbours, including Killybegs and Castletownbere, we are also investing in smaller harbours and landing places around the coast to meet the needs of local fishing and aquaculture interests and coastal communities. The criteria for selection of fishery harbour projects include the development of infrastructure and facilities at priority fishery harbours to cater for larger vessels and developments in landing and work practices, in particular, in the context of EU requirements; the development of local harbours and the upgrading of local harbour infrastructure with a key role in creating and maintaining jobs in fishing, aquaculture and ancillary activities; the protection and preservation of existing infrastructure at selected local harbours, especially in remote coastal areas where fishing or aquaculture has an important socio-economic role; and the establishment of an adequate and reliable ice supply network around the coast.

The programme is intended to proceed on a planned basis over the period 2000-06. A substantial programme of capital works has already been undertaken. Up to the end of 2003, my Department has spent €83.44 million under the programme. The Estimates allocation of €21.141 million for 2004 for fishery harbour development is reduced considerably from the 2003 allocation.

To date I have approved funding of €10 million for the completion of the Killybegs Harbour development and a further €4 million has been allocated to progress the development in 2004 of the Castletownbere Harbour. Regarding Buncrana, the pier in question is owned by Donegal County Council and responsibility for its maintenance and repair rests with the local authority in the first instance. In November 2003, the county council submitted a proposal to my Department for funding to dredge the pier at an estimated cost of €200,000. In its submission the county council outlined that the dredging was needed to facilitate the launching of the Royal National Lifeboat Institute boat and to facilitate the ferry crossing between Magilligan and Greencastle and the fishing industry. It was in the latter part of 2003 that the council first approached my Department for the funding of dredging at Buncrana. At no stage was any commitment given by my Department either to the council or to the RNLI for the dredging at the harbour.

At present I am considering proposals for development works comprising projects submitted for consideration by local authorities and industry sources. This project is just one of these proposals and these projects will be considered and approved on a priority basis. The amount of funding for this project will depend on

the amount of Exchequer funding available for works at fishery harbours generally and overall national priorities. The funding available to me under the national development plan is in respect of fishery harbour infrastructure. There is no funding at my disposal in respect of ferry operations.

The foreshore licence application by Donegal County Council in respect of dredging at Buncrana is also currently being finalised by my Department. I signed the order last week and it should be winging its way to Donegal County Council shortly. It is, however, important to point out that the foreshore lease being processed is in respect of a marina development and the foreshore licence for dredging is an integral part of that application as distinct from a specific application to dredge for the lifeboat. I thank the Senator for raising the issue and assure him we will give the matter careful consideration.

Mr. McHugh: I thank the Minister of State for his contribution. Would it be possible for a member of his staff to contact Vincent Lynn at Donegal County Council? He is the senior road engineer and is in charge of fisheries. We have adopted a different approach to marinas in Donegal. There are three factors to be considered: the marina in Buncrana, the ferry and the lifeboat. It would help to bring these elements together and clarify the position if a member of the Department could make contact with Vincent Lynn who has made good inroads into this.

Mr. J. Browne: My Department is in constant contact with Donegal County Council because of this application. I will contact my officials tomorrow with the Senator's request.

Inland Fisheries.

Mr. Scanlon: I am grateful for the opportunity to raise this issue which has continued in my area for the past 30 or 40 years over which time we have tried to have the river drained, then cleaned to make it accessible for tourism, fishing and water sports. The matter might have been more relevant to the Office of Public Works but recently the Minister of State with responsibility for that office, Deputy Parlon, met a deputation from Sligo County Council and the committee involved in the drainage of the river. Unfortunately we did not get on very well, to put it mildly.

Sligo County Council has made small amounts of funding available, between €20,000 and €30,000 per annum for several years. The Owenmore drainage committee has done great work even with this small amount of money. In the early 1990s it received a substantial grant from the then Minister, Hugh Coveney, which was spent on major work at the time. The river has been improved over recent years. If we can secure funding from any source the Minister for Community, Rural and Gaeltacht Affairs, Deputy

Ó Cuív, is prepared to match that funding under the CLAR programme which would finally solve the problem of the river.

Mr. J. Browne: I thank Senator Scanlon for raising this issue and wish that I could be like Deputy Ó Cuív and have money to dispense, but unfortunately that is not the case in my Department. The Owenmore is one of the three main tributaries of the Ballisodare River. Being deep and sluggish, the Owenmore River is essentially a coarse fish river, even though it is part of the Ballisodare system, which is best known for salmon fishing on the Ballisodare River and for brown trout fishing on Lough Arrow. The central board and the North Western Regional Fisheries Board conducted a comprehensive survey of the system last year, aimed at management and development of the salmon fishery but which confirmed that the Owenmore contributed little or nothing in terms of trout or salmon. The Owenmore is managed and developed by the regional board as a coarse fish river.

The North Western Regional Fisheries Board is not aware of any requirement for the cleaning of the Owenmore River for the development of tourism and fishing. While there have been some recent problems with farm pollution in the area, none of these was particularly serious. There have been no recent fish kills on the Owenmore River. It would not appear, therefore, that the Senator's motion refers to the issue of water quality. There was a campaign in the area, over many years, aimed at having an arterial drainage scheme carried out on the Owenmore River in order to prevent flooding of agricultural land. Sligo County Council, carried out some relatively minor works on behalf of the Office of Public Works, in 1997 and 1998.

Further drainage works would not assist fisheries and tourism in the area. The regional fisheries board has serious concerns about any major drainage works as these would be likely to damage fish habitat in the Owenmore and further downstream in salmon and trout spawning sections of the Ballisodare system. Any such proposals would be a matter for the OPW or the county council and could be considered by the regional fisheries board in this regard.

The north western board has carried out various works to improve fishing on the Owenmore River over many years. As recently as 2000, under an EU funded project, access to the river was improved through the upgrading of an existing car park and the provision of a pathway from the car park to the river bank. Stiles and footbridges, which were put in place along the river several years ago, are maintained by the board. The board's strategic development plan for 2002-06 continues to develop the coarse fishing potential of the Owenmore River and its associated lakes in the Ballymore area. Works planned over the period include improved access to the Owenmore River through the provision of

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a second access road and car park some distance upstream of the existing facility at Cluid; the erection of a number of additional stiles, footbridges and permanent match pegs along with other improvements, and access to Cloonacleigha Lake is to be opened up by the provision of a basic road and parking facilities. Boat access may be improved through the provision of a slipway and mooring facility and other improvement works carried out to encourage angling.

The board will endeavour to provide improved access to Templehouse Lake with a view to ensuring greater utilisation of the lake as a coarse fishery and has indicated that it will consider the possible development of other fisheries in the area subject to demand. No recent approaches have been made to the board regarding further

works on the Owenmore. The board says that the Owenmore River fishery is under-utilised and it would find it difficult to justify further significant investment on the river until there is sufficient demand for the fishing that is already available on the river and on the nearby lakes. However, this is largely a game angling region and it does not attract large numbers of coarse fish anglers. The regional board is willing to consider, within available resources, any proposals from local groups or individuals concerning specific works that they feel may be necessary to assist with development and promotion of fisheries. If Senator Scanlon and the local groups have some proposals or practical suggestions I will gladly pass them to the board for consideration.

The Seanad adjourned at 7.15 p.m. until 10.30 a.m. on Thursday, 1 April 2004.